

International Covenant on Civil and Political Rights

Human Rights Committee

January 20, 2018



PROUD
LEBANON

List of issues in relation to the third periodic report of Lebanon
LGBTIQ+ community in Lebanon

Index:

Non-discrimination and equality between men and women (articles 2, 3 and 26)

Issue 3: Anti-discrimination

Issue 4: Article 534 of the Lebanese Penal code

Issue 5: Civil rights of the Trans individuals

Issue 8: LGBTIQ+ individuals - victims of Domestic Violence

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (articles 6 and 7)

Issue 12: LGBTIQ+ individuals - victims of torture and ill-treatment

Liberty and security of person and treatment of persons deprived of their liberty (article 7, 9 and 10)

Issue 14: LGBTIQ+ individuals - victims of arbitrary detention and extrajudicial arrest and detention by security forces and some armed groups

Issue 15: LGBTIQ+ individuals in detention centers and prisons

Right to privacy (article 17)

Issue 21: Mobile phones - a new way of intimidating the LGBTIQ+ individuals

Freedom of expression (article 19)


Issue 22: LGBTIQ+ themed movies and Censorships

Peaceful assembly (article 21)

Issue 24: LGBTIQ+ events canceled

Freedom of association (article 22)

Issue 25: Registration of LGBTIQ+ organizations



Who are we:

Proud Lebanon is a non-religious, non-political, non-partisan civil rights society that aims to promote sustainable social and economic development in Lebanon and the region and will be working to achieve protection, empowerment and equality for marginalized groups through community service activities. Proud Lebanon started its activities in August 2013 and is registered since April 2014 as a non-profit civil society.

For more information about Proud Lebanon:

Website: www.ProudLebanon.org

Social Media:

[Proud Lebanon's Website](#)

[Proud Lebanon on Facebook](#)

[Proud Lebanon on Twitter](#)

[Proud Lebanon on YouTube](#)


Introduction:

The LGBTIQ+ individuals in Lebanon are a vulnerable community, victims of unpunished discriminations from private individuals, public institutions and public officers. Reasons of such treatment can be associated with the social stigma and prejudices about them which are the result of the Lebanese mentality (presupposing an illness, a contrariety to religious principles, or even a resemblance to “devil worshipers”¹), supported and reinforced by article 534 of the Lebanese Penal Code which interpretation criminalizes them².

Aside from article 534 which by itself constitutes a discrimination towards a category of individuals, LGBTIQ+ people face *de facto* two types of discrimination: First, social harassment and inability to resort to law enforcement officers or courts to file complaints and ask for protection because it results in a denunciation of their sexual orientation or gender identity, and therefore their criminalization. And second, harassment by public law enforcement officers themselves, their discriminatory treatment towards LGBTIQ+, and violation of basic human rights and basic legal principles related to investigative and criminal procedures. Examples are many.

¹ A comparison made by one of the founders of JAD (Jeunesse Anti Drogue) at a conference organized by this non-profit organization in collaboration with the Beirut Bar Association on February 1st 2017, themed around “Drug use- problems and solutions”. I am still trying to understand the pertinence of this statement and its relation to the conference theme, especially to solutions proposed to Drug Use.

² Article 534 of the Lebanese Penal Code punishes “*any sexual intercourse contrary to the order of nature*” with up to one year in prison.



Issue 3: Anti-discrimination

Despite the fact that the Lebanese constitution and its article number 7 state clearly that “All Lebanese shall be equal before the law. They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction”, LGBTIQ+ individuals in Lebanon remain discriminated due to the article 534 of the penal code.

The presence of the following is what lead to many discriminatory steps toward this community in many sectors and on many levels, such as movie censorships, civil rights etc.

Recommendation

- New inclusive laws protecting all individuals based on their gender identity and sexual orientation.
- Abolish the article 534 from the Lebanese Penal Law.

Issue 4: Article 534 of the Lebanese Penal code

Despite the 5 court rulings³ that were taken in the past 10 years around the country which considered that the article 534 from the Lebanese penal law as un-applicable on the LGBTIQ+ individuals, and therefore the judges have discharged the LGBTIQ+ individuals that were in trial processes due to this article, Lebanon still prosecutes LGBTIQ+ relations under article 534 of the Penal Code, which states: “any carnal union against the order of nature shall be punished with imprisonment for up to one year...” the unclear situation of this article turn it subject to interpretation and frequently affected by the judges beliefs and considerations.

In the last couple of years, we are seeing rulings that are not implementing the punishment part of the article, yet individuals being sentenced and kept on their civil records for not less than 3 to 5 years before being able to remove it.


A- The existence of such a legal text hardens the acceptance of this community and the democratization path of Lebanon and is associated with the social stigma and prejudices for them - which is a result of the Lebanese mentality (presupposing an illness, a contrariety to religious principles, or even a resemblance to “devil worshipers”⁴).

In 2015, Proud Lebanon’s anti-homophobia event was followed by a conference at the Catholic Media center⁵ where representative of different religious groups were represented and they considered

³ <https://goo.gl/qnYNgg>

⁴ In May 2017, the Muslim Scholars attacks Proud Lebanon and later on Helem for hosting the Anti-homophobia events, and threatenemend using their own power to shut these events if the government won’t react, the Government remain silent and obeyed by contacting the venues hosting these events asking them to cancel the reservations of these organizations.

⁵ <http://www.lebanonfiles.com/news/889683>



homosexuality as a main imported reason for the destruction of the Lebanese family system; and in 2016, the same center hosted another conference where they hosted a judge, whom stressed on article 534 from the penal law, a psychologist, whom used the outdated psychological information considering homosexuality as a mental disorder, while a doctor stressed on stereotypical wrong ideas concerning LGBTIQ+ as highly affected by HIV; in addition to a priest that used religious reasons to consider this part of the community as sinners.

In 2017, and following the mass movement of the LGBTIQ+ community in Lebanon preparing Beirut Pride, The Muslim Scholars⁶ threatened to shut the event if the government won't comply in canceling the events organized for the anti-homophobia day; both events prepared by Proud Lebanon and Helem were canceled as the authorities approached the hotels asking them to cancel the reservations, based on security reasons.

B- In addition, LGBTIQ+ individuals are systematically subjected to HIV and Drug testing on arrival to the Hbeish (Ras Beirut) morality police station, knowing that this department has been moved lately to Ramlet El Bayda Police Station.

Knowing that in case of detention, HIV individuals are separated from the rest of the inmates in case they are HIV positive and mainly kept at the blue building at Roumieh central prison.

C - As it became difficult to confirm the sexual orientation of detainees, the public Prosecutors are britshing all privacies considering the presence of dating applications, pictures etc. on the mobile phones of detainees as a proof to confirm their sexual orientation. As anal probe tests are being less used since August 2012 after that the Order of Physicians⁷, represented by its director Dr. Sharaf Abu Sharaf issued a directive calling for an end of these tests, less forensic doctors are still doing them.

This intra-order communication was followed by a communication by the Minister of Justice⁸ at that time, Mr. Shakib Kortbawi, addressed to the General Prosecutor considering that detainees have the right to refuse to undergo this test referring to article 343 from the Lebanese Code of Civil Procedures, stating that "during the technical investigation tests can be undertaken on the human body such as a blood test, as long as it is not contrary to the rules or if it may lead to significant damage. In case of refusal to comply with these procedures, the Court may consider the refusal as evidence of the correctness of the case or incident to be proved".⁹

This communication as it wasn't turned into a law, remain non obligatory to be followed, and can be modified or changed.¹⁰

Since then, anal probe tests are being used unsystematically to confirm homosexuality, or to intimidate

⁶ <http://www.dailymail.co.uk/wires/afp/article-4508460/Lebanon-LGBT-event-cancelled-threats.html>

⁷ <https://www.hrw.org/news/2012/08/10/lebanon-stop-tests-shame>

⁸ http://www.alankabout.com/lebanon_news/8380.html

⁹ http://www.alankabout.com/lebanon_news/8380.html

¹⁰ <https://goo.gl/y1aDyn>

the detainees to confess knowing that this kind of tests does not confirm scientifically the sexual orientation or the gender identity of the detainees.

Recommendations

- Explain the article 534 from the penal code.
- Abolish the confessional system.
- Provide trainings to judges on sexual orientation and gender identity.
- Include in the trainings given to the different authorities all topics related to the Sexual orientation and gender identity (SOGI).
- Implementing legislations that criminalize all types of discrimination and hate speech based on sexual orientation or gender identity.
- Provide protection to all citizens despite their sexual orientation and gender identity.
- Ban the use of anal probe tests and include it in the code of conducts of all the public prosecutors and armed authorities.
- Ensure the presence of lawyers during the interrogations.
- Ban all mandatory tests (HIV & Drugs)

Issue 5: Civil rights of the Trans individuals

Despite the fact that transition is possible in Lebanon and many Trans individuals were able to undergo the transitional surgeries, the civil records remain linked to a very complicated juridical system in absence of clear procedures and legislations which affect the decision of the judges and leave their decisions to possible interpretations.

Few were the cases that were able to change their civil records after they went to the Court of Appeal.¹¹

Recommendations

- Inclusive laws and legislations when it comes to the civil records transitions.
- Capacity building of both staff and judges working on the Personal Status courts on the sexual orientation and the gender identity/ies.

Issue 8: LGBTIQ+ individuals - victims of Domestic Violence

Despite the adoption of the good but incomplete Law number 293 in 2014, the LGBTIQ+ individuals still face domestic violence and honor crimes in many parts of the country due to the patriarchal stereotypes and religious influences.

¹¹ <https://goo.gl/UPiqpb>

Recommendations

Amend the law 293 to provide protection to this community by including all types of domestic violence LGBTIQ+ individuals are facing in their families.

Issue 12: LGBTIQ+ individuals - victims of torture and ill-treatment

The LGBTIQ+ community are among the ones suffering from ill-treatment during detention committed by security forces.

In addition, the anal probe tests remain as the ultimate tortuous action LGBTIQ+ individuals would face during detention in addition to the psychological impact related to the fact that they are LGBTIQ+ individuals.¹²

These degrading and insulting actions committed outside any legislative regulations and affected by inherited patriarchal stereotypical and religious influences leave the security forces unquestioned for their actions.

Recommendations

- Ban all types of ill-treatment by security forces and bring to justice those who have committed them.
- Provide rehabilitation and compensation to the victims.
- Include the special needs of this community in the National Preventive Mechanism (NPM)
- Train the prosecutors and prosecutor's offices' staff on the sexual orientation and gender identity to avoid any kind of excessive use of power.


Issue 14: The LGBTIQ+ individuals - victims of arbitrary detention and extrajudicial arrest and detention by security forces and some armed groups

Trans, LGBTIQ+ individuals from poorer backgrounds and other vulnerable individuals among this community is among the communities that are detained for long periods sometimes in bad conditions.

In addition, we have witnessed few cases that were arrested and tortured by unofficial armed groups and frequently transferred to the official security forces where again faced ill-treatments.

Knowing that lawyers are not allowed to meet with the LGBTIQ+ detainees neither attend the interrogation that frequently is linked to ill-treatment.

¹² <https://goo.gl/LjNJ5a>



Recommendations

- Abolish the article 534 used to arrest LGBTIQ+ individuals.
- Train the public prosecutors' offices' staff.
- Allow the presence of the lawyers during all process of the investigation.

Issue 15: LGBTIQ+ individuals in detention centers and prisons

Detention centers and prisons, with aged and bad infrastructures, are overcrowded¹³ due to the influx of detainees due to the current situation, yet sentenced prisoners that might be LGBTIQ+ are deprived of any protection from any kind of abuses during incarceration and are segregated and in some cases are placed at the “blue building” of Roumieh central prison, known to be the department dedicated for the mental illness, along with the people living with the HIV.

Knowing that the antiretroviral treatment is provided strictly for those sentenced; in some cases, HIV positive pretrial detainees remained unassisted medically which led to the deterioration of their medical status.

Recommendations


- Train the security forces working in the different prisons on the sexual orientation and gender identity.
- Provide the medical support to all inmates including the pretrial detainees.
- Provide protection to the LGBTIQ+ individuals in all detention centers and prisons while fully integrating them in the incarceration system.

Issue 21: Mobile phones a new way of intimidating the LGBTIQ+ individuals

The LGBTIQ+ community face a different problem which is the physical presence of dating applications, personal pictures and other materials over their mobile phones, especially that mobile phones¹⁴ are not considered as private properties and in need for special permits from the prosecutor, that is why the data found over the mobile phones of the LGBTIQ+ individuals is being used to intimidate the LGBTIQ+ detainees to confess their homosexuality and therefore to be sentenced under the article 534 from the penal code; in addition that in many cases the security forces call the contacts of the detainees and bring them for investigation after reviewing their WhatsApp conversations.

¹³ <https://www.state.gov/documents/organization/210160.pdf>

¹⁴ <https://goo.gl/LjNJ5a>



Recommendations

- Ensure that the privacy is respected and protected by law.
- Ban any kind of intimidation using unproven measures to condemn the LGBTIQ+ individuals.

Issue 22: LGBTIQ+ themed movies and Censorships

“I Say Dust”¹⁵, “Wasp”¹⁶, “L’inconnu du lac”¹⁷ are among a long list of LGBTIQ+ Themed movies that were not granted screening permits by the Lebanese censorship bureau due to their LGBTIQ+ themes, the bureau is referring to the existence of the article 534 as a reason to ban these movies.

Therefore and to avoid this obstacle cinema festival organizers are being obliged to screen this type of movies at the French cultural center, part of the French Embassy in Beirut.

Recommendations

- Abolish the article 534 from the penal code.
- Train the staff at the Lebanese censorship bureau at the General Security on sexual orientation and gender identity.
- Support cultural activities that have LGBTIQ+ themes as it fights discrimination and stigma related to this community.

Issue 24: LGBTIQ+ events canceled

Proud Lebanon’s events and activities were frequently targeted by religious figures due to the mediatic exposures of these events.

For two consecutive years, the Catholic Media center organized press conferences against Proud Lebanon’s Anti-Homophobia events.

In 2015¹⁸, representatives of different religious groups attended the first press conference hosted by the catholic media center where all took a clear stand against the LGBTIQ+ community considering it as a western and imported new way to destroy the Lebanese families.

While in 2016¹⁹, the same center hosted another conference where a judge, a psychologist, a doctor and a priest, each clearly explained from his point of view and took a position from the LGBTIQ+/homosexuality.

¹⁵ http://www.yourmiddleeast.com/culture/banned-by-the-bureau-censorship-in-lebanon_43400

¹⁶ <https://freemuse.org/news/lebanon-two-films-pulled-from-festival-over-politics/>

¹⁷ http://www.ontopmag.com/article/16614/Gay_Themed_Film_Stranger_By_The_Lake_Banned_In_Lebanon

¹⁸ <http://www.lebanonfiles.com/news/889683>

¹⁹ <https://goo.gl/dx7uP9>



In 2017 the Muslim Scholars²⁰ in Lebanon led a huge campaign against the Anti-homophobia events prepared during Beirut Pride events and activities.

Public hate speeches and threats and potential direct interventions to shut the events led the authorities to approach the hotel where the event organized by Proud Lebanon should take place, asking them to cancel the reservation and to inform them about the potential risks if they won't comply.

Additionally, all hotels in Beirut were contacted to inform them that they should report to them if any reservation was intended by the organizers to host this event elsewhere.

A week later, another similar event hosted by Helem was canceled for the same reasons.

In both incidents, the authorities were not present to provide any type of protection and ensure that the right of assembly mentioned in the Constitution is respected and ensured.

Recommendation

- Respect the constitution and ensure that all citizens have the right to organize their cultural events.
- Control all types of hate speeches especially against the LGBTIQ+ community.
- Ensure that all civil rights are respected.
- Ensure that protection is ensured to all citizens.

Issue 25: Registration of LGBTIQ+ organizations

Organizations are requested to register and won't be recognized by the authorities and therefore won't be able to open an independent bank account if they clearly state in their registration records or in their pre-recognition process that they are working for the LGBTIQ+ rights as it is the case of Helem²¹.

The following obstacle brought other organizations to play on the words and mention in their registration process that they deal with vulnerable groups instead of clearly stating the LGBTIQ+ community.

In addition, all LGBTIQ+ themed organizations are not able to partner nor receive funding from any of the official entities and ministries and is strictly obliged to count on foreign funding and support.

Recommendations

- Replace the outdated legislation (from Ottoman time) of the organizations clearly stating in its regulation that newly founded organization should inform the authorities of their creation.
- Provide support to the LGBTIQ+ themed organizations that includes financial and capacity building.

²⁰ <http://www.middleeasteye.net/news/beirut-pride-launch-event-cancelled-after-threats-religious-group-1356820077>

²¹ <https://goo.gl/FQYVNh>

