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Centre for Transnational
Development and Collaboration

Conceptualising Sexualities in the MENA Region: Undoing LGBTQI Categories

Implications for Rights Based Advocacy Approaches



Commitment, Transparency, Diversity, and Credibility.

The views expressed in this publication are based on qualitative and quantitative research into the situation of people who have non-normative sexualities and genders in the MENA region. This report is based on primary and secondary data, collected through two years of research and project work focusing on non-normative people, commonly referred to as LGBTQI.

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Table of Contents

4	Acknowledgment
5	Acronyms and Abbreviations
6 -7	Introduction
8 -9	Methodologies
8	Interviews
8	Focus Groups
9	Region-Wide Survey
9	Social Media Monitoring and Secondary Data
9	Ethical Consideration
10 -14	Sexual Practices and Gender Performance (SPGP)
11 -12	Masculine-Feminine Divide
13 -14	Sexual Practices
15 -19	Singling Out LGBTQIs: Protection Limitations
15 -16	Barriers to Protection
17 -18	Prioritising the 'Crisis'
19	Shifting Towards 'SPGP'
20 -21	Conclusions And Recommendations
22	Annex I
22 -31	Country Overview
32 -34	References

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You have all been an inspiration!



We dedicate this work to al-Sanabel, al-Zarafat and el-Fankous and to the many groups that will come to existence in the future.

Acronyms and Abbreviations

LGBTQI	Lesbian, Gay, Bisexual, Trans, Queer, Intersex
CBOs	Community Based Organisations
CTDC	Centre for Transnational Development and Collaboration
ISIS	Islamic State of Iraq and al-Sham
MENA	Middle East and North Africa
MSM	Men who have sex with men
NGO	Non-Governmental Organisations
PLWHA	People living with HIV and AIDS
SOGI	Sexual Orientation and Gender Identity
SPGP	Sexual Practices and Gender Performance
UNHCR	United Nations Higher Commissioner for Refugees
WSW	Women who have sex with women

Introduction

The situation of LGBTQI individuals in the MENA region has been gaining more and more attention in Anglo and Francophone media over the last decade. This attention, however, has not necessarily achieved much success in relation to gender and sexual rights in the region. In fact, this attention has caused, in some cases, backlashes among local communities and more directed discrimination towards people with **non-normative sexualities and genders**:

it has singled them out and made them more prone to direct attacks. Media portrayals of people with non-normative sexualities and genders from the region have also varied, and have been used over the years in ways that have contributed to stereotypes that frame people from the region as sexually repressed and intolerant. These stereotypes and portrayals about the region have also fed into stricter border management and control in the Global North, undermining non-normative people's access to asylum – as well as the availability of rights for all those displaced from and within the MENA region. During the conception of this report, we were initially interested in looking at the situation of LGBTQI people in the region. However, as this discussion above highlights, our research turned to a more fundamental question: are we actually targeting the right group?

Gender and sexual rights are generally limited in the region, due to social and cultural norms that derive their legitimacy either from religious scripture or from legal frameworks that criminalise non-normative sexual practices. Therefore, key to addressing such discrimination from a rights based advocacy perspective is changing the public's view of such **sexual practices**, rather than imposing a discourse that singles out LGBTQI categories. This is commonly the approach taken by international advocacy programmes, but it often leads to a backlash among local communities, some members of which see it as a Western imposition, further destabilising the likelihood of sustainable change (Altman and Symons 2016). Furthermore, despite the fact that many countries in the MENA have laws that can be used to persecute LGBTQI people, those laws can only be challenged if the perceptions and attitudes of the people change.

During our research, it has become apparent that the different forms of social and legal discrimination and violence practised against LGBTQI people are also practised against other groups, such as women who engage in extramarital sexual activity, sex workers and/or those engaging in non-normative **sexual practices**. For those reasons, this report argues that it is essential for us to change the discourse of LGBTQI rights to one that is more encompassing of other marginalised groups, who also experience discrimination based on sexual practices and gender. The discrimination against people with non-normative sexualities and genders is to a great extent discrimination based on **sexual practice and gender performance** (SPGP), and not always based on identity categories. As such, recognising the persecution faced by all non-normative peoples demands that we move beyond identity categories, such as those presented in LGBTQI rights frameworks: these sometimes fail to fully reflect local contexts, nor grasp the intersections of gender, race, sexuality, ethnicity and religion that inform the everyday lives of non-normative peoples in the region.

For instance, in Tunisia discussions around removing Article 230 of the penal code that criminalises sodomy were aborted when the government announced that it would only change the law if such a change were supported in a national referendum. For this reason, community and rights based gender and sexual rights advocacy must always be accompanied by efforts that reach out 'from below'. Again, taking Tunisia as an example, women who have sex with women (WSW), or women who have extramarital sexual encounters and/or transwomen can be imprisoned under Article 226 (which criminalises outrages to public decency). Thus advocating for the abolishment of Article 230 of the penal code remains inadequate, is not inclusive of self-identified women, and does not address the root of the problem, but addresses one of the symptoms. In this sense, the scale of the problem goes beyond static identity categories. Acknowledging this may enable a more inclusive, grassroots led form of advocacy that tackles the foundations of sexual and gender based oppression across the region.

This approach is also important if advocacy and development efforts are to become more 'inclusive' in nature. For example, in 2016, CTDC – in collaboration with MOSAIC and funded by Grindr – circulated anonymised surveys in Arabic, English and French across the region to assess the lived experiences of MSMs. Within a few months, the survey resulted in around 1,800 completed questionnaires from 22 countries, creating the first and largest dataset about MSMs in the region. However, one of the main findings of the survey was that participants found it very difficult to identify themselves and select a category to describe their gender and sexualities, constituting a fundamental problem not only in the data, but also in relation to the work that is being done to support people persecuted on the basis of gender and sexuality.

Consequently, this report will focus not on the living condition of LGBTQI people in the MENA region, but rather on identifying the root causes of gender and sexuality based discrimination in the region. In this report, we also shed light on the implications of adopting universalist LGBTQI identity categories within international humanitarian and development programming.

Furthermore, this report highlights how LGBTQI identity categories often encourage tensions within and between communities, and even within communities of non-normative people, often undermining the space for change and collaboration on the one hand, and inclusivity on the other. This report also highlights the failure of international protection mechanisms to offer adequate support to those displaced due to non-normative sexual practices. The LGBTQI categories in case of applications for asylum is also problematized in this paper, as it has proven to be exclusionary to those at risk of SPGP violence but who do not necessarily identify as LGBTQI. Current international protection mechanisms have also to a great extent contributed to an image of a uniform LGBTQI identity, an identity that fits within stereotypes of non-normative people. Within these identities, there is a lack of tolerance for difference and an implication of uniformity that does not apply to all of the letters of the LGBTQI.

¹This report provides as an Annex a country overview of the legal frameworks that criminalise and provide the bases for the persecution of non-normative practices in the region.

² Social media application used by men who have sex with men to network, date and communicate.

Methodologies

The methodology for this report has been designed and implemented by CTDC's team of experts. Research data has been mainly collected through research activity mainstreamed in CTDC projects and through qualitative stand-alone data collection methods, including semi-structured in-depth interviews, focus groups, and social media monitoring. We also used quantitative data from a survey rolled out through the Grindr app, as discussed above. This survey covered all Arabic speaking countries and aimed to assess the situation of GBT persons and the discrimination they experience. The quantitative data has been utilised in some stances to support the qualitative results. Interviewees and focus group participants were mainly LGB-TQI-identified people from the MENA region, and they included activists and non-activists community members. The research fieldwork took place over a period of two years, between 2015 and 2016, and part of the data was collected via online interviews, in-country focus groups and face-to-face interviews and meetings in different countries across the region.

Interviews

CTDC's research team used semi-structured open-ended interviews. A pre-determined but flexible question guide/agenda was set prior to the interviews. This interviewing technique proved to be very useful in this case, as it allowed us to collect data focusing on the experiences and the subjectivities of the research participants. This form of interviewing is also very flexible, allows room for probing and follow-up questions (Cargan, 2007), brings specific themes into conversation with the participants, and creates a shared coequal status between the interviewer and the interviewee (Fontana and Frey, 2005).

This coequal status was successfully achieved in most cases, as all researchers are queer-identified individuals. The semi-structured interviews, thus, were 'neither standardised nor nondirective' (Kvale, 1996: 34), but were more of a conversation. The interviews were not tape-recorded but notes were taken during the interviews and summaries were written up after the interviews. Due to security concerns, many of the interviews took place in private spaces, and those that were not face-to-face took place either via Skype or via another secure video-calling platform.

Focus Groups

Several focus groups with a number of research participants took place during the delivery of CTDC run training courses and workshops, where activists and individuals were present. Focus groups provided answers to questions related to participants' perceptions, beliefs, opinions and attitudes about various issues. This method was utilised during a three-day regional workshop, where more than 20 activists from across the MENA region were present. This regional focus group was very beneficial, as it highlighted group dynamics and interactions.

The focus groups provided us with the opportunity to do participant observation of the discussion between participants from different countries across the region. Group discussion generate data and understanding that are much more accessible in group settings. Focus groups helped us identify differences between countries, understand participants' self-definitions, and become acquainted with different people's understanding of gender and sexuality. The focus groups also provided safe spaces for participants to express their opinions be validated, listened to and heard. The focus groups took place in the presence of a note taker, who took notes as accurate as possible, and the notes were reviewed and added to by the focus group moderators at a later stage.

Methodologies

Region-Wide Survey

In collaboration with MOSAIC, CTDC has collected 1,800 completed questionnaires from across the region aiming to assess the situation of GBT persons and the discrimination they experience. During the data cleaning process, this had to be reduced to 1794, because it became apparent that those removed during the data cleaning process were bogus. The respondents were from 22 countries, and the distribution was as follows: Lebanon 342, Egypt 248, Morocco 216, Tunisia 147, Jordan 135, UAE 118, Kuwait 115, Algeria 91, Palestine 72, Saudi Arabia 59, Iraq 48, Qatar, 42, Oman 32, Bahrain 27, Syria 20, Turkey 13, Sudan 11, Yemen 7, Mauritania and Libya three each and finally one from Western Sahara. Despite the limitations of this dataset, and the lack of representation of self-identified women, it still provides the largest dataset available about people with non-normative sexual practices in the MENA region.

Social Media Monitoring and Secondary Data

For this report, secondary and social media research took place in two different ways. First, literature available has been consulted throughout the research process, the focus of which has been academic references such as journal articles. In some cases, due to the lack of comprehensive academic literature, social media platforms and newspaper articles that are based on anecdotes and personal stories from different countries across the MENA region were consulted. Secondly, the monitoring of social media has proven to be very useful in assessing people's reactions to some topics around LGBTQI people. CTDC has dedicated at least 10 staff hours per week to closely scrutinise public reactions to campaigns advocating for LGBTQI rights. This has helped us massively and is informing our campaigning strategy for the coming few years.

Ethical Consideration

In all its research activities, CTDC adopts and adheres to the British Sociological Association's (BSA) Statement of Ethical Practice, which takes into consideration the following main points:

- Participants safety,
- Research integrity,
- Researchers' safety,
- Participants' Informed consent,
- Anonymity, privacy and confidentiality.

CTDC researchers ensure that research ethics are always carefully considered and that they do no harm to participants, project beneficiaries and members of non-normative communities. An additional consideration for this particular research has been respecting the way people defined and identified themselves. Whereas this is very difficult to always capture, in the following sections we try our best to bring out the nuances needed to effectively explore identity categories. It has become our duty to do so through this report, due to the need for an alternative method to conceptualise sexuality and gender in a way that is suitable for the region.

Sexual Practices and Gender Performance (SPGP)

Conceptualising sexuality and gender in the MENA region must take into account patriarchal social structures: these create barriers to people with non-normative genders and sexualities. Patriarchy, as a system of gender oppression, ascribes roles to men and women that are either feminine and/or masculine. These binary roles impose oppositional roles on men and women based on the sex that you are born with. Subsequently, men and women are expected to **'do' and/or 'perform'** specific sets of behaviours in accordance with what is deemed to be socially and culturally acceptable (Nasser-Eddin, 2014). These gender performances are often manifested by the way people dress, behave, style their hair, and speak.

Ultimately, 'gender roles can be described as social norms, or rules and standards that dictate different interests, responsibilities, opportunities, limitations, and behaviours for men and women' (Johnson and Repta, 2012: 23). This structure of gender oppression creates binaries and those binaries are produced and reproduced based on the premise that each gender should abide by the roles, they are expected to perform. 'Masculinity exists in light and in opposition to femininity and vice versa; therefore, masculinities and femininities' existence is inseparable, as they are socially constructed in opposition to each other, as binaries' (Nasser-Eddin, 2014: para 13). This **binary system** that is so entrenched within MENA region cultures (with, of course, some variance depending on the intersections of class and religion) is the **starting point of discrimination against LGBTQI-identified people and people who have non-normative gender performances and sexual practices.**



Sexual Practices and Gender Performance (SPGP)

Masculine-Feminine Divide

The gendered binaries imposed on men and women, greatly entrenched in the cultural texture of the MENA region, play a major role in the way non-normative people, who do not abide by these binaries, are perceived. Within this divide, there is, however, a privileging of the masculine over the feminine. Masculinity is a performance that is socially constructed and expected to be performed by cisgender men, who were born male and identify as men. As a performance, however, non-normative people, who are not male-born and/or not male identifying, can also perform masculinity. The spectrum of gender performances is broad, making it possible for people to perform gender roles that are deemed as socially incompatible with their assigned sex or gender. Some people choose to perform masculine and feminine roles at the same time, and others choose to be gender queer, resisting such binaries. By looking at gender as a performance we are moving beyond gender as an identity category that is fixed and not changeable. This is of particular importance as the expectations for gender performances in fact vary across classes, cultures and nationalities. Specific behaviours that might be perceived as masculine in specific contexts might be deemed as feminine in others.

In patriarchal societies, there is usually a hierarchy based on gender expressions and gender performances. Hegemonic masculinity, characterised by strength, aggression, courage and independence, is always at the top of the ladder in terms of hierarchical power. At the other end of the spectrum dominant forms of femininity exist. Connell (2006) suggests that the dominant form of femininity, also known as “emphasised femininity”, is one that is characterised by its subordination to masculinity, which is crucial to the domination of men in societies. In other words, all femininities are constructed as subordinate to masculinities (in particular to hegemonic masculinity), and it is through this subordination that gender hegemony and patriarchal gender structures are created and maintained (Connell, 1987). Connell’s explanation of ‘hegemony’ is related to a structural relation: ‘It is the successful claim to authority, more than direct violence that is the mark of hegemony’ (Connell, 1995: 77).

In the context of the MENA region, women who take on more masculine performances are praised, such as those women resisting occupation, conflict, and political or economic oppression. However, CTDC has not heard of any cases of men receiving praise for taking on more feminine performances, because masculinity as a performance is considered more hegemonic: men acting in feminine ways are seen to be ‘downgrading’.

During our research, we have found many cases of men being persecuted due to their feminine performances. Below are a number of quotes from our research participants:

“I was arrested by police on the way to a club for looking too feminine. I was tortured and humiliated for three days until one of my family members came and rescued me” (a self-identified transwoman from Egypt)

“I got hit twice in public just for being a bit feminine” (a self-identified gay man from Kuwait)

“I have been sexually abused multiple times and it happens to me because I look feminine, the abuser usually does not know anything about my sexual orientation, they do not know that I am bisexual, they assume I am gay just because I act in a 'feminine' way” (a self-identified bisexual man from Jordan)

By contrast, for those women who take on more masculine performances, a majority of non-normative women stated that taking on masculine behaviours is much more praised because they are perceived as if they are 'upgrading' to a 'better performance'. In other words, women's masculinity can be perceived in positive terms. Having said that, this does not mean that women's masculinities are praised across all classes, as women's experiences differ depending on their socioeconomic backgrounds. For example, a self-identified Palestinian queer lesbian from a working-class background stated:

“My parents, especially my father, encouraged my masculine behaviours, they perceived me as one of my other brothers, and they also thought that by acting in masculine ways I can protect the family's honour, and this means I would not engage in extramarital sexual encounters.”

Another self-identified Palestinian queer woman, who comes from an upper middle class background said:

“My mother always pushed me into the feminine spectrum. I was always a tomboy, but she always wanted me to sit in a 'proper' feminine way, with my legs closed, unlike men. She always hated my hair short, as she thought it made me look masculine.”

It has become apparent throughout our research that male-born non-normative people are more likely to be persecuted on the basis of 'downgrading' to feminine performances, while for non-normative women sexual practices played more of a major role in their persecution.

Sexual Practices

In patriarchal traditionalist societies, strict gender roles and norms do not acknowledge any other non-binary gender performances that exist beyond masculine and feminine. Gender performances outside this spectrum are deemed as deviant, or against societal norms. This also applies to non-normative sexual practices, as sexual practices can be considered part of an individual's gender performance. In case of a non-normative gender performance that relates to a homosexual relationship, this non-normative performance is considered a 'disturbance' to the normative traditional gender structure. Thus, there is an intersection between gender performances and sexual practices, a key finding of our research that is often overlooked in policy discussions. This connection should not be separated in conversations about gender and sexual rights, as their interrelation pertains to disturbing normative patriarchal structures – the consequence of which is persecution and oppression.

Control over sexual practices is part and parcel of the patriarchal matrix, as patriarchal gender order imposes control: it places constraints on people's sexual behaviours and preferences. In the MENA region, women are largely viewed as part of their families' honour meaning that their sexual 'misconduct' brings shame to the whole clan. This makes women who have sex outside of marriage vulnerable to persecution on the legal and the social level due to their sexual practices. While for men sex outside of marriage is not perceived as a loss of honour and does not generally bring shame to the family. In the case of heterosexual relationships, sex outside of marriage is more of a problem for women, and this makes women's behaviour, in this instance, to be perceived as non-normative. In some countries in the MENA region, heterosexual sex outside of marriage is criminalised, and so is homosexual sex (this is often implied by penal codes that criminalise sexual practice that is 'against the norm').

However, in many cases these practices need 'to be seen' to be legally persecuted. Men who are visually perceived as feminine and transwomen, for example, are more likely to be suspected of as MSMs, and thus legally persecuted. To persecute WSWs, on the other hand, the sexual practice itself needs to be visible for the act to be legally persecuted. On the social level, the persecution is different, as many honour crimes against women take place on the basis of suspicion of sexual misconduct.

Furthermore, there are certain non-normative sexual practices that are perceived as less threatening than others. In other words, sex between women is generally considered to be less 'deviant' because there is no clear phallic or penetrative element involved. By contrast, sex between men is generally perceived to be more of a threat to patriarchal gender structures: it involves an act of 'real' or penetrative sex. To clarify, in MSM relationships, the person who is perceived as 'dominant' or a 'top' is usually viewed more positively as their sexual practice retains some element of masculinity. By contrast, the person who is perceived as the 'receiver' or 'bottom' (i.e. the one who is penetrated) is seen to be 'effeminate', 'weak' and 'feminine' and therefore non-conforming to the performance expected of him. As such, MSMs often find themselves in situations where they are unable to meet social and cultural expectations and struggle with the stereotypes of what it means to be a 'man' and/or masculine. (Nasser-Eddin, 2017). Myrtilinen et al. (2016) have persuasively argued that, for MSMs, masculinity becomes 'thwarted': 'men who are bound by expectations of living up to dominant notions of masculinity in the face of realities which make it practically impossible to achieve these, leading to frustration and at times various forms of violence, against both others and oneself' (Myrtilinen et al., 2016: 7).

Sexual Practices

The MSMs we interviewed said that when their gender performance does not fit patriarchal gender norms, and for that reason they are much more exposed to violence and harassment. It has been very clear from our interviews with different activists in the region that men who are perceived as 'passive' or who perform 'passive' roles are the ones who find themselves much more exposed to violence, because of the visibility of their gender performance:



"I have never experienced anti-homosexuality sentiments in Jordan because I look 'masculine' and 'manly', I would have had different experiences if I looked much more feminine, and that's why I never had a problem" (self-identified gay man from Jordan).



"In this country when you're seen with a gay looking person, the community does not take it well. Even the men who are feminine have to act like they're straight" (self-identified gay man from United Arab Emirates).



Interestingly, during interviews with non-normative women, the issue of their sexual practice was not central to the conversation, and instead the focus was more on the difficulties they face due to their gender. This explains the invisibility of VSWs, as those women in addition to their sexuality face multiple burdens and discriminations due to their gender. In a focus group with non-normative women from the region, women talked about the multiple oppressions they face and how patriarchy influences their smallest life decisions. For instance, women were more likely to talk about control over their bodies, movement, dress and their careers, while this has not been the case for MSMs:



"Patriarchy is everywhere around. I am where I am because I am a woman. It is not because I am a lesbian. I cannot travel freely, and I cannot even imagine leaving my family's home to live with a partner. Patriarchy influences my relationships to everyone around me, including my mother, brother, and sister" (self-identified lesbian from Jordan).



"You know I do not think I am struggling because I am a lesbian. There is oppression and discrimination against women, even heterosexual women; you know they can go to prison just like us. Let's not forget also the political context, and who is running the country now, and how it is affecting personal freedoms" (self-identified lesbian from Tunisia).



This section showed that in the context of the MENA region discrimination and persecution happen on the bases of gender performances and sexual practices, as acts rather than identities. It also highlighted that non-normativity is not only exclusive for self-identified LGBTQIs, who also share struggles very similar to those shared by some heterosexual people considered to be 'deviant' and non-normative. The section also highlighted the difference between the L and the G in the struggle for gender and sexual rights. LGBTQI categories do not only fail to describe many non-normative people in the region, but they also create barriers between different groups, despite shared grounds of persecution and oppression, creating different experiences. Protection for non-normative people is also in question, particularly in relation to refugeehood and asylum, and the following section will highlight the limitations of protection mechanisms that rely heavily on boxed identity categories.

Singling Out LGBTQIs: Protection Limitations

It has been already established that identity frameworks do not necessarily reflect the reality lived by people with non-normative sexual practices and gender performances, including self-identified LGBTQI people. However, the SOGI framework is often used in ways to determine grounds of persecution in cases of asylum that do not necessarily correspond with local needs and contexts. ‘Credible’ LGBTQI refugees who have been displaced as a result of sexual orientation or gender identity (SOGI) related persecution are typically represented, both by themselves and by the humanitarian organisations and states that seek to help them, in line with the dominant identity discourses considered above. This is in part necessitated by the criteria of the 1951 Refugee Convention, which recognises the right of sexual minorities to claim asylum under Article 1 A (2) ‘membership of a particular social group’ (UNHCR 2012). As such, membership of the social group must be sufficiently apparent, reducing the inherent complexities of sexuality down to a number of well worn, largely Northern tropes and stereotypes (Spijkerboer 2013) related to LGBTQI identity categories.

Barriers to Protection

Whilst opportunities for protection for those who clearly appear LGBTQI have expanded, the frameworks through which these identities are processed tend to misunderstand the nuances of sexuality in various local contexts. As a result, assumptions relating to the forms and nature of persecution draw heavily on a highly politicised, secular and identity-based framework that overlooks the diverse ways in which individuals may be exposed to **persecution relating to sexual practice and gender performance**. In this way, the need for an ‘identity connection’ – as one interviewee put it – often exposes those who do not identify as LGBTQI, but nevertheless engage in non-normative sexual practices leading to persecution, to new forms of (in)security and discrimination on the part of disbelieving asylum officials and NGOs. Subsequently, barriers to protection are raised, preventing those who do not appear ‘gay enough’ (Janicek et al. 2009) from securing international protection.

This has a number of fairly substantial implications for those seeking protection from SPGP in and from the MENA region. For example, the largely Northern framework underpinning LGBTQI sexual identity discourses, as well as the geopolitical context of the current ‘Refugee Crisis’, has helped to politicise sexual minority asylum (Fiddian-Qasimiyeh, 2016). The threat of ISIS, and the high-profile persecution committed by such groups against those accused of non-normative sexual practices, has prompted many Northern states, and UNHCR, to prioritise LGBTQI claimants due to the recognition of their ‘unique vulnerabilities’. In theory, those who appear ‘credible’ find it easier to secure safe passage to Europe and North America, often to the frustration of other members of the refugee community (Greatrick, 2017). Moreover, this concern contrasts significantly with the restrictions institutions like the EU have placed on the mobility of the refugee population in general – in part a result of security concerns relating to the infiltration of ISIS fighters. The tensions generated here are best seen in Turkish President Erdogan’s criticism of the EU in 2016, when he claimed that the “West cares more about gays than Syrian women and children” (The Guardian, 2016).

Singling Out LGBTQIs: Protection Limitations

Barriers to Protection

Such anti-gay sentiments, as well as the rhetorical, but practically limited, concern for LGBTQI refugees expressed by Northern states, has politicised sexuality in the region (Altman and Symons, 2016). Far from ensuring a more effective humanitarian response, CTDC's research suggests that this politicisation relies on a number of fairly problematic assumptions: a) LGBTQI asylum is synonymous with liberation from a backward, oppressive Islamic culture and b) LGBTQI identities are an authentic and universal expression of non-normative sexuality.

This section considers the reasons for these assumptions, and some of the problems that it presents vis-à-vis humanitarian responses to refugees with non-normative sexualities and genders from the MENA. In overcoming these problems, however, CTDC research suggests that a shift towards alternate ways of thinking about sexuality may expand protection opportunities for refugees with non-normative sexualities and genders. As such, by encouraging greater reflexivity within humanitarian and state-level policy discussions can we **resist the expectation that victims of SPGP violence should look, sound or be explicitly LGBTQI. Centralising sexual practice rather than sexual identities** within humanitarian responses may help us recognise the diverse ways in which people both understand their own sexuality, and experience persecution regardless of whether or not they appear to be 'credibly' lesbian, gay, transsexual, bisexual, queer or intersex.



Singling Out LGBTQIs: Protection Limitations

Prioritising the 'Crisis'

The questions explored in this section are directly informed by the geopolitical context of the 'Refugee Crisis', which has brought the persecution of people with non-normative sexualities by groups like ISIS into sharp focus, particularly within media reports and policy discussions [Fiddian-Qasmiyeh, 2016; Greatrick, 2017]. Subsequently, LGBTQI refugees have been increasingly prioritised within third country resettlement schemes, often reflecting the political will that exists among Northern states to protect LGBTQI peoples.

However, this prioritisation, which has seen UNHCR classify LGBTQI refugees as uniquely vulnerable, contrasts with the generally limited response of the international community to the needs of millions displaced from the MENA. As a result, routes to international protection have been restricted: the 2016 EU-Turkey deal has seen refugees pushed back from Greece and told to wait their turn for resettlement to a third country. The massive scale of casework that this involves means waits of at least two years for a decision are common. For refugees and asylum seekers with non-normative sexualities, this can be an extremely daunting prospect, especially when their host states – Lebanon, Jordan and Turkey in particular – lack basic legal rights protections for LGBTQI peoples and for people with non-normative genders and sexualities. As a result, and in order to prevent further discrimination from hostile officials, police officers or the general public, many victims of SPGP related persecution may be reluctant to seek international protection [Kivilcim, 2017; Myrntinen et al. 2017], regardless of the fact that certain mechanisms, such as resettlement, have proven to be a particularly effective means of securing rights and protection for refugees with non-normative sexualities [UNHCR, 2016; Cragnolini, 2013].

This is reflected in the relatively small number of applications for LGBTQI resettlement. For example, the Association for Solidarity with Asylum Seekers and Migrants (ASAM) in Turkey has given estimates of about 250 known cases [Kivilcim, 2017] despite the fact that almost three million refugees currently live in the country. Zeynep Kivilcim of Istanbul University, in explaining this disparity, argues that – in the context of Turkey – discretion is a 'survival' tactic: it is safer to not seek international protection because doing so demands that the refugee 'comes out' as clearly lesbian, gay, transsexual or bisexual (Ibid.: 38). Without appearing 'gay enough' [Janicek et al. 2009: 637] they will not appear 'credible' in the eyes of officials – but to appear 'credible' puts the refugee at heightened risk of discrimination from members of the host community, particularly the police and asylum officials, as well as members of the refugee community too.

CTDC research has evidenced this to be true in Turkey, where a number of at-risk refugees with non-normative sexualities were unlikely to seek further protection for fear that they may be discriminated against by officials. Even within practitioner communities, this behaviour is explained as 'internalised homophobia', an approach that wrongly places the burden on the individual, framing them as insecure in their sexuality – an approach that draws heavily on a Northern individual-rights based approach:



"[For] Turkish and English LGBTI people, it is easier to open the door and accept [the identities present in the support group], but for many [Arab refugees] with internalised homophobia there is a challenge to enter the room and deal with it. How can I deal with this? How can I deal with myself?" [A practitioner, Istanbul 2016].



Singling Out LGBTQIs: Protection Limitations

Prioritising the 'Crisis'

This internalised homophobia has also been described as an outcome in which an individual may “lack an identity awareness”, a point many in the academic and practitioner community have contemplated in their own work:

“What matters is that [refugees] have a kind of identity awareness. Ok, I am gay, bisexual or transsexual. Somehow this makes it easier to find support. For other people, who might have non-heteronormative sexual practices but who do not have an identity connection, they might not be able to access support. But of course, we have to ask whether or not this person is an LGBTI person or not.” (A practitioner, Istanbul 2016).

This need for awareness is particularly problematic for it upholds hierarchies between the North and South: this need for an ‘identity awareness’ demands that those displaced due to SPGP related persecution from the MENA region speak the language of their rights in a way that is compatible with Northern and international expectations. This point was expressed to CTDC by an Iraqi asylum seeker in Belgium who had been encouraged by caseworkers to ‘fit himself’ within identity categories that he did not necessarily identify with. He also told us that he was asked questions that sought to verify his ‘gayness’, a practice that has been criticised by researchers, but that continues to inform practice in this sector. Two Syrian asylum seekers in Turkey, who were interviewed by UNHCR case workers, were encouraged to ‘act gay’ by wearing make-up, earrings and other effeminate items so that their asylum claim would appear credible. This heightened visibility put them at risk of further persecution, yet this in itself is one of the key ways of securing protection. This makes the act of seeking protection a largely dangerous and even violent one, which further marginalises already marginalised groups.

This, along with concepts of internalised homophobia, should be problematised by humanitarians and activists: being uncomfortable with the prospect of self-identifying as LGBTQI is not necessarily evidence of internalised repression or a lack of credible knowledge about non-normative sexualities, but rather evidence of the unintended violence caused by a system of protection that is preconditioned by ultimately limited sexual identity rights categories. In this way, expanding access to protection for those fleeing from SPGP violence cannot be done through the further sensitisation of LGBTQI rights discourses alone. Rather, a more effective approach may be to promote a more localised, refugee and activist led discussion about sexuality so that routes to protection can be held open to those who may not identify as LGBTQI, but who continue to face persecution because of their non-normative sexual practices and gender performances.

Singling Out LGBTQIs: Protection Limitations

Shifting Towards SPGP

SPGP often is the key determinant of persecution. Recognising this within refugee protection mechanisms would certainly enhance the scope of protection, and limit the likelihood of any unintended violence that may be caused by LGBTQI rights discourses to those who do not 'fit' or readily identify with dominant identity categories. This also acknowledges the fact that you need not have an 'identity connection' to experience SPGP related persecution. This point is being increasingly acknowledged within policy discussions (UK Home Office, 2016), but a more nuanced, research informed approach would do much to enhance efforts in this direction.

Sexual practice is also a more effective way in which organisations and policy makers can engage in conversations with local and grassroots activists, and displaced peoples themselves, and demarginalise their particular experiences.

This approach will also allow policy and practice to align with the critical contributions made by academics and researchers to the field of sexuality and gender. These stress the fundamentally unstable nature of sexual identities, both historically and in the present, a point that is often obscured in the more concrete terminology associated with LGBTQI rights discourses (Abu-Assab, 2017). Starting from this premise will allow policy discussions to engage in a more collaborative conversation about sexuality at the local level, particularly with local communities and activists currently marginalised by mainstream sexual rights discourses.

This point certainly came across during a CTDC workshop with sexual rights activists from the region, as well as in research into sexual minority asylum seekers in the UK (Giametta, 2014). In both cases, a more open discussion about the experiences of sexuality in different parts of the world is important, as we currently draw too heavily on the dominant Northern assumptions about who is, and who is not, a 'credible' victim of SPGP persecution.



Conclusions And Recommendations

There have been many attempts to address gender and sexual rights in the MENA region, a majority of which have focused on women's empowerment and gender equality. More recently the rights of LGBTQI people have taken centre stage in development efforts and in the agendas of policy makers. Our research highlights some major problems in the frameworks underpinning these efforts, despite their well-meant intentions. Practitioners working on women's rights and gender equality, for example, have in recent years realised the need to integrate men into their programming. This is not to say that their work has not achieved results, but to say that more durable and sustainable results could have been achieved earlier. The same applies to current work on LGBTQI rights, as there is a need to make it more encompassing and inclusive of other non-normative sexual practices and gender performances. There is overwhelming evidence that in the MENA region people with visible non-normative sexual practices and gender performances are discriminated against and in many cases vulnerable to persecution and violence in ways similar to self-identified LGBTQI people (see Annex I). Therefore, a narrower focus on LGBTQI people will never guarantee the rights needed to improve the lives of self-identified LGBTQI people. The solution cannot be to 'add-and-stir' more groups to programming, but to build frameworks that are **fundamentally inclusive from the beginning**. Based on the conclusions and findings of this research, we have identified the main areas where intervention and change in the discourse of rights-based advocacy efforts are needed.

-SPGP versus SOGI: It has been established through this report thus far that discrimination, violence and persecution against people with non-normative sexualities and genders is a direct result of the visibility of their defiance to the patriarchal social roles assigned to them. It has also been established that **genders and sexualities are practised and performed**, and should not be treated as fixed identity categories. For those reasons, the use of the term SPGP reflects more accurately the basis of discrimination and thus enables us to address the social structures that play a role in marginalising those with non-normative sexualities and genders, both in the region and internationally.

-Advocacy 'from below': Advocating for changes in discriminatory policies must take place simultaneously with change in public opinions and attitudes. **Rights based advocacy is more effective when it starts with informing the public** and raising their awareness with regards to gender and sexuality. LGBTQI-identified people, as well as those with non-normative genders and sexualities, face discrimination and persecution on different levels; family, social and legal levels, and those need to be addressed simultaneously in order to pave the way for organic change to take place.

-SPGP Sensitisation: SPGP sensitisation trainings and workshops to professionals, such as social care providers, health care providers, lawyers and journalists are key for gender and sexual rights advocacy efforts in the region. Such sensitisation trainings will indirectly contribute to changing public attitudes and increasing support to LGBTQI-identified people, and people with non-normative genders and sexualities.

Conclusions And Recommendations

-More Inclusion: LGB-TQI-identified groups, CBOs, national and international organisations must exert more efforts to become more inclusive to all people with non-normative sexualities and genders. This inclusivity would enable self-determined LGB-TQI people to tackle the root problems and causes of their oppression, as well as the oppression of other people who do not fit into gender and sexual norms, rather than address the symptoms. This will also expand popular support for sexual rights.

-Personal Rights Initiatives: Personal rights initiatives are key to providing a base of allies for people with non-normative genders and sexualities. Those initiatives are often all encompassing to a wide range of rights that include sexual and gender rights, and are often inclusive of women.

-Foreign Funding Visibility: International concern over gender and sexual rights in the MENA region is legitimate and welcomed, however, support for LGB-TQI people should not extend beyond discrete financial support for grassroots organisations and diplomatic pressure at the governmental level.

-Supporting Local Initiatives: More support should be provided to local initiatives focusing on women with non-normative sexualities, as they are often marginalised and deemed invisible in conversations about LGB-TQI rights, which focus more on the legal frameworks discriminating against MSMs.

-Educational Programs: There is a general need for educational programs for the LGB-TQI-identified community and for people with non-normative sexualities and genders about SPGP issues, as project work has shown that activists themselves often lack nuance, understanding and the language tools necessary to advocate for their rights.

-Extending Protection: There is a need to develop tools and mechanisms that will enable asylum officials, states, NGOs and humanitarians to better recognise and engage with the inherent instability of sexuality and gender. SPGP sensitisation trainings would also provide a useful tool for such practitioners and would allow for protection to be extended to vulnerable groups who are in need of protection due to their non-normative sexual practices and gender performances.

-Reconsidering Visibility: Practitioners working in the field of LGB-TQI rights have often perceived visibility as a marker of success. However, research has demonstrated that as visibility of LGB-TQI-identified people increases directed and targeted violence increase as well. **Visibility should be reconsidered as a measure of success**, and in cases where visibility is increasing emergency support services must be put in place to decrease the risks to the lives of LGB-TQI-identified people.

-Recognising the Intersectionality: There is a general need in project work to recognise and take into consideration the intersection of gender and sexuality, and an acknowledgment that gender cannot be separated from sexuality. Gender and sexuality intersect, as people who have sexual practices that do not fit within the patriarchal social gender order and binaries are the ones that are deemed 'deviant', 'immoral', and 'deserving of punishment'. Intersectionality of other forms of oppression, such as religion, class and nationality, is also important to take into consideration in project work. This is also important to avoid marginalising particular histories, cultures and contexts in which non-normative people find themselves. It is also important to move away from the idea that LGB-TQI identities are universal and uniform.

ANNEX I

Country Overview

● ALGERIA

Same sex sexual activity has been illegal in Algeria since 1966, when ‘the Algerian Law’ stated, in Article 333 and 338, that homosexuality is punishable with up to two years in prison. Article 333 also stresses a link between homosexuality and immoral activities. It states that:

**“When the outrage to public decency has consisted of an act against nature with an individual of the same sex, the penalty is imprisonment between 6 months and 3 years, and a fine of between 1,000 and 10,000 Algerian Dinars”
(Ottosson 2008)**

Significantly however, the Algerian Constitution has broad guarantees protecting human rights (Art. 33) and “freedom of creed and opinion” (Art. 36). There are also well-established rights to privacy (Art. 39), education (Art. 53), health care (Art. 54) and work rights (Art. 55). These all reflect the extent to which human rights are mainstreamed within Algerian political institutions. However, Article 2 of the Constitution clearly stipulates that Islam is the “religion of the state” and as such tensions remain between secular and religious interpretations of the Constitution. This has presented challenges to human rights campaigners, especially those calling for the recognition of LGBT rights.

Finally, living conditions for LGBT persons in Algeria are bad, with little to no ‘gay friendly’ spaces in existence. LGBT rights groups and human rights campaigners have frequently reported evidence of widespread harassment, violence and murder. Honour killings are also common. However, LGBT peoples do celebrate a national ‘pride’ day on the 10th of October each year. This is called TenTen, and was founded in 2006, although, in recent years, fears of suppression and violence have reduced the visibility of celebrations significantly.

● BAHRAIN

In Bahrain “same-sex sodomy” was legalised in 1976 by the adoption of a new Penal Code, which repealed the Penal Code of the Persian Gulf put in place by the United Kingdom. The minimum age for same-sex consent is 21. However, there is still evidence to suggest LGBT people in Bahrain frequently encounter discrimination not faced by non-LGBT people, and are frequently handed down fines or jail sentences, especially when same-sex sexual relationships breach the age of consent. Additionally, cross-dressing is criminalised, placing members of the trans community in a precarious situation. They face more limited rights in Bahrain than many other members of the LGBT community.

Furthermore, the Al Menbar parliamentary bloc has increasingly called for a crackdown on homosexuality, seeing same-sex relations as a problem to be dealt with by the government. Measures that have been introduced by the Interior Minister in response to these assertions include blocking “effeminate” men from entering Bahrain at the airport (Gulf Daily News 2008). This reflects a more general attempt to indirectly illegalise same-sex relations on grounds of “immorality”. Indeed, despite the fact that same-sex relations remain legal, the Bahraini government arrested over 100 people in 2011 in response to “depraved and decadent” behaviour. In general, most government persecution of LGBT peoples is directed at migrants from the Philippines and Thailand.

ANNEX I

Country Overview

● EGYPT

In Egypt same-sex relationships are de-facto illegal, with a staggering 95% of Egyptians believing that homosexuality should be illegal (Pew Research Centre 2013). These trends in attitudes should also be contextualised in relation to the on-going political transition that has rattled the country since 2011. This has unleashed internal divisions between Islamists, secular and pro-army groups. Notably, powerful groups include the Muslim Brotherhood and the militant group Ansar Bayt al-Maqdis (Supporters of the Holy Land).

These developments have put human rights protection in jeopardy, making LGBT people increasingly vulnerable. Nevertheless, as the Kvinna till Kvinna MENA Region Country Report notes, “there is no law in Egypt that criminalizes homosexuality” yet “cultural traditions and religious norms are often used to justify the misuse of laws against LGBT groups and individuals” (Karlstedt et al. 2015). Generally speaking, the police and judiciary frequently hand down harsh punishments to LGBT persons on grounds of “debauchery and prostitution”. There have been 77 arrests of LGBT people, with some facing eight years in prison.

This has had a negative effect on the organisational capacity of LGBT rights campaigners and forced many LGBT people underground and on-line, where they also encounter persecution. Many people may be tricked into meeting up with someone, only to encounter a gang of men, placing LGBT people who hook up online at heightened risk of rape and persecution.

Living conditions faced by LGBT people in Egypt vary, but generally speaking all LGBT persons encounter social biases linked to a number of preconceptions about sexual orientation. However, there is growing visibility of LGBT persons in a number of areas, such as Alexandria, where gay cafes and bars have managed to remain open despite general hostility. Sexual health support for LGBT people is also available, and the Egyptian government has been quick to educate Egyptians about HIV-AIDS. However, HIV is often thought of as the ‘gay disease’ in Egypt, preventing many from getting tested in the first place. For both LGBT and non-LGBT peoples, acquiring a ‘positive’ test result will leave one vulnerable to being labelled a homosexual, leading to persecution in a number of instances.

Indeed, Human Rights Watch reported that medical examinations of LGBT people by Egyptian medical professionals often amounted to a loss in bodily integrity, through the use of invasive anal examinations and other degrading treatment (HRW 2004).

ANNEX I

Country Overview

● IRAQ

Same-sex relations are currently decriminalised in Iraq but cultural and religious mores make it difficult for LGBT people to live non-discreetly. There is also extensive evidence that LGBT people are frequently the victims of persecution, leading to violence, murder, and forced disappearance. The position of LGBT people in the country has also been thrown into greater insecurity following the rise of ISIS in the western areas of Iraq. ISIS fighters have frequently convicted LGBT people of blasphemy, the punishment for which is death. Numerous reports and graphic images exist depicting ISIS fighters throwing those accused from rooftops. Death by stoning is also common.

Generally speaking, while the national penal code does not forbid same-sex sexual relations, a number of morality-based laws are noted to significantly limit the rights of LGBT peoples to freedoms of expression, speech and assembly. Laws related to obscenity, for example, are frequently used to restrict LGBT rights organisations and social movements. Significantly, Iraqi law is also very explicit about preventing same-sex sexual conduct within the police and armed forces, with the Military Penal Law Number 19 (2007) and the Decree Number 9 (2008) reinforcing such laws in the twenty-first century.

Since the US-led occupation of Iraq, reports of honour killings of LGBT peoples have increased. Iraq is “slanting into a new civil war”, placing both non-LGBT and LGBT citizens into an increasingly volatile situation (Karlstedt et al. 2015). There have also been reports that extremist Islamic death squads have deliberately targeted LGBT Iraqis in response to fatwas issued by powerful clerics who see homosexual and lesbian behaviour as a ‘forbidden’ and ‘punishable’ crime imported from the West. This corresponds with a general shift toward morality-based laws, with the Iraqi Constitution stating that civil liberties should be limited by the demands of ‘public morality’.

ANNEX I

Country Overview

● JORDAN

Homosexuality and LGBT rights are both taboo subjects in Jordan despite same-sex sexual relations being legal throughout the country. Religious mores see homosexuality in particular as an aberration of true 'human nature'. There is also a common held belief that LGBT communities are 'on the increase', especially in Amman, leading to some backlash designed to prevent the 'spread of homosexuality' (Hamamsa 2013).

The Jordanian penal code makes it difficult for LGBT people to organise either officially or publicly. While LGBT peoples have been allowed to organise since 2008, tensions that have arisen since the Arab Spring has seen a rise in political Islam in Jordan. This has seen LGBT gatherings shut down on grounds of public morality, making it almost impossible for activists and campaigners to access rights to assembly. This requires government approval, which is rarely given, in accordance with article 165 of the Jordanian penal code. In a more positive move, the Jordanian government made honour killings illegal in 2013, although this remains a threat to many LGBT peoples.

Internationally, the Jordanian government has been one of the most openly hostile states when it comes to discussions relating to LGBT rights in the United Nations. Jordanian delegates will frequently resist pressure to grant greater protection to LGBT peoples on grounds that the Jordanian constitution is designed to uphold the "religious doctrines" of Islam. This sentiment is reflected in public attitudes to homosexuality, with one survey finding that 97% of Jordanians felt homosexuality should not be "accepted" (Pew Research Centre 2013).

Living openly as a homosexual is difficult, and there are reports that secret police frequently crack down on LGBT peoples (Karlstedt et al. 2015: 81). It is also impossible to display same-sex public affection for fear of "disrupting public morality".

ANNEX I

Country Overview

● KUWAIT

Homosexuality is illegal in Kuwait, and is punishable by up to seven years in prison. If an individual over the age of 21 commits a homosexual act with a consenting adult below the age of 21 then punishment is frequently extended by up to 10 years imprisonment (Equaldex 2016). Such legal rulings are determined under the Kuwaiti Penal Code, especially Articles 193 and 198, which outlaws “debauchery” (largely interpreted to mean homosexuality) and deliberate “attempts to imitate the appearance of a member of the opposite sex” respectively. As recently as 2008 Kuwait also passed a law banning cross-dressing in public.

● LEBANON

Among the MENA countries, Lebanon is typically considered to be one of the safer places for LGBT peoples, reflected in a degree of greater public acceptance, and by a number of laws that, for example, recognise the legal right to change gender. However, homosexuality and sex before marriage remain de-facto illegal. A number of these developments are also relatively recent, and contradict a general trend in the region that has seen a steady increase in persecution against LGBT peoples. For example, in 2013 homosexuality was declassified as an illness and sexual orientation conversion therapy was banned (Kilbride 2014). Furthermore, a survey showed that 79% of Lebanese people felt homosexuality “should not be accepted”, which is somewhat lower than the figures for other countries in the region, which rest upwards of 90% (Pew Research Centre 2013).

However, the Lebanese Penal Code states, in Article 534, that sexual relations, which “contradict the laws of nature”, are punishable by up to one year in prison. This Article has been used in a number of instances by judges to justify the closing down of gay-friendly nightclubs. There is also evidence that the Lebanese authorities continue to practise anal testing to verify an individual’s sexual orientation, which has been widely criticised as a major breach in a person’s human rights. However, Lebanese jurisprudence is challenging the use of Article 534 as a means of persecuting same-sex relations, with one ruling in May 2016 arguing for the “rationalization” of interpretations relating to the “laws of nature” clause, relying on biological and scientific understandings, and not just religious/social ones. This has been welcomed as a positive move by campaigners, that looks set to inform future interpretations in a way that may limit the application of Article 534 as a means of persecuting same-sex relations.

ANNEX I

Country Overview

● LIBYA

In Libya LGBT peoples are routinely discriminated against on grounds of their sexual practice and gender performance. Same sex sexual relations are illegal throughout the country, with the Libyan criminal code prohibiting any sexual activity outside the bonds of legal marriage in two separate articles. Article 407(4) of the 1953 Penal Code states that sexual intercourse outside of marriage “shall be punished with a term of imprisonment of five years at most.” Article 408(4) reinforces this, punishing those who commit “lewd acts” outside of marriage with a term of imprisonment. Legal interpretation has understood homosexuality in these terms, treating it as a lewd, non-traditional, unnatural and indecent way of life.

NGOs have frequently reported widespread abuse perpetrated at all levels of the bureaucracy. Following the Arab Spring, militant and vigilante groups, such as the Nawasi Brigade, have been involved in rounding up gay men, reflecting a general practice of persecution that has been widely reported by the US Department of State (2012) and Pink News (2012).

Public attitudes toward homosexuality are similarly hostile, with many Libyans associating LGBT identities with immorality. These social attitudes make it almost impossible to live an open life. GlobalGayz has described it as a “Dangerous Place to be Gay” in their overview of the situation in Libya (2012a). The government does not permit LGBT rights organisations to exist, and campaigning on LGBT rights issues is largely impossible. Most pressure has come from human rights campaigners who have been quick to point out the fundamental violations of certain norms like the right to life that are frequently reported in relation to the persecution of LGBT people.

● MAURITANIA

There is little written about LGBT rights in Mauritania. In general, LGBT rights do not exist, and homosexuality is not recognised by the state. Discussions about sexual behaviour and practice are strictly taboo, and there is no visible democratic or political space through which recognition of same-sex sexual rights can be articulated and fought for. Sub-Article 331.3 of the Penal Code states that a maximum of three years imprisonment will be served to anyone found having sex with anyone under the age of 21, and is frequently evoked in relation to the persecution of homosexuals. However, more generally, Sharia Law supersedes state law, meaning that the death penalty applies if sodomy is committed (GlobalGayz 2012b). However, a US State Department Report in 2011 found that there was little evidence that criminal persecutions, societal violence, discrimination or “systematic government discrimination” had taken place against LGBT peoples in that year, although this is likely to reveal the extent to which LGBT people are forced to live discretely/suppress their sexuality than the extent to which Mauritania has begun to adopt a more tolerant stance towards LGBT rights (US Department of State 2011).

ANNEX I

Country Overview

● MOROCCO

It is illegal to be LGBT in Morocco, with Article 489 of the Penal Code criminalizing “lewd or unnatural acts with an individual of the same sex”. Furthermore, societal attitudes toward cross-dressing reinforce strict gender codes that make both sexual and gender rights difficult to achieve. In general, the LGBT movement is considered to be an immoral force. However, there have only been a number of instances in which Article 489 has been used to persecute homosexuals, and good legal assistance is evident in a number of cases where outright arrest was resisted on grounds of weak evidence. However, public attitudes often put pressure on the courts, as was the case with the trial of six gay men in Ksar-el-Kebir in 2007 (HRW 2007).

● OMAN

Same-sex sexual relations are illegal in Oman under Articles 33 and 223 of the Penal Code. ILGA notes that article 33 of the 1974 Penal Code explicitly lists “homosexuality and lesbian intercourse” as a “disgracing crime”, the punishment for which (as outlined by Article 223), is “imprisonment from six months to three years” (Itaborahy and Zhu 2014). However, there is a general impression that Oman only pursues legal action against same-sex sexual practices when they are at the centre of a “public scandal”. In this way, Oman is seen to possess a somewhat thriving and well-tolerated underground gay scene, however reporting of this has been routinely shut down in order to prevent the ‘advocating of homosexuality’ (BBC News 2013).

● PALESTINE

ILGA has referred to the decriminalisation of same-sex sexual relations as “patchwork” within the Palestinian Territories (Ottosson 2010). In the Palestinian occupied territories same sex sexual relations are fairly de-criminalized, whilst in the Gaza Strip, British Penal Codes from the 1930s remain in place outlawing male same-sex sexual relations. However, women are not subject to these codes meaning that, technically, lesbian relationships are not unlawful.

In response to persecution, a number of LGBT Palestinians are reported to have sought assistance from the Israeli occupation authorities, which present themselves as more “gay-friendly” than other officials in the region. However, treatment here continues to be discriminatory, with their status as Palestinian subjecting them to house arrest according to the BBC (2003). This reveals how LGBT rights discourses in Israel amount to a politics of Pinkwashing whereby Palestinian LGBT peoples are trapped between an ‘un-safe’ Palestine and a ‘safe’ Israel, which largely persecutes them on grounds of their nationality.

ANNEX I

Country Overview

● QATAR

Same-sex sexual relations for both men and women are illegal in Qatar. Persecution, harassment, discrimination and imprisonment are all real risks faced by LGBT Qataris. There is also a total ban on LGBT rights organisations, with little to no acceptance of ‘gay-friendly’ spaces including cafes and bars. This is permitted under Article 296 of the 2004 Penal Code, which stipulates that those found engaging in same-sex sexual conduct are punishable with up to three years in prison (HRW 2016). This extends to non-Qataris making the country a dangerous place for foreign visitors too. The Penal Code does not explicitly extend punishments to women practising same-sex relations but societal attitudes, and morality laws linked to fornication, are frequently evoked to justify criminal charges, making it extremely difficult to live freely as a lesbian or bisexual person.

● SAUDI ARABIA

Saudi Arabia does not recognise LGBT rights. It treats same-sex sexual relations as punishable by death, making the Saudi state one of the most hostile environments for LGBT people in the MENA region. There are also no protections for LGBT people, even on grounds of their human rights, which is fiercely criticised by the United Nations Human Rights Council and NGOs such as the Human Rights Watch and Amnesty International.

LGBT people living in Saudi Arabia are forced into extremely discrete lives. Public discussion about sexuality is regulated by a number of taboos and religious mores. Trans people are especially persecuted given the view that cross-dressing defies the jurisprudence of Islam. Whippings, torture, chemical castrations, imprisonment and fines are common punishment for anyone found guilty of ‘transgenderism’. Human Rights Watch has also criticised as inadequate the efforts of the Saudi government to prevent HIV/AIDS (Amon 2007). In general, sexual health assistance for LGBT people in the Kingdom remains wholly inadequate as a result of taboo, forcing LGBT people into an even more precarious state of vulnerability.

● SUDAN

In Sudan both male and female same-sex relationships are illegal. The Criminal Act 1991 outlines in Article 19 and 20 that sex outside of “consummation” is illegal, with a potential punishment of one year in prison. Articles 148-152 is more explicit however, outlawing sodomy between men as a form of “gross indecency” that breaches “public morality”. In general, these laws reinforce a number of deeply engrained societal attitudes that see homosexuality as a deep sin. However religious divides between Muslims, Christians and tribal communities has meant different degrees of condemnation exist depending on the area and congregation. The Anglican Church of Sudan for example has strongly condemned the homosexual practices of many men that live in tribal societies, suggesting in this sense that acceptance of homosexuality within certain tribal customs does exist to a limited degree (Mayom 2006).

ANNEX I

Country Overview

● SYRIA

The status of LGBT rights in Syria remains difficult to fully ascertain given the intense conflict that has gripped the country since 2011. The entire country has been affected by conflict, with almost five million Syrians having fled the country to neighbouring states, most notably Turkey, Lebanon and Jordan. In general, Syria is a hostile place for LGBT people, especially in Islamist controlled areas in the North and East of the country. Reports that groups like ISIS summarily execute LGBT people are widespread in media reporting, with one gay man declaring, in an interview with The Sydney Morning Herald, “It can’t get any worse than being gay in Syria today.” (McDougall 2015). However, before the civil war, Syria was described as possessing a somewhat established queer scene, particularly in cities like Aleppo and Damascus. This is despite the fact that the Syrian penal code of 1949 outlaws, in Article 520, “carnal relations against the order of nature”, generally interpreted to mean homosexuality.

● TUNISIA

In Tunisia it is illegal for both men and women to have same-sex relations. Article 230 of the Penal Code of 1913, modified in 1964, determines that three years imprisonment is adequate punishment for those engaging in private acts of sodomy. Article 226, which forbids “outrages against public decency”, is also often evoked to persecute both lesbian and gay Tunisians, but crucially Trans people too, whose practices of “cross dressing” is seen to be a violation of public morality.

● UNITED ARAB EMIRATES (UAE)

The UAE is an extremely heteronormative and patriarchal society where homosexuality is strictly illegal. It stands with Saudi Arabia as one of the most homophobic states in the world, with Article 354 of the Federal Penal Code stipulating that sodomy will be punished by death. Gay “testing” is also common in an attempt to deport foreign homosexuals. However, there is a degree of uncertainty when it comes to the illegality of female same-sex sexual relationships, although the persecution of lesbians is well evidenced, especially for international tourists (Equaldex 2016).

Abu Dhabi and Dubai’s separate penal codes are not as harsh as the federal laws, but still they impose 14 years and 10 years imprisonment respectively for anyone found guilty of sodomy. These harsh conditions in the state’s main cities mean that little to no LGBT or ‘gay friendly’ clubs exist.

ANNEX I

Country Overview

● YEMEN

Homosexuality is illegal in Yemen. Article 264 of the 1994 Penal Code states that “homosexuality between men is defined as penetration into the anus, unmarried men shall be punished with 100 lashes of the whip or a maximum of one year imprisonment, married men with death by stoning.” The death penalty then applies specifically to homosexual men who engage in same-sex sexual relations whilst married to a woman. However, the death penalty has been applied to non-married men under the auspices of Sharia Law. For women who engage in same-sex sexual practices, punishment is less severe, but will still end in imprisonment of up to seven years according to Article 268. The situation confronting LGBT peoples in Yemen has also been intensified by the conflict gripping the country.

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