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Palestinian Christians are a religious minority whose unique interests and problems have received scant attention. They are a group that has faced almost uninterrupted persecution in the years since the Oslo peace process began, suffering from the difficulties of being a religious minority living in a Palestinian Authority whose inner workings, both from a legal and societal perspective, are often governed by strict adherence to Muslim religious law. They are a group that has been abandoned by its leaders, who have chosen to curry favor with the Palestinian leadership by refusing to acknowledge the magnitude of the threat. They are a group whose persecution has gone almost entirely ignored by the international community, the relevant NGOs, and other human rights advocates. Facing widespread corruption in the PA security and police forces, facing growing anarchy and lawlessness in an increasingly xenophobic and restless Muslim populace, the Palestinian Christians have been all but abandoned by the very people whose task it is to protect them. The current massive emigration of Palestinian Christians from the territories can be demonstratively linked to the political empowerment of the Palestinian Authority in those areas. In this monograph, Justus Reid Weiner analyzes their plight, and discloses why their 2000-year-old community's survival is in doubt.

Justus Reid Weiner  
HUMAN RIGHTS OF CHRISTIANS IN PALESTINIAN SOCIETY



Jerusalem Center for Public Affairs    המרכז הירושלמי לענייני ציבור ומדינה (ע"ר)



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## **Acknowledgements**

*The author expresses his indebtedness to Dr. Rita Kropf, Lisbet Bennett, Dan Feldman, Ron Khordi, Margaret Larson, Marie von Mirbach-Harff, Daniel Sterman, Michael Sussman and Shira Wakschlag for their assistance.*

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The subject matter of this monograph will be addressed in greater factual detail and in its full international legal context in the Spring 2005 issue of the *Oregon Review of International Law*.



המרכז הירושלמי לענייני ציבור ומדינה (ע"ר) Jerusalem Center for Public Affairs

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**Front cover:** Armenian priest being held hostage in the Church of the Nativity in Bethlehem during the 2002 hostage drama. He is holding a large, hand-drawn sign: "Help Us."

Photo: Israel Government Press Office

**Back cover:** Nearly empty Church of the Nativity in Bethlehem during the al-Aqsa intifada.

Photo: Ruben Kahvedjian, Elia Photo Service

**Map:** Vered Shatil

ISBN 965-218-048-3

Printed in Israel 2005

Graphic Design: Avigail Horowitz

Printed at Yuval Press

## **Dedication**

*This monograph is dedicated to the memory of a courageous man, Ahmad El-Achwal, a Palestinian convert to Christianity. El-Achwal was a married father of eight who lived in the Askar Refugee Camp. Despite repeated harsh treatment at the hands of the Palestinian Authority including imprisonment, severe beatings, arson, intimidation and torture, El-Achwal clung to his religious beliefs and even ran an informal church in his house. El-Achwal was murdered on January 21, 2004, at the entrance to his residence.*







*Photos: David Ortiz*



## Central Israel, the West Bank, and the Gaza Strip



- Area A** Designated in the Oslo interim peace agreements to be subject to full local authority by the Palestinian Authority of Yasser Arafat
- Area B** Designated in the Oslo interim peace agreements to be under the local civil authority of the Palestinian Authority with security remaining as Israel's responsibility (Areas A and B together contain 98 percent of the Palestinian population in the West Bank and Gaza Strip)

- Area C** Designated in the Oslo interim peace agreements as under full Israeli civil and security responsibility
-  Jerusalem Municipal boundaries 2004
-  Nature Reserves
-  Green Line: the pre-1967 armistice lines (not an internationally recognized border)
-  The path on which Israel is constructing the anti-terrorism security fence (dotted line where the fence is not yet finished)

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## Introduction

Irwin Cotler, now Canada's Justice Minister, then a law professor at McGill University, argued, "human rights has emerged as the secular religion of our time, as an organizing idiom of the contemporary political culture." (Weiner 1995, 754) While Cotler's statement indeed invokes the extent to which human rights standards are an intrinsic part of the politics of our era, it must be acknowledged that the aspirations we have for human rights to be universally recognized and enforced do not necessarily translate to the practical realm; that is, political motives continue to trump human rights expectations and standards, leaving innocent individuals, groups, cultures, and societies hanging in the balance.

While all eyes remain fixed on the Middle East, it is becoming increasingly evident that human rights concerns garner little attention as long as the peace process and resulting security issues remain unsettled. In fact, the most powerful international players consistently avoid any meaningful confrontation with human rights issues unless they affect the politics of peace, as in the recent dispute over Israel's anti-terrorism security barrier.

Despite the attention paid to the Israeli-Palestinian conflict, the voice of one very significant minority, that of the autochthonous Palestinian Christian community, is often disregarded. Even the majority of analyses of Palestinian society by experts on human rights ignore this significant religious minority.

Palestinian Christian communities ensure guardianship of the most cherished holy sites of Christianity, as well as the protection of the local interests of the global Christian community. In addition, as a visible minority group, they bring a measure of diversity and pluralism to an overwhelmingly Muslim society. Thus, they have an essential role in stimulating the development of a Palestinian society open to pluralism and democratic values. Moreover, by considering the situation of the Palestinian Christians within Palestinian society, it is possible to gain a new perspective on the impact of religious identification on human rights and politics in the region and the extent to which a society governed by Islamic beliefs can accommodate non-Muslims. However, as a myopic view focuses on the intricacies of the political conflict and the relationship between Israelis and Palestinians, the reality

of life on the ground for the Christians residing under the Palestinian Authority (PA) and subject to the whims of a Muslim majority continues to be largely ignored by international organizations, governments, the media, and the public.

Additionally, it must be acknowledged that the radicalization of Palestinian Muslim communities under the PA is becoming an increasingly dangerous threat to Christian communities, to individuals, and to the mode of life they practice. The reversion to archaic and fundamentalist ideology advocated by Islamists, aggravated by economic and social hardship experienced by Middle Eastern societies in recent years, has been an instrumental force that has not only affected life for those who continue to reside in the Middle East but also directly caused high emigration rates among Middle Eastern Christians. Not only is the Palestinian Christian community facing an existential threat, but, even more significantly, their status as a persecuted minority is ignored as international attention focuses on terrorism and inchoate peace plans rather than on present human rights needs.

## I. Christians Living in a Muslim World

The Christian communities in the Middle East represent an autochthonous Christian presence whose origins predate by hundreds of years the birth and spread of Islam. Middle Eastern Christianity consists of a large number of communities from different churches, each with its own tradition and liturgy. These churches have played a part in both the ancient and the more recent history of Middle Eastern society and, to this day, remain an eloquent testimony to the rich cultural and religious life led by Christians of various eastern traditions over the centuries. (Pacini 1998)

A study of the present situation of the Christian communities in any Middle Eastern country must therefore include a review of the historic evolution of their social and legal status. With the increasing spread of Islam from the seventh century onwards, the Christian communities were incorporated into a political and social structure derived from the new Muslim religion that provided a specific statute for non-Muslims.

Despite the liberal and secular trends that gained strength from the middle of the nineteenth century, this statute continues, to this day, to influence cultural, social, and legal practices. (Pacini 1998) Moreover, the recent resurgence of Islamic fundamentalism entails a reversion to historical, cultural, and religious traditions that do not reflect modern social standards. The underlying concept in Islam regarding Christians (as well as Jews) is that they are considered “people of the Book.”<sup>1</sup> While there was no doubt that the Christians were in error for ignoring Muhammad’s revelations, their religious beliefs and practices were generally tolerated so long as they adhered to monotheistic principles.

The solution of the *Quran* was to leave their ultimate judgment to Allah. (*Quran* al-Baqarah 2:113) As such, the *Quran* promised that the Muslims were to no longer fight “the people of the Book” on condition that the latter submit and pay their taxes. According to this ideology, non-belligerence, or the right to survive, was bound up with foregoing all self-defense, and the acceptance of protection under the aegis of Muslims. (Gil 2000)

This Islamic tolerance of Christians, however, had well-defined limits, which were institutionally ratified by a number of laws making Islam the dominant religion

from a political and social point of view. Although the *Quran* and the actions of Muhammad generally conveyed tolerance toward the people of the Book, the Muslim conquerors and later interpreters<sup>2</sup> of the *Quran* advocated making those individuals who refused to conform to Islamic norms peripheral members of society. They became known as *dhimmis* – the discriminatory social status provided to the members of the religions of the Book. (Phares 1997) At a comparatively later stage, the traditional rules relating to the *dhimmis* were collected into one document called the ‘conditions of Umar.’ (Gil 2000) These rules gradually enabled the Islamization of areas under Muslim rule. (Pacini 1998)

Under the Ottoman Empire, *millet*s (or nations) were defined on a religious basis and played the role of intermediary bodies between the individual and the state. The religious authorities of these bodies acted both as representatives of the members of their *millet* and as intermediaries between the latter and the central power. (Pacini 1998) As a legacy of this *millet* system, the concept of citizenship in Middle Eastern culture continues to be based on the idea of an individual’s religious affiliation rather than simply on his/her nationality.

Therefore, the problem of citizenship and equal rights as embodied in the modern status of ‘citizen’ remains unresolved. This situation has been termed ‘imperfect citizenship’ by scholars. The phenomenon of imperfect citizenship, which stems from the problem of the undefined relationship between state and nation (and the nation and its citizens), explains the existence of social and legal practices that deny equal opportunities to Christians and other minorities. (Pacini 1998) As long as the religious factor influences the Muslim concept of citizenship, it will remain a particular problem for Christians, as Muslim culture only grants the rights and benefits of full citizenship to followers of Islam.

## ***A. Christians Under Palestinian Authority Rule***

### ***1. Sharia and International Human Rights Norms Under the Palestinian Authority***

Although Article 5 of the PA Draft Constitution guarantees that “[m]onothestic religions will be respected and the state will guarantee freedom of worship,” it also declares “in the State of Palestine...the religion of Islam will be the official religion.” The Draft Constitution also states that “[t]he *Sharia* will be the primary source of

legislation.” Although this draft of the Constitution may go through additional revisions, it is considered likely that *Sharia* will remain a central component, regardless of any possible changes. (Bedein 2003) By granting primacy to *Sharia* over other legal sources, including international human rights standards, the PA puts Palestinian Christians in a precarious legal situation, as the *Sharia* deems them unequal to their Muslim counterparts.

The strengthening of Islamism and the inevitable regression of the social status of Christians that it entails is therefore a cause of acute social unease among Middle Eastern Christian communities. (Pacini 1998) This unease has been further aggravated by various wars, causing the deterioration of economic and social conditions that were not egalitarian to begin with.

## 2. *Emigration of Middle Eastern Christians*

Both the demographic tendencies of Christians as compared to Muslims, as well as the rate of emigration, have drastically reduced the Christian population in the Middle East. While in 1914 they represented 26.4 percent of the population in the whole of the Near East (what today is known as Israel, the PA, Jordan, Lebanon and Syria), today they are estimated at no more than 9.2 percent. (Fargues 1998)

There are conflicting statistics regarding the extent to which Palestinian Christians are leaving and have left their ancestral residences in what is now PA-administered territory. One reason for differing figures is that some provide overly optimistic estimates of the remaining Christian population in order to retain whatever residual political and economic clout the various communities enjoy. All informed opinion, however, accepts that the Christian population has declined precipitously, both in absolute numbers and as a percentage of the total population of Palestinians.

Palestinian Christian emigration peaked during the first *intifada* and has once again increased rapidly since the onset of the second. Between October 2000 and November 2001, 2,766 Palestinian Christians left the West Bank, of which 1,640 left the Bethlehem area and another 880 left Ramallah. (Gutman 2002)

Because there have been no opinion polls taken of departing Palestinian Christians, it is possible to claim that the recent wave of massive Christian emigration is a result of the Israeli occupation and the resulting political and economic instability. As one Catholic leader commented, “The principal reason for the dramatic rise in Christian emigration has been the continuing military occupation and the denial of



the sovereignty of a Palestinian state wherein Christian Arabs could feel at home economically, politically, culturally and spiritually.” (Shavit and Bana 2001) The stated “dramatic rise” in Christian emigration, however, could not have resulted from a “continuing” condition. An explanation of the dramatic rise in Christian emigration from PA-controlled territories should therefore include a phenomenon that has only recently emerged in order to account for the rise in emigration patterns that does not reflect the normative political timeline.

According to the Christian Information Center, in 1994, the year the PA took control of Bethlehem and its surroundings, this was the most populous Christian town in the Holy Land. Since then, however, Bethlehem’s Christian population has dwindled to just one-third of the city’s overall population. For centuries the majority in the Bethlehem district, Christians currently make up only 30,000 of the district’s 130,000 residents.<sup>3</sup>

French journalist Pierre Rehov filmed a documentary addressing the exodus of the Palestinian Christian community from areas under PA administration entitled, *Holy Land: Christians in Peril*. According to the website for the documentary, “This Christian exodus is a result of many factors, including fighting between Israelis and Palestinians, the related decline of the economy, but perhaps most significantly, the religious persecution these Christians encounter from their Muslim neighbors.” Former U.S. Congressman J.C. Watts attributes the departure of Palestinian Christians to being “driven [out] by the steady persecution of the PA and the realization that they will face worse treatment under a possible future Palestinian state.” (Watts 1997)

In recent years, religious persecution has been an increasingly important contributory factor in Christian emigration from PA areas. In the Jerusalem suburb of Beit Sahour, an 80 percent Christian town near Bethlehem, a survey found that 51.2 percent of respondents are considering emigration due to “the difficult political conditions.” (Latin Patriarchate 2001) According to Bernard Sabella, 41 percent of Palestinian Christians in the territories perceive emigration as the most important threat to Christians living under PA control. Next amongst the concerns of the Christians is economic deterioration (24 percent) and Islamization (17 percent). (Sabella 2001)

Due to their exceptional vulnerability to economic and political instability, many Christians are forfeiting their place in the Holy Land. According to Shafik, a Protestant clergyman in the territories, one of many Christian Palestinians whose name and other identifying details are concealed at their insistence, the Palestinian Christians live in fear of their future under the PA. Additionally, the growing hostility felt by Palestinian Christians has led many of them to conclude that Muslims are trying to “kick [the] Christians out.”

The explanations that exclusively concentrate on the hardships experienced by the Palestinian population as a whole cannot account for the much higher rate of emigration among the Christian minority than among the Muslim majority. There must be a factor that has been omitted from these explanations of the Christian exodus from the PA-controlled territories. While traditional Islamic doctrines explain the status of Christian residents of Muslim societies as second-class citizens, this factor alone does not explain the accentuated hostility expressed toward them in recent years, which must be read as a sign of religious radicalization – more specifically, the rise of Islamic extremism in the PA-controlled territories.

### ***B. The Growth of Islamic Religious Extremism and the Marginalizing of Christian Arabs in the Palestinian Authority***

A main cause of acute social unease among the Palestinian Authority's Christian population is the growing strength of Islamic fundamentalism in the PA-controlled areas. The constituents of the Islamic Movement, who are typically poor, young, and have large families, (El-Assal 1999) are people who are prone to find hope in religion, and to view it as a strong alternative to the political and economic failures of their leadership and society. For them religion provides both motivation and objective. (Minutes 2002) As Palestinian Anglican Bishop Riah Abu El-Assal describes, "The Islamic movements seem to offer their adherents something to live for – at times even something to die for. This is a very dangerous development, and one which it will be difficult to contain." (El-Assal 1999: 31)

#### ***1. Impact of the Current Intifada***

All of the problems affecting Christian Palestinians have been exacerbated by the increasing political hostility resulting from the second *intifada*. Professor Tsimhoni states that, "the growing influence of the Islamic movement over Arab society during the *intifada* has caused growing violence toward Christians and their institutions, deepening the identity crisis of many Christians and their despair over their future in the area." (Tsimhoni 1993: 29)

According to a prominent Evangelical pastor with influential contacts in the

West Bank, Arab Christian parents in the greater Bethlehem area have come under threats from the PA because “no Christian blood has been spilled, only Muslim blood ... Muslims have donated their children to the cause, but Christians haven’t.” Upon learning that the families and parents of ‘martyrs’ (Palestinian Muslims killed in the fighting) received food from international donor organizations, some Arab Christians expressed fear that they would starve because they discourage their children from participating in *intifada* violence. (Weiner 2002)

Indeed, since the beginning of the current *intifada*, the religious differences between Muslims and Christians have widened because their religious beliefs have led them to adopt different political approaches. As Mona, a 50-year-old Christian woman from Bethlehem<sup>4</sup> explains, the Christians just “want to live in peace. They don’t believe violence is the way to get a Palestinian state; this is why they don’t participate.”

## *2. School Curricula in the Palestinian Authority*

In the recent debate concerning the updating of school curricula, one priest noted that the discussion was permeated by the “growing influence of militant Islam.” (ROACO 2002: 23) William Murray, Chairman of the Religious Freedom Coalition, observed that Palestinian Christians are often forced to enroll their children in expensive private Christian schools due to the curriculum taught in PA-run schools. Murray related, “I have talked to Christian families about what is taught in the schools. From what they say, there is indeed a ‘culture of death’ that includes glorification of suicide bombers and training to kill Jews and Americans.” This culture is strengthened by the popularity of Hamas and Islamic Jihad.

Though Islamic fundamentalist groups such as Hamas and Islamic Jihad do not require democratic approval to assert their influence, opinion polls indicate strong grassroots support among Palestinians, thereby imbuing them with legitimacy. (Gil 2000) While the credibility of these groups traditionally relies upon divine – rather than democratic – authority, the popular support they receive provides them with a political relevance that extends even into the PA-run schools.

## *3. Emergence of Islam as a Political Force*

Indeed, the emergence of Islam as a strong Palestinian political force in the 1980s has relegated Christians to the margins of political life. (Sabella 2000) When

polled for their preferences in the 1996 elections to the Palestinian Legislative Council, 23 percent of Palestinian Muslims said they would vote for Hamas or Islamic Jihad, while none of the Palestinian Christians polled intended to cast their ballots for these parties. (Sabella 2001)

The alliance between the Palestinian political leadership and the Muslim fundamentalists provokes widespread concern that religious differences between Muslims and Christians will deteriorate into official repression of religious minorities. In a survey conducted in 2001, 45 percent of Palestinian Christians in Bethlehem expressed fears of growing tension between Christians and Muslims; 28 percent of Palestinian Christians polled attributed the tension to Islamic fundamentalists. In comparison, only 15 percent of Palestinian Christians attribute the growing inter-religious tensions to the Israeli government. (Sabella 2001)

The growing strength of Islamic fundamentalism within the Palestinian national movement poses problems for Christians in that they might be deemed opponents of Islam and risk becoming targets for attacks by Muslim fundamentalists. Attacks against Christians might also result from perceptions that Christianity is associated with Zionism and Western imperialism. (Nammur 2002) Anti-Christian sentiment among Palestinian Muslims has heightened since 9/11 due to what the Muslim community sees as a 'New Crusade' against Islam by Western, predominantly Christian, countries. One Palestinian Christian interviewed explained that Muslims, to this day, call him and other Christians 'Crusaders,' applying the historical connotation in everyday verbal attacks on Christians. Anti-Western sentiment can be translated into anti-Christian sentiment as Zionism is sometimes regarded as an extension of Christianity.

Bishop El-Assal explains, "Unfortunately for Middle-Eastern Christians, we are perceived by some Muslims as stooges of the West. The extremists look on us as enemies, just as they look upon the Jews as enemies. I have heard fundamentalist groups in Palestine say, 'After Saturday [the Jewish day of rest] comes Sunday [the Christian day of rest]' – and my blood runs cold." (El-Assal 1999: 132) On the walls of Gaza, graffiti similar to the threats heard by El-Assal are quite common, such as "when they are through with the Saturday people, they will start on the Sunday people." (Alpert 1997: 7)

Palestinian Christians describe themselves as being viewed differently than other Palestinians because of their faith. Saber Razi Nashash, a 22-year-old Palestinian Christian construction worker from the Bethlehem suburb of Beit Jallah who was interviewed there on August 6, 2002, stated:

[W]hen you go to a place when you have the [Muslim] majority, and very few Christians, you might see the way they look at you, they see a cross, you feel

that they don't like you or there is something wrong. He feels like a rejected person, and does not belong to this place.

Speaking of how her life had changed some two years after the PA took control of Bethlehem, Lina Atallah, a receptionist at the Silesian Convent and Church, described the Muslim attitude toward Christians:

They spit at us, try to force us to wear headscarves, and in the [Islamic] fasting month of Ramadan that begins in a few days, the Palestinian police even arrest us for smoking or eating on the streets....The Muslims want to get rid of us, they want us to live like them.

## **II. The Pervasive and Variegated Nature of the Persecution of Christian Arabs**

The persecution of Palestinian Christians is diverse and widespread, though not commonly acknowledged. Indeed, this institutionalized discrimination pervades virtually all realms of life and has become an inexorable part of Palestinian Christian existence.

### ***A. Social and Economic Discrimination***

PA Chairman Yasser Arafat, after acquiring control of Bethlehem in 1994, changed the municipal boundaries of Bethlehem and its Christian-majority suburbs of Beit Jallah and Beit Sahour. He extended the city's municipal borders to include the 30,000 Muslims living in the neighboring refugee camps – Dehaisheh, El-Ayda, and El-Azeh – and the thousands of people living in the area of the nearby Ta'amarah Bedouin tribe. (Davis 2002). These boundary adjustments produced drastic alterations in the demographic balance of Bethlehem. In addition, Muslim immigration to Bethlehem from nearby Hebron was encouraged. (Raab 2003) As a result, while in 1990 the Christian population of the Bethlehem area represented a 60 percent majority, in 2001 they became a 20 percent minority in Jesus' birthplace, drastically influencing the outcome of local elections.

Bethlehem, nine Christian members of the Bethlehem city council resigned in protest. Arafat appointed Muhammed Jabari, a Muslim from Hebron, as Governor of the Bethlehem District. “The entire political structure of the city – in the bureaucratic, security and political spheres – were eventually cleansed of Christians. Today the Bethlehem region is in reality run by the local Fatah leader and his thugs.” (Davis 2002)

Some of the most apparent effects of discriminatory societal attitudes against Palestinian Christians are in the job market. It is extremely difficult for Christians to find work. A Palestinian Christian, Ghada Mansour, was formerly the producer of a news show on the PA-controlled Voice of Palestine radio. Mansour said that the news director at the radio station told her that “Christian names should not be included among the obituaries read on the air.” On another occasion, several colleagues acted shocked and demeaning toward her when she told them she was Christian. “The atmosphere,” she says, “contributed to my decision to leave the job.” (Sennot 1999)

Most of the Christians, especially in Bethlehem, had relied on the tourist trade to make a living. Since the onset of the second *intifada*, however, they have lost their primary source of income and are unable to find new job opportunities.

### ***B. Boycott and Extortion of Christian Businesses***

Sami Abu Aita, a board member of the Bethlehem Chamber of Commerce and Industry interviewed May 9, 2003, told of his own business, the Paradise Hotel in Bethlehem, being destroyed in a gunfight between Palestinian militants and Israeli soldiers. He lamented, “Islamic banks give interest-free loans. No one helped [me] because [the hotel] is owned by a Christian.”

According to a Lutheran pastor interviewed November 15, 2001, in Jerusalem, Bethlehem’s Nativity Square was traditionally filled with Christian stores, but the Muslim boycott has forced many of these stores out of business. Many Muslims, especially members of various ‘security’ forces, are increasingly forcing Christian-owned shops out of business.

Besides the Muslim consumer boycott, Christian businesses are also suffering as a result of extortion by Muslim militants. William Murray, interviewed on February 11, 2003, commented on the extortion as follows:

I know many businessmen who have been extorted. There wasn’t a Christian businessman exempt. Many of them are now out of business – nearly 90



percent. Christian vendors near the Church of the Nativity have been forced to pay protection money to stay in business...most of the bribes and extortion are, of course, paid in cash.

George, a Palestinian Christian from Bethlehem interviewed July 26, 2004, told of an Armenian Christian who owns a gold shop and was extorted by the PA during a regular business trip to Gaza. Approximately six months previously, this Armenian Christian attempted to sell two kilograms of expensive gold jewelry in Gaza. While in Gaza, he was stopped by the police and taken into custody. It should be noted that this gold dealer was operating legally, with all necessary licenses, both in the production and sale of his gold. Indeed, every piece of gold jewelry manufactured in the PA territories is stamped. Thus, when the Armenian's gold was examined, there could have been no doubt as to its legality.

The Armenian was told to put all of his money and gold on the table of the police interrogation room. He was then beaten for six to seven hours, after which he was offered the choice of leaving with half of his gold. He refused and was beaten again for another two hours. The police took his watch, his rings, and half of his gold, and the \$6,000 (U.S.) in cash that he was carrying, after which they allowed him to leave.

The man then went to the PA Minister of Industry and Commerce and reported what happened. The response he received was, "[I]t is not the first time." He was then told he had no recourse but to speak with Arafat. When asked if this occurred simply because the gold dealer was Christian, George replied without hesitation, "[I]t is about being not Muslim." George explained that a Muslim man in the same business with the same wealth necessarily has power that a Christian cannot attain; he will have connections with the army and police. Christians, on the other hand, are forced to pay bribes to remain in business. In the words of George, it is simple: "[A] little bit [of bribery] every week."

The consequences of refusing to pay can be deadly. During the current *intifada*, the Christian owner of a café in Bethlehem's Manger Square refused to pay extortion money to a member of the Al Aksa Martyrs Brigade. According to Khaled Abu Toameh, the *Jerusalem Post* reporter on Arab Affairs interviewed October 7, 2002, this business owner was first accused of being a collaborator and was later shot in the eye. Ultimately, despite the fact that he had been living in Bethlehem for 30 years, he was forced to flee the country.

### *C. Violations of Real Property Rights*

Article 17 of the *Universal Declaration of Human Rights* states that “[E]veryone has the right to own property.” Equally, Part III, Article 6 of the *International Covenant on Civil and Political Rights* establishes that “[I]n countries which have not abolished the death penalty, sentences of death may be imposed only for the most serious of crimes. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.”

In clear violation of these provisions, the Palestinian Land Law prescribes the death penalty to anyone selling land to Jews. However, according to the *Boston Globe*, Christians claim that the perception on the Palestinian street is that it is forbidden to sell land to *any* non-Muslim – a perception, they add, encouraged by Jerusalem’s Arafat-appointed mufti, Sheikh Ekrima Sabri, who issued a *fatwa* [a Muslim legal opinion or decree] to that effect. (Sennott 1999)

In this climate of officially sanctioned intimidation, Christians have great difficulty purchasing land or selling real estate they already own to other Christians. Corroborating evidence was furnished by a Palestinian Christian man named Ramzi, who, in a confidential interview in Ramallah, recounted that he had been threatened with death if he sold land to Christians [who wanted it in order to build a new school]. A Christian leader affirmed that “[t]he [PA] Land Law is a threat against us.” (Klein-Halevi 1997a)

In addition to the acquisition of new lands, the abuse of Christian property rights is so pervasive that even internationally recognized holy sites in the West Bank are threatened, being both vandalized and desecrated by the PA without consequence. The PA’s legal responsibility for these areas, and consequently for these sites, is acknowledged in a 1997 press release from the PA’s Ministry of Information that reads, “The Palestinian people and the PNA<sup>5</sup> have assumed their natural right of controlling parts of the Palestinian land, the most important of which under Palestinian national sovereignty is the Palestinian city of the birthplace of Jesus Christ – Bethlehem.” (Palestinian Ministry of Information 1997)

Unfortunately, this protection has not been provided. As Said Ghazali reported in the Palestinian weekly newspaper the *Jerusalem Times*, “Cemeteries have been vandalized in Bethlehem. In Nazareth...property was damaged and Christian symbols were desecrated. Worshippers were prevented from attending religious services. An atmosphere of fear has been created.” (Ghazali 1999)

Abu Toameh reported that Palestinian Muslims sometimes break into Christian monasteries and steal gold and other valuable items. The inability of nuns

and priests to stop vandals, combined with the disinterest and/or incompetence of the PA security forces, resulted in virtually no deterrence. Abu Toameh noted that “The PA do arrest people sometimes, but you can get away with it if you pay money; you can bribe your way out.”

#### *D. Crimes Against Christian Arab Women*

Of all the instances of abuse from which Palestinian Christians suffer, it is the abuse of women that most powerfully conveys both the severity of treatment Palestinian Christians endure and the deeply entrenched connection between Islamist attitudes and the subsequent treatment of Christians as second-class citizens of ancient *dhimmi* status that is fostered, if not encouraged, by the inaction of the PA. It must be noted that, because this phenomenon was rare before the PA came to power, it cannot merely be attributed to Muslim attitudes toward Christians. Rather, it is the PA’s ineffectiveness or unwillingness to address the problem that has led to a significant increase in pervasive sexual harassment and rape.

Inaz Jiries Hanna Muslah, a 23-year-old Palestinian Christian teacher at the Joy School in Beit Sahour, stated in an interview on August 26, 2002, in Beit Jallah, that public harassment of Christian girls began when the PA came to power “after 1993. Before, [there were] no things like this.” Originally, “we could go to everyplace we wanted; we could walk in streets,” but now, “I don’t walk alone on the street because of this bad thing, so I prefer to walk with my brother, with my mother, my father.”

Concurring, Sana Razi Nashash, a 24-year-old Christian woman from Beit Jallah and a student at the Open University, who was interviewed on August 26, 2002, stated that the phenomenon of sexual harassment became widespread only after the PA began administering the territories. She feels that, since the PA does nothing to stop these incidents, the perpetrators feel free to act with impunity. As Nashash describes, she is a virtual prisoner in her own home due to the pervasiveness of harassment of Christian women, “[s]o right now I could not go to the street, even 7 o’clock I cannot go to the street alone, but before [the PA came to power] I used to go and work with no problem at night.”

In August 1997 an Islamic militant tried to enforce the Muslim dress code on women in the predominantly Christian village of Beit Sahour. His particular target was a young Christian woman wearing a revealing blouse. Nearly 200 Christians subsequently marched to the local PA police station. The resulting disturbance left

seven people injured. Professor Tsimhoni observes, “Imposing Muslim codes in the Bethlehem area and violence against its Christian residents have considerably expanded, including occasional attacks on women.” (Tsimhoni 2002) As a result, Christian girls are now instructed to dress in the same manner as Muslim girls in order to avoid such problems. Muslah herself said that many Christian women will adopt traditional Muslim clothing in order to avoid harassment.

The abuse of Palestinian Christian women extends well beyond verbal harassment and intimidation. The widespread occurrence of rape by Muslim men against Christian women exemplifies perhaps the most blatant denial of basic human rights as a result of religious identity.

According to Article 7 (g) of *The Statute of the International Criminal Court*, rape must be categorized as a crime against humanity when the victim is targeted for her adherence to a particular religion. Though it is difficult to document, the available evidence suggests that the situation of Palestinian Christian women is indeed serious and must be addressed.

At the outset it must be noted that the attitude towards rape in Middle Eastern countries is altogether different from that prevalent in the West. In Western countries, women are counseled through the post-traumatic effects of rape. In Middle Eastern countries, however, this is not the case; once a girl has been raped she is considered ‘dirty’ and unfit for marriage. Therefore, few people are willing to speak out about rape since it is considered so shameful to the victim. In addition, the 1995 report of Amnesty International *Human Rights are Women’s Rights*, commenting on rape in Middle Eastern Countries, stated, “In a rape case the onus of proof falls on the victim; moreover, if a woman fails to prove that she did not consent to intercourse the court may convict her of committing *zina* [extra-marital sexual relations].” (Amnesty 1995)

Cultural differences between Palestinian Muslim and Christian communities begin to explain the factors that affect the occurrence of and response to rapes of Christian women. According to Abu Toameh, it is not clear-cut legal prosecution that a perpetrator of rape fears when committing a crime against a Muslim women, but rather, “it’s fights between residents...everyone knows at the back of their mind that if it’s Christians you can get away with it.” Not only do Christians not have the same recourse to institutional justice under a Muslim-dominated PA, but, as Abu Toameh explains, “You can harm a member of a Christian family without facing 300 people attacking you.” The vigilante justice in place to protect Muslim daughters does not exist for the Christian minority.

In the opinion of Evangelical Pastor David Ortiz, by rendering Christian women unfit for marriage and childbearing with Christian men, Muslim rapists might think that it is an effective method of reducing the Christian population. Concurring, Muslah

explained that Christian women are sometimes raped with the intention that they will no longer be able to find a Christian husband. She stated, “Some Muslim guys raped many girls, Christian. And...she can’t [get] married after that....People look at her as [a] raped woman. People will talk about her. She can’t [get] married, at all, after that.”

A Palestinian Christian from Bethlehem, who wished not to be named for fear of reprisals, recounts an occurrence from June 2001 when this problem reached a peak. As he explains, some Muslim men from a nearby refugee camp attempted to pull a Christian girl into a car in order to rape her. A group of Christian men quickly stepped in to save the girl. When one of the Muslim perpetrators was injured in the process, the Christian rescuers were arrested. The sexual predators, on the other hand, were not even criminally charged.

In addition to rape, Palestinian Christian women are forced into marriage by Muslim men contrary to Article 16 of the *Universal Declaration of Human Rights* which states, “Marriage shall be entered into only with the free and full consent of the intending spouses.” George told of one such instance which occurred before the second *intifada* started. A relatively poor Muslim family appeared on the doorstep of the home of a wealthy Christian family. The Muslim family brought along a sheikh (clergyman who could perform a Muslim wedding ceremony) and demanded that the Christian daughter, known in both communities for her beauty, wed their son. The father of the Christian family asked for a two-day reprieve to think things over. The Muslim family agreed, but apparently reconsidered, reappearing the following day on the Christian family’s doorstep, this time with their son dressed for his wedding accompanied by the sheikh and fifteen Muslim men. As George explains, “[Muslims] think the Christians are weak; they come with large families and guns and intimidate Christians.”

In this unusual instance, the father of the Christian family opened fire on the Muslim entourage, killing three and wounding ten persons. He and his family then immediately fled the PA territories. In other instances, death threats directed at fathers by PA officials have forced the former to acquiesce to their daughter’s marriage to a Muslim.

### ***E. Palestinian Authority Incitement Against Christians***

The attitudes of Palestinian Muslims to their Christian counterparts are not simply manifest amongst an isolated segment of the population; they are reflected

and consequently supported by the attitudes of the predominantly Muslim PA leadership. It is not uncommon to find mosque sermons that malign Christianity and its Arab adherents. During a live broadcast on official PA television on October 13, 2000, Dr. Ahmad Abu Halabiya, a member of the PA-appointed 'Fatwa Council' and former acting Rector of the Islamic University in Gaza, stated during a Friday sermon from a Gaza mosque:

From here, Allah the almighty has called upon us not to ally with the Jews or the Christians, not to like them, not to become their partners, not to support them, and not to sign agreements with them...as Allah said: 'O you who believe, do not take the Jews and the Christians as allies, for they are allies of one another. Who from among you takes them as allies will indeed be of them. (Middle East Media Research Institute 2000)

The Islamic rules dictating the *dhimmi* status for Christians provides religious justification for anti-Christian sentiment amongst 'faithful' Muslims such that the Islamic influences upon the governing systems throughout the PA institutionalize the persecution of the Christian populations. Joseph Farah, a Lebanese-American Christian and editor of the *WorldNetDaily* online, observes:

[A]ll the U.S. really needs to do to judge the Arafat-Mazen intentions is to evaluate the human rights conditions of Christians within the Palestinian Authority. They are being driven out. They are being murdered. They are being raped. They are being systematically persecuted. They are being harassed. They are being intimidated. And this is before Arafat even achieves statehood. How much worse will conditions be when Arafat and Mazen have their own government, establish diplomatic relations with the U.S. and renew funding sources from the West? (Farah 2003)

Actually, many Palestinian Christians commented on the drastic change in their livelihood after the PA began ruling Christian-populated areas in the West Bank in 1995. Among the Palestinian Christians interviewed there was a strong inclination to prefer the lives they led before the PA began governing Bethlehem and its surrounding Christian-dominated neighborhoods in 1994. Due to the growth in anti-Christian sentiment, Ronnie Saba, a 29-year-old Palestinian Christian from Beit Jallah, claims he refrains from traveling to Muslim-dominated areas of the West Bank. He stated, "[a] lot of incidents [...] happen to me. I don't go to other places, I just stay in Beit Jallah." Inaz Jiries Hanna Muslah bluntly stated that she preferred the time before the PA because "they [the PA] are all Muslims, they don't like Christians."

The principal *raison d'être* of a government is to provide at least a minimum of protection for the basic rights of its residents. Failure in this area constitutes



grounds for scrutiny by the international community in order to understand why these human rights abuses exist. It must be acknowledged that, since the time the PA has assumed control over Christian areas in the West Bank, the basic human rights of Christians in these areas have been made increasingly vulnerable. Many Palestinian Christians commented on the drastic change in their lives after the PA began ruling Christian-populated areas.

In July 1999, 30,000 Christians began a protest strike in Beit Jallah intending to highlight the PA's unjust policies toward them. In a *Boston Globe* article entitled "Christians Anxious Under Palestinian Rule," Charles M. Sennott quotes Mary Taljia, a Palestinian Christian owner of a small dry goods store in Bethlehem, as saying that "[she] is bitter about the realities of life for Christians under the new Palestinian Authority." (Sennott 1999) The article further stated that, "Palestinian Christians cite fears of institutional discrimination in the Palestinian Authority." (Sennott 1999)

The initial Oslo interim peace agreement, *The Declaration of Principles on Interim Self-Government Arrangements*, enumerates in Article VI, Paragraph 2, the powers and responsibilities of the PA. They include education and culture, health, social welfare, direct taxation, and tourism. In all these fields, there is evidence of discrimination against Christians. In addition, while Muslims are able to benefit from personal and clan connections with well-placed co-religionists within the administration, Christians do not enjoy connections to the same extent.

In addition to the fact that Christians feel discriminated against in finding jobs, they also cite instances of discrimination in the field of education, the receipt of medical benefits, and other government aid. As the aforementioned Lutheran pastor explains, if food aid is brought in from Saudi Arabia, Christians are told that they are not entitled to receive any because they are not Muslims. At the same time, however, the PA skims charitable donations of Christians abroad that were intended to benefit their Christian brethren in the Palestinian areas, ostensibly for the general welfare of the Palestinian people.

### ***F. The Failure of the Palestinian Security Forces to Protect Christians***

Article VIII of the Cairo interim peace agreement of the Oslo peace process lays out the "Arrangements for Security and Public Order" of the Palestinian areas and Article IX thereof describes the need to develop a Palestinian police force.

Indeed, as had been provided for in the earlier Declaration of Principles of 1993, the PA established security and police forces. The number of PA security and police personnel was one of the contentious issues that repeatedly stalemated the Oslo peace process negotiations. The PA was empowered to have a police force comprised of six operational branches. By contrast, the exact number of security organizations within the PA is not certain, although human rights groups and foreign journalists have attempted to unravel this enigma.

In an interview, Bassem Eid, the Executive Director of the Palestinian Human Rights Monitoring Group (PHRMG), acknowledged that “nobody really knows” how many security services there are. Eid mentioned that he was cognizant of ten. The uncertainty about the number and the exact function of PA police forces has led to the “[p]erception among the Palestinian public and international community that there is an uncontrolled and ad hoc proliferation of security forces. In the hierarchical structure of the PA, the responsibilities and tasks of each security service are unclear. This leaves the door open for intra-branch rivalry, human rights abuses, and poor procedural practice.” (Price and Lenchner 1998: 10)

The 1998 report by the U.S. Department of State’s Bureau of Democracy, Human Rights and Labor indicated that PA security officials often do not follow existing laws in the West Bank or in Gaza regarding arrest and detention procedures. Part of the problem is that most PA security personnel are not fully cognizant of the law; this includes the proper procedures for arrests, detention, interrogation, and even basic human rights standards.

In this environment, the threat of persecution is constantly hanging over the heads of the Christians, since the PA police forces often target them as ‘traitors’ or ‘Israeli collaborators’. Many Christians have been thrown into prison without apparent reason or specific charges, only to be accused retroactively of ‘collaborating with Israel.’ (B’tselem 1994) For example, as two brothers revealed in a confidential interview, after having spent a substantial amount of time in prison, one of them was finally accused of being a Christian and of collaborating with Israel.

Muhammad Bak’r, a Muslim convert to Christianity jailed by the PA, described his torture in a PA prison. His hands were tied behind his back to a rope connected to the ceiling and he was left hanging there for several days. (Raab 2003) A friend who had visited Bak’r in prison confirms that he was tortured. (Klein-Halevi 1997) Although the PA accused Bak’r of selling land to Jews, it is widely believed that he was being held because he distributed Bibles to Muslims. (Raab 2003) Bassem Eid insists that Bak’r’s signed confession for the land change was elicited under torture. (Klein-Halevi 1997b)

William Murray was told by a Palestinian Christian friend that in November 2002, the 14-year-old nephew of a convert to Christianity was detained after school and stabbed and killed in front of a teacher by an 18-year-old Palestinian Muslim. The police were never contacted and the victim's family was called to pick up the body. The victim's brother had fled to Israel after being tortured during seven months in prison; Murray believes the motive for the murder was to induce the victim's brother to return to the West Bank for the funeral so that he too could be killed.

The attitude of the police toward Christians constitutes one of the most egregious forms of institutional persecution. As one member of the Protestant clergy under the PA explained in an interview on September 24, 1998, Christians feel unprotected due to the failure of the PA police to intervene on their behalf in confrontations with Muslims. For example, in the summer of 1997 a violent clash between Muslims and Christians erupted in the village of Beit Sahour. During the ensuing fracas, the PA police opened fire on the crowd of Christians, wounding six people. These disturbances were followed by clashes in the villages of Bijanan and Beit Sahour, when the PA police refrained from adequately protecting the Christian community.<sup>6</sup>

When subjected to harassment and worse by Muslim extremists, Palestinian Christians usually opt *not* to report incidents to the PA police. According to Shafik, a Protestant clergyman, many are too scared to discuss their accounts – they feel it is dangerous to do so since it may provoke further persecution. Palestinian Christians remain silent because they consider the PA police to be hostile to them. Sana Razi Nashash recalls being harassed by a man in the street. The next day, on her way to file a complaint with the police, she saw the perpetrator wearing a PA police uniform. She did not bother to file the complaint.

### ***G. The Inclusion of Sharia Law in the Palestinian Authority's Draft Constitution***

As a result of the Palestinian Authority's political choices, two systems of law, Islamic religious *Sharia* law and 'secular democratic' law, have been implemented in parallel in the Palestinian territories. Thereby, in the absence of secular norms, traditional Islamic law controls Palestinian society. Institutional deficiencies in the PA's administration invite religious factions (such as Hamas) to intervene whenever a void exists. *Sharia* has even been legitimated by its inclusion in the Draft Constitution.

Thus, via its Draft Constitution, the PA has made clear its intent to impose

*Sharia* upon all Palestinians, regardless of their religious beliefs. (Middle East Information Center 2004) For example, even a government official who happens to be Christian, such as the current Mayor of Bethlehem, Hanna Nasser, must abide by Islamic norms. Arafat ordered strict adherence to the (Muslim) Ramadan holiday, which forbids eating, drinking, and smoking from dawn until sundown for the duration of the month-long observance. The PHRMG also reported that “violent personal disputes arise occasionally between secular and religious Muslims – as well as between Muslims and Christians – over proper [modest] dress for women, eating on Ramadan, and so on.” (Price and Lenchner 1998: 10)

By granting primacy to *Sharia* over other legal sources, the PA puts Palestinian Christians in a precarious legal situation, as *Sharia* deems them unequal to their Muslim neighbors. As assassinated Lebanese President Bashir Gemayil once observed, “A Christian...is not a full citizen and cannot exercise political rights in any of the countries which were once conquered by Islam.” (Bashir 1983: 37-8)

The Evangelicals for Middle East Understanding (EMEUE), an organization of North American churches, agencies, and individuals that seek to foster cooperation and understanding among different religious groups in the Middle Eastern region, is monitoring the PA’s inclusion of *Sharia* as “the primary source of legislation” and “is particularly wary of anything the PA might do to limit the practice and observance of any faith including the open discussion of theological issues.” (Center for Middle Eastern Studies 2004)

A June 1999 UN report indicated that the PA legal system was underdeveloped and that its judicial system was weak. In spite of legislation to empower the judicial system as a body distinct from the executive branch, Arafat remained the primary source of power. A May/June 1999 Amnesty International report indicated, “[t]he PA has defied the orders of its own High Court to release prisoners and has ignored calls from the Palestinian Legislative Council to free those being held without due process.” Thus, rulings of the judiciary are virtually ignored by the PA security forces.

Terje Roed-Larsen, who at the time of his interview was a political officer at the Representative Office of Norway and is now the UN Special Envoy to the Middle East, had three years’ experience working on democracy, human rights, and rule of law issues in Gaza and the West Bank. He reasoned that a society that operated under a judiciary commonly perceived as ineffective and untrustworthy (i.e., while the Palestinian areas were under Israeli administration) would naturally turn to traditional systems. With the PA court system “in a state of disrepair,” Roed-Larsen explained that part of the burden at the local level “has been taken up by traditional social institutions and practices.” (Eid 1997: 14) Therefore, although in

theory only the courts of the PA should be competent to administer justice, there is a commonplace reversion to traditional forms of conflict resolution.<sup>7</sup>

The result is a 'justice system' that functions to the disadvantage of Christians. The reversion to traditional Muslim religious attitudes necessarily includes the treatment of Christians as second-class citizens or *dhimmi*. Roed-Larsen suggested that if Christians participated in such traditionally Muslim forms of conflict resolution as the *sulha*, Christians would face a high degree of hostility from the Muslim mediator who is responsible for achieving a settlement.

### **III. Denial and Self-Blame in the Christian Arab Community**

Increasing Muslim hostility towards non-Muslims and 'Westerners' resulting from the political situation in Israel and the disputed territories undoubtedly affects the daily social interactions between Palestinian Christians and Muslims. However, the politics of the territorial conflict exacerbates the plight of Palestinian Christians in a distinct and multifaceted manner, affecting more than basic social interactions.

For fear of jeopardizing the standing of the PA and Palestinian community, or, more simply, to achieve political positioning within the social hierarchy, Palestinian Christian leaders obfuscate the situation as it affects their constituents. In addition to the fear among Christians of appealing to the PA, there is widespread denial on the part of the Palestinian Christian leadership, typified by failure to report the abuses that occur.

#### ***A. Claims of Harmony: The Co-opting of the Christian Arab Leadership***

When asked to comment on the exodus of Palestinian Christians, Alex Awad, the Dean of Students at Bethlehem Bible College, interviewed on March 19, 2003, responded by excusing Arafat and the PA from any responsibility rather than by addressing the question posed. As he stated, "I would like to say first, and very clear,

that this [the Christian exodus] is not because of the PA. They are not leaving because they are sick and tired of the PA...we are not leaving because we are mad at Arafat and his policies.”

Bishara Awad, the President of Bethlehem Bible College and a colleague of Alex Awad, concurred, claiming that Christians living under PA rule enjoy greater freedom due to PA protection of, and assistance to, the church leaders. Similarly, Labib Madanat, Executive Secretary of the Jerusalem Bible Society, an organization active in the distribution and publication of Christian holy texts, insisted that he had not encountered any problems with the PA. He remarked, “the relationship with the Palestinian Authority [has been] very positive because the Bible Society has no political stand.”

However, although certain Christian religious leaders such as Bishop El-Assal enjoyed close connections with Arafat over the years, these mutually supportive relationships bear no resemblance to the difficult, often dangerous, circumstances in which common Palestinian Christians live. These leaders are given special access to the media and used this opportunity to gain sympathy and political support from Christian countries for Arafat and his policies. A Christian resident of Bethlehem emphasized, “you have to distinguish between the leadership [which has been supportive of Arafat] and the people.” (*Oh Little Town of Bethlehem* 1995: 6)

A public opinion poll performed by a Palestinian Christian academic revealed that only 48 percent of Palestinian Christians trust their religious leaders. (Sabella: 2001, 8) Indeed, the gap between the religious leadership and the lay community is growing. As a Christian man from Bethlehem observed, “Our leaders are liars: They tell the newspapers that everything is OK. But when Christians go to the market, they’re afraid to wear crosses.” (Klein-Halevi, 1997a)

## ***B. Intimidation and Other Reasons for Denial***

When Abu Sumayah, a Palestinian Christian resident of Beit Jallah interviewed on May 9, 2003, was asked why Palestinian Christians often purport good relations with Muslims and the PA, he responded, “There is a fear. If I lived in London, I would tell you [my real name]. [Here,] somebody will shoot me.” Concurring, Mary, a Palestinian Christian interviewed in her home in Ramallah, recounted, “Last week five Muslims beat up a Christian boy. We are afraid. They have knives [and] guns and can do whatever they want. They can kill you simply...[for] speaking bad about them.”

In a 1997 *Washington Times* editorial, then-Congressman J.C. Watts

commented on the fear of Palestinian Christians, saying, “incidents like these are known to be widespread, but most go unreported or are denied by the victims for fear of retaliation by the PA.” (Watts 1997) Former Florida Senator Connie Mack described the fear of the Palestinian Christians he met with in a speech given on the Senate floor, stating, “Needless to say, these Christians met with me at considerable risk. They conveyed to me a message of fear and desperation.”

The intimidation of the Palestinian Christians is further illustrated by an examination of the readiness with which they conceal attacks or injury to their own community. Observing this, one Christian cleric in Jerusalem “compared the behavior of Christian *dhimmi*s to that of battered wives and children, who continue to defend and even identify with their tormentor even as the abuse persists.” (Raab 2003)

The strong identification of some members of the Christian clergy with Palestinian nationalist aspirations leads them to deny the persecution of their community. Father Labib Kobtl, a representative of the Latin Patriarch in Jerusalem, stated, “refuse...the propaganda that wants to prove that there were any studied or willed persecution from our Muslim brothers and sisters of the Christians. We consider it as mere propaganda against Islam, a cold war against our Muslim brothers that only benefits the Zionists of Israel.” As a result of political aspirations, the Christian leadership ignores the suffering of its community.

Indeed, shortsighted attempts by some of the Christian clergy to gain immunity from extremist Muslim elements by acknowledging the supremacy of Islam may prove self-destructive in the long run. Trying to conceal the persecution of their community in order to show their devotion to a common cause with the Muslims might well mean acquiescing to lack of protection and inferior social positions indefinitely.

Professor Tsimhoni comments on Latin Priest Rafiq Khoury who called on Palestinian Christians to venerate the rule of Islam for the sake of national unity:

Khoury’s call to venerate the rule of Islam because it creates national unity ignores the heavy price Christians would pay...living under such a regime. It indicates acquiescence to an inferior position...and the abandonment of the Christian dream of a liberal, secular society that would accept them as equals. (Tsimhoni 1993)

## IV. Downplaying Violations by the Palestinian Authority

The frequent supremacy of political interests over human rights considerations may have similarly influenced the evaluations of the PA's treatment of Palestinian Christians that appear annually in the U.S. State Department's Report on International Religious Freedom. Noticeable leniencies permeate the coverage of the Palestinian Authority. In part, this results from the methodology of the State Department; for instance, the report is structured according to region and not by governing authority. Consequently, the section on Israel criticizes only Israeli actions while the section on the territories includes criticism of both the Israeli government and the Palestinian Authority. This frequently results in a paragraph that appears in the Israeli section being repeated verbatim in the section on the territories, thereby doubling the perceived violations by Israel in the mind of the reader.

In several instances in recent years, a single incident is pursued in depth. For example, the 2002 report details several incidents that allegedly occurred during Israeli incursions into the West Bank. The paragraphs describing these incidents go into some detail, but conspicuously absent is any attempt to obtain (or, if it was obtained, any acknowledgement of) an Israeli governmental response to the allegations. Particularly problematic is the virtually word-for-word repetition of a single incident – the alleged threatening with a gun of an elderly Syrian Orthodox priest in Bethlehem – in *three* consecutive annual reports.<sup>8</sup> This might have been justified had new facts come to light about the incident, but the repetitions of this incident use virtually identical language and contain no new information.

A further methodological problem is that only alleged Israeli violations are reported in detail. Criticism of the Palestinian Authority, by comparison, tends to be rather vague and superficial. For example, the following paragraph, which appears in the State Department's 2002 report, clearly goes to great pains to minimize allegations against the PA and to cast doubt on their veracity:

Since the establishment of the PA, there have been *periodic* allegations that a *small number* of Muslim converts to Christianity *at times* are subjected to *societal* discrimination and harassment by PA officials, including detention and *questioning* [actually torture] by security forces. During the period covered by this report, there was one such allegation. The allegation *could not be verified*. With regard to other allegations of mistreatment in recent years, conversion *may have been only one of several factors* leading to the mistreatment [actually torture] (emphasis added).<sup>9</sup>



Note that virtually no concrete details of the alleged incident are given, in direct contrast to the detailed Israeli ‘violations’ mentioned above. In addition, note that the report in this paragraph correctly separates violations of the past from violations that took place during the period covered by the current report. This is in direct contradiction to their handling of dated Israeli violations, some of which are repeated year after year.

In addition, this report’s assertion that “conversion may have been only one of several factors leading to the mistreatment” appears to be an effort to classify these allegations as being outside the purview of the State Department’s inquiry. Such qualifiers do not appear when describing actions taken by the Israeli government that limit rights in the interest of public safety. For example, the 2003 report criticizes Israel for confiscating the passport of Archimandrite Attallah Hanna, an Israeli citizen and priest with the Greek Orthodox Patriarchate.<sup>10</sup> The following year’s report belatedly acknowledges that the passport was confiscated as a direct result of Hanna’s public statements (widely covered in the media) in support of Palestinian suicide terrorism while on a trip to Lebanon, a country that does not have peaceful relations or diplomatic ties with Israel.<sup>11</sup> It would have been further helpful for the State Department to acknowledge that Hanna’s vocation as a priest does not give him immunity from the obligations that come with the privilege of possessing a passport. But to do so would have highlighted that Hanna was never deserving of intervention by the U.S. Department of State in the first place.

Similarly, there are many instances of Palestinian gunmen using churches as cover when firing on Israeli soldiers and civilians in the hope that Israeli return fire would damage the churches, thereby creating negative public relations images. For instance, during October and November 2000, gunmen from the Tanzim, a militia affiliated with Arafat’s Fatah movement, fired on a Jewish neighborhood of Jerusalem from areas adjacent to churches in Beit Jalla. A Christian cleric observed that “[t]he positions chosen by the Tanzim are near to churches in Beit Jalla, most notably the Church of St. Nicholas, hoping that Israel’s return fire will hit a church. Then it will be front-page news for the ‘Christian West,’ that Israel is now destroying churches.”<sup>12</sup> In none of the four annual reports since the start of the *intifada* has the State Department seen fit to condemn this practice of holding churches hostage – or even to mention it.

The highest-profile case of this kind was the 2002 standoff at the Church of the Nativity in Bethlehem. The State Department’s report on the incident mentions the damage done to religious buildings during the standoff resulting from “[a]rmed action by Palestinian gunmen and members of the Palestinian security services against Israeli forces.”<sup>13</sup> This description carefully avoids accusing Palestinian

militants of invading the Church's grounds in a deliberate attempt to draw the IDF into a firefight that would damage this Christian holy site and provoke international condemnation. In addition, the theft, intimidation, hostage-taking, and vandalism inside the Church of the Nativity at the hands of the Palestinian militants, where no Israeli soldiers were present, was never mentioned by the State Department, not in its 2002 report nor in any succeeding report to date.

The State Department's lack of scrutiny of the Palestinian Authority cannot be excused by claiming a lack of reported incidents. The PA's weak judicial system, intimidation of victims, witnesses, and reporters, lack of rule of law, and the general psychological victimization of religious minorities are all widely acknowledged, despite the fact that they result in few publicized cases of abuse of religious freedom. Thus, in the opinion of this author, despite its responsibility to do so, the State Department failed to adequately research the anarchy that typifies the PA and its implications for religious freedom. It is insufficient for the 2001 report to state, "It is unclear whether the injunction to 'respect' other religions would translate into an effective legal guarantee of religious freedom."<sup>14</sup> To simply state that the results of their findings are unclear is tantamount to neglecting their assignment. If the inaccuracies of the State Department reports were intended to avoid discrediting the PA as a recipient of massive U.S. financial aid, the U.S. Congress is seriously handicapped in its ability to accurately judge the PA's adherence to basic international human rights when deliberating on appropriations and other bills concerning the PA.

David Ortiz, the Evangelical pastor, insists that he did report cases of religious persecution by the PA during three 1997 meetings with a State Department official based in Jerusalem. Tending to ignore the testimony and evidence presented, the official did not bother to take notes at any of the meetings. Citing America's deep investment in the peace process and fear of raising an issue that could disrupt it, this senior official chose not to conclude that the PA was responsible for persecuting Christians. Even direct interviews with persecuted Palestinian Christians failed to awaken State Department concerns. The State Department official insisted on hard physical evidence to back up the allegations – a threshold that is plainly not present in many of the allegations against Israel. The official's recommendation was for the Christians to keep a low profile or to seek asylum in another country.<sup>15</sup>

## *A Case Study*<sup>16</sup>

In one instance, the State Department's apparent disinterest in investigating violations of religious freedom by the Palestinian Authority was followed by the murder of the victim. Ahmad El-Achwal was a married father of eight who lived in the Askar Refugee Camp near the West Bank city of Nablus. Arrested in early 1996 on trumped-up charges of dealing in stolen gold, he was introduced to Christianity by a fellow prisoner in the Central Nablus Prison. Though El-Achwal was tried and acquitted on the charges, the Palestinian Authority set about to make his life unbearable in an attempt to force him to return to Islam.

Upon his initial arrest, El-Achwal was kept in a tiny cell and regularly left without food for days on end. Injuries sustained during interrogation and torture, which required lengthy hospitalization, included extensive serious burns on his back, buttocks, and legs. His Achilles tendon was cut open and he suffered bruises around his eyes and sprained fingers. Cigarettes were extinguished all over his body and he was beaten with electric cables.

After his initial release from prison, El-Achwal began to use his apartment as an informal church for other Palestinians. He gave out booklets on Christianity and spoke to Palestinian Muslims about his newfound faith, despite fears of harassment and persecution by PA officials, terrorist organizations, and Palestinian civilians.

Though El-Achwal had been tried and acquitted, the PA continued to target him for abuse due to his apostasy. Over a seven-year period PA security forces repeatedly arrested him and searched his home, on occasion confiscating his Bibles and other Christian religious books. El-Achwal was imprisoned for periods totaling over a year. This included three long-term arrests as well as numerous three- or four-day interrogation sessions at the Palestinian Criminal Investigations Department. Often he was placed in an isolation cell with very little food. His jailers told him that they were doing this to drive him crazy until he returned to Islam. Promises were made that if El-Achwal reverted to Islam he would be freed from prison, the criminal charges (regarding 'stolen' gold, for which he had already been acquitted) dropped, and he would be appointed to a high-ranking PA job with a large office.

Not all of his suffering emanated directly from the Palestinian Authority. El-Achwal owned a falafel stand in Nablus, but his landlord refused to continue renting the premises upon learning of his apostasy. Indeed, as word of his conversion spread, El-Achwal had to move to Jerusalem to find work – this time as a cook. When visiting his family in Askar, he was beaten by a group of men

whose faces were covered with keffiyahs and his life was threatened. In addition, his car was torched and Palestinians affiliated with PA security services firebombed his apartment. Later, masked men from Hamas, who threatened to kill him and his family, again beat him.

Refusing to capitulate, El-Achwal was finally shot dead at the entrance to his apartment by four masked gunmen on January 21, 2004. U.S. State Department officials met with El-Achwal after his first period of imprisonment and torture and were subsequently updated by Ortiz regarding some of the further episodes that led ultimately to El-Achwal's murder, yet their annual reports have, to date, never addressed his case.

## **V. The Sources of the Palestinian Authority's Human Rights Obligations**

### ***A. International Obligations***

Since the transfer of control over the major West Bank cities to the PA, there has been no improvement, and, given the information offered in this monograph, perhaps even a significant deterioration in the provision of human rights for the Palestinian Christian minority that resides therein. Given the obvious complexities of the political conflict and the diversity of interests at play, the international community must step in as a politically neutral third party to ensure the PA's compliance with human rights norms. As long as the international community continues to ignore the problems Palestinian Christians face, it is doubtful that they will see any improvement of circumstances in the future.

According to the UN's Universal Declaration of Human Rights, the guiding premise of human rights law is the need for universal protection. Each Palestinian Christian is entitled to the fundamental rights and freedoms enumerated in the body of instruments recognized as customary human rights law. In addition, explicit agreements signed by the PA, even as a non-state party, establish a voluntary assumption of human rights obligations, and are thus binding. Parties that adhere to human rights concepts of their own volition cannot, in the words of international human rights lawyer Katherine Brennan, "claim to be exempt from the standards

to which they voluntarily subject themselves.”<sup>17</sup> Their independent recognition of human rights values affirms the accountability of the PA to respect and protect the rights of its constituents.

In fact, not only is the PA obligated to ensure that it does not itself actively discriminate against any religious group, it is also obligated to eliminate any discrimination that already exists. In the words of the *International Convention on the Elimination of All Forms of Racial Discrimination*:

The absence of a discriminatory policy is insufficient to meet the compliance standards of the UN convention. *The party must adopt a policy of eliminating discrimination.* According to this criterion, if persecution exists in even the societal sphere, legislation must be adopted to combat the cultural tendencies (emphasis added).

In addition, the Convention requires collective rights to be equally protected. Thus, for example, one religious group cannot be subjected to different tax rates on account of its adherence to that particular faith. Finally, the fundamental rights of religious institutions are to be safeguarded. The PA, if it were to pursue compliance with the Convention, obligates itself to treat mosques and churches with equal respect and grant them equal protection.

There is no significant legal distinction between cultural, societal, and official human rights abuses; the Convention affirms this principle in excluding intent from the definition of discrimination. The existence of discrimination, whether deliberate or merely consequential of the society’s values, constitutes a violation of the Convention’s standards. Therefore, in the analysis by Egon Schwelb, a former Deputy Director of the United Nations Division for Human Rights, the “Convention does not prohibit objectionable ‘state action’ only, but covers relationships between private persons, groups or organizations.” (Schwelb 1975: 1) The above passage also specifies that the target forms of discrimination to be eliminated include individual acts, whether or not they are practiced with regularity. Thus, this resolution protects groups from “isolated acts” as well as systematic discrimination.

As Professor Theodor Meron, Charles L. Denison Professor of Law at New York University Law School, explains, “Under customary law norms, violations of human rights by private persons are increasingly regulated by international law and, where they are not, there is an evolving obligation of states [in this case, non-state authorities] to take responsibility for preventing and prosecuting such violations, and providing victims with civil remedies against perpetrators. Thus, even abuses perpetrated by individuals unaffiliated with the government, fall increasingly into a category recognized under state accountability.” (Meron 1989)

When the Oslo interim peace accords granted the PA local governance responsibility, Palestinian rights groups emphasized the human rights accountability of the new leadership. A report issued by the Palestinian rights organization *Al-Haq* explains that responsibility and accountability for human rights protection may be transferred to an “occupied population’s authority.” (*Al-Haq* 1993: 10) In this case, the PA, as the representative of the occupied population, must “unilaterally implement and declare their adherence to human rights instruments and to establish independent judicial machinery accessible to the occupied population, for redress of human rights.” (*Al-Haq* 1993: 9-10)

NGOs such as Amnesty International and Human Rights Watch regularly monitor non-state entities including armed opposition groups, such as Hamas, for compliance with international standards of human rights. (B’tselem 1994) Both actions and inaction may constitute violations of human rights obligations. This means that the Palestinian Authority’s responsibility encompasses those acts of its official agents that are performed outside their designed mission. This responsibility extends to the prosecution of civilians committing acts of their own volition that remain unprosecuted by the authority. (*Al-Haq* 1993)

According to international public opinion, the legitimacy of the Palestinian movement rests on the idea that only through an autonomous entity or state can the human rights of Palestinians be truly protected. As Arafat explained to the UN Human Rights Commission in Geneva, the withdrawal of Israel from the Palestinian territories is “[a] radical solution to the deterioration of human rights and the return of the Palestinian people’s right to their homeland and self-determination without external interference.” This concept assumes that the political system envisioned will integrate democratic and human rights principles.

Arafat, who was designated as President of the PNA, claimed to rule according to Western democratic principles. Protection of religious freedom is considered one of the fundamentals for the effectiveness of this model. In a 1994 address to the UN Human Rights Commission in Geneva, Arafat spoke of the PLO’s belief in the peace process and the need to improve its adherence to human rights. “It is my pleasure to inform you from this solemn rostrum...of our commitment to human rights, democratic freedoms, international laws, and the UN Charter, and...our concern for edifying a healthy, dynamic, open, and active society.” One must question whether Arafat, by allowing the PA’s governance to be so extensively influenced by inherently discriminatory *Sharia* religious law, was, in fact, genuinely working to ensure that the aforementioned human rights principles were met.

## ***B. U.S. Federal Statute to Protect Religious Freedom Abroad***

In August 1996, a U.S. Congressman initiated a legislative effort to protect religious freedom abroad. Representative Frank R. Wolf (R-VA) headed the first concerted effort at drafting a resolution addressing the problem of Christian persecution abroad, which he introduced in the House of Representatives. The resolution called on the President to expand U.S. efforts to combat the growing problem of Christian persecution and to initiate an examination of U.S. policies that affect persecuted Christians. The President was also urged to appoint a special advisor on religious persecution.

On May 20, 1997, the Freedom from Religious Persecution Act was introduced in the House, which called for the establishment of an Office on Religious Persecution Monitoring (ORPM) at the State Department which was to monitor religious persecution internationally, and impose automatic sanctions on states that are either involved in the religious persecution of their citizens, or fail to take measures to counter religious persecution occurring in their society.

Although an amended version of the bill, H.R. 2431, passed in the House of Representatives on May 14, 1998, it was not considered in the Senate. The Clinton Administration strongly opposed the bill, which provided for the automatic imposition of severe economic and political sanctions as soon as a foreign government is identified as allowing religious persecution. According to the Clinton White House, "it would make it impossible for the U.S. to put national security and trade concerns ahead of fighting religious persecution." (Carnes 1998) Clinton threatened to veto the bill if it reached his desk.

Due to the Clinton Administration's pressure and doubt from the religious community about the effectiveness of the bill - including the fear that the sanctions imposed on violating states would result in a backlash against the minorities the bill was intended to protect - Senator Don Nickels (R-OK) introduced in the Senate an alternative, less stringent bill, the International Religious Freedom Act, which was passed by the House and the Senate on October 10, 1998, and signed into law by President Clinton on October 27, 1998.

In contrast to the Freedom from Religious Persecution Act, the International Religious Freedom Act allows the President more leeway to determine and apply appropriate sanctions in response to religious freedom violations. Instead of the automatic implementation of economic sanctions, a broad range of diplomatic, political, and economic means were placed at the disposal of the President, who

is ultimately empowered to tailor them to effectively combat religious persecution. This solution satisfied both the Clinton Administration's concerns over protecting U.S. national interests and security policy and evangelical groups who feared severe economic sanctions could trigger a backlash and result in an increase in the persecution of religious minorities.

In the words of the statute, the enactment commits the U.S. to:  
condemn violations of religious freedom...to promote and...assist other governments in the promotion of the fundamental right to freedom of religion...and...liberty and [to stand] with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational and cultural channels, to promote respect for religious freedom by all governments and peoples.

Two distinct levels of persecution may trigger the use of sanctions: first, "severe violations of religious freedom" including "torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges...or other flagrant denial of the right to life, liberty, or security of persons." Second, "violations of religious freedom" including "arbitrary prohibitions on, restrictions of, or punishment for assembling for peaceful religious activities such as worship, preaching and prayer; speaking freely about one's beliefs; changing one's religious beliefs and affiliation; and possession of religious literature, including Bibles." The U.S. will also support initiatives for the promotion of religious freedom abroad through the allocations of funds or international educational and cultural exchanges.

According to the aforementioned stipulations, if a government or its officials persecute or allow the persecution of religious minorities as defined above by individuals or groups of individuals, the U.S. will take measures within the scope of the International Religious Freedom Act. Along with arrest, torture, and murder on grounds of one's religious belief, the denial of the right to publicly manifest one's religion is also considered persecution.

However, the caveats written into the International Religious Freedom Act allow the President to subordinate actions taken against violating states to the national security interests of the United States. For example, the President may waive the application of sanctions if "the important national interest of the United States requires the exercise of such waiver authority." Moreover, Section (b) of the International Religious Freedom Act of 1998 states:

It shall be the policy of the United States, as follows: ... (3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and



principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

In essence, this clause allows the U.S. government to apply the sanctions stipulated in the Act irrespective of the degree or severity of violations of international religious freedom laws. Combined with the waiver clause, this clause renders the International Religious Freedom Act virtually useless, unable to accomplish its intended goals. Because the U.S. wants to maintain friendly relations with countries that are crucial to its national security and policy interests, the President may choose largely symbolic steps to fight religious persecution abroad if he deems it necessary to prefer other national interests over the protection of freedom of religion.

According to a senior official of the U.S. Agency for International Development (USAID) interviewed in Jerusalem, the most promising avenue for influencing the PA is not through direct funding of democracy projects, but rather through a more indirect approach of employing Palestinian NGOs that advocate PA structural reform and a greater level of PA accountability. This approach rested on the premise that Arafat and his ruling PA elite were not predisposed to democratic reforms.

Successive U.S. administrations have been intensely involved in the Oslo and post-Oslo peace process. This long-standing commitment was illustrated by USAID's six-year mission in the West Bank and Gaza, during which it contributed \$75,000,000 per annum to projects assisting in economic reform, water management, governance, and democracy. (USAID) USAID established several objectives intended to help the PA towards responsible self-governance: the encouragement of a system of democratic governance with checks and balances, the development of proper procedures for the drafting and reviewing of legislation, and the establishment of better methods of court administration.

### *C. Other International Factors With Leverage*

Many state members of the international community other than the U.S. and Israel make significant contributions to the development of the emerging Palestinian state. Coordinated by the Department for International Development (DFID), Britain contributes a current sum of £20,000,000 annually through both multilateral schemes with the European Union and UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East) and bilateral programs with the Palestinians

themselves. DFID's goal is to halve the number of people living in extreme poverty by the year 2015. Chris Metcalf, then Consul (development) at DFID, in an interview on January 17, 2000, explained that the bilateral program is focused on five sectors: education, health, water, private sector development, and most importantly for the purposes of this monograph, 'good government'.

A major problem for the legal system in Gaza and the West Bank is the fact that different parts of the areas under PA control are under different legal systems. Both the West Bank and Gaza have a history of first being under Ottoman and then British law and vestiges of both still remain. Problematically, however, the West Bank was, for a period, under Jordanian law while Gaza was under Egyptian military occupation. In addition, both areas still retain some elements of Israeli military law.<sup>18</sup> This has resulted in confusion and conflicts between the various legal systems. To address this problem, DIFD, in conjunction with the Lord Chancellor's Department, is assisting in the modernization and unification of Palestinian legislation.

A specific focus on human rights has been taken by the UK, with the establishment of the Human Rights Project Fund in Gaza and the West Bank. Through the financing of Palestinian human rights NGOs, the fund focuses on four issues: 1) the rights of the child; 2) promoting civil rights through the media; 3) the rule of law; and 4) action in civil society. Mr. Robin Kealy, then the British Consul-General to Jerusalem, stated, "We want the Palestinian future to be that of a peaceful and democratic society where civil rights are fully respected." In addition, with other members of the donor community, the UK supports the Palestinian Independent Commission for Citizens' Rights (PICCR), which acts as the ombudsman of the PA. The impetus behind the PICCR's development "came out of the perceived need to build human and citizens' rights into the formal institutions of the Palestinian state." (The British Council 2000: 2)

## **VI. Political Motives Supervene Human Rights Standards**

While the U.S. places a high priority upon the promotion of human rights as shown by the activities of USAID, there are two factors which limit the ability of government-affiliated aid organizations to place direct pressure on the PA to improve

its human rights record. A senior official at USAID commented that, in a political climate with competing incentives, “the peace process is extremely high on the agenda. If the people that are negotiating the peace process tell the people working on the assistance program to lay off this topic for the moment – probably they will.” As a result, the basic human rights needs of Palestinian Christians are repeatedly sidelined at the bargaining table.

One of the factors that can help to improve the situation of the Palestinian Christians in the territories is, as outlined above, the use of international pressure on the PA. This pressure can provide a financial incentive as well as focus greater international attention on the problem, which will serve to ameliorate the condition of the Palestinian Christians.

Multilaterally-funded programs and organizations, such as the PICCR, indicate an increased awareness within the donor community that human rights must not be ignored while leading up to a final status agreement. Roed-Larsen, then the Political Officer for the Norwegian Representative Office in Tel Aviv, stated that there should not be any inherent contradiction between the peace process and a respect for human rights. However, based on the information compiled herein and the lack of public knowledge of the human rights abuses Palestinian Christians suffer, it seems clear that security alone has been the major concern of the international donor community. Because of this, those who are guilty of most human rights abuses – namely, the PA security services – have the support of the international community as donations are made with the intent of developing social infrastructure and curtailing terrorism. The result is the omission of attention to human rights and personal security. In the words of Roed-Larsen, “[t]he international community has learned a big lesson here. Now human rights are being focused on and there is international co-operation and a realization that things have to change.”

Many believe that, following the development of a proper judiciary, the PA will be in a position to address human rights abuses. Roed-Larsen argues that, “The judiciary is in deep crisis.” This problem has arisen as a result of weaknesses within the judicial institutions themselves, for example, the lack of courts and well-trained judges and lawyers. There is also, however, the political element – the executive infringing on the courts’ jurisdiction and the neglect of decisions. The former problem has received attention, but “[u]ntil now donors have been reluctant to support the political process.”

Norway did make strong and repeated appeals directly to the PA on human rights issues and, according to Roed-Larsen, its protests are receiving the attention of the authorities due to Norway’s long-standing and close relationship with many of

the main actors. While the Norwegians do not often directly threaten the suspension of a particular program due to abuses, there were some occasions when, as a result of continued violations, it was stated rather clearly that “there [would] be consequences, that it [would] be impossible to continue support in certain sectors.”

The UN’s inadequate response to the gross human rights violations perpetrated by the PA further exemplifies the extent to which the desire for peace between Israel and the Palestinians supercedes the basic rights of individuals, especially the Christian minority, living under the PA. The UN has taken the posture of compromising its role as protector of human rights in order to maintain a political role in negotiating peace:

United Nations reporting of alleged crimes against humanity, war crimes, and genocide means that its political function of negotiating a settlement becomes more difficult. If the United Nations seeks a settlement, rather than seeing continuing or worsening violence, its negotiators will in practice...be tempted to ignore the violations, effectively tolerating impunity...Once the Secretary-General, or negotiators accepted by certain parties, has proposed compromises to end particular conflicts, there is a risk of having to choose between restoring peace and long-term observance of human rights.

According to this statement, the UN has not developed criteria to guide decision-making when its duties come into conflict with one another. In the case of the *intifada*, it is clear that the UN and the international community have reconciled this conflict of roles by choosing to ignore the plight of Palestinian Christians. Through the discretionary use of its own human rights doctrine, the UN has sacrificed not just its legitimacy and objectivity, but the human rights of minority groups such as the Palestinian Christians.

## Conclusion

The plight of the Palestinian Christian community cannot remain the sacrificial pawn in the larger game of the Middle East peace process. In April 2002, the Church of the Nativity was invaded by more than 100 Palestinian Muslim gunmen who shot their way inside while attempting to evade capture by Israeli soldiers who had entered Bethlehem to quell on-going terrorism and, in particular, suicide bombings. As confirmed by Abdullah Abu-Hadid, a senior commander in

the Tanzim militia, “the idea was to enter the Church in order to create international pressure on Israel.” (Raab 2003)

Reporting on the event, a Jerusalem-based cleric told the *Jerusalem Post* that, “propaganda is all that is heard, in part because of the many cover-ups by the Christians who don’t dare speak up. They are cowards.” (Gelfond 2002: 260) The cleric explained that fear of Muslim terrorists silences both the churches and the communities. A Bethlehem priest quoted in the same article confirmed the assessment of the Jerusalem cleric, noting with anger, “I would have preferred silence rather than saying that everything is okay. We are worse than cowards, we are lying.” (Gelfond 2002: 260)

Even if peace negotiations are resumed and successfully navigate the numerous obstacles ahead, the fate of the average Palestinian will depend on the strength and orientation of his state’s institutions. The PA interim governing authority has proven itself incapable of guaranteeing the protection of the basic rights of Palestinian Christians, the most significant minority under its jurisdiction. One independent report stated that “[t]he risk is that if present structures and practices go unreformed, they will shape and even predetermine future ones in negative ways.” (Eid 1997: 3) The importance of monitoring the PA’s record, even during the ongoing violent *intifada*, cannot be overstated.

The recalcitrance of the PA to enforce international human rights standards along with its refusal to respect the requirements of the Oslo interim agreements has made it an accomplice and even perpetrator of gross human rights abuses. Though the international community is tempted to donate further sums to the PA following the death of Yasser Arafat, they appear to be under the as yet unproven assumption that the ascendancy of Mahmoud Abbas will rejuvenate the peace process and reinstate respect for human rights and religious freedom under the Palestinian Authority.

In the opinion of this author, the U.S., Israel, and other members of the international community should make human rights a major issue in any future peace negotiations. By using financial incentives during this pre-state stage, the U.S., Israel, and international donor communities can prevent the egregious violations of human rights partially described in this monograph from accompanying the PA into the emerging Palestinian state. The leverage of the donors is significant, with over 70 percent of the PA’s budget derived from foreign sources. (Sabella 2004) Financial incentives can be earmarked to train PA security personnel in human rights practices, to construct modern penal institutions, and to reform the legal system.

Clearly, the U.S. has considerable economic leverage in the region, and could use that influence to demand human rights improvements. However, the President

may be reluctant to impose serious sanctions against the Palestinian entity, or even push human rights as an issue in the peace talks. The primary objective of the U.S. in the region is peace and the secondary objective is the fight against terrorism. To rebuke the PA or to make human rights an issue in the negotiations would cause the U.S. to lose influence with the PA when dealing with other, 'more important,' issues.

However, in the opinion of this author, the PA's adoption of sound human rights policies and practices would contribute immeasurably to the success of the peace process. Although Arafat's commitment to these values in the agreements was vague at best, the Palestinians' expectations regarding an improvement in their lives deserves to be met, and should not be limited to issues of pride or economics. As the international community furnishes financial resources to the emerging Palestinian state, it should reflect on its complicity in the human rights abuses that have emerged.

If the internal reforms fail and pressure from the U.S., Israel, and the donor communities does not materialize, there is one last resort for the Palestinian Christians. Since the PA is not a sovereign state even though it has administrative responsibilities in designated areas of the West Bank and Gaza, Israeli military rule is still in effect in the territories. This means that, legally speaking, human rights are the responsibility of the PA on a day-to-day basis, but the ultimate legal responsibility rests with Israel. (Weiner 1995) Of course, the current Israeli government led by Prime Minister Ariel Sharon, frustrated by endemic Palestinian terrorism, would appear ill disposed to shouldering this responsibility, given its policy of unilateral disengagement.

Therefore, the Israeli Supreme Court is the last resort for Palestinians living under the jurisdiction of the PA. The Supreme Court, long a liberal voice, has in recent years become increasingly committed to improving human rights and the rule of law, frequently demonstrating its commitment to ensuring human rights in the West Bank and Gaza. Of course, the Palestinian Christians living in the PA would be reluctant to utilize Israeli legal institutions, but, as victims, they clearly have a need for an institution of last resort, as demonstrated by the tens of thousands of Christians who have left the territories.

It seems logical that, instead of turning to Israeli courts, the Palestinian Christians should be able to turn to the PA's justice system. This, however, would be largely unproductive at the present time. The PA's justice system has no practical autonomy from the executive branch, even though it is independent in theory. The PA President and Justice Minister can hire, fire, retire, and otherwise control all judicial employees, including judges at all levels. Two previous chief justices were 'retired' by the executive branch, one possibly for an unsympathetic comment made against the PA in an interview, and the second for a decision that called for the release of ten

Birzeit University students who were being detained unlawfully. (Amnesty 1999: 7)

The future of the Palestinian Christian community and any other religious minority living under the PA will rest on the potential for religious tolerance and the rejection of fundamentalist and archaic attitudes towards non-Muslims. As long as the Constitution of the PA reflects the principles of *Sharia* law, it seems as though the emergence of religious tolerance will remain highly unlikely. Additionally, the PA must crack down on Hamas and Islamic Jihad and eliminate their influence and role as the enforcers of the more brutal aspects of *Sharia* law.

The testimonies provided in this monograph make it pointedly clear that lawlessness and anarchy have swept the West Bank and Gaza Strip in recent years. Gangs of thugs and thieves have created what a former Palestinian cabinet minister described as “total chaos.” It is essential that the PA arrest these militants who, in their range of mafia-like conduct, frequently abuse and intimidate Christians. (Toameh 2002c)

The political conflict, or halting efforts to resolve it, can no longer be used by the international community as an excuse for evading responsibility for the gross human rights abuses the Palestinian Christian community has come to accept. Human rights standards cannot any longer be subordinated to political motives. Only when the international community is prepared to stand behind the lofty ideals enumerated in its formative instruments with its full economic and political resources will the perpetrators of such abuses be forced to relinquish habits of abuse and ascribe to the norms expected of all sovereign entities.

## Notes

1. See Bat Ye'or, *The Dhimmi* (London: Associated University Presses, 1985), pp. 43-47; Mark Cohen, *Under Crescent and Cross, The Jews in the Middle Ages* (Princeton, NJ: Princeton University Press, 1994), p. 52; and "Islam: Empire of Faith," PBS documentary, <<http://www.pbs.org/empires/islam/faithpeople.html>> (visited June 28, 2004).
2. See, e.g., the verse Sura 9:29. Cohen translates this as "fight against those who have been given the scriptures until they pay the *jizya an yadin wa-hum sagurun*." The difficulty of the last four words led to much room for interpretation. The result was that the root *s-gh-r* was taken to mean "to make little" and this verse was used as the basis of many humiliating restrictions placed on the *dhimmi*. See Mark Cohen, *Under Crescent and Cross, The Jews in the Middle Ages* (Princeton, NJ: Princeton University Press, 1994), pp. 54-56.
3. For a more detailed discussion of the population change in Bethlehem, see B. Sabella, "Palestinian Christian Population, Inter-religious Relations and the Second Intifada," (2002): 6.
4. The names, occupations, and places of residence of Palestinian Christians have been changed in order to protect them from reprisals. For reasons of personal and familial security, most have asked that their anonymity be preserved.
5. Despite the absence of the word "National" or the initial "N" from the texts of the Oslo interim peace agreements, Palestinians generally refer to the PA as the PNA, thereby likening their non-state entity to an established sovereign state.
6. See Israeli government report, *The Palestinian Authority's Treatment of Christians in the Autonomous Areas*, <<http://www.tzemach.org/fyi/docs/chrstper.htm>> (visited Jan. 5, 2002).
7. See Darwish Musa Darwish, Mukhtar of Isawiya in eastern Jerusalem, "Sulha Conflict Resolution," Address at the Yakar Center for Social Concern, Jerusalem (Dec. 16, 1998).
8. *Annual Report, International Religious Freedom, 2002* (2003); *Annual Report, International Religious Freedom, 2003* (2003); *Annual Report, International Religious Freedom, 2004* (2004).



9. *Annual Report, International Religious Freedom, 2002* (2003), <<http://www.state.gov/g/drl/rls/irf/2002/13997.htm>> (visited Dec. 13, 2004).
10. *Annual Report, International Religious Freedom, 2003* (2003), <<http://www.state.gov/g/drl/rls/irf/2003/24453.htm>> (visited Dec. 13, 2004).
11. *Annual Report, International Religious Freedom, 2004* (2004), <<http://www.state.gov/g/drl/rls/irf/2004/35499.htm>> (visited Dec. 13, 2004).
12. Interview with Pastor David Ortiz in Jerusalem (Oct. 21, 2004).
13. *Annual Report, International Religious Freedom, 2003* (2003), <<http://www.state.gov/g/drl/rls/irf/2003/24453.htm>> (visited Dec. 13, 2004).
14. *Annual Report, International Religious Freedom, 2001* (2002). <<http://www.state.gov/g/drl/rls/irf/2001/5697.htm>> (visited Dec. 13, 2004).
15. Ortiz received a similar response in 2000 from the official's successor. Interview with Pastor David Ortiz in Jerusalem (Oct. 21, 2004). Interestingly, the replacement was actively involved in aiding a convert who was seeking asylum in the U.S., a story that received substantial media attention in the American, Israeli, and British press – but no mention in the reports on religious freedom, despite the State Department's direct involvement in the case that presumably gave them access to at least some of its details. It was during this period that El-Achwal was interviewed on several occasions by the author of this monograph and his research assistants.
16. Due to the atmosphere of fear in the Palestinian Authority, witness accounts are usually difficult to obtain. In some cases the events related to the author and his research assistants may be out of chronological sequence. See interview of Ahmad El-Achwal in Jerusalem, Feb. 17, 2000. See also Interview with Pastor David Ortiz in Jerusalem (Oct. 21, 2004).
17. See Katherine Brennan, "Note, The Influence of Cultural Relativism on International Human Rights Law: Female Circumcision as a Case Study," 7 *LAW & INEQ J*, 367-73 (1991), reprinted in Frank Newman and David Weissbrodt, *International Human Rights: Law, Policy, and Process* 678 (2nd ed, 1996).
18. See Justus Reid Weiner, "Human Rights in the Israeli Administered Areas During the Intifada: 1987-1990," 10 *Wisc. J. Int'l L.* 195 (1994), 195-198.

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