

Freedom of Religion Israel: Guardians of the Sacred

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In Israel, both Jews and non-Jews are free to practice their faiths freely and openly on individual and institutional levels. That contrasts sharply with neighboring Arab states, where intolerance is the norm and the number of non-Muslims is constantly shrinking. The Palestinian Authority's conduct – including the destruction of Jewish sites and violations of the holiness and neutrality of Christian ones – raises serious doubts as to whether the PA can be a trusted custodian of sacred sites in the Holy Land – Jewish or Christian.

Israel is the Only Country in the Middle East that Respects Freedom of Religion

Israel extends the fundamental human right of freedom of conscience to members of the majority religion – the Jews (81 percent), and Israel's minorities (19 percent) – on institutional and personal levels.

Israel guarantees freedom of religion in its Declaration of Independence, and that freedom¹ operates on two levels. In the private sphere there is absolute freedom for all residents – Jews and non-Jews – to be as religious or irreligious as they wish, both at home and in public. In the public sphere, certain aspects of the practices and composition of public bodies and state institutions reflect the fact that Israel was established to serve as a Jewish state by the League of Nations as stated in the "Mandate for Palestine," an historical League of Nations

document, that laid down the Jewish legal right to settle anywhere in western Palestine, between the Jordan River and the Mediterranean Sea:

“Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, **in favour of the establishment in Palestine of a national home for the Jewish people.**”

Israel has never imposed legal restrictions² on establishment of non-Orthodox institutions,³ such as places of worship or educational institutions, nor has it prohibited non-Orthodox religious ceremonies or secular substitutes, although certain sensitive public religious sites such as the Western Wall and the Temple Mount require specific rules of behavior for all visitors.⁴ While Orthodox Jews still monopolize certain state-established and state-supported institutions, such as the Chief Rabbinate, liberalization and pluralization are occurring in many domains. Women and representatives of non-Orthodox movements, for example, now sit on local Jewish religious councils, and female litigators appear in religious courts, where religious divorce cases are settled.⁵

Beyond laws that guarantee religious freedom, a broad public consensus in Israel supports pluralism and freedom of conscience for the individual and opposes coercion.

While unrestricted abortion concerns observant Jews and their leaders, not a single case of arson, threat or murder of physicians performing abortions has been reported in Israel. The ultra-feminists and ultra-Orthodox reached a middle-of-the-road solution that they both can live with.⁶

Minority faiths,⁷ Islam, Christianity, Druze and Bahai sects also enjoy institutional autonomy to serve their members' needs that is based on a system of recognized religious communities inherited from Ottoman law.⁸

Although Israel does not have an established state religion as does England, Israel is a Jewish state – that is, one of the country's Basic Laws defines Israel as “a Jewish and democratic state.”⁹ That designation refers to ‘how Jewish Israel should be as a society.’ The answer is left open to interpretation and issues are hammered out by Israeli Jews – an exceedingly heterogeneous community whose worldviews and practices reflect more than 70 different diaspora communities and whose degree of religious observance ranges from ultra-secular to ultra-Orthodox.

Disagreement among Israelis about what it means when Israel is defined as ‘a Jewish state’ is heated; however, issues are settled in battles within the legal and legislative system. At times, avid public debate and civic action, from lobbying to public demonstrations, occur – but without religious warfare and violence.¹⁰ This kind of pluralism is not new and has been part of Jewish life in the diaspora for generations prior to the establishment of Israel.

The following three areas represent matters of conflict or disagreement in the public sphere:

1. Sabbath observance by public bodies – from TV transmissions to public transportation and the national airlines, and retail commerce;
2. Recognition of non-Orthodox religious functionaries who act as “agents of the state” (to conduct marriages, divorce proceedings, etc.) and apply non-Orthodox criteria to certain personal status issues for Jews;
3. Criteria for deciding nationality (who is a Jew from a civil, not religious standpoint) – a necessity in determining eligibility to immigrate under the Law of Return and to register as a Jew in the State’s Population Registry.

Religious issues generate heated discussion in the media and spark legal battles in the courts and the legislature.¹¹ Among them: Whether Israeli TV should be broadcast on Friday night (the beginning of the Jewish Sabbath), a case heard in 1969; whether local religious councils were obligated under law to accept women as members (the Court in 1987 ruled they were); and whether the government during the 1991 Gulf War had to supply special gas masks for religious men who maintain beards out of religious conviction (the Courts said it did). Another heated case in 1996 revolved around whether traffic could pass through a main Jerusalem artery in an ultra-Orthodox neighborhood (the Court ordered a public committee to hammer out a live-and-let-live solution).

A desire to live together in peace leads to creative ways of taking a detour¹² around the religious system to prevent deadlocks. In the late 1980s, cinema owners sold tickets to Sabbath cinema performances before the Sabbath, a ploy that led to a change in what is known in Israel as “the religious status quo,” which ultimately opened *all* places of entertainment on the Sabbath. More recently, non-Orthodox rabbis who are unauthorized to conduct conversions in Israel began teaching conversion courses in Israel for Russian immigrants who want to convert to Judaism but do not want to be religiously observant by Orthodox standards. To get around that, non-Orthodox rabbis flew their students to Europe for their conversion ceremonies, which are recognized by the State of Israel as diaspora conversions under the “religious status quo” pertaining to Jewish immigrants.

The “status quo” concept is a *modus operandi* [In Latin: method of operating] agreed upon by religious and non-religious Jews that places controversial or insoluble issues on hold so that they do not cause constant friction. The “status quo” covers a host of unsettled issues, from military exemptions on religious grounds and Sabbath observance in the public sphere to the interpretation of who is a Jew. Yet the “status quo” is dynamic and changes as crises arise and reality rears its head.

Attempts to paint Israel as increasingly religious or intolerant and theocratic are unwarranted. Consider some of the changes Israel has made over the past 62 years. Ultra-Orthodox residents rioted in Jerusalem in the late 1950s when a public co-ed swimming pool was opened. Today, discos and pubs are packed on

Friday nights in Jerusalem, and cheeseburgers, by definition non-kosher, are sold in the heart of the city.¹³

Some of the arrangements may seem strange to American observers, but they faithfully reflect the quirks of Jewish community life and Jewish values. The *modus operandi* hammered out – through the courts and legislation, public debate and public protest, ad-hoc committees and detour mechanisms – reflect Israeli society's resilience and its ability to find creative solutions for social engineering.

More to the point, these social practices underscore Israel's overriding tolerance as a society, despite Israelis' public and often fiery debates. Ultimately, these mechanisms, based more on consensus building than raw power plays,¹⁴ have allowed Israel to maintain a strong common denominator and sense of social unification.

It is important to realize that in many cases, religious debate often ignites strong emotions, and sometimes violence, in a pluralistic society. In Israel, there has *not* been religious warfare or serious violence instigated by religion. That is partly because of a host of public-spirited frameworks that proactively reduce tension and prevent polarization by nurturing dialogue, breaking down stereotypes and encouraging empathy and respect for 'the other.'¹⁵

In the past decade, Israeli society has shown an admirable degree of willingness and flexibility in solving religious problems in the wake of the influx of one million immigrants from the former Soviet Union and Ethiopia. The solutions were based on a 'live-and-let-live' philosophy.

Such accommodation contrasts sharply with Palestinian society. While the number of Christians in Palestinian-Muslim society has shrunk from 15 percent in 1950 to 2 percent today, Israel has absorbed tens of thousands of non-Jews among the one million immigrants that have come from the former Soviet Union since 1990. The immigrants – mostly non-observant Jews, a significant number with non-Jewish spouses – have made new demands on the system and have sparked social tensions over cultural norms.

Still, in scores of Israeli cities and towns, observant and secular, veterans and newcomers work together to address the challenges that could otherwise tear communities apart. On local and national levels, ways are being sought to accommodate the needs of non-Jews and Jews who do not meet the Orthodox criteria of who is a Jew, without compromising Orthodox standards that govern state-established religious institutions.

One of the most important solutions was agreement by all, including the Orthodox establishment, to establish non-sectarian cemeteries alongside strictly religious ones. That accommodation allows non-Orthodox or alternative funerals and other burial choices for those who are not Jewish by Jewish law (*halacha*); for spouses from mixed marriages; and for Jews who prefer non-Orthodox or non-religious arrangements. Similarly, special arrangements were made that allow non-Jewish soldiers to use the New Testament at swearing-in ceremonies.

In many development towns, joint committees of tradition-bound longtime Jewish residents and secular newcomers – primarily Jews from Russia – have made arrangements that reduce inter-ethnic tensions.

The growing dialogue among Jews and co-religionists of other opinions, the tolerance Israelis exhibit toward other religious minorities and the Jewish state's record of respect for the places of worship and holy sites of other faiths, contrasts starkly with the milieu of intolerance¹⁶ and absence of religious freedoms among Israel's Arab neighbors.

Reports describe treatment of non-Muslims in Arab lands that range from relegation to second-class-citizen status to stringent restrictions on religious expression in the public domain, and from mild harassment to horrific acts of violence designed to drive them out of Muslim lands.¹⁷

One of the worst offenders is Saudi Arabia,¹⁸ which prohibits wearing crosses and any form of non-Muslim public worship. The official religion is an extreme form of Islam that takes Islamic *Sharia* law literally – and sanctions judicial amputation for theft (including cross-amputations of an arm and a leg).¹⁹

Because of hostility and discrimination, the number of Christians in the Middle East has dropped drastically as more and more emigrate to the West. Under Jordanian control prior to the Six-Day War, the number of Christians in Jerusalem shrank by 61 percent between 1948 and 1967, due to a combination of demographics and growing hostility toward non-Muslims. Thousands more emigrated to the West after the Palestinian Authority was established.²⁰ Christians are fast becoming an endangered species in Islamic countries, just as the Jews have fled Arab lands since 1948. More recently, areas transferred to the Palestinian Authority have seen a loss of their Jewish populations.

Israelis who venture into Palestinian-controlled areas – be they secular *or* religious Jews – have been brutally murdered,²¹ while Arab citizens in Israel and Palestinian Arabs who live in the Territories with Israeli work permits continue to frequent Jewish cities.

The Palestinian Authority's Failure to Uphold Religious Freedom

In a series of signed agreements since Oslo, the Palestinian Authority promised to protect and grant free access to all religious sites, but has systematically broken its commitments.

Palestinian political and religious leaders consistently use the media, schools, and the pulpit to disseminate false, slanderous and inflammatory propaganda that claims Jews and Judaism have no historic roots in the Land of Israel.²² They deliberately destroy archaeological evidence, even on the Temple Mount,

Judaism's holiest site.²³ Jewish religious sites in PA-controlled areas have also been ransacked and destroyed.

In the "Oslo II" Accord (Article V of Annex I), the PA signed and guaranteed protection and free access to Joseph's Tomb on the outskirts of Nablus and to the Shalom al-Yisrael (Peace on Israel) synagogue built in Jericho in 700 AD. On October 12, 2000, Palestinian Arabs burned the synagogue down, as PA forces physically prevented Israeli firefighters from reaching the scene.

On October 7, 2000, Palestinian Arab mobs, assisted by PA policemen, destroyed and burned Joseph's Tomb (described in Joshua 24:32). The PA then built a mosque on the site to neutralize its Jewishness, and has barred Jews from visiting the ruins of the tomb.²⁴ In February 2003, the Chief Rabbi of the IDF, accompanying Israeli troops on a mission to apprehend terrorist cells in Nablus, found that Palestinians had reduced the cenotaph inside the shrine to rubble.

In Palestinian-controlled areas, the PA has often acted like a bull in a china shop, disregarding the delicate arrangements controlling religious sites that for centuries prevented friction among Christian sects. Cynically compromising the neutrality and holiness of monasteries and churches, Palestinian Arabs have forcibly turned strategically located sites into sanctuaries for combatants and gunners' nests in order to attack Jewish neighborhoods. Christian Arabs under the PA are increasingly subject to the kind of intolerance common under other Arab regimes, including religious persecution of individuals and political oppression of religious communities.²⁵

Joseph Puder - founder and executive director of the *Interfaith Taskforce for America and Israel* stated:

"Christian Palestinians have also been abandoned by the international community — by NGOs and human rights organizations. On their own, this educated Christian community has had to endure anarchy and lawlessness, widespread corruption in the PA security and police forces, and a xenophobic and intolerant Muslim majority.

"The American government refuses to acknowledge the medieval abuses of Christians at the hands of the Palestinian."²⁶

The religious leaders who use their pulpits with impunity to incite and breed hatred are supported and subsidized by the Palestinian Authority, which neither reins in such employees nor opposes such instances of mob rule. By its own conduct, the Palestinian Authority raises fundamental questions about whether Palestinians can be trusted to protect non-Muslim holy sites — Jewish *or* Christian.

Muslim religious leaders have compromised the purity of their faith by using *fatwas* — Islamic religious rulings — as political instruments to sanction terrorism against Israel. Palestinian Arabs and their supporters fail even to respect the holiness of their own religion's holy sites and objects, as evidenced by the suicide belts Palestinian terrorists hid in a mosque in Israel in February 2003.²⁷

Lack of religious freedom cannot be viewed in a vacuum or as a problematic issue separate from democratization, or as being immune to the war on terrorism – not when religion is systematically exploited to inflame the Arab-Israeli conflict and fuel hatred of America and the West.”²⁸

IN A NUTSHELL

- Israel is the only country in the Middle East that allows genuine freedom of conscience and protects sacred sites of all faiths.
- Non-Jews in Israel – indigenous minorities and new immigrants – practice their religions freely and openly, as individuals and on institutional levels.
- Disagreements among Jews over Israel’s character as a “Jewish and democratic state” are settled democratically, without religious warfare.
- Over the past three decades, Israel has become more inclusive, tolerant and pluralistic in matters of religion.
- In contrast, in all too many neighboring Arab countries, extremist streams of Islam and growing intolerance for “the other” – Muslim or non-Muslim – have become dominant.
- The Palestinian Authority’s reckless behavior and utter failure to uphold religious freedom or to respect and protect members of other faiths and their institutions – Jewish or Christian – make the PA no different than other intolerant Arab regimes – unworthy of stewardship over the holy sites of others.

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- 1 See two U.S. government reports: on the status of freedom of religion in Israel www.state.gov/g/drl/rls/irf/2002/13997.htm and the “Annual Report on International Religious Freedom,” www.uscirf.gov/dos01Pages/irf_israel.php3.
 - 2 For an overview of religion and state as a judicial issue in Israel and abroad, see “Freedom of Religion in Israel,” 2002 World Conference Against Racism – Durban. www.mfa.gov.il/mfa/go.asp?MFAHokdto.
 - 3 For an in-depth look at Reform Judaism in Israel, see Ephraim Tabory, “Reform Judaism in Israel: Progress and Prospects,” the American Jewish Committee, at: www.ajc.org/site/apps/nlnet/content3.aspx?c=ijITI2PHKoG&b=840313&ct=1051495. For a look at Conservative Judaism in Israel, see Harvey Meirovich, “The Shaping of Masorti Judaism in Israel,” the American Jewish Committee.
 - 4 How freedom of religion operates in a complex reality, see Ruth Lapidot and Ora Ahimeir, “Freedom of Religion in Jerusalem” 1999, Research Series No. 85, Jerusalem Institute for Israel Studies, at: <http://208.55.198.172/pdf/JIIS63-79.pdf>.
 - 5 For a close look at broadening representation on religious councils, for example, see: www.adl.org/israel/jerusalemjournal/JerusalemJournal-990126-2.asp.
 - 6 Hospitals perform legal abortions on the recommendation of hospital abolition committee comprised of health professionals, but eligibility is very broad, although stopping short of ‘abortion on demand.’
 - 7 “Microcosm and Multiple Minorities: The Christian Communities in Israel,” by Yishai Eldar at: www.mfa.gov.il/MFA/Facts%20About%20Israel/People/Focus%20on%20Israel%20-%20The%20Christian%20Communities%20of%20Isr. Ben-Dor, “The Druze Minority in Israel in the Mid-1990s,” Jerusalem Center for Public Affairs at: www.jcpa.org/jl/hit06.htm. Robin Twite, “Interfaith Activity in Israel,” at: www.mfa.gov.il/MFA/MFAArchive/1990_1999/1999/11/Interfaith%20Activity%20in%20Israel.
 - 8 On the operation of Muslim and Druze religious courts in Israel, see: <http://reference.allrefer.com/country-guide-study/israel/israel103.html>.
 - 9 For an essay by the president of the Israeli Supreme Court on how Israel integrates being both a democratic and Jewish state, see Judge Aharon Barak, “Some people say a state that is both Jewish and Democratic is an oxymoron, but the values can work together,” Forward, August 23, 2002, at: www.myjewishlearning.com/history_community/Israel/Israeli_Politics/IsraeliSupremeCourt/DemocraticJewish.htm For a conversation with Supreme Court Justice Menachem Elon, an observant Jew, see “We are bound to anchor decisions in the values of a Jewish and democratic state,” in Justice, the periodical of the International Association of Jewish Lawyers and Jurists, pp. 10-15 at: www.intjewishlawyers.org/pdf/Justice%20-%20%2017.pdf.
 - 10 For a historic overview of relations between religion and state in Israel from 1948 to the present, see Anti-Defamation League Jerusalem Journal. www.adl.org/israel/conversion/pre-Israel.asp
 - 11 For a look at some groundbreaking decisions of the Israel Supreme Court that have expanded pluralism in matters of religion and state, see “Court Rulings,” at: www.irac.org/din_e.asp.
 - 12 Sam N. Lehman-Wilzig, “Religion and State – Holy Wars,” in Wildfire – Grassroots Revolutions in Israel in the Post-Socialist Era (New York: SUNY Press, 1992), pp. 115-28.
 - 13 For an overview of the complexity of freedom of religion in Israel – in historic perspective and how it operates, see “Freedom of Religion in Israel,” a paper

prepared by Hebrew University law professor Shimon Shetreet for the Israeli delegation to the World Conference Against Racism – Durban, at: www.mfa.gov.il/mfa/mfaarchive/2000_2009/2001/8/Freedom%20of%20Religion%20in%20Israel.

- 14 Daniel J. Elazar, “Religion in Israel: A consensus for Jewish Tradition,” Jerusalem Center for Public Affairs, 1996 at: www.jcpa.org/dje/articles2/relinisr-consensus.htm ; and “Orthodox and Non-Orthodox Judaism: How to Square the Circle,” at: www.jcpa.org/dje/articles2/orth-nonorth.htm.
- 15 For example, see the work of two NGO reconciliation frameworks: Gesher (Bridge) at: www.gesherusa.org and Common Denominator at: <http://unity.org.il/projects/conflictres3.html>. For a glimpse at the graphics of a media campaign – Tzav Pius (‘Reconciliation - Order of the Day’) – designed to break down stereotypes and encourage dialogues between religious and non-religious Jews in forging the character of a Jewish state, see: www.tzavpius.org.il/eng/whoRw.asp?catID=7.
- 16 For studies on images of other religions in Israeli, Palestinian, Syrian, and Saudi Arabian schoolbooks, see the reports of the Center for Monitoring the Impact of Peace at: www.edume.org/reports/report1.htm For a brief summary of differences between Israeli and PA textbooks, see: www.edume.org/news/marcho2.htm.
- 17 On the record of Arab states in failing to foster tolerance or protect religious freedom see, for example, Habib C. Malik, “Christians in the Land Called Holy,” First Things (January 1999), www.firstthings.com/ftissues/ft9901/opinion/malik.html ; “Religious Persecution in the Middle East” – testimony of Professor Phares before the U.S. Senate Committee on Foreign Relations, <http://mypage.bluewin.ch/ameland/LectureE3.html> ; “Christians in the Middle East,” The Peace Encyclopedia, www.yahoodi.com/peace/christians.html ; “State Department Blasted for Lauding PA’s ‘religious tolerance,’ October 11, 2002, at: http://www.mefacts.com/cached.asp?x_id=11164
- 18 “2001 Annual Report on International Religious Freedom: Saudi Arabia,” Bureau of Democracy, Human Rights, and Labor U.S. Department of State, October 26, 2001, at: www.uscirtf.gov/dos01Pages/irf_saudiara.php3.
- 19 “Amnesty demands Saudi probe,” BBC, March 17, 2000, at: http://news.bbc.co.uk/1/hi/world/middle_east/681597.stm Testimony on religious persecution in Saudi Arabia before the U.S. House of Representatives, Subcommittee on International Operations and Human Rights at: www.freedomhouse.org/religion/publications/newsletters/2000/March-April/newsletter_2000-mar04.htm.
- 20 For testimonies of Christians who left, see documentary film by French filmmaker Pierre Rehov, “Holy Land Christians in Peril,” at: <http://gallery.bcentral.com/Gallery/ProductDetails.aspx?GID=4906989&PID=1722083&page=1&sortOrder=0>.
- 21 One telling example is the circumstances of the murder of Mottie Dayan and Etgar Zeitouny, at: www.israel-mfa.gov.il/mfa/go.asp?MFAHoj7mo.
- 22 “Palestinian Denial of Jewish Holy Sites” at: www.aish.com/Israel/articles/Palestinian_Denial_of_Religious_Freedom.asp#r12.
- 23 Mark Ami-el, “Destruction of the Temple Mount Antiquities,” Jerusalem Center for Public Affairs (August 2002) at: www.jcpa.org/jl/vp483.htm.
- 24 Joseph’s Tomb, October 2000, at: http://palestinefacts.org/pf_1991to_now_alaqsa_josephstomb.php.

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- 25 For a synopsis of the PA's behavior, see: Lenny Ben David "Denial of Religious Rights by the Palestinian Authority" at: www.honestreporting.com/articles/reports/Denial_of_Religious_Rights_by_the_Palestinian_Authority.asp.
- 26 Joseph Puder, "Christians Suffer Under the Palestinian Authority" published November 15, 2009 by PAJAMAS MEDIA.
- 27 "Israel warns of Iraq war 'earthquake' – Bomb-belt Found," BBC News, February 7, 2003, at: http://news.bbc.co.uk/1/hi/world/middle_east/2736283.stm.
- 28 "Role of Religion" in Israel Science and Technology Homepage overview of the Arab-Israeli conflict at: www.science.co.il/Arab-Israeli-conflict-2.asp.