



# **Freedom of Religion**

**A HUMAN RIGHTS-BASED APPROACH TO DISCRIMINATION AGAINST  
RELIGIOUS MINORITIES IN THE PALESTINIAN AUTHORITY**

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The Jerusalem Institute of Justice (JIJ) does not present this report as a denial of human rights violations charged against Israel, since materials are readily available on that subject. JIJ itself has litigated human rights cases within Israel for more than a decade. This report covers largely unreported, often censored, violations by Palestinian governing authorities against Palestinians, so their voices may be heard and that facts might replace distorted misunderstandings of the regional situation.

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## **1 Introduction**

In this report, the Jerusalem Institute of Justice (JIJ) examines freedom of religion in the Palestinian Authority (PA). Through research and personal interviews, JIJ evaluates deficiencies throughout the PA in light of international legal norms.

Religious freedom is a basic and universal human right which is protected by numerous international conventions and declarations to which a significant number of countries have become parties. Among other international legal instruments, the most influential is probably the Universal Declaration on Human Rights (UDHR). The UDHR states in Article 18 that everyone has the right to freedom of religion.<sup>1</sup> While this notion is important, the fact that many nations have agreed that freedom of religion is a basic human right does not, unfortunately, mean that the majority of people in the world actually have access to this freedom. According to a study conducted by the Pew Research Center's forum on religion and public life, nearly 70 percent of the world's population lives in countries with high restrictions on religion.<sup>2</sup> Consequently, there is a discrepancy between the political positions taken by the countries of the world and the actual reality for individuals. This underlines the importance of raising the issue and spreading awareness regarding the lack of freedom of religion.

Why then is freedom of religion so important, and what are its effects on society? It has been suggested that countries that recognize religious freedom have more vibrant economies, diminished social tension, and greater overall stability.<sup>3</sup> It can be easily concluded that besides the effects in form of an evolving society, freedom of religion also results in a more enjoyable everyday life for individuals.

This report focuses on the religious freedom of different religious minority groups under the rule of the Palestinian Authority in the West Bank and Gaza. These areas are officially governed by a unity government consisting of both Fatah and Hamas. In 2014 the PA signed and ratified 15 international conventions dealing with, among other issues, the right to freedom of religion. The government is therefore obliged to grant people living in areas under the PA's control the freedoms enshrined in these conventions.

The largest and most vocal of the religious minority groups in the PA is the Christian minority, and, therefore, a major part of this report deals with their situation. Since Palestinian society is very religious, the report also deals with the right to freedom from religion. This is a particularly obscure freedom that is hard to examine in a society where religion is not, as in the West, considered merely individual but communal and where religion and culture are closely intertwined.<sup>4</sup> Nevertheless, this report attempts to highlight this aspect of religious freedom.

When considering religious freedom in the West Bank and Gaza, we must first recognize the extreme complexity of the situation. Failure by the public to acknowledge certain dimensions of the situation in Israel and the West Bank and Gaza fosters a limited

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1 UN General Assembly, Universal Declaration of Human Rights, December 10, 1948, 217 A (III), Article 18.

2 Pew Forum on Religion & Public Life, "Global Restrictions on Religion," 2009, 1.

3 Institute for Economics & Peace, "Five Key Questions Answered on the Link Between Peace & Religion – a global statistical analysis on the empirical link between peace and religion," 2014; Brian J. Grim, "Religious Freedom: Good for What Ails Us?" *The Review of Faith & International Affairs*, 6:2(2008): 3-7.

4 See Justus Reid Weiner, "Palestinian Christians: Equal Citizens or Oppressed Minority in a Future Palestinian State?" *Oregon Review of International Law*, 7(2005): 220.

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understanding of its complexities and shifts responsibility from the Palestinian governmental authority. International decision-makers must not only consider the relationship between the major parties—Israel and the Palestinian governing authority—but must also consider the implications of internal politics, cultural diversities, and religious pluralism within each system of government. With the information contained in this report, IJJ urges the international community to hold the Palestinian leadership accountable for respecting and protecting the rights of those under its governance.

This report contains personal interviews with representatives of local and international human rights organizations that are active in the West Bank and Gaza. Out of concern for the safety of the representatives who were interviewed for this report and in accordance with their request for anonymity, their names and other specific information have been removed in order to ensure the unhindered continuation of their humanitarian work.

Local and international human rights organizations operating in the West Bank and Gaza serve as the main source of information shaping international public perception of the state of human rights in the respective territories. Due to global interest in the Israeli-Palestinian conflict and the peace process, the scope of information disseminated by these groups is largely limited to the wrongs committed by Israelis against Palestinians or vice versa. The organizations frequently impugn Israel, directly and indirectly, for human rights violations against Palestinians. Though the organizations are aware of human rights violations committed by the Palestinian government authorities against Palestinians, violations of this nature are not their primary focus and thus are not reported. Many assert that the PA does not possess the means to develop a functional governmental infrastructure or to establish law and order due to continuous Israeli intervention in the West Bank and Gaza.<sup>5</sup> Nonetheless, a number of representatives from within these organizations are concerned about the international community's lack of awareness of the human rights violations committed by the Palestinian government authority.<sup>6</sup>

## **2 Palestinian Society**

### **2.1 Demographics**

Palestinian society consists of a number of different religious and ethnic groups. In the West Bank the diversity is notable, as opposed to Gaza which is a more homogenous society. The population of the West Bank is roughly 2,731,000, with a majority of Palestinian Arabs, as well as some Jews and other minority groups such as Druze and Samaritans. The different religious groups are divided as follows: Muslims 80-85 % (mostly Sunni), Jews 12-14 %, Christians 1-2.5 % (mainly Greek Orthodox) and other, e.g. Druze and Samaritans, less than 1 %. The population of Gaza is 1,816,379 and consists of Palestinian Arabs, with Muslims

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<sup>5</sup> Interview with H, a representative of a human rights organization in the Territories, conducted August 23, 2011. (Hereinafter: Interview with H); Interview with Y, a representative of a human rights organization in the Territories, conducted August 17, 2011. (Hereinafter: Interview with Y); Interviews with G, a representative of a human rights organization in the Territories, conducted August 7 and 23, 2011. (Hereinafter: Interview with G); Interviews with M, a representative of a human rights organization in the Territories, conducted August 8 and September 9, 2011. (Hereinafter: Interview with M); Interviews with S, a representative of a human rights organization in the Territories, conducted August 8 and September 9, 2011. (Hereinafter: Interview with S).

<sup>6</sup> Interviews with B, a representative of a human rights organization in the Territories, conducted August 28 and September 14, 2011. (Hereinafter: Interview with B).

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98-99 % Muslims (mostly Sunni) and Christians less than 1 %.<sup>7</sup> These numbers and percentages are somewhat debatable as they differ according to the source.

### **2.2 Religious groups**

#### 2.2.1 Muslims (Sunni)

As stated above, the majority of the Palestinian population is Muslim. Of the world's total Muslim population, about 75 % belong to Sunni Islam which is also the main Islamic school in the West Bank and Gaza.

#### 2.2.2 Christians

There are a number of different Christian denominations in both the West Bank and Gaza. The majority of Christians belong to traditional churches, particularly the Greek-Orthodox and Roman Catholic churches. Other churches in the area are the Syrian-Orthodox, Coptic, and Armenian, but there are also newer denominations such as different kinds of Evangelicals.<sup>8</sup> Despite the fact that the Christian denominations share some basic tenets of faith, they are divided in many other aspects. Among other things, there are struggles and feuds based on the control of holy sites, ethnicity, and the struggle between Palestinian nationalists and Palestinian Christian Zionists.<sup>9</sup>

#### 2.2.3 Jews

The Jewish population of the West Bank live in Jewish communities and maintain Israeli citizenship. The residents do not fall under the government of the Palestinian Authority. They may, however, still be affected by attitudes regarding the freedom of religion in Palestinian society. Since they don't fall under the government of the Palestinian Authority, they are only briefly mentioned in this report.

#### 2.2.4 Samaritans

The Samaritan group is a small community of about 760 people, divided between Holon, an Israeli town near Tel Aviv, and Nablus in the West Bank. The community stems from biblical times and has its own religion which originates from Judaism. Most Samaritans today are in the unique position of having both Israeli and Palestinian identity documents.<sup>10</sup>

#### 2.2.5 Druze

The Druze are mainly of Arab decent, although they also have Iranian, Kurdish, and European heritage. Their religion originates from Islam but also incorporates elements of Judaism and Christianity as well as Greek and Asiatic philosophy. One is born into the Druze religion; conversion is not permitted. The Druze are secretive about their faith and culture, and in order to avoid persecution, they are reluctant to share information with outsiders.<sup>11</sup>

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<sup>7</sup> *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/gz.html>. accessed November 13, 2014.

<sup>8</sup> Weiner, "Palestinian Christians: Equal Citizens or Oppressed Minority in a Future Palestinian State?" 46.

<sup>9</sup> *Ibid.*, 16-18. See also Lars Gule, "Trosfrihet i den muslimske verden," *Nordic Journal of Human Rights*, 3(2001): 42.

<sup>10</sup> Elhanan Miller, April 26, 2013, "Clinging to ancient traditions, the last Samaritans keep the faith," <http://www.timesofisrael.com/clinging-to-ancient-traditions-the-last-samaritans-keep-the-faith/>. accessed October 19, 2014; Helena Merriman, January 3, 2011, "The modern trials of the ancient Samaritans," <http://www.bbc.co.uk/news/world-middle-east-12069728>. accessed October 19, 2014.

<sup>11</sup> [http://www.everyculture.com/multi/Bu-Dr/Druze.html#Comments\\_24](http://www.everyculture.com/multi/Bu-Dr/Druze.html#Comments_24). accessed October 19, 2014.

### **3 Political History and Current Political Situation**

#### **3.1 Political organizations**

There are a number of Palestinian political parties. The most influential today are Fatah and Hamas, with Fatah having greater support in the West Bank and Hamas in Gaza.

##### **3.1.2 Fatah and the PLO**

Fatah is a reversed acronym for *Harakat al Tahrir al Falastini* (Palestinian Liberation Movement). It was founded in the late 1950s by Yasser Arafat and a small group of Palestinian nationalists.<sup>12</sup> In the 1960s, Fatah began to launch military operations against Israel. In 1969, Arafat and Fatah claimed leadership of the Palestine Liberation Organization (PLO). The PLO is an umbrella organization that was founded in 1964 and created a contemporary Palestinian national movement. Fatah became the heart of the PLO and helped to accelerate the efforts of Palestinian groups to create a more broad-based movement, deriving its legitimacy from popular appeal instead of Arab states.<sup>13</sup> In 1993, in connection to the Oslo Accords that resulted in the establishment of the PA, the PLO officially recognized Israel's right to exist and renounced terrorism.<sup>14</sup> However, there are well-founded reasons to suspect that the PA is not entirely dedicated to ending terrorism.<sup>15</sup>

##### **3.1.3 Hamas**

In 1987, after the beginning of the First Intifada, Islamists influenced by Egypt's Muslim Brotherhood established Hamas in the Gaza Strip. Hamas is an acronym for the Islamic Resistance Movement. Its original purpose was the armed struggle against Israel, as well as the provision of social welfare programs. Nowadays Hamas is also engaged in the Palestinian political process. Support for Hamas has continued to grow, while support for Fatah, the leading Palestinian political party, weakened during the First Intifada which ended in 1993.<sup>16</sup> Hamas is considered a terrorist organization by Israel, the US, Canada, Japan, Jordan, and Egypt<sup>17</sup> and, under its own charter, is committed to the destruction of Israel.<sup>18</sup> In addition, Australia designates Hamas' Izz al Din Al Qassam Brigades as a terrorist organization, as do New Zealand and the United Kingdom.<sup>19</sup>

#### **3.2 Historical background**

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12 Tom Bullock, January 13, 2007, "The Palestinian Faction Fatah: A Primer."

<http://www.npr.org/templates/story/story.php?storyId=6659712>. accessed October 21, 2014.

13 Alvin Z. Rubinstein, and Alan Dowty, *The Arab-Israeli Conflict* (Westport, CT: Praeger, 1984), 150-51,170.

14 "Letters of Mutual Recognition between Israel and the PLO," *Security Dialogue* 25(March 1994): 124.

15 Geoffrey R. Watson, *The Oslo Accords: International law and the Israeli-Palestinian Peace Agreements* (Oxford, New York: Oxford University Press), 224.

16 Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington : Indiana University Press, 1994), 692-94; BBC News, July 11, 2014, "Profile: Hamas Palestinian movement." <http://www.bbc.com/news/world-middle-east-13331522>. accessed October 21, 2014.

<sup>17</sup> <http://sputniknews.com/middleeast/20150131/1017599358.html>

Sputnik International, 20:54 31.01.2015(updated 14:15 02.02.2015)

18 BBC News, July 11, 2014, "Profile: Hamas Palestinian movement." <http://www.bbc.com/news/world-middle-east-13331522>. accessed October 21, 2014.

19 BBC Watch, January 15, 2015, "Tag Archives: 'BBC Democracy Day'," <http://bbcwatch.org/tag/bbc-democracy-day/>. accessed January 27, 2015.



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As a result of the Oslo Accords, in 1994 the PA was created as an interim self-governing body. The 1995 Oslo Accords divided the West Bank into three sub-areas as the first step of a phased process of transferring control of the West Bank from Israel to the Palestinians.<sup>20</sup>

In 2000 the Second Intifada broke out, and since then the stability of Fatah has faltered, and support for Hamas has grown. After Yasser Arafat's death, Mahmoud Abbas won the subsequent presidential election in March, 2005. In the 2006 Palestinian Legislative Council (PLC) elections, Hamas captured almost all of the sixteen constituencies in the West Bank and Gaza and in the Jerusalem district.<sup>21</sup>

In March of 2007 a short-lived unity government with both Hamas and Fatah was established. A few months later, in June, Hamas took control of the Gaza Strip, expelling Fatah in a violent coup.<sup>22</sup> The split between Hamas and Fatah has constituted a problem for any unification of the West Bank and Gaza under one unified political government.<sup>23</sup> However, lately there has been some progress in these attempts.

### **3.3 The unity government**

In April 2014, Fatah and Hamas agreed to reconcile, signing a document stipulating that a PLO unity government would be formed five weeks later. The unity government came into effect on June 2, 2014, and elections were supposed to be held six months later, however, they were postponed due to the events of the summer of 2014. Said events included the kidnapping and killing of three Israeli teenagers and the Gaza war, as well as Hamas' plans to overthrow Abbas and to initiate a Third Intifada.<sup>24</sup> Not much has changed as a result of the unity government. As of May 2014, the West Bank is governed by Fatah, and Gaza is governed by Hamas.<sup>25</sup>

## **4 The Official Status of Freedom of Religion in the PA**

### **4.1 Treaties**

On April 1, 2014, the PA signed several human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC).<sup>26</sup>

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20 Peace Agreements & Related, "Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)," September 28, 1995.

21 Ian J. Bickerton and Carla L. Klausner, *A History of the Arab-Israeli Conflict*, (Upper Saddle River, NJ: Pearson Prentice Hall, 2007), 369, 379; Ian J. Bickerton, *The Arab- Israeli Conflict – A Guide for the Perplexed*, (New York: Bloomsbury Academic, 2012), 237.

22 Bickerton, *The Arab- Israeli Conflict*, 237.

23 Nathan J. Brown, "The Hamas-Fatah Conflict: Shallow but Wide," *The Fletcher Forum of World Affairs*, 34: 2(2010): 46.

24 Elhanan Miller, October 13, 2014, "Abbas: No reconciliation with Hamas before elections." <http://www.timesofisrael.com/abbas-no-reconciliation-with-hamas-before-elections/>. accessed October 21, 2014.

25 Jonathan Schanzer, *Hamas vs. Fatah: The Struggle for Palestine*, (London: St. Martin's Press, 2008), 2.

26 State of Palestine, Palestine Liberation Organization Negotiation Affairs Department, April 2, 2014, "Q&A: Palestine's Accession to International Treaties."

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Previously, in 2007, the PA also ratified the Arab Charter on Human rights (ACHR).<sup>27</sup> These treaties all deal with aspects of the freedom of religion.

### **4.2 Freedom of religion**

Freedom of religion is defined in international law as the freedom to change religion or belief, and the freedom to manifest that religion or belief.<sup>28</sup> In the ICCPR, the freedom to change religion or belief has been substituted with the freedom to have or to adopt a religion or belief of one's choice. According to the UN Human Rights Committee, this entails the freedom to choose a religion and to replace one's current religion with another, as well as the right to become an atheist.<sup>29</sup> Article 18.2 states that no one shall be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.<sup>30</sup> The CRC also establishes a child's right to freedom of religion.<sup>31</sup>

### **4.3 Freedom from religion**

The freedom to change religion and belief and to adopt or have a religion or belief of one's own choice without coercion also infers the right to not have a religion or belief. This includes, for example, the right to be more secular than the majority, as well as being atheist or agnostic.<sup>32</sup> Freedom from religion must accordingly allow for the freedom of religious minorities not to participate in the religious customs of other religions, such as the religion of the majority.

Regarding the difference between freedom of religion and freedom from religion, the former is threatened primarily when public expression of religious belief is prohibited by a state or when a state sharply restricts religious practice or ritual.<sup>33</sup> The latter, on the other hand, is endangered when a state tries to impose the dominant religious belief or lifestyle onto every citizen. The two different kinds of violations of religious freedom may also be rooted in a broad religious culture that is connected to, but at the same time distinct from, the state itself. They may be enforced by state or non-state actors.<sup>34</sup> Coercion inflicted by individual elements may, in cases where the state neither wants to nor is capable of protecting the threatened party, constitute a violation of religious freedom according to ICCPR Article 18.<sup>35</sup>

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<http://nadplo.org/userfiles/file/fact%20sheets/Q&A%20Accession.pdf>. accessed October 28, 2014.

<sup>27</sup> League of Arab States, Arab Charter on Human Rights, September 15, 1994, "NGO Law Monitor: League of Arab states." <http://www.icnl.org/research/monitor/las.html>. accessed January 20, 2015.

<sup>28</sup> UDHR, Article 18.

<sup>29</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), July 30, 1993, CCPR/C/21/Rev.1/Add.4, p 5.

<sup>30</sup> UN General Assembly, International Covenant on Civil and Political Rights, December 16, 1966, United Nations, Treaty Series, vol. 999, p. 171, article 18.

<sup>31</sup> UN General Assembly, Convention on the Rights of the Child, November 20, 1989, United Nations, Treaty Series, vol. 1577, p. 3, article 14.

<sup>32</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), 5.

<sup>33</sup> Henry J. Steiner, and Philip Alston, *International Human Rights in Context: Law, Politics, Morals: Text and Materials* (Oxford: Oxford University Press, 2008), 445.

<sup>34</sup> *Ibid.*, 445-446.

<sup>35</sup> Alex Conte, and Richard Burchill, *Defining Civil and Political Rights – The Jurisprudence of the United Nations Human Rights Committee* (Farnham, UK: Ashgate, 2004), 81; Dawood Khan v. Canada, Communication No. 1302/2004, U.N. Doc. CCPR/C/87/D/1302/2004 (2006), 5.6.

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One of the most obvious examples of coercion to maintain one's religion is Islamic law concerning apostasy. The UN Human Rights Committee has focused little attention on this area, but from statements that laws concerning apostasy are not compatible with Article 6 of the ICCPR which protects the right to life, its position seems clear.<sup>36</sup>

### **4.4 Palestinian legislation**

Palestinian law consists of a mixture between Jordanian, Egyptian, Palestinian, Ottoman, British law, and Israeli military law. There are different laws in force in the West Bank and in Gaza. The result of this lack of a unified legal system becomes apparent through the many inconsistencies and gaps in the current legislation.<sup>37</sup>

The PA does not have a constitution, but the Palestinian Basic Law (PABL) has been implemented to function temporarily.<sup>38</sup> This set of laws was first passed by the Palestinian Legislative Council in 1997 and was ratified by former President Yasser Arafat in 2002. Additional amendments were made in 2003 and 2005.<sup>39</sup>

#### 4.4.1 The PABL

The PABL deals with the subject of human rights and freedom of religion in several articles. It states that even though Islam is the official religion, respect for the sanctity of all other "divine" religions shall be maintained:

Article 4 of the Palestinian Basic Law:

1. Islam is the official religion in Palestine. Respect for the sanctity of all other divine religions shall be maintained.
2. The principles of Islamic Shari'a law shall be a principal source of legislation.
3. Arabic shall be the official language.<sup>40</sup>

Freedom of belief, worship, and the performance of religious functions are guaranteed by law, as long as public order or public morals are not violated (Art. 18). Palestinians shall, according to the PABL, be equal before the law and the judiciary without discrimination based on religion (Art. 9). However, the PABL also states that the principles of Islamic Shari'a law shall be the principal source of legislation and the official religion of Palestine (Art. 4), and that Shari'a affairs and personal status shall be assumed by Shari'a and religious courts in accordance with law (Art. 92).<sup>41</sup> This leaves an opening for legislation that contradicts the freedom of religion, as it is perceived in international law.

It should be noted that usually the purpose of a constitutional or basic law is to regulate other laws, and the freedoms it guarantees are not subject to other laws.

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36 Paul M. Taylor, *Freedom of Religion: UN and European Human Rights Law and Practice* (Cambridge: Cambridge University Press, 2005), 50-51.

37 Palestinian Women and Personal Status Law Policy Brief Ramallah and Geneva, May 2012, 1.

38 The Palestinian Basic Law – a collection of various proposals and amendments to the Basic Law of Palestine <http://www.palestinianbasiclaw.org>. accessed November 10, 2014.

39 . 2003 Amended Basic Law <http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>. accessed November 3, 2014.

40 The Amended Basic Law, Ramallah, 2003. Bir Zeit Institute of Law: The Palestinian Legal and Judicial System "al-Muqtafi". <http://muqtafi.birzeit.edu/mainleg/14138.htm>. accessed December 13, 2007.

41 Ibid.

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No provision is given for Christian, Jewish, or non-religious marriage and divorce.

### 4.4.2 Jordanian Penal Code and the PLO Revolutionary Penal Code

The Jordanian Penal Code from 1960 is still applicable in the PA as a remnant of Jordan's occupation of what later became known as the West Bank. Article 114 of the Penal Code previously subscribed temporary hard labor for the crime of selling land to an enemy state or one of its subjects, usually meaning Jews. However, Abbas toughened the punishment for this crime on October 20 2014, and the amended law now subscribes hard labor for life.<sup>42</sup>

In addition to the Jordanian Penal Code, the PLO Revolutionary Penal Code of 1979 and Revolutionary Penal Procedure Law of 1979 are still applied by military prosecutors and courts in the West Bank and Gaza.<sup>43</sup> These laws apply to crimes against "the revolution's security." The Revolutionary Penal Code applies not only to soldiers but also to any Palestinian or other person who commits a crime "against the security and safety and interests of the revolution troops." It subscribes the death penalty for many different offenses, among others collaborating with the enemy<sup>44</sup> and "transferring positions [property] to the enemy."<sup>45</sup> Such death sentences have been doled out by Palestinian courts since the late 1990s, although they haven't been implemented since Abbas came to power in 2004.<sup>46</sup> These laws are still applied, because they were in force in 1995 when Yasser Arafat authorized the continued application of laws in force in the Palestinian territories. However, there is a dispute among Palestinian lawyers about whether or not these laws were included in Arafat's declaration.<sup>47</sup>

Despite the fact that no executions for this crime have officially been implemented by the authorities, in East Jerusalem and the West Bank there have been a number of mysterious murders of Palestinians who were involved in property transactions with Jews. Human Rights Watch World Report of 1998 stated that in that same year, at least three men suspected of selling land to Israelis were murdered under such "circumstances that strongly suggested official tolerance if not involvement in the killing."<sup>48</sup> According to *The Times of Israel*, both residents of Jerusalem and Israeli citizens have been kidnapped and taken to Ramallah where they were tortured to death.<sup>49</sup>

These laws concerning the sale of land to Jews and Israelis have been extended to include Christians as well. Palestinian Christians claim that the common perception is that it is

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42 Elhanan Miller, October 21, 2014, "Abbas toughens law against Palestinians selling land to Jews," <http://www.timesofisrael.com/abbas-toughens-law-against-palestinians-selling-land-to-jews/>. accessed October 21, 2014; and Wafa Palestinian News & Info Agency,

<http://www.wafa.ps/arabic/index.php?action=detail&id=185653>. accessed November 3, 2014.

43 Human Rights Watch, "Abusive System – Failures of Criminal Justice in Gaza," 2012, 13.

44 Ibid., 14-15.

45 Miller, October 21, 2014, "Abbas toughens law against Palestinians selling land to Jews."

46 Ibid.

47 Human Rights Watch, "Abusive System – Failures of Criminal Justice in Gaza," 14.

48 Human Rights Watch World Report, 1998, [http://www.hrw.org/legacy/worldreport/Mideast-07.htm#P827\\_141152](http://www.hrw.org/legacy/worldreport/Mideast-07.htm#P827_141152). accessed October 28, 2014; Abu Toameh, October 20, 2014, "Abbas adds hard labor to punishment for Palestinians who sell land to hostile countries." <http://www.jpost.com/Arab-Israeli-Conflict/Abbas-adds-hard-labor-to-punishment-for-Palestinians-who-sell-land-to-hostile-countries-379350>. accessed October 28, 2014. See also [http://news.bbc.co.uk/2/hi/middle\\_east/8024281.stm](http://news.bbc.co.uk/2/hi/middle_east/8024281.stm). accessed October 28, 2014, which reported the execution of 2 persons, and <http://www.state.gov/documents/organization/204575.pdf>. accessed October 28, 2014, which reported a case of suicide by jumping from a window while in custody; the family claims he was pushed.

49 Miller, October 21, 2014, "Abbas toughens law against Palestinians selling land to Jews."

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forbidden to sell land to any non-Muslim.<sup>50</sup> Selling land to Christians is strongly discouraged, and people have been hurt for doing this.<sup>51</sup>

### 4.4.3 Personal status laws

In the PA, different personal status laws are applicable depending on the individual's religion.<sup>52</sup> For Muslims, the applicable laws are the Jordanian Personal Status Law in the West Bank and the Egyptian Law of Family Rights in Gaza.<sup>53</sup> These laws concerning Muslims apply the principles of Shari'a law to many family issues, such as marriage, divorce and child custody.<sup>54</sup> Christian churches have their own rules on family matters, but they send in papers from the church to register marriages etc. Incidentally, this does not include Evangelical Christians since they are not recognized by the authorities.<sup>55</sup>

Article 33 of the Jordanian Personal Status Law states two cases where marriage is invalid. These comprise marriages between a Muslim woman and a non-Muslim man or marriages between a Muslim man and a woman who is not from the People of the Book (i.e. Jewish or Christian). Article 155 states that one condition for a woman being awarded custody of her children is that she is not an apostate of Islam, thereby excluding converts.

The rule in Gaza concerning invalidity of marriage is similar to the rule in the West Bank. According to Article 37 of the Egyptian Law of Family Rights, a marriage between a Muslim woman and a non-Muslim man is invalid.

One very serious consequence of the fact that marriages can be declared null and void is the legal effect it has on any child born within a marriage that is from the outset not recognized or is later annulled. The child is considered born out of wedlock and cannot be registered with the authorities. As a result, the child ends up outside society without entitlement to identity documents and therefore unable to travel abroad or to get married.<sup>56</sup>

### 4.4.4 Shari'a and apostasy

As previously mentioned, the PABL states that Palestinian law should be based on Shari'a law. Islamic jurisprudence, theology, and historiography teach that the rules of Shari'a are based on God's revelation of his plan for mankind to the Prophet Muhammad. God's will was interpreted by developing Islamic jurisprudence such that religious scholars put the revelation into effect by drafting a legal corpus of behavioral rules. Islamic law is often considered the law of scholars rather than legislators' law or judicial law, like civil law and common law.<sup>57</sup> This might explain why many modern scholars agree that Shari'a is very diverse and that the rules are not unambiguously set out in the law.<sup>58</sup>

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50 Weiner, "Palestinian Christians: Equal Citizens or Oppressed Minority In a Future Palestinian State?" 95.

51 Interview with X, conducted on November 6, 2014.

52 Palestinian Women and Personal Status Law Policy Brief, Ramallah and Geneva, May 2012, 1.

53 Marsad – The Palestinian Security Sector Observatory, The Jordanian Personal Status Law of 1976, <http://www.marsad.info/sites/default/files/Jordanian%20Personal%20Status%20Law%20of%201976.pdf>, accessed October 23, 2014.

54 Palestinian Women and Personal Status Law Policy Brief Ramallah and Geneva, May 2012, 1.

55 Interview with X.

56 Ibid.

57 J.M. Otto, *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden: Leiden University Press, 2009), 23.

58 Ibid., 24.

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Even though Shari'a does provide freedom for a person to adopt or reject Islam, there are certain consequences. An individual who is or becomes a Muslim has full rights to citizenship. However, an individual who decides to leave Islam is subject to the death penalty and to the forfeiture of property, nullification of marriage, etc.<sup>59</sup> An individual who is or becomes a Christian, a Jew, or a believer of another scriptural religion is considered a *dhimmi* and thus will suffer a limitation of rights and not enjoy complete legal equality with Muslims in an Islamic state. An individual who is neither a Muslim nor a *dhimmi* is considered an unbeliever which involves even severer limitations. An unbeliever is not permitted to reside permanently in peace as a free person except with special permission.<sup>60</sup>

Cases concerning conversions from Islam fall under the jurisdiction of the religious courts. These courts can publish a decree declaring the convert to be an outcast, and the convert will thereby lose all social and religious protection. Extrajudicial killings in cases of conversion are not promoted, although not prosecuted by, the Shari'a courts.<sup>61</sup>

These consequences of the choice to adopt or reject Islam limit the freedom of belief for both Muslims and non-Muslims, as does the classification of people when deciding who should or should not enjoy certain civil and political rights.<sup>62</sup>

## **5 Evaluation of Palestinian Law in Relation to International Law**

By ratifying the ICCPR, the PA has undertaken to ensure all rights recognized by the Covenant to everyone within its territories without distinction of any kind, including the right to freedom of religion. In addition, the PA has also committed to providing an effective redress to any who have suffered a violation of their rights.<sup>63</sup>

Article 26 of the ICCPR establishes that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law." The law prohibits discrimination, as well as guaranteeing effective protection against discrimination on grounds such as religion, belief and ethnic background. According to the Human Rights Committee, the term discrimination should be understood to imply "any distinction, exclusion, restriction or preference," based on any of the grounds mentioned in the article with "the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms." This article prohibits discrimination in law and, in fact, in any field that is regulated and protected by public authorities.<sup>64</sup>

The PABL states in Article 9 that: "Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability." However, the PABL does not mention equal protection by the law.

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59 Abdullahi Ahmed An-Na'im, "Islamic Foundations of Religious Human Rights," in *Religious Human Rights in Global Perspective: Religious Perspectives*, edited by John Witte Jr., and Johan D. van der Vyver (New York: Springer Publishing, 1996), 352.

60 Ibid.

61 Justus Reid Weiner, "Human Rights Trends in the Emerging Palestinian State: Problems Encountered by Muslim Converts to Christianity," *Michigan State University-DCL Journal of International Law* 539(1999):569.

62 An-Na'im, "Islamic Foundations of Religious Human Rights," 352-53.

63 See ICCPR Article 2.1.

64 UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination, November 10, 1989, 7, 12.

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As shown in the aforementioned laws, there are several instances where Palestinian law does not comply with either the ICCPR or the PABL in these matters. The restrictions on marriage, the prohibition on converting or leaving Islam, and the possible consequences of apostasy show that Palestinians are not provided with equal protection by the law in the case of religion. While it is, in theory, possible to treat individuals in a non-discriminatory way under a law that itself makes distinctions based on religion, this law is still in breach of Article 26 of the ICCPR because some individuals would not receive the same protection from discrimination. Article 2.1 of the ICCPR guarantees individuals the opportunity to enjoy the rights of the ICCPR without discrimination. Article 26 not only repeats the assurances of Article 2.1 but provides an independent right. It prohibits both legal and factual discrimination in every area governed by the authorities. The article deals with responsibilities of the state with regards to both the creation and the implementation of law. Article 26 also prohibits the creation of discriminatory laws.<sup>65</sup> For example, the laws regulating marriage do not protect those who marry someone belonging to a religion not recognized by the law. All abovementioned laws can therefore be considered, in one way or another, to breach both the right to religious freedom and the right to equal protection from discrimination.

By ratifying the ICCPR, the PA has, in addition, pledged to ensure the individual's inherent right to life.<sup>66</sup> This includes taking measures to make sure people are not killed by criminal acts but also to prevent their own security forces from committing arbitrary killings.<sup>67</sup> Similarly, the PA is obliged to protect the lives of converts and individuals who have sold property to Christians and Jews. The PA is required to ensure that death penalty is only imposed for the most serious crimes and only "pursuant to a final judgment rendered by a competent court."<sup>68</sup> According to the UN Human Rights Committee, the expression "most serious crimes" means that "the death penalty should be a quite exceptional measure." The death penalty can only be imposed in accordance with the law in force at the time when the crime was committed and cannot be imposed in contrary to the Covenant.<sup>69</sup> For example, while the PA might consider conversion from Islam or the sale of land to Jews a "most serious crime," enactment of the death penalty would be contrary to the Covenant. The death penalty based on apostasy constitutes an obvious and serious violation of freedom of religion. Death penalty based on the sale of land to certain religious minorities constitutes religious discrimination against the potential buyers who are obstructed from obtaining property due to the fears of selling to them. Both cases thereby constitute violations of rights to life according to Article 6, since implementation of the death penalty in these cases would oppose the Covenant.

The right to marry and have a family is protected by Article 23.2 of the ICCPR. According to the Human Rights Committee, laws concerning marriage must be in accordance with every other right guaranteed by the convention. Every state should, therefore, provide for both

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65 UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination, November 10, 1989, 12.

66 ICCPR Article 6.1.

67 UN Human Rights Committee (HRC), ICCPR General Comment No. 6: Article 6 (Right to Life), April 30, 1982, 3.

68 ICCPR Article 6.2.

69 UN Human Rights Committee (HRC), CCPR General Comment No. 6: Article 6 (Right to Life), April 30, 1982, 7.

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religious and civil marriages.<sup>70</sup> In addition, children themselves have the right, as stated in Article 24.2, to be registered at birth. According to the UN Human Rights Committee this provision is designed to promote recognition of the child's legal personality.<sup>71</sup> It is evident that laws concerning marriage in both the West Bank and Gaza, as well as the non-recognition of children born in illegal marriages, constitute violations of the rights protected by the ICCPR.

Article 16 of the ICCPR states: "Everyone shall have the right to recognition everywhere as a person before the law." Therefore, the failure to recognize a child on birth constitutes a violation of both this right and of Article 24.2. As a consequence of this violation, the individuals are unable to enjoy other freedoms, such as the right to free movement. Article 12.2 states that everyone should be free to leave any country, including their own. According to the UN Human Rights Committee, the right to leave a country includes the right to obtain the necessary travel documents such as passports. Any restrictions of these rights must, according to Article 12, be necessary and proportionate.<sup>72</sup>

In regard to the laws concerning of the sale of land to Jews and Christians, this also constitutes a violation of international human rights law. Article 17 of the UDHR states that "everyone has the right to own property." This would include both Christians and Jews, and subsequently, laws that prohibit the sale of property based on religion are in clear breach of this article. The wording of the laws may relate to "enemy states" and "citizens" of enemy states, however if the practical implementation of the law discriminates on the grounds of religion, this would constitute a violation of international law. While the UDHR is not binding customary law, at least not on non-state actors,<sup>73</sup> the PA has committed to the protection of basic human rights and liberties, according to Article 10 of the PABL. The rights of the UDHR are considered basic human rights and Article 17 should thus be seen as one of the basic human rights to which the PA is committed.<sup>74</sup>

## **6 In Reality: the West Bank and Gaza**

### **6.1 Christians**

The Christians of the West Bank are divided into different denominations, mainly Orthodox, Catholic, and Lutheran. There are other groups as well, such as the Evangelical Christians,

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70 Human Rights Committee, General Comment 19, Article 23 (Thirty-ninth session, 1990), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 28 (1994), 4.

71 Human Rights Committee, General Comment 17, Article 24 (Thirty-fifth session, 1989), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 23 (1994), 7.

72 UN Human Rights Committee (HRC), CCPR General Comment No. 27: Article 12 (Freedom of Movement), November 2, 1999, CCPR/C/21/Rev.1/Add.9.Art 12.3, GC number 27, 9.

73 Yael Ronen, "Human Rights Obligations of Territorial Non-State Actors," *Cornell International Law Journal* 46:1 (2013):37.

74 OCHR, International Human Rights Law, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>. accessed January 19,2015.



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but due to their allegedly friendly relations with Israel, these groups are not recognized by the PA or by the Orthodox and Catholics.<sup>75</sup>

### 6.1.1 Converts

The situation for converts from Islam to Christianity is considerably harder than for the average Christian in both the West Bank and Gaza due to Shari'a law's prohibition of apostasy. Conversions also have legal consequences regarding personal status, as mentioned above in section 5.4.3. According to C, a pastor from Bethlehem, there is more persecution of converts in Nablus and Hebron. He claims that the situation in Bethlehem is less severe with heckling constituting the main form of harassment.<sup>76</sup> Because both the PA and Palestinian society forbids conversion, it has to be carried out in secret since it is dangerous to do so. According to an interview with Z, converts must have dual identities, acting as Muslims in dangerous situations.<sup>77</sup> Many converts live secret lives, pretending to be Muslims and even going to the mosque. B related that, on finding out about the conversion, the family often try to kill the convert, and therefore many converts seek shelter abroad.<sup>78</sup> The families of the convert will often take action and report the conversion to the PA. Pastor D explained that if the authorities do not respond, there is likely to be a public uprising of Muslims against Christians.<sup>79</sup>

Since converts cannot change their IDs, they continue to be perceived as Muslims. Most converts are careful to be discreet about their conversion, although some are baptized and join a church. Pastor G explained that allowing for changes to be made to religious affiliation on IDs would lead to an uproar. In his opinion, the PA or Palestinian society in general are not yet ready to take this step, also out of concern for demographics and the general fear of losing people to other religions.<sup>80</sup>

Pastor X claimed that any convert trying to register as a Christian with the PA is sent home and subsequently receives visits from individuals trying to convince them to return to Islam. Converts, he explained, are watched and followed and in some cases are called to a PA office for a conversation. If they refuse to return to Islam, the military wing of the PA becomes involved. However, according to Pastor X, it is impossible to prove the PA's involvement in court.<sup>81</sup>

Churches are often hesitant to accept Muslims or former Muslims into their communities for fear of attack.<sup>82</sup> C related cases of churches receiving email and phone threats from people who have seen their neighbors or friends converting and want to hold someone responsible.<sup>83</sup>

If a person is murdered for being a convert, according to B, the PA do not get involved. The PA have been known to arrest a person for being a convert.<sup>84</sup> Lecturer Alex Miller told of a

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75 Interview with B, conducted on November 6, 2014.

76 Interview with Pastor C, conducted on July 2, 2013.

77 Interview with Z, conducted on November 6, 2014.

78 Interview with B.

79 Interview with Pastor D, conducted July 29, 2013.

80 Interview with Pastor G, conducted on November 17, 2014.

81 Interview with Pastor X, conducted on November 4, 2014.

82 Interview with B.

83 Interview with C.

84 Interview with B.

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man in the West Bank who converted and was then arrested by the PA and made to sign a blank confession.<sup>85</sup> Z claimed, however, that this is not always the case.

According to Pastor G, living openly as a convert leads to imprisonment or threats. He stated that the PA takes measures to punish the convert in order to appease the Muslim majority. It seems it is easier to live openly as an atheist, since, according to Pastor G, unlike converts, atheists are not persecuted. This, he claimed, is due to the traditional view that a person is born into a religion and dies in the same religion regardless of their beliefs.

### 6.1.2 The West Bank

#### 6.1.2.1 *During the Second Intifada*

During the Second Intifada the situation for Christians grew worse after what had been a quiet period. Pastor X described the time between the establishment of the PA and the outbreak of the intifada as a calm period when people in the West Bank were mostly concerned with work and everyday life. After the outbreak of the intifada, harassment of Christians and churches started anew, including stones being thrown at churches and the shooting of a pastor.<sup>86</sup> Christians were also the targets of more serious crimes, as well as persecution from more official sources.

Christy, a young Palestinian Christian woman from Bethlehem, told of her uncle who did not want to pay *al-jyziah*, (the protection money paid by Christians) during the Second Intifada. He and other Christians started noticing that the so-called freedom fighters would stand next to Christian houses to shoot at the Israelis, and the ensuing response would thus mainly hit Christian houses. He stopped paying *al-jyziah* and was subsequently accused of being a traitor and put into prison. With no evidence against him, he was released, only to be shot and killed a few days later outside of his home. Another Christian man, who nonetheless paid the protection money, spoke out against the freedom fighters at the uncle's funeral and was shot in the head. He was saved by Israeli doctors but left blind.<sup>87</sup>

In 2001, Rada, 24 and Dunya, 18, two Christian sisters from Beit Jala, were killed in their home by Muslim gunmen. The Al-Aqsa Martyrs Brigade claimed responsibility, justifying the killings as the need to "clean the Palestinian house of prostitutes." The young women had been attractive women who wore Western clothes and no veil.<sup>88</sup>

In February 2002, a Christian man was attacked in Ramallah by approximately ten Muslims after a traffic dispute. The Christian man defended himself with a knife and killed one of the attackers. He subsequently turned himself in to the police. A mob of 40-50 Muslim men then started attacking Christian-owned houses and burning Christian-owned stores. According to witnesses, the PA security forces did nothing to stop the damage and some even participated in the rampage. Arafat later ordered compensation for the damage.<sup>89</sup>

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85 Interview with Alex Miller, lecturer of theology and church history at the Nazareth Evangelical Theological Seminary, conducted August 10, 2013.

86 Interview with Pastor X.

87 Christy a Palestinian Christian's plea to Dr. Saeb Erekat, April 25, 2014, <https://www.youtube.com/watch?v=YzCAqXrBGtU>. accessed January 19, 2015.

88 Elizabeth Day, December 16, 2006, "O, Muslim town of Bethlehem...." <http://www.dailymail.co.uk/news/article-423126/O-Muslim-town-Bethlehem-.html#ixzz3HcRFIakI>. accessed October 30, 2014.

89 Weiner, "Palestinian Christians: Equal Citizens or Oppressed Minority In a Future Palestinian State?" 94.

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In April 2002, the Church of Nativity in Bethlehem was invaded by Palestinian Muslim gunmen who used it as a refuge from Israeli soldiers.<sup>90</sup> According to *The Washington Times*, during the standoff pages from Bibles were used as toilet paper, sacramental items were stolen, and church equipment was used as hiding places for weapons.<sup>91</sup>

Saliba and Najib, two Palestinian brothers who had recently converted to Christianity, were invited to a prayer meeting with German Christian tourists in Ariel. They were subsequently accused of collaborating with Mossad and the CIA. Najib was questioned and beaten by the secret police, forced to curse Jesus, and informed that his life henceforth “would be nothing but suffering.” He then fled and spent three years living in a bomb shelter before being granted religious asylum in Europe in 2004. Saliba was arrested and spent 21 months in prison where he was tortured. Seven of these months were spent in underground solitary confinement. He was told that he had been scheduled for execution but was released before its implementation by the Israelis during Operation Defensive Shield.<sup>92</sup>

During the intifada, Christian houses and church compounds in Beit Jala were used as sites for shooting at the Jewish neighborhood of Gilo in Jerusalem. If the Israeli retaliation had missed even slightly, the Christian houses and churches would have been destroyed.<sup>93</sup>

### *6.1.2.2 The sale of land to Christians and Jews*

As mentioned above in section 5.4.2, it is illegal according to the Jordanian Penal Code and the PLO Revolutionary Penal Code to sell land to enemy citizens, often inferring Jews. The mere accusation of such a criminal act may result in personal danger. Y, a Christian woman from Ramallah, told of a woman who was forced to leave Ramallah after being accused of selling land to Jews.<sup>94</sup> Weiner gave an example of a man who claimed to have been threatened with death if he sold land to Christians.<sup>95</sup> F, a resident of East Jerusalem, explained that even in the case of a piece of land which, having been sold to a Christian years ago, ends up being sold to Jews, the grandchildren of the original seller would be too scared to acknowledge their relationship.<sup>96</sup>

### *6.1.2.3 Attacks on Christian institutions*

Over the years there have been several attacks on Christian institutions in the West Bank. The perpetrators seem generally to be Muslim extremists. In July 2013, the St Lazarus Monastery in Bethany was subjected to attacks including theft and stone throwing. Even though the Mother Superior appealed directly to Mahmoud Abbas, the monastery did not receive any legal recompense.<sup>97</sup> In 2006, Muslim clerics firebombed and destroyed the YMCA headquarters in Qalqilia in an attempt to close it down. The deputy mayor of Qalqilia, himself a member of Hamas, was quoted by *The Washington Times* as calling even the very

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90 Ibid., 76-77.

91 Ibid., 90.

92 Ibid., 161f.

93 Ibid., 159.

94 Interview with Y, conducted October 20, 2014.

95 Weiner “Palestinian Christians: Equal Citizens or Oppressed Minority In a Future Palestinian State?”<sup>95</sup>.

96 Interview with F, conducted November 5, 2014.

97 Justus Reid Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?* (Jerusalem: Jerusalem Center for Public Affairs, 2014), 17.

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name of the YMCA a “challenge to the city” and a “challenge to the feeling of our people.”<sup>98</sup> Evangelical institutions have also been targeted for attacks, the First Baptist Church of Bethlehem, for example, having been firebombed 14 times.<sup>99</sup>

### *6.1.2.4 Societal discrimination*

Pastor X from Bethlehem described the everyday life of Christians in Bethlehem as a struggle. They feel hopeless and confused, and while, according to him, they know that Israel would be their best defender, they dare not talk about it for fear of the PA. Any Christians, regardless of denomination, who walk on the street wearing a cross are, he claimed, spat at and called names.<sup>100</sup> Pastor G remarked that life for Christians in the West Bank is peaceful at times but at other times makes them want to leave. According to Pastor G, their situation depends on politics and they feel trapped between Islamic fundamentalism on the one hand, and Israeli occupation on the other.<sup>101</sup>

However, not everyone agrees on the existence of religious harassment and discrimination in Bethlehem. In fact, according to Father Ajmed Sabbara, there are no problems of harassment in Bethlehem.<sup>102</sup> Pastor X, however, gave various examples of discrimination against Christians. In the case of a car accident between a Christian and a Muslim, the Christian is always found responsible.<sup>103</sup> Likewise, a Christian can be baselessly accused of attacking a Muslim and be unjustly punished.<sup>104</sup> Z, from East Jerusalem, explained that the mistreatment of Christians is connected to the general perception among Muslims that being a Palestinian means to follow Islam.<sup>105</sup> Expressions such as “first comes Saturday then comes Sunday” are used to keep Christians on edge, unsure of their fate if extreme Muslims come into power. Christians originally from Gaza tell stories of Hamas which scare the Christians in the West Bank, making them wonder whether they should leave before the same happens to them.<sup>106</sup> Mr Canawati, a Christian business owner, told the *Daily Mail* that his sister and her family had left Bethlehem for the US from fear of attacks. Mr Canawati himself was unable to leave since nobody would buy his business. “I feel trapped. We are isolated.”<sup>107</sup>

Another aspect of discrimination is the confiscation of land belonging to Christians. In an interview in 2007, one Christian leader described Muslim gangs using forged documents to take over land belonging to Christians and often beating the Christians when they resist.<sup>108</sup> To prevent being targeted and to receive fair treatment, Christians often have to resort to bribing the police.<sup>109</sup>

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98 *The Washington Times*, April 27, 2006, “YMCA office under attack by Muslims in West Bank.”

<http://www.washingtontimes.com/news/2006/apr/27/20060427-101341-9518r/>. accessed November 4, 2014.

99 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 19.

100 Interview with Pastor X.

101 Interview with Pastor G.

102 Interview with Father Ajmed Sabbara, parish priest at the Basilica of the Annunciation, conducted June 7, 2013.

103 Interview with Pastor X.

104 Interview with B.

105 Interview with Z.

106 Interview with Pastor C, conducted on July 2, 2013.

107 Day, “O, Muslim town of Bethlehem....”

108 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 20.

109 Interview with Pastor X.

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The discrimination against Christians is more obvious in Ramallah than in Bethlehem, even though the situation in Bethlehem is deteriorating. In Pastor X's opinion, Christian tourism is the reason why the discrimination in Bethlehem is less obvious.<sup>110</sup> One sign of pressure from outside society is revealed in an interview from 2013 in which a Christian leader from Beit Sahour reported the censorship of souvenirs sold around Bethlehem's Manger Square whereby the crosses which usually appear on FC Barcelona soccer balls and Church of Nativity T-shirts were removed.<sup>111</sup>

There seem to be a difference of opinions between the Christian leaders of the traditional churches and their community regarding the situation. In Weiner's report a Christian from Bethlehem was quoted saying: "Our leaders are liars. They tell the newspapers that everything is OK. But when Christians go to the market, they're afraid to wear their crosses." Another Christian from Bethlehem pointed out the importance of distinguishing between the leadership and the people.<sup>112</sup>

Y, from Ramallah, described the increasing pressure to conform to Muslim norms over the last six to seven years. Growing numbers of women cover their hair, even if they are not practicing Muslims. A woman who does not cover herself can be verbally harassed or rebuked on the street. Radical elements hang posters in both public and private places, telling women, both Muslim and non-Muslims, how to dress and behave. According to Y, life has become harder for women since the Second Intifada.<sup>113</sup>

Pastor G described the recent widening of the gap between Christians and Muslims as a result of Islamic fundamentalism. Christians hear about ISIS and events in Iraq and Syria, and this leads to fear. According to Pastor G, this fear is unfounded and irrational since most Muslims are not fanatics. He admitted, however, that there are some Muslims, less than 15% according to his estimate, who admire ISIS.<sup>114</sup>

Evangelical Christians also face problems because of their faith. Marrying in an Evangelical church is considered humiliating for the family, so Evangelical couples are often pressured to marry in Orthodox or Catholic churches.<sup>115</sup>

Nashat Filmon, the director of the Palestinian Bible Society, summed up the situation regarding religious freedom in the West Bank as follows: "There is freedom in West Bank compared to Gaza where the more fundamental Muslim Brotherhood is in power, and compared to most of the Muslim world... but it is still not free."<sup>116</sup>

### *6.1.2.5 Discrimination by the PA and in law*

The role of the PA in discriminating against Christians is not obvious. According to Pastor X, the PA does not play an active role in public discrimination and persecution, but they observe and either intervene or neglect to do so.<sup>117</sup> B told of one example of the PA's failure to intervene on behalf of a 15-year-old Christian girl who had been taken as a wife by a

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110 Ibid.

111 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 20.

112 Weiner "Palestinian Christians: Equal Citizens or Oppressed Minority In a Future Palestinian State?" 71.

113 Interview with Y.

114 Interview with Pastor G.

115 Interview with B.

116 Interview with Nashat Filmon, director of Palestinian Bible Society, conducted on July 10, 2013.

117 Interview with Pastor X.

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Muslim man. B claimed that the PA didn't get involved because the man was a Muslim.<sup>118</sup> Pastor X asserted that the PA has an armed wing working under the radar which is believed to be more active. This is, however, hard to prove.<sup>119</sup>

B explained that the majority of the PA officials are Muslim. In order to receive Western support, they use Christians as good images to show off their inclusiveness to the world. Similarly, he continued, the Christian mayor of Bethlehem is a figurehead who lacks real power. According to B, she is controlled behind the scenes by Muslims.<sup>120</sup> Pastor G, on the other hand, believes that the PA puts Christians in visible position in order to send a message of tolerance to the world; evidence, in his opinion, of the PA's positive attitude towards Christians.<sup>121</sup>

On February 2, 2014, the PA made a decision to stop including religion on national ID cards issued in the West Bank in an attempt to eliminate any differentiation between Muslims and Christians. Since religion is already noted on birth certificates, the PA sees no need to repeat it on ID cards.<sup>122</sup> However, religious affiliation is still designated on ID cards issued before this decision, and Christians often suffer discrimination when looking for a job due to prejudices of potential employers.<sup>123</sup> Hopefully this new decision can stand up against the pressure from certain groups who want religious affiliation returned to ID cards, although B was rather sceptical.<sup>124</sup>

The public school system constitutes another problem for Christians. Religion is a mandatory subject in school, and Christian children are taught Christianity. However, the children often feel pressure from teachers who are perceived as trying, unofficially, to press Islam on them.<sup>125</sup> In addition, in order to matriculate, all students, even Christians, must be able to quote and write down a number of verses from the Koran.<sup>126</sup> There is not an atmosphere of acceptance, and children often implore their parents to let them leave school.<sup>127</sup>

Evangelical Christians experience problems due to their legal status. They are not recognized as Christians and therefore do not have any of the rights of recognized Christians.<sup>128</sup> This constitutes a problem regarding marriage and family. In 2010, a couple in Pastor X's church tried to register their marriage with the PA. They were, however, thrown out of the office and their marriage deemed illegal since the church is not registered. Their child is therefore not registered; he is considered to be born out of wedlock and therefore has no legal status. Without legal status a person cannot get a passport, vote, or travel, among other things.<sup>129</sup> A consequence of a church not being recognized is that all of its operations are technically illegal. Unrecognized churches cannot have a bank account or

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118 Interview with B.

119 Interview with Pastor X.

120 Interview with B.

121 Interview with Pastor G.

122 Abu Amer, 28 February 2014, " Hamas slams pa for removing religion from id cards."

<http://www.almonitor.com/pulse/iw/originals/2014/02/palestinian-authority-hamas-national-id-religion.html>. accessed October 29, 2014.

123 Interview with Pastor X; interview with B.

124 Interview with B.

125 Interview with Pastor C.

126 Interview with B.

127 Interview with Pastor C.

128 Ibid.

129 Interview with Pastor X.

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rent the space for their church other than in the names of certain individuals. Their pastors are not recognized as clergy and thus are denied benefits such as the right to fly in and out of Israel's Ben Gurion airport and to travel freely to Jerusalem. Without this recognition, pastors must travel to Amman to get to an airport and obtain a new permit every year to enter Jerusalem, not always an easy task. In addition, unrecognized churches are not permitted to bury their dead in official graveyards.<sup>130</sup>

Many Evangelicals consider sharing their faith an important part of their religious life. However, evangelizing to Muslims is not accepted by Palestinian society. According to B, on one occasion the PA arrested evangelizers on the street and made them sign a document swearing not to evangelize under threat of a five-year imprisonment.<sup>131</sup> Pastor G explained that many organizations evangelize discretely in the West Bank by showing movies and distributing New Testaments, all the while trying not to upset people. The PA does not appreciate distractions from their main focus of ending the occupation. In his opinion, and backed up by Pastor D, proselytizing would cause tension and civil unrest and thereby divert attention from the cause.<sup>132</sup>

There are also other accounts of the PA's attitudes towards Christians. Z, for example, claimed that the authorities do not really care about religious affiliation; they even provided guards to protect churches after the publication of the Muhammad caricature in Denmark.<sup>133</sup> Likewise, Pastor C stated that the PA tries to defend the Evangelicals. However, due to his previous interaction with officials, he also believes that the authorities keep close surveillance of communications such as email, Facebook, and cell phones, and he is therefore careful what he says.<sup>134</sup>

According to Pastor G, the PA encourages open-mindedness and is eager to be seen as a secular rather than a Muslim fundamentalist society. He asserted that the situation for Christians in the West Bank is probably the best in the Arab world and in the Middle East. In his opinion, it is the land and not the religion that is uppermost in the eyes of the PA.<sup>135</sup>

### *6.1.2.6 The Christian exodus*

During the 19<sup>th</sup> century, the Christian population of Bethlehem constituted 90% of the total population. By the 1990s the percentage was 60%, and today the number is down to less than 10%.<sup>136</sup>

According to B, the majority of Muslims in Bethlehem are very religious. According to his explanation of the religious demographics, after the establishment of Israel and the war in 1948, religious Muslims fled from Jaffa, Nazareth and other places in the Galilee for the West Bank and Bethlehem. Refugee camps were built for them on Christian land. The land was not bought with the purpose of building refugee camps, but the Christians allowed for the temporary erection of camps with tents. Houses were later built on the same spots, but the

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130 Interview with Pastor C.

131 Interview with B.

132 Interview with Pastor G; interview with Pastor D.

133 Interview with Z.

134 Interview with Pastor C.

135 Interview with Pastor G.

136 According to a survey conducted by the Jerusalem Center for Public Affairs, Pierre Rehov, Sept 27, 2014, "Holy Land: the Perils Facing Christians," <http://www.gatestoneinstitute.org/4692/christians-holy-land>, accessed October 30, 2014.

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land was still not bought from the Christians. This resulted in a change of the demographics in Bethlehem.<sup>137</sup>

There are different theories for the recent dramatic change in Bethlehem's demographics. One theory is based on economic constraints, e.g. problems finding jobs. This may be caused by religious discrimination and/or the difficulty for Palestinians of working in Israel due to checkpoints and demands for permits. After the Second Intifada and the construction of the security fence, many businesses in Bethlehem were forced to shut down due to the lack of tourists.<sup>138</sup> According to Pastor D, the fence especially affects Christians who receive no help, while non-Christians are more likely to receive support.<sup>139</sup> Another reason for the demographical changes lies in the fact that the Christian population tends to be more educated and therefore Christians have more opportunities to find work abroad. Other reasons include the restriction of movement for Palestinians from the West Bank as a result of the Israeli occupation, higher birth-rates among Muslims, as well as religious discrimination or persecution.<sup>140</sup> Pastor X concluded that it is not possible to isolate one main reason for the number of Christians leaving but rather that the reasons are all connected.<sup>141</sup> Christy pointed out that the main reduction in Christians in Bethlehem took place after the First and Second Intifadas and the rise of the PLO and Hamas. She therefore expressed doubt whether the Israeli occupation is the real reason behind the Christians leaving.<sup>142</sup> B, however, told of another reason why Christians are leaving Bethlehem. He explained that Christians are being pushed off their land by various means: the building of mosques in Christian areas, even next to churches, in order to take over, and the purchase of Christian land by Islamists in the West Bank with backing from abroad.<sup>143</sup> Extortion is another way of getting Christians to leave their land. One evangelical pastor told of the attempt of the Tanzin militia group to force him to pay the sum of 30,000 dollars and hand over his land in exchange for his personal security.<sup>144</sup>

### 6.1.3 Gaza

#### *6.1.3.1 Attacks on Christian institutions and education*

In February 2008 the YMCA library in Gaza was attacked and destroyed by gunmen who first kidnapped two guards and then detonated several explosives. This attack was reportedly in response to the Danish Mohammed caricatures.<sup>145</sup>

In April 2013, Hamas passed a law in Gaza stating that children above the age of nine should learn in gender-segregated schools. The law also prohibits males from working in girls' schools in Gaza.<sup>146</sup> The new law did not specifically single out Christian schools; however,

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137 Interview with B.

138 Rehov, "Holy Land: The Perils Facing Christians;" interview with Pastor X; interview with Z.

139 Interview with Pastor D.

140 Rehov, "Holy Land: The Perils Facing Christians"; Weiner, "Palestinian Christians: Equal Citizens or Oppressed Minority In a Future Palestinian State?" 50-67; interview with Pastor X; interview with Z.

141 Interview with Pastor X.

142 Christy a Palestinian Christian's plea to Dr. Saeb Erekat.

143 Interview with B.

144 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 18.

145 Ibid.

146 Abeer Ayyoub, April 11, 2013, "Hamas segregates Gaza schools by gender," *Aljazeera*.

<http://www.aljazeera.com/indepth/features/2013/04/20134711112489892.html>. accessed October 29, 2014.



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the only coed schools in Gaza were the five Christian schools.<sup>147</sup> In the same month that this law was passed, the entrance to the Christian Holy Family School in Gaza was set on fire.<sup>148</sup>

### *6.1.3.2 Legal discrimination*

As previously mentioned the PA ruled to omit religion from national ID cards issued in the West Bank. A Hamas spokesman described the decision as illegal, and former justice minister in the Hamas government called it “a crime against the Palestinian people.” Hamas are quoted as saying that the decision paves the way for civil marriage and thus enabling a Muslim woman to marry a Christian man. They view it as a step towards secularization and a prelude to the fight against Islamization. A Hamas senior official even said that the decision would not be implemented in Gaza.<sup>149</sup> Yunis al-Astal, a senior Hamas representative in Gaza, stated that “the teachings of Islam require that there be ‘differentiation’ between the followers of various religions,” and that the decision is “unacceptable to Islam and its teachings.”<sup>150</sup>

### *6.1.3.3 Societal discrimination and persecution*

Pastor X described the situation in Gaza as more confrontational than the situation in the West Bank. He claimed that persecution and discrimination are not hidden, and that Christians are treated as second-class citizens. For instance, women cannot go unveiled without encountering strong opposition.<sup>151</sup>

In October 2007, Rami Ayyad, the manager of the only Christian bookstore in Gaza, was abducted and murdered. Two months earlier he had been asked by a man in the store why he was not a Muslim. On telling the man that he believed in Jesus, the man replied: “I know how to make you become a Muslim.”<sup>152</sup> After Ayyad's murder, it became clear that the other members of the staff were also being targeted, and the bookstore shut down and moved to the West Bank.<sup>153</sup> The store had suffered two previous bombings in February 2006 and April 2007.<sup>154</sup>

In February 2011, a Christian surgeon named Maher Ayyad was attacked in a car bombing. Ayyad was unscathed but afterwards started to receive text messages warning him to stop proselytizing, even though he denied doing this.<sup>155</sup>

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147 Judith Sudilovsky, June 4, 2013, “Five church schools in Gaza face closure after Hamas order.” <http://www.catholicherald.co.uk/news/2013/06/04/five-church-schools-in-gaza-face-closure-after-hamas-order/>. accessed October 29, 2014.

148 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 18; Maan News Agency, April, 14, 2013, “Christian school gates torched in Gaza City.”

<http://www.maannews.net/eng/ViewDetails.aspx?ID=585224>. accessed November 11, 2014.

149 Abu Amer, February 28, 2014, “Hamas slams pa for removing religion from id cards.” <http://www.al-monitor.com/pulse/iw/originals/2014/02/palestinian-authority-hamas-national-id-religion.html>. accessed October 29, 2014.

150 Abu Toameh, February 18, 2014, “Palestinians: keep religion on ID cards.” <http://www.gatestoneinstitute.org/4180/palestinians-religion-id-cards>. accessed October 29, 2014.

151 Interview with Pastor X.

152 Catrin Ormestad, November 1, 2007, “I know how to make you a Muslim,” *Haaretz*. <http://www.haaretz.com/weekend/magazine/i-know-how-to-make-you-a-muslim-1.232309>. accessed November 10, 2014.

153 Interview with Nashat Filmon.

154 Allen Jr., June 14, 2013, *Politics and Christians in the Holy Land*, retrieved on 10 November 2014, from <http://ncronline.org/blogs/all-things-catholic/politics-and-christians-holy-land>.

155 John L. Allen Jr., June 14, 2013, “Politics and Christians in the Holy Land.” <http://ncronline.org/blogs/all-things-catholic/politics-and-christians-holy-land>. accessed November 10, 2014.

The Greek Orthodox Church claims that five Christians in Gaza were kidnapped and forced to convert to Islam in July 2012. A video was later released by an Islamic group showing one of the converts declaring that his conversion had been voluntary. His parents complained to the Hamas police but with no result.<sup>156</sup> Nashat Filmon recounted the story of a convert from Islam to Christianity who fled from Gaza to the West Bank after being drugged and forced to convert publicly in front of TV cameras.<sup>157</sup>

#### 6.1.4 Traditional churches and evangelicals

According to Z, relationships between the various traditional churches are generally good, although when Evangelical Christians leave the traditional churches for evangelical churches, it does create tension.<sup>158</sup> Pastor X stated that the discrimination experienced by Christians regarding proselytizing, conversions, and legal disputes with Muslims regarding land, and the need for personal protection from discrimination doesn't vary from one kind of church to another.<sup>159</sup> Pastor C claimed that Evangelicals experience the most discrimination from within Christian groups. They are accused of being Zionists, traitors to their own people, and divisive heretics. Catholic schools may demand baptismal certificates on entry, and there are cases of Evangelical Christians being denied entry since they don't baptize their children.<sup>160</sup> In addition, the official status of the Evangelical churches is in the hands of the traditional churches. In 2010, there was a ruling signed by all of the established churches that in order for a new denomination to be accepted into the church, they all had to give their approval.<sup>161</sup>

According to Roger Elbel, director of the Christian & Missionary Alliance Church International, the established churches consider the non-recognized denominations as a threat to the status quo. The traditional churches have agreements with the Muslim leaders to work only within their own communities, and they therefore see the Evangelicals as a threat. Elbel stated that while the authorities generally leave the Evangelicals alone, the main opposition comes from the traditional churches which are larger and established and use their authority to ostracise the Evangelicals.<sup>162</sup>

Pastor D, however, explained that he senses more animosity from the Evangelicals than from the established churches. The Evangelicals called him a Zionist, and especially after the two intifadas, he feels that, unlike him, the Evangelicals harbour a hatred towards Jews.<sup>163</sup>

## 6.2 Jews

Even though Jews living in the West Bank are not legally under the authority of the PA, they are still affected by the PA's views on Jews. Following the October 22, 2014 terror attack where a young man drove his car into a crowded light rail station in Jerusalem killing a

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156 Weiner, Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?, 20.

157 Interview with Nashat Filmon.

158 Interview with Z.

159 Interview with Pastor X.

160 Interview with C.

161 Interview with Pastor D.

162 Interview with Roger Elbel, director of the CMA church international, conducted on July 7 2013.

163 Interview with Pastor D, conducted 29 July 2013.

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woman and a baby, the following was posted on Fatah's official Facebook page: "The Silwan branch of Fatah honors the heroic martyr Abdel Rahman Al-Shaludi who executed the Jerusalem operation which led to the running over of settlers in the occupied city of Jerusalem."<sup>164</sup>

Article 7 of the Hamas Charter states that: "The Day of Judgment will not come about until Muslims fight and kill the Jews, when the Jew will hide behind stones and trees. The stones and the trees will say, O Muslims, there is a Jew behind me, come and kill him."

One of the main objections made by Hamas officials to Abbas' decision to remove religion from ID cards was that it was "a prelude to accommodating settlers in the anticipated Palestinian state, allowing them to participate in elections, and the Jews would become components of the Palestinian people." According to Taher al-Nono, an adviser to the head of the Hamas government, the decision should be rejected on the grounds that it serves the interest of Israel and aims at including Israeli settlers as holders of dual nationality.<sup>165</sup> Al Nono reportedly said that "no Palestinian can agree to the presence of settlements on our land."<sup>166</sup>

These statements made by representatives of the ruling parties in the PA Unity Government give an indication of the status of Jews in Palestinian territories.

### **6.3 Secular population**

According to Y, atheism and secularism are private and not something you always want to show everyone.<sup>167</sup> Z stated, "you cannot be non-religious in the West Bank."<sup>168</sup> F, a resident of East Jerusalem, explained that it is dangerous for Muslims to call themselves atheists or agnostics. This is not accepted in Christian society either. According to F, this reaction is caused by fear and peer pressure, because the society is community based rather than individualistic. As a result, while there may be a number of secular people and atheists in Palestinian society, they are most likely to hide under a religious facade.<sup>169</sup> This view is confirmed by Waleed Alhousseini's story about atheists who live a secular life but attend Friday night prayers at the mosque from fear of questions that would otherwise be asked.<sup>170</sup>

#### **6.3.1 The West Bank**

There is, according to B, pressure on secular people in the West Bank. Because they constitute a very small minority (B estimated it as less than 0.5 %), they have no influence.<sup>171</sup> Alhousseini explained the problems for non-believers in the West Bank. They cannot publicly express that they are non-believers or they run the risk of being arrested, as in fact happened to Alhousseini himself. Atheists in the West Bank feel the need to act as

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164 Miller, 23 October 2014, "Abbas' Fatah honors Jerusalem hit-and-run terrorist," *The Times of Israel*. <http://www.timesofisrael.com/fatah-honors-jerusalem-hit-and-run-terrorist/#ixzz3HtjcrUF3>. accessed November 2, 2014.

165 Abu Amer, "Hamas slams pa for removing religion from id cards."

166 Abu Toameh, "Palestinians: keep religion on ID cards."

167 Interview with Y.

168 Interview with Z.

169 Interview with F.

170 Interview with Waleed Alhousseini, conducted January, 11 2015.

171 Interview with B.

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if they were religious—they pray and keep Ramadan to be safe—living, according to Alhusseini, a dangerous double life.<sup>172</sup>

Alhusseini described that the younger generation is, on the whole, secular but in a limited way. In his opinion, they would be perceived as religious from a European perspective, but in Palestinian society they are seen as secular. Alhusseini estimated the number of atheists at about 5 % of the West Bank population but sees the number growing due to social media and the internet.<sup>173</sup>

Religious affiliation is important in Palestinian society which is evident in various aspects of life. One example is the lack of civil marriage in the West Bank. Atheists or agnostics cannot therefore get married in accordance with their own convictions. Since you cannot register as non-religious, and, as stated above, interfaith marriage is outlawed, this constitutes a problem for two secular people who are born into different religions and want to get married.<sup>174</sup>

In Jericho in July 2012, six people were arrested and one sentenced to a month in prison for eating in public during Ramadan.<sup>175</sup> In an interview on PA TV, the chairman of the PA Supreme Court for Shari'a law said: "We have to monitor the streets and severely punish anyone who [eats] in public during Ramadan, and this is the responsibility of the security forces. Our [Palestinian] streets are Islamic, praise Allah. Any person caught committing this sin in public during Ramadan has to be imprisoned until the end of Ramadan, as an example to others. I call upon others [non-Muslims] to be considerate of Muslims' feelings."<sup>176</sup>

According to Alhusseini, the PA exercises control through religious means despite calling itself secular. In addition, it does not accept atheists and claims Islam to be the foundation of justice.<sup>177</sup>

### 6.3.2 Gaza

According to Alhusseini, the situation is difficult for atheists and secular people in Gaza. He explained that many atheists and seculars do not even dare to like certain posts on the internet from fear of Hamas and their own families. Seculars are often threatened by Hamas and other Salafist groups and do not feel safe in Gaza.

As in the West Bank, there is no civil marriage in Gaza which means that atheists cannot get married in accordance with their own beliefs nor have an interfaith marriage.<sup>178</sup>

Another problematic issue for non-religious people in Gaza is that their ID cards contain information about their religion.<sup>179</sup> This, of course, constitutes a problem for any individuals who would rather not be affiliated with any religion or who want to change their religion.

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172 Interview with Waleed Alhusseini.

173 Ibid.

174 See Abu Amer, "Hamas slams pa for removing religion from id cards."

175 Weiner, *Middle Eastern Christians – Battered, Violated, and Abused, Do they have any chance of survival?*, 18.

176 Itamar Marcus and Barbara Crook, August 1, 2012, "Six Palestinians arrested, one given a month in prison, for eating in public during Ramadan." [http://palwatch.org/main.aspx?fi=157&doc\\_id=7196](http://palwatch.org/main.aspx?fi=157&doc_id=7196). accessed October 12, 2014.

177 Interview with Waleed Alhusseini.

178 Amer, "Hamas slams pa for removing religion from id cards."

179 Ibid.

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In April 2013, at least 41 men were arrested on charges of immodesty.<sup>180</sup> 22-year-old Ismail Halou was abducted by the police in Gaza on April 4, 2013. At the police station he was beaten and could not walk for three days after he was released. Afterwards they shaved his one-inch-long hair, but they still didn't explain that his hairstyle was the reason for his arrest.<sup>181</sup> Rajou Hayek was also arrested because of his hairstyle. He was pushing his father in a wheelchair to a health clinic, when he was arrested and beaten and later had his head shaved.<sup>182</sup> Naqib, a high school student, was told by the police: "We want you to respect our tradition." He continued: "They made a cross on our heads and asked us to leave and finish the shaving at a barber shop."<sup>183</sup> A teenager from Gaza told of witnessing police beating three young men with clubs for wearing tight, low-cut pants.<sup>184</sup>

Hamas has banned women from smoking shisha in public cafes in Gaza. Female lawyers in Shari'a courts are required to wear Islamic dress. According to a female lawyer, all women who wish to enter the Shari'a Court in Gaza must wear the hijab.<sup>185</sup> According to Y, secular women can refuse to wear a veil in Gaza, but there is strong pressure to do so.<sup>186</sup>

Palestinian tradition prohibits unmarried couples from meeting, and Hamas occasionally cracks down on couples without marriage certificates meeting in public. This, as well as social pressure and parental control over women, has led to many young people limiting their interaction with the opposite sex.<sup>187</sup>

## **7 Conclusion**

While some protection of human rights and freedom of religion can be found in the PABL, there are still other laws that discriminate on the grounds of religion. When these discriminatory laws are applied, the provisions of the PABL fail to protect the individuals.

Following the PA's accession to the ICCPR, it has an international obligation not to violate the freedom of religion. The accession also resulted in the extension and closer definition of the freedom of religion that the PA must protect and respect. However, the PA does not seem to have brought about any major changes in relation to this freedom, even though laws that previously contradicted the PABL now also contradict the ICCPR.

Laws regulating different areas of life might also, as stated earlier, affect freedom of religion, for example, in the case of marriage. In such cases the laws and their implementation not only constitute violations of the freedom of religion but also other rights such as the

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180 Phoebe Greenwood, April 30, 2013, "Hamas "modesty" crackdown stokes fears of Islamic militancy." <http://www.smh.com.au/world/hamas-modesty-crackdown-stokes-fears-of-islamic-militancy-20130430-2ipze.html>. accessed October 30, 2014.

181 Ibid.

182 Ibid.

183 Associated Press, April 8, 2013, "Hamas police shave heads of young men with "indecent" hair." <http://english.alarabiya.net/en/News/2013/04/08/Hama-police-shave-heads-of-young-men-with-indecent-hair.html>. accessed October 30, 2014.

184 Ibid.

185 Hazem Balousha, April 12, 2013, "Hamas intensifies Gaza 'Islamization,'" <http://www.al-monitor.com/pulse/originals/2013/04/hamas-islamize-palestinian-society-gaza.html>. accessed October 30, 2014.

186 Interview with Y.

187 Abeer Ayyoub, November 13, 2013, "Gaza's unmarried couples defy social traditions." <http://www.al-monitor.com/pulse/originals/2013/11/gaza-couples-relationships-marriage.html>. accessed October 30, 2014.

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freedom to get married. It can therefore be concluded that the freedom of religion according to the ICCPR is restricted under the PA and that violations of this freedom spill over to other rights protected under the ICCPR and the UDHR.

Furthermore, there is no evidence of the PA is trying to abide by its obligations to the PABL and the ICCPR. Based on interviews and other sources of information, it is obvious that Palestinian society makes distinctions between people on the basis of their religious or non-religious views. Converts, in particular, face a lot of danger.

It is not only the PA's restrictions on religious freedom that constitute violations of the ICCPR, but also coercion by other elements if the PA does not choose or is unable to protect a threatened individual.

Based on its commitments according to the ICCPR, the PA is obligated to ensure the rights of individuals either to belong or not belong to a specific religion, and this also includes the right to change religion. PA attitudes this matter are in blatant contradiction to the rights as set out by the ICCPR.

**About JIJ**

The Jerusalem Institute of Justice is a civil rights organization based in Jerusalem, Israel, dedicated to cultivating and defending the rule of law, human rights, freedom of conscience and democracy in our region. For over a decade, JIJ attorneys have defended individuals and organizations suffering from civil discrimination on the basis of their religious affiliation. The JIJ has taken dozens of cases before the Israeli courts, and won more than 20 cases in the Israeli Supreme Court.

Although this report does address issues that are within the scope of our legal practice, it is not its primary focus. This report focuses on international and regional law, international human rights standards, and shared core values and attempts to broaden the perspective of human rights in the Middle East.