

Flygtningenævnets baggrundsmateriale

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STATE-SPONSORED HOMOPHOBIA

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13th Edition

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PALESTINE¹ (GAZA)

Provisions in force

- ▶ **The British Mandate Criminal Code** (Ordinance No. 74 of 1936).

*Carnal knowledge
against the order
of nature*

Section 152(2).

Any person who:

- (a) has carnal knowledge of any person against the order of nature; or [...]
- (c) permits a male person to have carnal knowledge of him or her against the order of nature,

is guilty of a felony, and is liable to imprisonment for ten years.

Human rights situation

The British Mandate Criminal Code was in force in Jordan until 1951 and in Israel until 1977, before they adopted their own Penal Codes. In the West Bank (including East Jerusalem) the Jordanian Penal Code of 1951 (modified in 1960) is in force, having no prohibition on sexual acts between persons of the same sex.

Since the 2007 governance of Gaza by Hamas, the Gazan legislative body has attempted to amend or replace the British Mandatory Penal Code but the proposed code failed to pass the Gazan legislature.

In 2013, a news report interviewed gay men living in the Palestinian territories, who shared that they risked family and social ostracisation if they came out¹. A 2018 news report also discussed how gay men in Gaza led double lives, to avoid backlash from their families and Hamas.²

In 2015, a group of Palestinian protesters destroyed a gay pride flag painted on a West Bank separation barrier. Though the original artist had intended for the artwork to be a reminder of the

“absence of tolerance and freedoms” in Palestinian society due to Israeli occupation, the protestors explained that they destroyed it because it was “shameful” to promote gay rights.³

In 2016, Hamas executed one of its commanders, Mahmoud Ishtiwi, after he was detained for a year for “moral turpitude”, which is a euphemism used to refer to homosexuality.⁴ In 2017, a Palestinian novelist was stranded in Qatar after the West Bank authorities confiscated all copies of his latest book and issued an arrest warrant for him.⁵

In 2018, controversy erupted over a television comedy which featured a scene where a male actor made sexual advances at young men as part of a “candid camera” segment.⁶

National Human Rights Institution

The Independent Commission for Human Rights does not appear to have done any work in relation to sexual orientation or gender identity.

¹ Pursuant to United Nations General Assembly resolution 67/19 of 29 November 2012, Palestine is a non-member observer state of the United Nations

¹ Nigel O'Connor, “Gay Palestinians Are Being Blackmailed Into Working As Informants”, *Vice News*, 19 February 2013.

² “What It's Like to Be Gay in Gaza: Meeting Israelis on Dating Apps, Evading Hamas and Plotting Escape”, *Haaretz*, 21 February 2018; “The Real Oppressors of Gaza's Gay Community: Hamas or Israel?”, *Haaretz*, 7 March 2018.

³ “Rainbow Flag on West Bank Barrier Touches Nerve for Palestinians”, *Haaretz*, 30 June 2015.

⁴ “Hamas Commander, Accused of Theft and Gay Sex, Is Killed by His Own”, *New York Times*, 1 March 2016.

⁵ “Arrest warrant for Palestinian novelist leaves him stranded in Qatar”, *Gulf News*, 11 February 2017.

⁶ Khaled Abu Toameh, “Palestinians: No Place for Gays”, *Gatestone Institute*, 12 June 2018.