

Israeli Pinkwashing: AP Corrects Story Falsely Claiming Homosexuality Is Illegal for Palestinians

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Theme: [Media Disinformation](#)

In-depth Report: [PALESTINE](#)

Last week, in [an article](#) on the [controversial rainbow flag mural](#) a Palestinian artist painted on Israel's apartheid wall, the Associated Press made this claim: "A 1951 Jordanian law banning homosexual acts remains in effect in the West Bank, as does a ban in Gaza passed by British authorities in 1936."

In fact, there is no law in the West Bank, or in Jordan, that bans sexual relations between consenting adults of the same sex.

Yesterday, several days after I contacted AP to inform them of this, they issued the [following correction](#):

In a story June 30 about Palestinian protesters whitewashing a gay pride rainbow flag, The Associated Press reported erroneously that homosexual acts are banned by law in the West Bank and Gaza Strip. While homosexuality is largely taboo in Palestinian society, there are no laws specifically banning homosexual acts.

This may surprise people, since the notion that homosexual activity is criminal – and even punishable by death – is a staple of a form of anti-Palestinian propaganda called [pinkwashing](#).

Pinkwashing is a rhetorical strategy that deploys Israel's supposed enlightenment toward [LGBTQ issues](#) to [deflect criticism from Israel's human rights abuses and war crimes](#) and to seek to build up support for Israel among Western liberals and progressives.

In a 2 July email, I pointed AP editors to the annual publication *State-Sponsored Homophobia*, from international LGBTQ advocacy group ILGA. Its [2014 edition states](#) (emphasis added):

The British Mandate Criminal Code Ordinance, No. 74 of 1936 is in force in Gaza.

Section 152(2) of the Code criminalizes sexual acts between men with a penalty of up to 10 years.

This Code was in force also in Jordan until 1951 and in Israel until 1977, before they adopted their own Penal Codes. Note that in the West Bank (including East Jerusalem), however, the Jordanian Penal Code of 1951, largely modified in 1960, is in force, having no prohibition on sexual acts between persons of

the same sex.

AP editors were initially skeptical and pushed back, insisting that various clauses in the Jordanian Penal Code that applies in the occupied West Bank indirectly outlawed homosexual activity.

I'm glad that after they delved deeper into the matter, they have done the right thing and made a correction.

Expert views

The AP's mistake also led me to look deeper into the issue.

I asked two experts for some background on the law in Jordan as well as the occupied West Bank and Gaza Strip and the kinds of claims made about it.

[Anis F. Kassim](#) is one of the foremost experts on international, Jordanian and Palestinian law and long-time editor-in-chief of the *Palestinian Yearbook of International Law*. He was also an adviser to the Palestinian legal team in the successful 2004 case against [Israel's wall in the West Bank](#) at the International Court of Justice in The Hague.

Kassim confirmed that the Jordanian Penal Code "is silent on acts committed by adults of the same sex with their own respective free will." But I also wanted to know if any other clauses, not explicitly mentioning homosexual activity, had been used to target people who engage in such activity.

"Having checked the reported cases - as published - and with the old and young practitioners, I have not found any court case involving homosexuality," Kassim told me.

As regards the 1936 law still in force in Gaza, Kassim said that it "could be interpreted as allowing homosexuality." But he noted that such acts in Gaza would potentially be "punishable if the act was committed by force against the victim. By implication, if it is committed with free will of the victim it may not be a criminal act."

"Chain of fabrications"

I also spoke with [Joseph Massad](#), the foremost academic authority on Jordan who has written the classic book on the country *Colonial Effects: The Making of National Identity in Jordan*. Massad is also author of *Desiring Arabs* and *Islam in Liberalism*.

Massad says that the original, incorrect AP report "is part of the more generalized racist campaign by Western pro-Israel news organizations that want to insist on pinkwashing Israeli crimes with the added benefit of propagandizing against neighboring Arab countries."

He observes that ILGA itself "used to be part of such propaganda efforts, claiming without evidence" in the 1993 edition of its annual *Pink Book* that Jordan criminalized homosexuality.

"It seems the Associated Press was simply repeating such propaganda and might very likely have relied directly on it, not having updated its sources," Massad states.

Massad says that ILGA's website later corrected the mistake, "by referring to a mostly ignorant Orientalist book written by a German and an Israeli collaborator - even if in this one case the authors got the story right - rather than by referring to the actual text of the law."

The bigger point, he says, is that since "Western propaganda is based on a chain of propagandistic fabrications, you end up getting [organizations like] AP quoting ILGA quoting other German and Israeli sources. What is always absent is an actual Arab documentary source."

Massad notes that, as in the AP story, "the law itself is never quoted nor is a history of its case application even explored, but rather what is presented is anti-Arab propaganda buttressed by any opinion that would help the AP Jerusalem bureau prove Israel's superiority over the Arabs."

The 1936 British Mandate criminal code for Palestine makes it illegal for men to have sex with women or men in a way that "contravenes natural laws." That law remained in effect in Israel until 1977, in contrast with Jordanian law that did not criminalize such acts at all.

Yet, Massad observes, "we never read stories by AP and other Western news organizations between 1951 and 1977 about how retrograde and repressive Israel was toward homosexuals compared to its Arab neighbors, including the West Bank before and after Israel occupied it. This could very well be because the US and Western Europe also repressed their homosexuals during this period."

"Who knows?" Massad observes dryly, "Maybe Israeli homosexuals fled to the West Bank between 1967 and 1977 to avoid prosecution in Israel."

"But after Israel replaced the law in 1977, not only does AP not contrast it negatively with its Jordanian and Palestinian neighbors who had not criminalized such acts for decades before Israel," he says, "but AP fabricates a story to make Israel look superior to both of them."

No asylum

Even the corrected story still asserts that "Gay Palestinians tend to be secretive about their social lives and some have crossed into Israel to live safely." This claim, often based on unverifiable anecdotes, is also a staple of Israeli pinkwashing.

But a 2008 Tel Aviv University study of the handful of known cases - "[Nowhere to Run: Gay Palestinian Asylum-Seekers in Israel](#)" - found that Israel subjects Palestinians to particularly atrocious treatment, expelling them precisely because they are Palestinian. There is no legal framework that allows any Palestinian to seek asylum in present-day Israel.

Israel's foundational laws and policies are designed precisely to keep Palestinians out, as they are considered a "[demographic threat](#)."

Massad says it is worth asking how the "error" was committed in the first place, "and how the news organization initially came to decide that there was an anti-homosexual law in Jordan and the West Bank where none existed."

"Indeed, AP, the largest and perhaps the richest news organization in the world, has consultants and fact checkers that often check claims made by those who oppose US and Israeli policies," he states, "but it seems little is made of their expertise when it comes to

endorsing US and Israeli propaganda, and it had to be left to The Electronic Intifada to alert them.”

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