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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report examines the discriminatory impact of laws and policies relating to the registration of religious groups and the ownership of religious property and heritage sites. This report also outlines the rising trend of social hostility faced by Christians within the country.

(a) Freedom of Religion or Belief

Background

3. Israel has a population of roughly 9.3 million, of which roughly 74% are Jewish, 18% Muslim, 2% Christian and other or non-religious.¹ The majority of Jews self-identify as secular or traditional, although roughly a third are explicitly religious. About 10% regard themselves as ultra-Orthodox.²
4. Israel does not have a constitution, relying instead on a system of so-called 'Basic Laws'.³ In 1992, the Knesset adopted the Basic Law on Human Dignity, which asserts inter alia that:

'The basic human rights in Israel are based on the recognition of the value of the human being, the sanctity of his life, and his being a free person, and they shall be upheld in the spirit of the principles included in the Declaration of the Establishment of the State of Israel.'⁴

5. The Law does not make reference to freedom of religion or belief or freedom of expression.⁵ However, the 1948 Declaration of Independence referred to in the above provision commits the State of Israel to:

'ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.'⁶

6. In 2018, the Knesset adopted a Basic Law titled 'Israel – the Nation State of the Jewish People', according to which Israel is regarded as the 'historical homeland of the Jewish people'⁷ and the 'nation state of the Jewish People, in which it realizes its

¹ 'Israel: Population by Religion' (14 April 2021) <https://www.jewishvirtuallibrary.org/israel-population-by-religion>.

² Jewish Virtual Library 'Vital Statistics: Latest Population Statistics for Israel' (20 September 2022) <https://www.jewishvirtuallibrary.org/latest-population-statistics-for-israel>.

³ The Knesset 'Constitution for Israel' https://knesset.gov.il/constitution/ConstIntro_eng.htm.

⁴ Basic Law: Human Dignity and Liberty (1992) <https://m.knesset.gov.il/EN/activity/documents/BasicLawsPDF/BasicLawLiberty.pdf>, art.1.

⁵ Id.

⁶ Provisional Government of Israel 'Declaration of independence' (1948) <https://m.knesset.gov.il/en/about/pages/declaration.aspx>.

⁷ Basic Law: Israel – The Nation State of the Jewish People (2018) <https://main.knesset.gov.il/EN/activity/Documents/BasicLawsPDF/BasicLawNationState.pdf>, art.1(a).

cultural, religious and historical right to self-determination.⁸ It further stresses that 'the realization of the right to national self-determination in the State of Israel is exclusive to the Jewish People.'⁹

7. The adoption of the new Basic Law triggered as many as 15 petitions to the Supreme Court of Israel, challenging its lack of references to the principle of equality and highlighting a potential threat to the rights of persons belonging to minority groups, including religious minorities. The Court rejected these arguments and insisted that in the event of a conflict of individual rights, a balancing of Jewish and democratic values will take place through 'synthesis and harmony'.¹⁰

Discriminatory laws and policies

8. Israeli law requires all citizens to register their religious affiliation. While certain religions are recognized by the law, including Judaism, Islam, certain Christian denominations, members of non-recognized faiths, which include several Christian denominations as well as Jehovah's Witnesses, are registered as having 'no religion'. While the registration of conversions is carried out by the respective religious institution, individuals wishing to register as having 'no religion' must appeal to a court and provide justifications for their decision in order to receive a declarative judgement.¹¹ This burdensome requirement presents a serious obstacle to the effective enjoyment by converts to non-recognized faiths of their freedom to have or adopt a religion or belief of their choice (including none), as well as of their right to privacy.
9. Among the benefits enjoyed by recognized religious groups and their members is the adjudication of personal status matters by separate religious courts. In this regard, it is worth noting that marriage in Israel is restricted to religious marriages performed by recognized confessional communities. This means that persons who profess no religion or are otherwise registered as such are compelled to travel abroad in order to have their marriage or other changes in personal status legally recognized.¹²
10. Discrimination and undue state interference have also been reported with regard to the ownership of religious property and heritage sites. In August 2021, the Jerusalem Affairs and Heritage Ministry stated that it only provides for conservation of Jewish cultural and heritage sites, not non-Jewish sites.¹³ Non-Jewish religious sites are thus not allocated equal state resources.¹⁴

⁸ Id., art. 1(b).

⁹ Id., art. 1(c).

¹⁰ Library of Congress 'Israel: Supreme Court Affirms Constitutionality of Basic Law: Israel – Nation State of the Jewish People' (8 July 2021) <https://www.loc.gov/item/global-legal-monitor/2021-07-27/israel-supreme-court-affirms-constitutionality-of-basic-law-israel-nation-state-of-the-jewish-people/>.

¹¹ J. Pex "No religion" registration in the Israeli Population Registry' <https://lawoffice.org.il/en/no-religion-registration/>.

¹² Id.

¹³ N. Bandel 'Israel's Heritage Ministry Tells Court It Wouldn't Support Projects for Minorities' (11 August 2021) Haaretz, <https://www.haaretz.com/israel-news/2021-08-11/ty-article/.premium/heritage-ministry-to-high-court-we-fund-jewish-memorial-sites-only/0000017f-f0d1-d487-abff-f3ff903c0000>.

¹⁴ Freedom House 'Freedom in the World 2021 - Israel' (2022) <https://freedomhouse.org/country/israel/freedom-world/2021>, D2.

11. In February 2022, a government plan to expand a national park in Jerusalem to encompass property owned by several historic Christian churches was halted after strong backlash from local church leaders, who denounced the move as ‘a premeditated attack on Christians in the Holy Land’.¹⁵

Social hostility and violence against Christians

12. Over the reporting period, Christians have reportedly suffered an increase in social hostility at the hands of extremist groups, including as a result of a campaign of vandalism directed against places of worship and other religious sites.¹⁶
13. In January 2022, an abbey in Jerusalem was vandalized by a group of young people.¹⁷ Earlier in March 2021, a group of assailants set a Romanian Orthodox monastery on fire in Jerusalem. The attack was the fourth against the building in just one month.¹⁸
14. In December 2021, the Patriarchs and heads of local Churches in Jerusalem issued a public statement decrying the attacks on religious sites by extremist groups. The leaders asserted that their holy sites were ‘regularly vandalized and desecrated’ and that there was ‘ongoing intimidation of local Christian churches’. These were claimed to be part of ‘a systematic attempt to drive the Christian Community out of Jerusalem and other parts of the Holy Land’.¹⁹
15. In the same month, Francesco Patton, leader of the Franciscan Friars in Israel, published an article titled ‘Holy Land Christians are at threat of extinction’, describing a ‘war of attrition against peaceful believers’. He observed that Christians once made up 20% of the population of Jerusalem, but now amount to less than 2%. The article included a plea for international support for the survival of the Christian community in the country.²⁰
16. Beyond vandalism, social hostility has also manifested in mob violence against members of the clergy. In July 2022, a large gathering of Christian priests was disrupted by a violent group of Haredi youth on a pilgrimage in Jerusalem. Among other things, the assailants reportedly threw chemical agents at them. A local

¹⁵ Middle East Eye ‘Israel halts plan to expand parks onto Christian sites in East Jerusalem’ (21 February 2022) <https://www.middleeasteye.net/news/israel-east-jerusalem-plan-halted-expand-park-christian-sites>.

¹⁶ Middle East Concern ‘Israel’ (2022) <https://meconcern.org/countries/israel/>.

¹⁷ J. Sudilovsky ‘Vandalism at Holy Land abbey caused by small minority, monk says’ (26 January 2022) Catholic Review, <https://catholicreview.org/vandalism-at-holy-land-abbey-caused-by-small-minority-monk-says/>.

¹⁸ Orthodox Christianity ‘Orthodox Jews set fire at Romanian monastery in Jerusalem – 4th attack in one month’ (4 March 2021) <https://orthochristian.com/137779.html>.

¹⁹ Jerusalem Patriarchate ‘Statement on the current threat to the Christian presence in the holy land by the patriarchs and heads of local churches of Jerusalem’ (13 December 2021) <https://en.jerusalem-patriarchate.info/blog/2021/12/13/statement-on-the-current-threat-to-the-christian-presence-in-the-holy-land-by-the-patriarchs-and-heads-of-local-churches-of-jerusalem/>.

²⁰ F. Patton ‘Holy Land Christians are at threat of extinction’ (18 December 2021) Telegraph, <https://www.telegraph.co.uk/news/2021/12/18/holy-land-christians-threat-extinction/>; Middle East Monitor ‘Christians face threat of ‘extinction’ from ‘radical’ Israeli groups, warn church leaders’ (21 December 2021) <https://www.middleeastmonitor.com/20211221-christians-face-threat-of-extinction-from-radical-israeli-groups-warn-church-leaders/>.

organization lodged a formal complaint against the police for failing to protect the victims after arriving on scene, alleging that this was not an isolated incident.²¹

17. Similarly in May 2021, at least two priests were violently attacked on their way to church. One priest had to be rushed to the hospital in the aftermath of the attack.²²

Freedom of Religion or Belief in International Law

18. The International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of thought, conscience, and religion for everyone. Article 18 of the ICCPR states, 'No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice,' and that 'freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.'²³

19. Article 26 of the ICCPR commits States to 'prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,' including on the basis of religion.²⁴ Further, Article 27 of the ICCPR further guarantees that '[i]n those States in which religious minorities exist, persons belonging to such minorities shall not be denied the right, in community, with the other members of their own group [...] to profess and practise their own religion.'²⁵

20. The Human Rights Committee's General Comment No. 22 on Article 18 notes that,

'The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.'²⁶

21. Failure to protect persons from religious minorities from social hostilities, including violence, also represents a failure of the state in fulfilling its international human rights obligations. The Israeli government should reaffirm its commitment to guarantee that these rights are fully enjoyed by everyone without fear of violence, harassment, or discrimination.

22. Since 1991, Israel has formally declared a public emergency within the meaning of Article 4(1) of the ICCPR.²⁷ However, as stated in this provision, measures taken in

²¹ Middle East Monitor 'Israel: occupation state faces NGO complaint about police treatment of Christian pilgrims' (25 July 2022) <https://www.middleeastmonitor.com/20220725-israel-occupation-state-faces-ngo-complaint-about-police-treatment-of-christian-pilgrims/>.

²² The New Arab 'Jerusalem Christian priest hospitalised after attack by Israeli settlers' (21 May 2021) <https://english.alaraby.co.uk/news/jerusalem-priest-hospitalised-after-attack-israeli-settlers>.

²³ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

²⁴ Id., art. 26.

²⁵ Id., art. 27.

²⁶ UN Human Rights Committee 'General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)' (30 July 1993) CCPR/C/21/Rev.1/Add.4, 9.

²⁷ UN Treaty Collection '4. International Covenant on Civil and Political Rights' (6 October 2022) https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=IND#EndDec.

such circumstances must not be inconsistent with their other obligations under international law and shall not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. Importantly, no derogation can be made inter alia from Article 18, under which the right to freedom of religion or belief is protected.²⁸

23. During the previous Universal Periodic Review cycle, Israel supported recommendations on ensuring equal rights for, and combatting discrimination against persons belonging to religious minorities, as well as to guaranteeing freedom of religion or belief.²⁹ Regrettably, the government of Israel has failed to take adequate action to effectively implement these commitments.
24. Furthermore, Israel received several recommendations on enshrining human rights principles in its Basic Laws, as well as on the need for concrete actions to fully guarantee freedom of religion or belief, including with regard to access to and protection of religious sites. Recommendations were also made concerning the repeal of barriers to registration and marriage for persons belonging to religious minorities. Regrettably, none of these recommendations was accepted.³⁰
25. Given the lack of tangible progress in the protection of freedom of religion in Israel, the present review cycle provides a critical opportunity to States to call on the Israeli government to take urgent action in this area.

(b) Recommendations

26. In light of the aforementioned, ADF International suggests that the following recommendations be made to Israel:
 - a. Guarantee full respect for the right to freedom of religion or belief, in law and practice, without discrimination, in accordance with international human rights obligations;
 - b. Ensure that the implementation of the Basic Laws, including the Basic Law on the Nation State, is fully in line with Israel's obligations under international law, including with regard to non-discrimination and respect for freedom of religion or belief;
 - c. Amend religious registration laws to eliminate disparities between recognized and non-recognized religious minorities, and remove barriers for registering changes in religious affiliation;
 - d. Allow the registration of changes in personal status, including marital status, without discrimination of any kind;
 - e. Ensure the effective protection of persons belonging to religious minorities from all forms of violence and harassment, including by investigating and prosecuting acts of violence or vandalism directed against them;

²⁸ ICCPR, art. 4.

²⁹ Human Rights Council 'Report of the Working Group on the Universal Periodic Review – Israel' (20 April 2018) UN Docs A/HRC/38/15, 118.48, .88, .90, .130.

³⁰ Id., 118.19-21, .32, .53-57, .60, .86, .87, .89, .112, .168, .169, .224.

- f. Guarantee the equal right of everyone to worship freely and safely in Jerusalem, including by responding promptly, investigating and prosecuting criminal acts against persons belonging to religious minorities and their places of worship;
- g. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization;



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