



**Human Rights Violations against Lesbian, Gay, Bisexual,
Transgender, and Queer (LGBTQ) individuals in Lebanon**

A Shadow Report submitted to the Human Rights Committee

*Prepared and Submitted by Helem- Lebanese Protection for
LGBTQ Individuals*

April 2017

Executive Summary

This report is submitted to the Human Rights Committee in April 2017 by Helem - Lebanese protection for LGBTQ .

This report was prepared in order to address the violations of the rights of individuals with non normative sexual orientation and gender identities.

The report will tackle all forms of violations that Helem has documented in the past two years. It also include a number of recommendations by the organisation that will play a role in eliminating violations.

This report include a table of the state recommendations to Lebanon during two UPR sessions (2008 and 2016)

Helem submits this report with kind requests to be presented during the discussions taking place on the 120th session and to consider the recommendations included herein.

A.Criminalization of individuals with Non Normative Gender Identities and Sexual Orientations - Article 534 of the Lebanese Penal Code

a.1) Abuse of article 534 by the police and government

Helem stated in its Universal Periodic Report -23rd session- March 2015 “Lebanon still holds article 534 of the penal code in practice, which condemns “unnatural intercourse” by up to one year of imprisonment. The use of this article creates a legal premises for prosecution of LGBT identifying individuals and people with non-normative sexual orientations.” which was followed by 9 recommendations that were noted by the lebanese government.

In 2017, Article 534 is still in practice in Lebanon to decriminalize individuals with non normative sexual orientations and gender identities (SOGI)

The most common patterns for arrests are based on individuals visually inscribed with non normative gender looks or through collecting mobile data mostly accessed during the investigation without written judicial authorization.

A transwoman states:

“.. I was walking on the street heading out to meet my friends, when a police car stopped next to me and asked me to get in the car and was taken to a police station for investigation..”

“..My friend was arrested last month, and the police officers read the chat between us and called me down for an investigation to get arrested after that..”

“.. they considered the pictures on my phone and the websites I have accessed are proof of an unnatural act of sex, at first I refused unlocking my phone but eventually I had to so I can leave..”

In the Universal Periodic Session that took place in March 2015, 6 recommendations were noted by the lebanese government regarding criminalizing homosexuality with reference to article 534

a.2) Ambiguity of Article 534

The ambiguity of article 534 of the Lebanese Penal Code where it does not state criminalising homosexuality rather criminalising “unnatural act of sex “ is being used against LGBTQ individuals.

Four court rulings have declared that 534 cannot be used to convict LGBTQ individuals as the law can not identify that non normative sexual relations are unnatural relations.

Along to the fact that this ambiguity violates articles within Human Rights Declaration and other international conventions that aim to protect all individuals.

This ambiguity creates a scope of violence against LGBTQ individuals and a direct violations to their rights.

a.3) Increase in number of arrests by Moral police station (2012-2016)

Regardless of the recommendations approved by the lebanese government with reference to article 534 of the penal code for the 16th session (2011) and the 23rd session(2015)

The number of arrests under article 534 has been on the rise since 2012.

| Year | Number of Arrests |
|------|-------------------|
| 2012 | 43 |
| 2013 | 57 |
| 2014 | 63 |
| 2015 | 76 |
| 2016 | 76 |

B. Forms of Arrests and Investigation Process

b.1) Arbitrary Arrests

Throughout the past 3 years (post initiating the Documentation Program at Helem) Helem has recognised two patterns for arresting LGBT individuals in Lebanon.

The first pattern is recognised by Police Officers executing systemic non formal investigation (in public spaces) with individuals suspected to be LGBT based on their non normative gender binding physical appearances, to be followed by a formal investigation in the police station where most individuals express consent towards accusations by the Internal Security Forces police officers on basis of promises by investigators of being released.

Another pattern is accessing the mobile data of the detainees with no written judicial authorization where the personal information on detainees mobiles are used as evidence against them.

In both patterns, the general prosecutor issues arrest warrants on the basis of evidences mentioned above.

b.2) Arbitrary Detention

LGBT refugees who are arrested on basis of non normative sexual orientation and gender identity have to face detention in General Security prison after being released from from Internal Security Forces police stations.

The duration of detention at the general security prison can not be identified and follows legal regulations that have no clear time frame.

“In 2013, post ISF raid on Agha Hammam, refugees were transferred to general security prison from Zahle prison post the release order, where they had to stay there from one week to one month..”

C. Torture

c.1) Systematic use of physical violence (no- evidence-base-complaints)

On one hand, after Helem's release of public report " Al Agha Bathhouse : A Raid from Another Age", the documentation matrix has showed that there is a significant drop in physical violence in Hbeish police station (1 case of physical violence in 2 years).

On the other hand, a systematic pattern of physical violence has been recognised where victims declare that they were not transferred to central moral police station for investigation.

Investigators from Hbeish police station come to the point of arrest for investigation.

A number of victims have declared that they experienced physical violence by all police officers without being able to identify names or roles.

It is extremely challenging to document cases that were not transferred to Hbiesh police station. However, Helem could document 2 cases of 3 individuals experiencing this pattern in the past 18 months.

c.2) Use of psychological Violence during investigation

Another form of violence is psychological violence which was identified as a mechanism to put pressure on detainees for confessions.

The most common methods are the outing or threats of outing to family and workplace, and the HIV rapid testing at the police station where the victim is obliged to get tested.

The HIV testing procedures do not follow the code of ethics provided by the National Aids Program (NAP) putting individuals at a number of risks.

As reported to Helem:

"...3 individuals (1 syrian refugee and 2 lebanese citizens) were arrested on basis of executing an unnatural act of sex" and throughout the HIV testing the police officer did not change the needle where one of the victims refused to get tested using the same needle"

"...after he was tested , the results were announced from behind the cell bar in loud voice telling him he was tested positive, he had a nervous breakdown, an hour later they took him out to proceed the investigation and when the investigation ended they informed him that the announced results were just a joke."

c.3) Illegal Use of anal probe test

In 2012, the inhumane anal probing was abolished after the head of the Lebanese Order of Physicians, Dr. Sharaf Abu Sharaf, issued a directive on August 7, 2012, calling for an end to the procedure. Following the Lebanese order for physicians, with pressure from Helem, Legal Agenda and other public pressure post Cine Plaza raid, Justice Minister Shakib Qortbawi issued a communication addressed to the public prosecutor on August 11, 2012, asking him to issue a directive ending the examinations completely.

Following the ban, there was no systematic use of the anal probe test however there were still a number exceptional illegal use of it.

“ In 2013, three individuals were arrested on basis on sexual orientation and after they lacked evidence of “unnatural act of sex “ the public prosecutor Randa Yakzan ordered an anal probe test on the three men.”

Another case in was documented in 2014 by Legal Agenda where a raid by Internal Security Forces took place on an apartment in Mosaytbeh, Central Beirut arresting five men. The public prosecutor Randa Yakzan requested anal probe test on all five men.

D. Lack of protection for LGBT individuals

d.1)Blackmail and lack of legal protection

Criminalising homosexuality is a direct limitation to “right to protection” for its seekers. The risks that Individuals with non normative sexual orientations and gender identities encounter in Lebanon goes beyond the fact the the Lebanese law criminalizes homosexuality, where they lack legal protection that should be provided by the government to all without discrimination. Individuals with non normative SOGI’s can rarely seek legal protection as their identities might be revealed which will automatically lead to an investigation.

The most common pattern that individuals have to deal with is blackmail by individuals who declare to use these information against . The most common blackmail pattern is financial

blackmail where victims are pressured to pay different amounts of money under outting threats to the the blackmailer.

Individuals facing blackmail can not seek legal protection as they will be prosecuted under article “534”. Helem receives around a 100 case per year of individuals seeking advice and protection after being blackmailed.

“...I have been paying for my blackmailer for the past few month, I can not be outed to my family and other people. I might lose everything . I might be abandoned by my family. I will never find a job...”

d.2)Arbitrary work expulsion and Lack of Legal protection

A number of Individuals with non normative sexual orientations and gender identities have reported to Helem being expelled from work without compensation after being outed. Highest rates of arbitrary expulsion was among individuals identified as gay men or man having sex with man (MSM).

It was reported that they could not seek legal protection not to be outed to their families, as this might involve higher risks.

Helem heard the story of a victim:

“..when I was arrested, a police officer called my workplace to inform them about my arrest. When I was released, I was expelled from work for no valid reason. I could not seek legal protection. I had enough to deal with. I am leaving the country next week...”

E.Lack of anti-bullying mechanisms in Educational Institutes and Dropouts:

Individuals with non normative sexualites and gender identities express the continous stress they have to deal with within their educational institutes (schools and colleges). Individuals at

this age lack the skills needed to respond to this kind of stress which in most cases lead to dropout.

Trans individuals in particular struggle the most with bullying as in most cases individuals express their trans-identity in early teen ages.

The lack of anti-bullying mechanisms at educational institutes lead to high rates of dropouts as this might be assessed as the only security exit.

“... as a visible transwomen, my school mates referred to me as the feminine boy, they harassed me everyday, I could see the educators witnessing and not interfering, no one stopped them, they would follow me to the toilet, i was not safe, i had to quit school..”

F. Hate Speeches and public homophobia, Transphobia

There has been a rise in the hate speeches used by religious leaders and political leaders in the MENA (middle east and north africa) region in 2016 and 2017.

Referring to these speeches as hate speeches has been a controversial issue as defensive argument is always based on freedom of expression. Criminalization of homosexuality has played a major role in empowering hate speeches on base of freedom of expression.

In the past 2 months (March- April 2017) we have witnessed a visible pattern regarding homosexuality hate speeches led by political religious leaders . There has also been a systematic pattern to discuss homosexuality in colleges through clubs.

The latest hate speech by a religious political leader was followed by a viral debate on Facebook and Twitter where the public was divided into two groups (pro-gay rights and anti-gay rights)

A debate that was supposed to take place at the American University of Beirut (AUB) campus in Beirut and that was organised by Insight Club; an official club at the AUB, was cancelled due to LGBTQ organisations pressure and public pressure that revealed the homophobic history of the lecturers

The lecture venue was announced a week later and took place in Arts, Sciences and Technology University of Lebanon (AUL) in Beirut where activists from LGBTQ organisations were among the crowd. The lecture hosted Dr. Raefa Rida ;the medical doctor who explained how the electroshock conversion therapy works and why homosexuality is a disease. The other lecturer was Dr. Rifaat Mikati; an appeal attorney and an Islamic cleric who approached homosexuality from an homophobic Islamic angle and from a legal point of view where he condemned the four success judicial rulings that took place in Lebanon stating that these judges should be punished and declaring that if these jurisdictions become a pattern then we (as Islamic individuals) have to act accordingly (giving an example of stoning Islamic groups of virtue).

Another issue was raised on a TV program regarding Ghost Club raid; In 2013 Antoine Shakhtoura, Mayor of Dekwaneh ordered Municipality police to raid and shut down a gay-friendly nightclub in Dekwaneh, a Beirut suburb town, where Mr. George Azzi ;Founder of Helem, during an interview on Homophobia had to respond to a phone call (four years after the raid) by Dekwaneh Monkhtar defending the act of the former mayor as a moral act to protect Dekwaneh from indecency.

Recommendations by reporting organisation

1- *Decriminalisation of Homosexuality* : Abolish article 534 of the penal code

2- *Protection against discrimination*: Enact and enforce laws prohibiting discrimination on the basis of sexual orientation and gender identity.

3- *Protection against violence*: Enact and enforce laws criminalizing all crimes based on sexual orientation and gender identity.

4- *Protection against violence* : prosecution of police force members who execute any kind of violence on individuals with non normative sexual orientations and gender identities.

5- *Protection against violence*: Recommend and support a progressive dialogue between representatives of the Government of Lebanon and LGBT human rights defenders and individuals to promote better understanding of LGBT issues in order to either abolish article 534 of the penal code or encourage more distinguished jurisdictions.

6- *Protection against stigmatization*: Support programs and organizations working on LGBT issues to reach members of the LGBT community with needed services such as counseling, sexual health education, and legal rights.

7- *Protection against violence* : Encourage a national anti-bullying mechanism for all educational Institutes

UPR State recommendations for Lebanon (2008 & 2016)

| Session | Recommendation | State making recommendation | State under review response |
|---------|--|-----------------------------|-----------------------------|
| 2008 | Decriminalise homosexuality and ensure non-discrimination on | Norway | Noted |

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|------|--|----------|-------|
| | the basis of sexual orientation and gender identity | | |
| 2016 | Repeal Articles 487, 488, 522 and 534 of the Penal Code | slovenia | Noted |
| 2016 | Ensure maximum attention to the protection and enjoyment of equal rights for lesbian, gay, bisexual, transgender and intersex population | Chile | Noted |
| 2016 | Decriminalise homosexuality and ensure non-discrimination on the basis of sexual orientation and gender identity | Norway | Noted |
| 2016 | Promote protection of the lesbian, gay, bisexual, transgender and intersex community | Spain | Noted |
| 2016 | Secure the human rights of lesbian, gay, bisexual and transgender persons by amending Article 534 of the Lebanese Penal Code and by codifying a protection against the discrimination of lesbian, gay, bisexual and transgender persons into law | Sweden | Noted |
| 2016 | Reform existing laws that can be used to discriminate against lesbian, gay, bisexual, transgender and intersex persons, including article 534 of the Lebanese Penal Code criminalising "sexual acts against | Austria | Noted |

| | | | |
|------|--|---------|-------|
| | nature" | | |
| 2016 | Repeal article 534 of the Penal Code | Canada | Noted |
| 2016 | Revise article 534 of the Penal Code so that its scope is clearly defined and that it does not discriminate against persons on the basis of their sexual orientation and gender identity | Czechia | Noted |