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Israel

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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I: Introduction

This report reveals that Israel is tolerant toward homosexuality, relative to other countries in the Middle East. Homosexuality is no longer illegal and discrimination on the basis of sexual orientation is prohibited. Israel recognizes same sex unions for benefit purposes and has upheld these laws in recent court decisions. Israel has also lifted the ban on openly gay men and lesbians enlisting in the military.

Despite the protection awarded by these laws, there continues to be discrimination, harassment and acts of violence toward gays and lesbians, including the stabbing of three participants in the 2005 gay pride march. Religious leaders have openly protested the gay pride march, and anonymous bomb threats have been made to the parade.

According to several sources, societal attitudes have progressed toward greater inclusion and acceptance of lesbians. In civil society, visibility of gays and lesbians is growing, but backlash still occurs. Incidents of both civilian and police harassment of homosexuals is reported.

Media reports indicate that Arab Israeli lesbians are not protected from harassment. In one particular case, an Arab Israeli lesbian lost her job and was harassed by family and community members after coming out. Arab Israeli women face greater difficulty than do Jewish women in Israel when seeking state protection. There is a lack of attention paid to Arab female victims of crime and statutes enacted to protect women are not implemented in the case of non-Jewish female citizens of Israel.

Although governmental policy supports freedom of religion, abusive and discriminatory practices against minority religious groups are not uncommon. Christians make up only 2.1% of the population of Israel.

II: Legislation

1. GayLawNet, *Laws: Israel* (2009), online: <<http://www.gaylawnet.com/laws/il.htm>>.

- **Same sex unions recognized for benefit purposes in 1994**
- **Discrimination in employment based on sexual orientation became unlawful in 1992**
- **Anti-gay sexual harassment in the workplace and all other facets of life banned**
- **In 1988 consensual sex between to males becomes lawful. No mention of female same-sex couples**
- **In 1993 the ban was lifted on openly gay men and lesbians joining the military**

2. United States Department of State, *2008 Country Reports on Human Rights Practices – Israel and the occupied territories* (25 February 2009), online: <<http://www.unhcr.org/refworld/docid/49a8f180c.html>>.

- **Israeli government continues to uphold laws criminalizing discrimination on the basis of sexual orientation**
- **In 2006 the High Court issued a ruling requiring the government to recognize same-sex marriages legally performed in foreign jurisdictions**
- **No information available about whether these marriages are recognized by the government in practice**

3. Amnesty International, *LGBT Legal Status Around the World, Israel* (2010), online: <<http://www.amnestyusa.org/lgbt-human-rights/country-information/page.do?id=1106576>>.

- **Homosexuality is legal**
- **Age of consent is equal**
- **Some legal protection for sexual orientation, including within armed forces**

III: Jurisprudence

1. *Meyer v. Canada (Minister of Citizenship & Immigration)* 2003 FC 878.

- **Documentary evidence contravenes the claimant's story**
- **Board was not satisfied that the claimant established clear and convincing evidence that the state of Israel was unable or unwilling to protect him**

Blanchard J. held that the applicant had not exhausted the protection of Israel before claiming refugee status in Canada. The Board preferred the documentary evidence of treatment of homosexuals in Israel over the claimant's testimony.

IV: Governmental Reports

Immigration and Refugee Board of Canada

1. Canada, Immigration and Refugee Board of Canada, *Israel: Treatment of gays and lesbians in Israel*, (2000) online: <<http://www.unhcr.org/refworld/docid/3ae6ad6370.html>>.

- **According to civil rights legal advisor, no problems amongst Israeli police responding to complaints made by lesbians or gays**
- **Societal attitudes have progressed towards greater acceptance and inclusion of lesbians**
- **gay and lesbian discrimination cases have been brought to court**
- **Israeli courts recognized right of lesbian couple to have and raise children**

- **The Supreme Court has consistently ruled in favour of lesbian and gay rights**
- **Visibility of gays and lesbians is growing, but backlash still occurs**

According to the Legal Advisor of the Association for Civil Rights in Israel (ACRI), there are no problems with police responses to gay and lesbian complaints and societal attitudes have made significant progress towards acceptance and inclusion. The ACRI has brought cases by gays and lesbians to court, arguing things like giving same-sex couples the same benefits given to opposite-sex partners. Michel Eden, the first openly homosexual elected official, points out that Israel is progressive in terms of protecting LGBTQ rights, but conservative in terms of acceptance. The courts have begun to recognize the right of lesbian couples to have and raise children, full spousal benefits for same-sex partners, recognition of gay widowers, pension rights for same-sex couples, etc. Homosexuality was decriminalized in 1988 and workplace discrimination prohibited in 1992. Gays and lesbians are becoming more public, though there is some backlash.

U.S. Department of State Human Rights Reports

1. U.S., U.S. Department of State, *2008 Human Rights Report: Israel and the occupied territories* (2008), online: < <http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119117.htm>>.

- **Isolated cases of societal violence and discrimination based on sexual orientation**
- **Government upholds laws criminalizing discrimination on the basis of sexual orientation**
- **In 2006 a High Court ruling required the government to recognize same-sex marriages legally performed in foreign jurisdictions, but no information about whether they are recognized in practice**

2. U.S., U.S. Department of State, *2007 Human Rights Report: Israel and the occupied territories* (2007), online: <<http://www.state.gov/g/drl/rls/hrrpt/2007/100597.htm>>.

- **Isolated cases of violence and discrimination based on sexual orientation**
- **The government upholds laws criminalizing discrimination on the basis of sexual orientation**
- **Gay Pride events, including a large march in Tel Aviv, were held without significant violence or disruption**

3. U.S., U.S. Department of State, *2006 Human Rights Report: Israel and the occupied territories* (2006), online: < <http://www.state.gov/g/drl/rls/hrrpt/2006/78854.htm>>.

- **A November gay pride parade was cancelled after threats, petitions and police recommendations to do so**
- **Three participants of the June 2005 pride parade stabbed by an ultra-Orthodox Jew**
- **In November the High Court required the government to recognize same-sex marriages performed legally in foreign jurisdictions**

- **Government announced same-sex couples with children should be recognized as a family for housing aid purposes**

A gay pride parade in Jerusalem was being planned for November 10th. Jewish, Christian and Muslim religious leaders protested against it. On November 5th, the police made recommendations to cancel the parade, but the Attorney General refused to do so. Next, the Supreme Court dismissed numerous petitions to cancel the parade. There were threats from Jerusalem's ultra-Orthodox community that parade participants would be attacked. The parade was cancelled on November 9th, and a rally was held in a university stadium instead. During the June 2005 gay pride parade, an ultra-Orthodox Jew, Yishai Shlissel, stabbed three participants. He was subsequently arrested, charged with attempted murder, convicted and sentenced to 12 years in prison.

In April 2005 the government announced a policy that same-sex couples with children should be recognized as a family for the purposes of housing aid. In November 2005 the High Court ordered the government to recognize same-sex marriages legally performed in foreign jurisdictions.

4. U.S., U.S. Department of State, *2005 Human Rights Report: Israel and the occupied territories* (2005), online: <<http://www.state.gov/g/drl/rls/hrrpt/2005/61690.htm>>.

- **Religious leaders protested against June Jerusalem gay pride march**
- **Jerusalem District Court ordered Jerusalem municipality to permit gay pride march**
- **During gay pride march 3 participants stabbed by ultra-Orthodox Jew**
- **nightclub that catered to homosexuals damaged in April, but no arrests were made and investigation not advanced**
- **2004 Nazareth District Court decision recognizes same-sex partners for inheritance rights**

5. U.S., U.S. Department of State, *2004 Human Rights Report: Israel and the occupied territories* (2004), online: <<http://www.state.gov/g/drl/rls/hrrpt/2004/41723.htm>>.

- **bystanders verbally harassed during gay pride parade**
- **photograph and phone number of homosexual city council member plastered on city's billboards with messages that he would bring disaster for Jerusalem**
- **anonymous phone threats to bomb gay pride parade**

6. U.S., U.S. Department of State, *2003 Human Rights Report: Israel and the occupied territories* (2004), online: <<http://www.state.gov/g/drl/rls/hrrpt/2003/27929.htm>>.

- **NGOs complained of discrimination and police harassment against homosexuals in Tel Aviv**
- **After meeting with LGBTQ representatives, police appointed people in all districts to serve as liaisons with the homosexual community**

The Association of Gay Men, Lesbians, Bisexuals and Transgender in Israel reported numerous incidents of Tel Aviv police verbally and physically harassing homosexuals in a public park. Representatives from the organization subsequently met with the police to discuss strategies to improve relations between the police and homosexual community. This led to the police appointing contact persons in all districts to serve as liaisons to the homosexual community.

7. U.S., U.S. Department of State, *2009 Report on International Religious Freedom – Israel*, 26 October 2009, online: <<http://www.unhcr.org/refworld/docid/4ae8613371.html>>.

- **Israeli Basic Law on Human Dignity and Liberty provides for freedom of worship (although not explicitly)**
- **Government policy supports generally free practice of religion, although governmental and legal discrimination against non-Jews and non-Orthodox streams of Judaism continues**
- **Abusive and discriminatory practices (from individuals and groups) against minority religious groups, including Christians**
- **Arab Christians make up 2.1 % of the population**

This report describes the relationship between different religious groups in Israel. It outlines the tensions between certain groups, and the discrimination faced by minority groups. This discrimination consists of harassment, assaults, vandalism and acts of violence.

United Nations

1. Committee on the Elimination of Discrimination against Women, *Fifth periodic report of States parties: Israel*, CEDAW (2009), online: <http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/CEDAW_C_ISR_5.pdf>.

- **Foreign wedding certificates for same-sex couples recognized**
- **Surviving spouses in lesbian relationships eligible for widow's pension rights**
- **Same-sex couples permitted to adopt biological and non-biological children**
- **Pre-nuptial agreements between same-sex female couple recognized**

This is the Fifth Periodic Report Concerning the Implementation of the United Nations Convention of the Elimination of all Forms of Discrimination against Women. There have been many judgements and decisions promoting the rights of same-sex couples in recent years: the Supreme Court held that a wedding certificate from a foreign jurisdiction for a same sex couple should be recognized, and that the marriage should be registered; a decision that the surviving partner of a lesbian relationship was eligible for the pension rights of an insured widow, not an insured widower; the Tel-Aviv Court of Family Matters issued an adoption order for a same sex spouse of a minor's parent; the validity of a pre-nuptial agreement between a same-sex female couple was recognized. The Attorney General established new precedents to grant legal status to same-sex adoptions, including that of non-biological children.

VI: Reports by Non-Government Organizations

Working Group on the Status of Palestinian Women Citizens of Israel, *Status of Palestinian Women Citizens of Israel* (2006), online: <<http://www.kayan.org.il/Public/publications/the%20status%20of%20palestinian%20women%20citizens%20of%20israel.pdf>>.

- **Attempts by the Israeli government to obscure the fact that statutes for the protection of women are not implemented in the case of Palestinian women citizens of Israel**
- **Palestinian women are a “double minority” – discriminated against because of gender and ethnicity by the State of Israel**

This report was submitted as an alternative report to the UN on Elimination of Discrimination Against Women in 2005. Pg. 181 specifically addresses “Civil Laws Which Preserve Long Standing Cultural Practices Which Discriminate Against Women”

2. CIMEL/Interrights, *Roundtable on Strategies to Address ‘Crimes of Honour’: Summary Report* (November 2001), online: <http://www.utoronto.ca/wwdl/bibliography_honour/honour_cimel_interrights_wluml_OCP12_roundtable.pdf>.

- **Lack of attention paid to Palestinian female victims of crime**
- **Survivors are themselves criminalized by the state or the community**
- **Failure of existing mechanisms to hold the police accountable**

This report highlights the Palestinian community within Israel as a featured case study examining ‘crimes of honour.’ The Israeli authorities have sought political benefit through the selective support of different communities. The article explores the occurrence of crimes of honour and seeks to develop strategies to combat ‘honour crimes.’

VI: Media Reports

1. Mehdi Lebouachera, “We are Palestinian, We are Women, We are Gay,” *American Foreign Press* (16 May 2007), online: <<http://www.aswatgroup.org/english/about.php?article=212>>.

- **When an Arab Israeli lesbian came out, she lost her job and was harassed by family and community members.**
- **Arab Israeli politicians say homosexuality has no place in Arab society.**

This article discusses the founding of Aswat, an association campaigning for lesbian Arabs in Israeli and Palestinian society. Rauda, a founder of the organization, describes her coming out experience in the northern Arab Israeli village of Kfar Yassif as “a living hell,” where she lost her job, her property was damaged and was victim of discrimination from family members and strangers. She highlights that the environment in Arab Israeli regions is not supportive of lesbians, stating that “you need to be strong, even financially, because you need an alternative to family support should you lose [this support].” Arab politicians in the Israeli parliament speak

publicly on the issue of homosexuality being perceived as an illness under Islamic Law, highlighting that “Arab society cannot tolerate this phenomenon [of homosexuality].”

2. Joseph Algazy, “Palestinien, gay et clandestin,” *Minorités*, online: <<http://gay-maroc-musul.over-blog.com/article-20696475.html>>.

- **Inadequate state protection of Palestinian homosexuals in Israel.**

This article discusses the deterioration of state protection for individuals in Israel facing discrimination based on sexual identity. An Arab Palestinian gay man had been victim of violence and discrimination in Palestine. Israeli officials were no longer allowing him to stay with his Jewish partner in Israel, where they had been living for five years. He has been living in hiding for a year. The treatment of Palestinian homosexuals in Israel is said to have deteriorated in Israel, many of whom are forced to live secret lives, afraid to be arrested by Israeli police. The number of Palestinian homosexuals is also thought to have decrease as a result of inadequate protection from Israeli security services.

3. Haaretz Service and News Agencies, “Two Killed in Shooting at Tel Aviv Gay Center,” Haaretz (2 August 2009), online: <<http://www.haaretz.com/hasen/spages/1104506.html>>.

- **A man entered the Tel Aviv Gay and Lesbian Association building and opened fire in a basement room where gay teenagers were holding a weekly support group, killing two young adults.**
- **Police conduct manhunt and close all gay clubs in the city.**

This article illustrates what Israel's only openly gay lawmaker has called “one of the worst incident targeting the gay community in Israel.”

4. Ben Hartman “Livni to Gay Israelis: Don't Let Hate Crime Stop You Living Your Lives,” Haaretz (16 August 2009), online: <<http://www.haaretz.com/hasen/spages/1104611.html>>

- **Israeli politicians speak out at protest against hate crimes and homophobia following a stabbing incident.**
- **Nitzan Horowitz is Israel's only openly gay lawmaker.**

Mainstream Israeli politics seems to condemn discrimination based on sexual orientation.

5. Angus Reid Global Monitor “Homosexuality an Aberration for many Israelis,” Angus Reid Public Opinion (08 August 2009), online: <http://www.angus-reid.com/polls/view/33967/homosexuality_an_aberration_for_many_israelis>.

- **46% of respondents think that homosexuality is an aberration**
- **More than 75% of people believe homosexuals and lesbians should be allowed to serve in the army and participate actively in politics**
- **Same-sex common law civil unions are legal**

In general, Israel is very tolerant to homosexuals relative to other Middle Eastern countries.

VII: Scholarship

1. Nadera Shalhoub-Kevorkian, "Law, Politics, and Violence Against Women: A Case Study of Palestinians in Israel" (April 1999) 22:2 *Law & Policy* 189.

- **1991 – enactment of Israeli Law Against Family Violence**
- **Many institutions and NGOs established to bring awareness to abuses committed against women**
- **As Palestinian Arabs are a minority in Israel, the interest of preserving the community is often placed ahead of individual interests [of women].**
- **Findings indicate that the social, cultural and political infrastructure of Palestinian society places constraints on implementing laws to protect women**
- **Social harmony and integrity take precedence over publicizing individual problems**
- **The power of the informal system negates the authority of the legislation**

This article posits that: "enforcement of the Israeli Law Against Family Violence among the oppressed and discriminated Palestinian minority generates new conflicts within the group, exacerbating control and abuse and re-victimizing women." The author suggests that the erosion of cultural norms and values serves to empower the social and religious rejection of such laws. Social control agents (police, clergy, health workers, lawyers etc.) who were interviewed, regarding the applicability of such a law, pointed to obstacles created by sociocultural variables, the political legacy and procedural barriers."

2. Nadera Shalhoub-Kevorkian, "Racism, militarisation and policing: police reactions to violence against Palestinian women in Israel" (2004) 10:2 *Social Identities* 171.

- **The law and its enforcement system have become agents of state oppression for indigenous Palestinians.**
- **Law enforcement response to violence against Palestinian women has been limited and de-historicized.**
- **Women who are victims of violence also be blamed for their victimization and be perceived as blackening the family's reputation.**
- **Police view violence against non-Israeli women as a non-priority**
- **Police far less willing to help Arab women than Jewish women**
- **Strong tendency to cast Arabs as "other" and "terrorists"**

The article includes comprehensive data analysis to reach a number of conclusions. The fear of disclosing abuse is aggravated when the state, the only source from which help can be sought, is considered politically problematic and is not trusted by members of the society. This situation clearly traps Palestinian women and girls, for while they are aware that their families are expected to help, protect and support them, they also know that if they need to seek outside help and disclose their abuse to state officials, they may be ostracised and banned from their society. The combination of a collectivist orientation, patriarchal social structure and values, and the political complexity and militarized context has placed Palestinian Israeli women in a

particularly difficult predicament