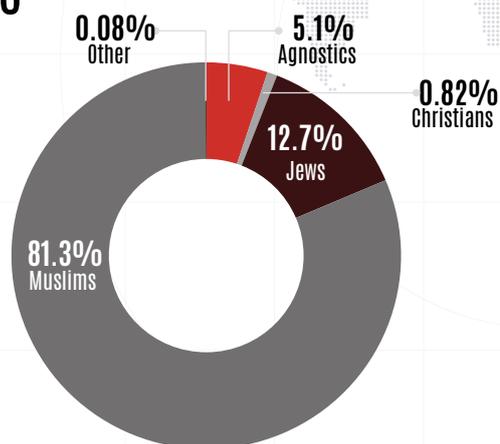




# PALESTINIAN TERRITORIES

## RELIGIONS



## LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

The UN General Assembly, the UN Security Council and the International Court of Justice consider the Palestinian Territories to be under Israeli occupation.<sup>1</sup> The territories came into being in June 1967 when Israel seized areas beyond the 1949 armistice lines, held until then by Jordan and Egypt, namely East Jerusalem, the West Bank and Gaza. In 1993, as a result of the so-called Oslo process, Israel and the Palestine Liberation Organisation (PLO) formally recognised each other. One year later, the Palestinian (National) Authority (PA) was established as an institution of Palestinian self-rule in certain areas of the West Bank and Gaza, but not East Jerusalem, which Israel considers an integral part of its capital and where the PA exerts no authority at all.

Bilateral negotiations between Israelis and Palestinians intended to create a Palestinian state next to Israel have not been successful. In 2005 Israel withdrew from Gaza but kept control over access to the Strip. The Islamist Hamas party took political control over Gaza in 2007. Since then, the Palestinian Territories have been split between

the internationally recognised PA government in Ramallah (West Bank) and the Hamas-controlled Gaza. During this time, Israel and Hamas have clashed militarily on several occasions. In November 2012, the General Assembly of the United Nations recognised Palestine as a non-member observer state.<sup>2</sup>

Palestine is currently recognised by 139 states, amongst them the Holy See.<sup>3</sup> In 2015 the Holy See and the State of Palestine signed a Comprehensive Agreement,<sup>4</sup> which came into full force in January 2016. The treaty deals with essential aspects of the life and activity of the Catholic Church in Palestine, including the right of the Church to operate in Palestinian territory, and of Christians to practise their faith and participate fully in society.

Palestinians are mostly Sunni Muslims, but there is an indigenous Christian community of about 50,000 (including East Jerusalem) and a tiny Samaritan community of around 400 members living near Nablus. Around 500,000 Jewish settlers live in the Palestinian Territories and East Jerusalem, in settlements considered illegal under international law.

Palestine has no permanent constitution, but the Palestinian Basic Law serves as a temporary charter.<sup>5</sup> Article 4 states: "Islam is

the official religion in Palestine. Respect for the sanctity of all other divine religions shall be maintained. The principles of Islamic Shari'a shall be a principal source of legislation." According to Article 9, "Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability." Article 18 stipulates: "Freedom of belief, worship and the performance of religious functions are guaranteed, provided public order or public morals are not violated." Article 101 says that Shari'a affairs and personal status are under the jurisdiction of Shari'a and religious courts in accordance with the law.

Legally, conversion from Islam is not explicitly forbidden but in practice it does not occur due to strong social pressure. Proselytising is forbidden.

Pursuant to a presidential decree of 2017, the heads of several municipal councils - Ramallah, Bethlehem, Beit Jala and seven others - must be Palestinian Christians even if Christians are not the majority in those cities.<sup>6</sup> Another presidential decree from 2005 allocates six seats to Christians in the 132-member Palestinian Legislative Council.<sup>7</sup> Palestinian President Mahmoud Abbas has Christian ministers and advisers. Christians are also represented in the PA's foreign service and domestic administration.

A 2008 presidential decree officially recognises 13 Churches. These include the Roman Catholic, Greek Orthodox and the Armenian Apostolic Churches. Ecclesiastical courts decide on matters of personal status, including marriage, divorce and inheritance in accordance with Church laws. Other Churches, mostly Evangelical ones, are not officially registered but can operate freely. However, they do not have the same rights when it comes to matters of personal status. In 2019 the Council of Local Evangelical Churches in Palestine was granted legal recognition.<sup>8</sup>

## INCIDENTS AND DEVELOPMENTS

In July 2018, speaking at the Great Omari Mosque in Gaza City, Fathi Hammad, a Hamas political bureau official, called on Muslims to kill "Zionist Jews" wherever they find them. "O Muslims, wherever you find a Zionist Jew, you must kill him because that is an expression of your solidarity with the al-Aqsa Mosque and an expression

of your solidarity with... your Jerusalem, your Palestine and... your people."<sup>9</sup>

In October 2018, Israeli forces arrested two Palestinians suspected of throwing a pipe bomb at Rachel's Tomb, known in Arabic as the Bilal bin Rabah mosque, near Bethlehem. Although located in Palestinian territory, the site is cut-off from the rest of the West Bank by Israel's separation barrier.<sup>10</sup> The shrine is holy to Jews, Christians and Muslims.

According to the NGO Middle Eastern Concern, since 2018 Israel restricted Christmas visas for Christians from Gaza to applicants over 55 years of age, thus considerably reducing the number of people eligible for a visa.<sup>11</sup>

Haya Bannoura, a Christian lawyer from Beit Sahour, was granted a licence to represent clients in Palestine's Shari'a courts. The licence was issued by Mahmoud al-Habbash, President of the Supreme Council of Islamic Law, who stressed "that the Palestinian people are cohesive and united and Palestinian Christians are an integral part of the country's social fabric as well as the Palestinian people as a whole."<sup>12</sup>

Despite statements of Palestinian unity, relations between Palestinian Muslims and Christians can be difficult. In April 2019 tensions rose in Jifna, a predominantly Christian town near Ramallah, in connection with a roadside incident involving a young man with family links to the ruling Fatah. When he was detained by the police, a Christian woman and other villagers from Jifna were threatened by a mob that destroyed property, fired shots in the air and cursed at the people of the village, hurling religious and sectarian insults. After the intervention of Palestinian Prime Minister Mohammad Shtayyeh, Ramallah Governor Lila Ghannam, and al-Bireh security forces, the parties involved in the clash finally signed a reconciliation agreement in the village and repaired the damage.<sup>13</sup>

In July 2019, after Hamas political bureau official Fathi Hammad called again on Palestinians to indiscriminately "slaughter Jews" if Israel did not end its blockade of the Gaza Strip, the Islamist movement distanced itself from the official. In a statement, Hamas said that Hammad's views "don't represent the movement's official positions," and that it supports fighting the Israeli occupation, "not the Jews or their religion."<sup>14</sup> Later, Hammad said that he ac-

cepted Hamas's policy of limiting the struggle to the areas under "Zionist occupation".<sup>15</sup>

In July 2019, the Israeli Defence Forces (IDF) neutralised a pipe bomb found near Joseph's Tomb in Nablus during preparations for the visit of 1,200 Jewish worshippers. According to media reports, disturbances broke out as the worshippers entered the tomb. Palestinian protesters burnt tires and threw stones at IDF forces, who tried to disperse the crowd.<sup>16</sup>

In September 2019, Israeli forces demolished a mosque and a house, both under construction in Jabal Jares, Hebron. Some 300 people were affected by the mosque demolition, the Israeli Committee Against House Demolitions (ICAHD) reported.<sup>17</sup>

Palestinian President Mahmoud Abbas criticised both the US and Israel for their policy vis-à-vis Jerusalem and its holy sites. In his speech at the 2019 United Nations General Assembly in New York he said: "In East Jerusalem, the occupying power is waging a reckless, racist war against everything Palestinian, from the confiscation and demolition of homes, to assaults on clergy, to the eviction of our citizens from their homes, to attempts to violate the sanctity of the holy Al-Aqsa Mosque and the Church of the Holy Sepulchre, to the legislation of racist laws, to the denial of access by worshippers to the holy places."<sup>18</sup> Turning to the United States, he added: "The US administration has undertaken extremely aggressive and unlawful measures, declaring Jerusalem as the so-called 'capital of Israel' and moving its embassy there, and in blatant provocation to the sensitivities of hundreds of millions of Muslims and Christians, for whom Jerusalem is a central part of their religious faith."<sup>19</sup>

In a survey<sup>20</sup> measuring attitudes towards Shari'a, Arab Barometer found that a majority (53 percent) of Palestinians are in favour of laws being based mostly or entirely on Shari'a. About 45 percent of respondents in the West Bank, and 51 percent in Gaza, believe that a government based on Shari'a should above all avoid corruption. For a third (32 percent) in both the West Bank and Gaza, such a government should provide basic services (health facilities, schools, garbage collection, and road maintenance). "Only 8 percent in the West Bank and 14 percent in Gaza think that the most essential aspect of the Shari'a is a government that uses physical punishments to make sure people obey the law."<sup>21</sup>

On 3rd November 2019, the Palestinian Authority granted legal recognition to the Council of Local Evangelical Churches in Palestine. According to Munir Kakish, President of the Council of Local Evangelical Churches in Palestine, this act grants his community civil rights as a religious organisation. "Now the Evangelical Churches can issue marriage certificates, open bank accounts, and purchase Church property to be registered in the name of the Church and the organisation instead of individual persons," a statement by the Council read.<sup>22</sup>

In November 2019, the Assembly of Catholic ordinaries of the Holy Land denounced an act of vandalism committed in the Palestinian Christian village of Taybeh, where anti-Arab Hebrew-graffiti was sprayed on a wall and a car was torched. In a statement, the Catholic ordinaries said: "We strongly condemn these racist acts of vandalism. We also urge the Israeli authorities to investigate seriously these apparent hate crimes and to bring those responsible and those who incite for such crimes to justice as soon as possible."<sup>23</sup>

In December 2019, Church leaders in Jerusalem appealed to Israeli authorities to reverse a decision denying travel permits to a few hundred Gaza Christians who wanted to visit Bethlehem, Nazareth and Jerusalem for Christmas. Citing security concerns, Israeli officials initially decided not to grant the permits.<sup>24</sup> However, just before 25th December, Israel relented<sup>25</sup> and allowed some Gaza Christians to travel to the West Bank. However, less than half of the applicants were granted visas.<sup>26</sup>

Following the outbreak in March 2020 of the worldwide COVID-19 pandemic, Palestinian political and religious authorities ordered the shutdown of churches and mosques.<sup>27</sup> In May 2020, the Heads of the Three Communities, custodians of the Basilica of the Nativity in Bethlehem, informed the public that starting on 26th May, the Holy Place was accessible again to the faithful for visits and prayer after a COVID-19 related closure.<sup>28</sup>

A survey published in October 2020 by the US-based Philos Project, a Christian advocacy NGO, found that nearly six in 10 Palestinian Christians (59 percent) have thought of emigrating for economic reasons. A huge majority (84 percent) expressed fear Israel might expel Palestinians; a similar proportion (83 percent) expressed fear that Jewish settlers would attack them and that the Jewish state

would deny them civil rights. Nearly eight in 10 (77 percent) were also concerned about radical Salafist groups in Palestine. A substantial minority (43 percent) believed that most Muslims do not want them and that they are victims of discrimination when applying for jobs (44 percent).<sup>29</sup>

On Rosh Hashana in September 2020, Israeli forces prevented Muslim worshippers from entering Hebron’s Ibrahimi Mosque for days in order to allow Jewish visitors to pray inside.<sup>30</sup> The mosque is the burial site of several patriarchs venerated by Jews, Christians and Muslims, and is used as a synagogue and a mosque.

In October 2020, 21 Members of the European Parliament (MEPs) called on the European Union to urge Palestinian authorities to remove anti-Semitic, violent and jihadist incitement from Palestinian textbooks.<sup>31</sup> In a letter addressed to the EU High Representative for Foreign Affairs and the EU Commissioner for Neighbourhood and Enlargement, the EU lawmakers asked the EU to look into Palestinian textbooks and take action, noting that the EU pays the salaries of Palestinian educators and that the books are said to contain “anti-Semitic content and imagery, hate speech and incitement to violence, martyrdom, jihad.” Hence, the MEPs called on the Commission to withdraw part of the funding devoted to the Palestinian education sector in response to the incitement found in the textbooks.<sup>32</sup>

In October 2020, Archbishop Atallah Hanna from the Greek Orthodox Patriarchate of Jerusalem was the highest Christian cleric to take part in a joint Christian-Muslim demonstration in Bethlehem to express disapproval of the re-publication by the satirical French magazine Charlie Hebdo of cartoons denigrating the Islamic religion.<sup>33</sup>

## PROSPECTS FOR FREEDOM OF RELIGION

Palestine does not enjoy full independent statehood, and the Palestinian Authority is not a secular state. There are limits to a Palestinian citizen’s religious liberty at both legal and societal levels.

Recognised non-Muslim communities continue to enjoy a reasonable level of freedom of religion. Especially in the West Bank under the Palestinian Authority, Christians are regarded as part of the Palestinian people under Israeli occupation. Palestinian Christians share their nation’s narrative, and have access to the offices and positions of

power within the Palestinian State.

In Gaza where Islamist Hamas rules, the few remaining Orthodox and Catholic Christians are tolerated but the environment is considerably more religious, and the migration of Christians continues because of the economic hardships and the constant military confrontation with Israel. Christians and Muslims from the West Bank as well as Gaza face restrictions on religious freedom because of travel restrictions to Christian and Muslim holy places in Israel, East Jerusalem and the West Bank. In general, the situation of religious freedom has not changed and the prospects for a positive change are dim.

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