

# Plausible Crime Stories: The Legal History of Sex Offences in Mandate Palestine

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Orna Alyagon Darr, [Plausible Crime Stories: The Legal History of Sexual Offences in Mandate Palestine](#) (2018).

As a procedural field, evidence law is often portrayed as technical and even arbitrary; the handmaid of substantive law. Orna Alyagon-Darr's new book, [Plausible Crime Stories: The Legal History of Sex Offences in Mandate Palestine](#), dispels this notion, highlighting the ways in which evidence law—and procedure more generally—provides a reflection of the societies in which they operate, and may therefore serve as a rich source of social history. Precisely *because* procedural law is often depicted as morally and culturally neutral, it offers inadvertent clues to the thought process of various legal actors which substantive legal fields do not.<sup>1</sup> In this book Alyagon-Darr, the author of [Marks of an Absolute Witch](#) (a study of witchcraft trials in sixteenth to eighteenth century England, the rules of evidence that governed them, and the social context these rules convey), turns her keen eye for fascinating and unusual details to another period and place: the interwar Middle East.

*Plausible Crime Stories* offers a fascinating analysis of the colonial archive of sex offenses in the Middle East during the interwar period. Based on 147 cases decided in the Haifa District between the years 1933-1948, Alyagon-Darr recounts the social and political histories of sex crimes in Mandate Palestine. To provide a richer and broader context, Alyagon-Darr also skillfully employs media coverage, in English, Arabic and Hebrew, to tease out public opinion towards such criminality within each of Palestine's communities.

To examine “the meeting point of culture and law within the process of proof,” the framing principle at the center of Alyagon-Darr's analysis is “plausibility.” (P. 6.) By focusing on plausibility, she proposes that we use legal and non-legal texts to “detect indicators of socially embedded elements.” (P. 6). In other words, she suggests that by reading legal texts and media accounts about the law critically we might uncover the underlying assumptions of the authors and the audiences for whom they wrote. These underlying assumptions are only rarely made explicit because authors found them unnecessary to articulate, making them far more telling of their world views.

The book begins with a 1944 case of attempted rape. In her husband's absence, Nafsieh was sleeping with her baby on the roof of their family house when the defendant—her neighbor Nimr—appeared and allegedly tried to rape her. Despite the physical evidence of her torn shirt, her immediate report of the crime, and family members' reports that they were awoken by a loud cry, British judge Curry found Nafsieh's account “implausible”: first, he found it implausible that a woman would sleep alone on the roof of her own house, even on a hot summer night, in the absence of her husband; second, he found it “strange for a man in the middle of the night, to come commit an indecent act upon a woman unless there has been some friendship or encouragement to hope that he would not be badly received.” (P. 1.) Judge Curry found it far more plausible that Nafsieh would invite a neighbor to have sex with her on the roof of her husband's family home in the presence of her baby; moreover, he found it plausible that when discovered, she would concoct rape allegations to protect her honor. The book portrays many such incidents, highlighting the various prisms mediating reality as perceived by legal and non-legal actors.

Readers will recognize many of the tropes analyzed in Alyagon-Darr's accounts from feminist critiques of both substantive and evidentiary common law doctrines pertaining to sex crimes: the notorious corroboration requirement, the requirement of "resistance to the utmost"—and its implication, namely that intercourse simply cannot be achieved by a man of average strength against the will of an average woman. Alyagon-Darr's analysis, however, brings the colonial context to bear on these issues, underlining the intersectionality of gender, sexual orientation, race and nationalism (to name a few). Mandate Palestine provides a particularly rich case study, as it allows for both the study of self-representation and the representation of others within Palestine's various communities. For example, Alyagon-Darr analyzes Palestine's distinctive statutory treatment of sodomy (which criminalized non-consensual penetration), as opposed to "offenses against the order of nature" (which penalized both parties in consensual, unnatural sexual relations). Alyagon-Darr meticulously traces the origins of this legislative distinction, contrasting between both the metropole and colony and between the British colonies themselves, to illustrate how perceptions of Middle Eastern sexuality informed such distinctive criminal provisions.

Beyond analyzing the distinctiveness of Palestine's law in the books, Alyagon-Darr goes a step further in exploring the law in action: for example, she shows how in practice, "unnatural offenses" were typically only prosecuted against Arab defendants in cases where the authorities were forced to intervene, and typically in instances of power imbalances between the parties involved (be they physical, mental, or economical). Her explanation, once again, relates to plausibility: the notion that two men could share an emotional bond that would lead to homosexual relations, and that a man would voluntarily consent to penetration, was simply unfathomable. Additional facts had to be assumed for such a story to become conceivable: typically, the cases prosecuted involved an older and more powerful party, who exchanged money for sex. In crafting their defenses, litigants conformed to these judicial perceptions and tailored their stories accordingly, even when the record suggests that the relations were clearly consensual. In some cases Alyagon-Darr is even able to trace the changes that occurred in the defendant's account from the moment they were caught until they stood trial, to conform with judicial and social expectations. In another chapter Alyagon-Darr demonstrates how perceptions concerning the plausibility of inter-communal intimate relations—particularly between Arab men and Jewish women—shaped judicial approaches to such cases, and the stories told by criminal defendants accused of crimes such as statutory rape: such relationships could only be deemed plausible when the Jewish girl in question was from a marginal group or a broken home.

Alyagon-Darr's fascinating study is beautifully written, displaying keen attention to detail and sensitivity to the highly contentious subject matter. It is highly recommended for anyone interested in the history of sex crimes, the cultural history of legal procedure, or the complex relationship between law and colonialism.

1. For parallels in the world of art, detective fiction, and psychoanalysis, see Anna Davin & Carlo Ginzburg, [Morelli, Freud and Sherlock Holmes: Clues and Scientific Method](#), 9 **History Workshop** (1980).

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