



The Institute on Religion and Public Policy

Religious Freedom in Israel

Executive Summary

The political situation in Israel has led to an overall distrust of persons who do not follow the Jewish Orthodox religion. This includes Arab Israelis, Christians and even Reform and Conservative Jews. While Government sponsored preference of Orthodoxy is being addressed by the Supreme Court, a new influx of right wing leaders are bringing a new kind of demonizing racism, based on fear of societal destruction by Israel's Arab neighbors, into mainstream society.

Institute on Religion and Public Policy

Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

History of Freedom and Politics in Israel

The state of Israel was established in 1948, by UN mandate, in order to establish a sovereign homeland for the Jewish people. Between 1948 and 1982, a series of wars between Israel and her Arab neighbors led to an expansion in territory and an unofficial occupation of Palestinian territory. The United Nations has called for the return of lands taken during these wars, as well as the return of land to the Palestinian people, but Israel has refused to comply with Resolution 242. While peace treaties have been created between Israel, Jordan and Egypt, relations in the region remain hostile, with the Arab-Israeli Conflict being a catalyst for much of the terrorism and unrest that occurs in the Middle East. The two intifadas, both taking place in the last decade, as well as Israeli policy in the Palestinian territories, have contributed to the fight between Israelis and Palestinians, and ultimately to a more restrictive environment with regards to movement in the country.

Israel is a parliamentary democracy, comprised of a large number of political parties holding seats in the Knesset, Israel's Parliament. Israeli elections historically consisted of electing coalition governments, who in turn created unity

governments from the various parties and their leaders. The first direct election of a Prime Minister took place in 1996, when right wing leader Netanyahu took office. The government has been unstable at times, due to varying views among factions with regards to how to handle the conflict with the Palestinians, the place of non-Orthodox Jews in the country, and other ideological issues that create a massive divide between left and right.

Upon its founding, agreements were made between religious and secular parties, in order to ensure preservation of the Jewish culture and religion. These included provisions that would force the Israeli government to implement certain policies based on Orthodox interpretations of Jewish law. Public transportation, for example, does not operate on the Sabbath.

Non-Orthodox Jews comprise approximately 70% of the population; however the civil society is ruled by the Orthodox minority. 1.37 million Arab citizens reside in the country, voting, paying taxes and speaking Hebrew, but still suffer pervasive discrimination, unequal allocation of resources, and consistent violations of their legal rights.

Legal Status

Israel does not have a working Constitution. The Basic Law on Human Dignity and Liberty provides a framework for most aspects of society, including the merging of religion and state and the right of citizens to freedom of worship. The country is also ruled by the Declaration of Establishment and the Israeli citizenship law. The Basic Laws establish Israel as a Jewish state, and proclaim full social and political equality for all citizens, regardless of religious affiliation.

The Declaration of Independence of 1948 also guarantees freedom of religion for all, irrespective of religion. However, the Declaration is not a binding document on the government, and is treated by political leaders as societal guidelines that do not force compliance.

Three of the Basic Laws that are in place, the Law of Return, the Nationality Law and the State Education Law, were written in order to quell fundamental religious-secular disagreements, but have actually done little to do so. Opposition has been widespread and attempts have been made to change the laws to make Orthodox Judaism a more prominent, prevalent and driving force in politics and society.

The judicial system is made up of separate religious and secular courts. The religious courts decide all matters regarding the personal status issues of Israeli citizens. Jews are bound by Jewish law, Muslims by the *shari'a*, and Christians by canon law. Jewish marriage and divorce is under the jurisdiction of the Orthodox Chief Rabbinate. Using this form of law means that Jewish women are unable to get divorced unless their husbands deliver a bill of divorce to them.

This law is consistent with the idea that at the time of marriage, the wife becomes her husband's property, and gives all rights to him. Such preferential treatment leads to contrived divorces in which women pay their husbands to let them go. Such policy leads to an atmosphere of accepted extortion, and encourage men to hold their wives hostage for payment. There are social and political movements inside of Israel, whose goals are to expand the ways that women may go to the courts and ask for divorce, or even change the laws that the marriage ceremony is centered on. Organizations such as the Center for Women's Justice hope to encourage Israel to change the way that personal status laws are interpreted. The divorce laws only apply to marriages made under Jewish law, and do not apply to marriages that were created in civil ceremonies.

Specific Instances of Religious Discrimination

A major area of contention and discrimination is the treatment of non-Orthodox Jews by the Government's decisions to implement certain policies based on Orthodox interpretations of religious law. The discrimination is most prominent in the area of personal status law. There are no civil marriages recognized within the State of Israel. The Government only recognizes in-country marriages if they are performed by Orthodox Rabbis. This leaves a good portion of the population with no option to marry, other than to convert to Orthodoxy or get married in a foreign country.

Orthodox schools also receive more funding for religious and heritage studies than other Jewish and non-Jewish institutions. According to the Israel Religious Action Committee, 96% of all state funds for Jewish religious education were allocated to Orthodox schools. The High Court has been at the forefront of changing discriminatory funding policies, most recently ordering the Government to stop discrimination against Reform and Conservative conversion institutions in favor of Orthodox ones. However, Avigdor Liberman and the Israel Beitenu Party have been increasingly active in boosting racist sentiment. His latest law proposal, rejected by Knesset in late May 2009, would permit the Government to strip the citizenship of anyone not swearing allegiance to Israel as a Jewish State. The same week, Knesset gave initial approval to a bill that would make it a crime to publicly deny Israel's right to exist as a Jewish state. These policies are becoming increasingly restrictive, and likely arise from fear of the demise of the State at the hands of the Palestinian and Arab neighbors. However, it is extremely unlikely that an increase in racism and religious intolerance will lead to anything positive. If these laws pass, it could have serious implications for Arab-Israelis and Palestinians who express opposition to the policies of the Israeli government and seek justice and equality.

Implementation of the Law of Return has been a point of contention between moderate and Orthodox Jews. The Law of Return states that any person with a single Jewish grandparent, or his/her spouse, may claim Israeli citizenship and move to the country. However, there has been backlash from the Orthodox

community about who should qualify for this right. Tensions between the Orthodox community and the rest of the nation have risen in past years, with the Orthodox establishment claiming that Orthodox Rabbis should have the right to decide who qualifies for citizenship. This is an attempt to create a more religious, more fundamentalist community in Israel, and to exclude Reform and Conservative Jews from the country. The initiatives proposed in the late 1980's were struck down by Knesset by very narrow margins, suggesting that these ideas of Orthodox supremacy are accepted by influential members of political society.

Israel does seem to be making advancements toward creating more equal policies between the different sects of Judaism. In 2008, the State funded the first ever Reform and Conservative synagogues in the country. The construction was based on a Supreme Court ruling in 2003 declaring it permissible to use state funding for the construction of non-Orthodox synagogues. More moderate factions of society must be brought into the fold if Israel is going to espouse policies of freedom, democracy and tolerance. Open policies toward other religious groups can only bring positive change to the Israeli political landscape.

All citizens of Israel are required to carry an identification card at all times. Lack of compliance with this rule is a criminal offense and results in a heavy fine. Before 2005, the cards explicitly stated the individual's nationality, differentiating between Arabs and Jews, though all who carried ID cards were Israeli. In 2007, the nationality distinction was removed, however the cards still display features that allow one to identify an individual as Arab or Jew. Citizens, permanent residents and residents of the West Bank and Gaza are given different color cards, so status is apparent upon first look. In addition, Jewish citizens have their birth date printed in both the Gregorian calendar and the Hebrew calendar. This characterization has the same effect as the nationality distinction did, because Arabs only have the Gregorian birthdate. The ID cards still make it extremely easy to identify an Israeli citizen as Jewish or Arab, and encourage discrimination throughout the country. Israeli-Arabs face discrimination in the areas of employment, education and housing on a regular basis. Non-Jewish men and women may serve in the army, but service is not compulsory as it is for Jews and Druze. 90% of Israeli-Arabs decline serving for the Israeli Defense Forces.

Israel is the home of the world's most holy sites for Judaism, Christianity and Islam. However, the Government openly refuses to protect the sites of Christianity and Islam in the same manner that the Jewish sites are guarded. Under the 1967 Protection of Holy Sites Law, the Government does not recognize any non-Jewish sites as official holy sites. Therefore, developers are able to destroy important landmarks in the Muslim faith without interference from the Israeli government. Christian sites are protected because they are under international surveillance. Such policy adds to the tension already in existence between Jews and Muslims, and Israel must begin to recognize the importance

of Islam around the world. Muslim holy sites must be protected in the same manner that Jewish sites are.

US Foreign Policy

US policy has consistently backed Israeli politics and policy since its creation. US presidents have been unwilling to criticize Israeli policies, even when they are against American interests or fall into a different ideological category than the US believes. The Israel lobby is one of the strongest in the US, and lawmakers are generally willing to accept the position of what they believe is the majority of their constituents. Israel is the largest single-nation recipient of US aid and is the United States' greatest ally in the Middle East.

The Obama administration seems to be taking a different approach to the US-Israeli relationship. President Obama has come out already and criticized Israeli settlement building and is looking to make real strides in correcting some of Israel's outdated and restrictive policies while maintaining a relationship based on mutual interests. It is too early at this point to say if this approach will continue or be successful, and too early to know if President Obama will pressure Israel to make changes within government and society that will have effects on the religious freedoms of the citizens of the State.

Conclusion

Religious intolerance in Israel seems to be increasing, due to an influx of ultra religious political leaders and a more tense fight between those favoring a two-state solution and those who would continue the occupation of Palestinian lands indefinitely. In order for Israel to survive as a western style democracy in the Middle East, the government must change its policies to be more democratic and accepting of different cultures and religions. A government run by fear cannot and does not espouse democratic principles. The Court is moving in the right direction by upholding decisions that would bring more equality to the different sects of Judaism, and should continue to take steps in changing the information on a person's identification card. For religious freedom to thrive and equality to result, Israel must head towards the more secular end of the spectrum, in both its laws and politics, instead of veering right toward the ideological views of the Ultra-Orthodox.