



Violations of the Right to Freedom of Worship for Palestinians in the Gaza Strip

**Briefing Note
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Israel's violations of Palestinians' right to freedom of worship

- This briefing note sets out the illegal actions through which Israel violates the right to freedom of worship of Palestinians living in the occupied Palestinian territory, and in particular those living in the Gaza Strip.
- During the First Intifada, which began in 1987, following the outbreak of the Second Intifada in September 2000, and as part of the ongoing illegal closure imposed on the Gaza Strip by Israel since 2007, Israel has placed severe restrictions on the movement of Palestinians living in the occupied Palestinian territory, banning them from traveling between Gaza Strip and the West Bank, including East Jerusalem, and preventing them from exercising their right to freedom of worship.
- In spite of claims of that Israel has eased restrictions on the freedom of movement of Palestinian civilians in the West Bank, the Israeli Minister of Interior, Minister of Defense, and the GOC Southern Command, have, in fact, continued to impose severe restrictions on the movement of civilians through the use of hundreds of barriers and military checkpoints. In the same context, the Israeli Occupation Forces (IOF) have continued to impose a tight closure on occupied East Jerusalem, cutting it off completely from the West Bank. Millions of Palestinians are being denied access to religious sites in the city.
- One of those sites is the Al Aqsa mosque, located in East Jerusalem, which has gradually been isolated from the rest of the occupied Palestinian territory. It is considered the third holiest place in the world by Muslims. Accessing the Al Aqsa compound and praying in the Al Aqsa mosque constitute an important and valuable part of the practicing of religion for Muslim Palestinians throughout the occupied Palestinian territory.
- Israel's border closures and the subsequent denial of travel for Palestinians between the occupied Gaza Strip and West Bank are applied arbitrarily and have a disproportionate



impact on civilians in the Gaza Strip. The closure is inherently punitive and retaliatory in nature.

- In contrast, the Israeli authorities annually grant travel permits to a number of Christian Palestinians living in Gaza, while Muslim Palestinians from Gaza are categorically denied such an opportunity. This is illustrative of the discriminatory and hence arbitrary nature of the movement restrictions imposed on Palestinian worshippers. Every year, a number of Christians below the age of 18 and above the age of 35 can apply for a travel permit with the Israeli authorities for the purpose of traveling to Christian holy sites in the West Bank, including East Jerusalem. Several hundred permits are given each year to allow Christians to access their places of worship during their religious holidays.
- Following Israel's designation of the Gaza Strip as a hostile entity in September 2007, the Ministry of Internal Security adopted a policy document related to the movement of persons between Israel and the Gaza Strip. Under the policy, no one from the Gaza Strip would be permitted to travel from Gaza into Israel, with the possible exception of certain categories of people who are eligible to apply for the required travel permit. One of these categories is formulated as "workers of Christian organizations that are recognized by the Department of Religion in the Ministry of Interior."
- Over the past number of years, PCHR has, through legal complaints, attempted to obtain travel permits for Christians who wished to travel to the West Bank and Jerusalem for religious purposes but whose applications were rejected. For example, in 2010, PCHR's Legal Unit filed 28 complaints related to the denial of travel of Christians to the West Bank and Jerusalem for religious purpose. 18 of the complaints received a negative reply, while the 10 others remained without response, such that the religious holidays passed without the applicants being able to travel. In 2011, the Legal Unit filed 26 complaints with the Israeli authorities, 20 of which led to permits being issued, enabling the applicants to travel to holy sites in the West Bank for religious holidays. Of the remaining complaints, 1 received a negative reply and 5 received no response, resulting in the passing of the religious holidays.
- On 7 August 2012, Israel's Supreme Court affirmed a court verdict approving the policy that allows Christians from Gaza to access holy sites in Israel and the West Bank during their religious holidays, but categorically denying similar access to Muslim Palestinians



from the Gaza Strip. This ruling rejected the appeal of the 2011 ruling by the Beersheva District Court, which declined to interfere with the government policy. Six female worshippers, all over the age of 40, took the case to court, arguing that their freedom of worship had been violated when they were denied permission to pray at the Al Aqsa Mosque in Jerusalem during a Muslim holiday.

Illegality of Israel's policies against Palestinians' right to freedom of worship

- The denial of freedom of movement of Palestinians in the occupied Gaza Strip and West Bank constitutes a form of collective punishment, as the border closures are applied unlawfully and have a disproportionate impact on the civilians in the Gaza Strip. The closure is inherently punitive and retaliatory in nature, which is a violation of Article 33 of the Fourth Geneva Convention.
- The prevention of travel to Muslim holy sites in East Jerusalem and the West Bank, bars Muslim Palestinians from exercising their right to freedom of worship in the occupied Palestinian territory, which is codified in Article 18 (1) of the International Covenant on Civil and Political Rights (ICCPR) as the "freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."
- According to Article 18 (3) of the ICCPR, the right to freedom of worship can only be subjected to "such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." The policies practiced by the Israeli authorities with regard to allowing Palestinian worshippers to travel for religious purposes do not meet this legal requirement, as they are applied on a discriminatory basis, violating the rights of Muslim Palestinians in particular.
- As a people under Israeli occupation, Palestinians in the West Bank and Gaza Strip are entitled, "in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs", according to Article 27 of the Fourth Geneva Convention. By collectively and arbitrarily denying Muslims access to their holy sites, Israel is breaching international humanitarian law. Israel is obliged to respect the right of Palestinians to manifest their



personal convictions and practice their religion. This right includes access to places of worship and access to religious personnel.¹

- Israel's policy of limiting the movement of Palestinians results in the violation of religious rights. In a similar case in 2001, the European Court for Human Rights (ECtHR) found that the freedom of thought, conscience, and religion of Greek Cypriots had been violated by the effects of restrictions on freedom of movement, which limited worshippers' access to religious sites and participate in other aspects of religious life.²

Other violations of the right to freedom of religion in the occupied Palestinian territory

- Besides the denial of the right to freedom of worship, other actions carried out by the Israeli authorities also violate Palestinians' religious rights.
- In 2011, PCHR documented 303 attacks by Israeli settlers, of which 6 were attacks against religious sites. In 2010, PCHR documented 291 attacks by Israeli settlers throughout the West Bank, of which 27 were attacks against religious sites. The Israeli government fails to prevent, investigate or punish the crimes committed by Israeli settlers in the West Bank, fuelling the impunity that enable settlers to attack Palestinian religious sites.

¹ Rule 104, *Respect for Convictions and Religious Practices*, Jean Marie Henckaerts and Louise Doswald Beck, *Customary International Humanitarian Law* Vol. 1, ICRC/Cambridge University Press, Geneva/Cambridge, 2005.

² ECtHR, *Cyprus case*, Judgement, 10 May 2001, §§ 245–246.