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## Sexuality, Development and Non-conforming Desire in the Arab World: The Case of Lebanon and Egypt

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# Abbreviations

CSO	Civil Society Organisation
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
LGBT	lesbian, gay, bisexual and transgender
LGBTIQ	lesbian, gay, bisexual, transsexual/transgender, intersex, queer/questioning
LGBTQ	lesbian, gay, bisexual, transgender, queer
MSM	men who have sex with men
NGO	non-governmental organisation
SGNs	sexual and gender nonconformists
UNAIDS	Joint United Nations Programme on HIV/AIDS
US	United States

# 1 Introduction: connecting sexuality to development

*[W]e have a lot of problems here – torture, violations against street children, we are full of problems... To come in and talk about gays and lesbians, it is nice, but it's not the major issue. It's like I'm starving and you ask me what kind of cola I want. Well, I want to eat first. Then we can talk about cola! It's a luxury to talk about gay rights in Egypt.*

(Negad El Borai, in an interview with Azimi 2006)

In many developing countries, sexual rights are commonly depicted as trivial concerns pertaining to wealthy citizens of a 'developed' Western world. The 'developing' world is often thought to have more pressing problems to deal with, such as poverty, violence and corruption. As the prominent Egyptian attorney and human rights activist, Negad El Borai, pointed out in the preceding statement, it is 'nice' to talk about gay and lesbian rights in Egypt, but the matter is ranked low in a hierarchy of critical human rights issues. Indeed, it is sometimes not considered to be a human rights issue at all.

While it is important, when analysing Borai's statement, to consider his precarious position as a human rights activist in what was, at the time, a long-standing dictatorship,<sup>1</sup> such skeletal/unfamiliar representations of sexual rights risk obscuring the gradually emerging links between sexual rights and other aspects of human development. In his statement, Borai does not reject the pertinence or question the efficacy of a 'globalized narrative on sexual identity' in Egypt (Cornwall 2014: 427) – something we will discuss later. Rather, he attempts to play down the gravity of the Egyptian state's acts against 'sexual perversion' by dissociating it from other 'major issues' in the country. Providing an alternative perspective on the matter, Armas (2007) elaborates on the links between sexual rights and development by examining the relationships between sexual rights and the right to health (mental and physical), education, political participation, work, and migration. He argues that their interdependence is testament to their indivisibility as basic human rights.

Subscribing to the latter perspective, this report focuses on the rights of sexual and gender nonconformists (SGNs) in Egypt and Lebanon. It explores the somewhat similar social attitudes towards sexual and gender nonconformity and follows the divergent trajectories of both countries with regards to sexual rights activism. The report attributes this divergence to differences in socio-political conditions in each country that have allowed for the development of a somewhat organised, selectively functional sexual rights movement in one context, while encouraging the open oppression of almost all forms of sexual dissent in another.

As well as contributing to the existing literature on sexual rights in Egypt and Lebanon and informing future sexual rights activism in both countries, this report refutes the argument that supports a hierarchy of values in development by demonstrating the indivisibility of sexual freedoms from other, more popular, development issues.

Egypt and Lebanon's work with the Joint United Nations Programme on HIV/AIDS (UNAIDS) illustrates this point quite well, with respect to health as a development concern. Having identified men who have sex with men (MSM) as one of several groups that are 'most at risk' of acquiring and transmitting HIV (UNAIDS 2008), one of the main challenges facing

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<sup>1</sup> By 2006, when Borai's aforementioned statement was published, Mohamed Hosni Mubarak had been president of Egypt for approximately 25 years. Mubarak's reign ended a few years later, following the Egyptian uprising in 2011.

countries where same-sex sexual practices are prohibited/frowned on is reaching out to MSM. Even where HIV/AIDS prevention and care services are made available to MSM (e.g. distribution of condoms/lubricants or provision of counselling and testing services), stigma, violence, discrimination, or fear thereof prohibit many people from accessing them (Egyptian Initiative for Personal Rights (EIPR) n.d.). The 2012 UNAIDS report states that 'less than 5% of MSM globally have access to HIV prevention, treatment, and care services' (UNAIDS 2012a: 10).

With respect to Lebanon, the report cites Article 534 of the Penal Code, which prohibits sexual intercourse that is 'contrary to nature' (Abbani n.d.), as an obstacle to the country's ability to reach out to MSM. The risk of being persecuted or stigmatised discourages MSM from seeking help, affecting Lebanon's ability to provide care services and raise awareness of prevention practices to a vulnerable group at high risk of contracting HIV.

Egypt's UNAIDS reports in 2012 and 2014 mention similar challenges. But they attribute discrimination/stigma more to cultural and social barriers and Egyptian society's 'inherently' negative attitudes towards at-risk populations – rather than assigning the responsibility to any specific law. In fact, the 2012 report explicitly states that 'homosexuality is not prohibited but is socially and culturally rejected' (UNAIDS 2012b: 19).

The 2014 report acknowledges the low utilisation of medical and legal services offered to MSM in Egypt, but traces this back to a 'fear of stigmatization or discrimination related to their sexual identity', without explicitly mentioning the source of discrimination (UNAIDS 2014b: 33). The same report mentions unidentified 'legal barriers' that are said to obstruct efforts by non-governmental organisations (NGOs) and civil society organisations (CSOs) 'to distribute prevention tools such as condoms and clean needles, which could be wrongfully used as evidence of illegal behavior' (UNAIDS 2014b: 29). These cases challenge Borai's aforementioned statement by demonstrating the critical relationship between sexual rights and development. Furthermore, both Lebanon and Egypt illustrate how legal or social exclusion on the basis of sexual activity connects to the more highly valued right to health, affecting not only those who are being excluded, but society at large.

Data linking sexual rights to HIV/AIDS in Egypt and Lebanon are relatively easily accessible even though both are still considered to be low prevalence countries. Country-wide interest in HIV/AIDS is not necessarily due to a genuine concern for the wellbeing of people who are HIV-positive, or even the most at-risk groups; rather, it is more likely due to fear over the safety of the 'general population', and an interest in eliminating what is potentially a national threat. On the other hand, data linking sexual rights in either country to education, work, political participation or the economy as a whole are almost impossible to come by.

One possible reason for this is that the potential effects of ignoring those links are indeterminable and relatively uncertain, even unrelatable to wider society. Having little knowledge of the actual size of the stigmatised population in either country contributes to our ignorance of the gravity of ignoring those links. Moreover, social stigma and discrimination – whether culturally or legally motivated – make it almost impossible to determine the size of those populations in either country, adding to the sense that it is a 'trivial' and 'foreign' problem. Attempting to credibly convey the economic costs of discriminating against people on the basis of sexual/gender nonconformity,<sup>2</sup> for example, would require knowledge of the size of the persecuted population to be able to produce verified statistical information. The precarious position of SGNs in the Arab world complicates efforts to do so.

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<sup>2</sup> Just to highlight the economic components of homophobia rather than suggesting that homophobia is primarily an economic problem.

From the outset, it is important to clarify that this report is mainly concerned with an already existing act of discrimination, its victims, and its consequences. To avoid misrepresenting the report's main subjects through imposing foreign identities or any type of unwelcome descriptive categories on them, I have opted to rule out terms such as 'lesbian, gay, bisexual, transgender, queer' (LGBTQ) and 'homosexual' and their Arabic translations. This is not to suggest that these terms are unheard of or unused in the Arab world; it is rather an attempt to avoid the fallacy of introducing Western conceptions of sexuality in a context where they do not necessarily belong. Furthermore, the use of sexual identities would be exclusive of sexual/gender nonconformists in Egypt and Lebanon who might not fit under these identities.

Given the controversies surrounding these labels,<sup>3</sup> I have opted to use the more tedious designation 'sexual and gender nonconformists' (SGNs) to refer to the main subjects of this report, and 'sexual and gender nonconforming behaviour' (SGN behaviour) to refer to the socially and/or legally prohibited actions of SGNs. The terms 'LGBTQ' and 'homosexuality' (in all their variations) will occasionally be used to refer only to the people and organisations that openly identify themselves using these terms.

The broader aim of this report is to contribute to the slowly expanding study of the ever-changing attitudes towards sexuality and, more specifically, 'queer desire' in the Arab world. The choice of Egypt and Lebanon owes to the ongoing contrasting changes in attitudes towards gender and sexual nonconformity in both countries. As Lebanon witnesses what is being hailed as a 'landmark ruling' with regards to its law on 'unnatural' sexual relations (Dera 2014; Rainey 2014), Egypt has – exaggeratedly – been referred to as '[possibly] the worst place in the world to be gay right now' (Michaelson 2014). While both countries share vaguely worded laws regulating sexuality that date back to the colonial era, and both are reported to be largely homophobic societies, Egypt and Lebanon's trajectories regarding gender and sexual nonconformity are steadily diverging. By examining certain social, political and legal developments in Egypt (past and present) in juxtaposition to Lebanon, this report aims to identify a set of factors that have contributed to this divergence, informing future efforts to advocate for sexual rights in either country.

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<sup>3</sup> For more information, see Massad (2007); El-Rouayheb (2005); Mourad (2013); and IDS (2015b).

## 2 Historical background

El-Rouayheb (2005) and Ze'evi (2006), writing about the history of sexuality in the early Ottoman Empire vis-à-vis Europe, use European and Arab travelogues to showcase the distinctive stances on sexuality in each region. Contrary to the present situation, Middle Eastern societies of the 1600s to 1800s were seen, by European travellers, to be shamefully adventurous when it came to sex. Memoirs written by several European travellers condemn the unabashed expression of pederastic love and general lasciviousness in 'the orient' (El-Rouayheb 2005). Similar 'accusations' would later be echoed by Arab intellectuals who, besides having their own reservations regarding some European socio-sexual practices, lauded them (the Europeans) for their rejection of same-sex attraction/desire (Massad 2007). So, what was behind this seemingly radical change of perspective?

In recounting the story of the British occupation of Egypt in 1882, Pollard (2005) described the use of 'domestic images to classify non-Western subjects' as a tactic that was frequently used by the British colonial forces (in Egypt as well as other occupied territories) to justify their need to intervene and remain in the colony. By 'domestic images', Pollard was referring to (sometimes exaggerated) culture-specific domestic and familial practices in those targeted societies, which were not in line with Victorian domestic values. These included, for example, polygamy and harems in Egypt,<sup>4</sup> and *sati* (widow burning) and child marriage in India. This deviance was taken to be a sign of backwardness and political ineptitude, necessitating the replacement of the Egyptian ruling elite with concerned British forces. It is therefore not surprising that, in reaction to that rationale, demonstrating the existence of 'modern', Victorian-style families in Egypt became somewhat of a national mission – a call for independence and a sign that Egyptians were qualified to lead their own country (*ibid.*).

Pollard (2005) emphasised that the transformation in domestic values in Egypt had started prior to the British occupation, in response to political and economic reforms that took place throughout the Mohammad 'Ali dynasty. Massad (2007) recounted similar events, adding that it was Arab politicians and intellectuals who, in their panic over the supposed deterioration of Arab civilisation in the eighteenth century and their desire to establish a new, anti-Ottoman, Egyptian national identity, started adopting Western domestic values in response to Western assessments of Arab culture – values that relied, in part, on sex/sexuality as a means of appraisal.

These intellectuals readily accepted European appraisals of Egyptian culture and started pushing for an adherence to Victorian ethics as a means of advancing the country. Among the denounced practices was the Arabs' perceived inclination toward same-sex sexual relations, a reputation that was mainly based on the popularity of Arabic poetry that was 'pederastic in tone' (El-Rouayheb 2005: 1). Such 'ungodly' practices that did not conform to the 'heteronormal' religious (Christian) values that had started to dominate European morality circa the seventeenth century had to be eliminated to make way for a modern/civilised national identity deemed conducive to progress and worthy of independence.

Hopwood (1999) described these practices as being part of a set of generalisations that informed European beliefs about the Orient at the time. Imprinting irrationality, backwardness, and lasciviousness on the East as a whole helped justify the West's perceived need to control the region. Hence, despite being under French control, Lebanon did not fare much differently than Egypt.

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<sup>4</sup> According to Pollard (2005), Egyptians had already started to phase out polygamy and Europeanise their domestic practices before the British occupation.



Hanssen (2006) discussed the strong link that came to be emphasised between what were regarded by the French as backwardly social practices and disease-inducing hygienic failure in Lebanon and Syria. “[I]rregularities” of the sexual behavior and individual habits reflected larger deficiencies of the social organism’, deficiencies that necessitated French intervention to restore the natural order (Hanssen 2006: 78). This anxiety about hygiene is thought to have been driven by a fear for the safety of the European community in Beirut, whose residences were not segregated from the local community in this particular colony. While fears of cultural degeneracy were shared by local intellectuals in Beirut, the locals’ criticism of the prevailing cultural/social norms is believed to have been a genuine attempt to advance society rather than undermine Lebanon’s autonomy as the French did.

## 2.1 Reversing roles

Constructed scenarios of cultural degeneracy in European colonial conquests gave new weight to moral conduct in Lebanon and Egypt pre- and post-independence (Pollard 2005). Sexual restraint and chastity would continue to be defining characteristics of Arab culture, even after losing their potency among the French and the British. A newly developing sense of nationalism, with people striving for a distinct national identity post-independence, also helped cement those qualities. In fact, the development of sexually restrictive laws in Egypt and Beirut under colonial rule is arguably thought to have been done out of appeasement to nationalists and the more conservative elements of both societies (Human Rights Watch 2004; Abbani n.d.).<sup>5</sup> These elements were not only fighting against European immorality, but against the idea of colonialism as a whole.<sup>6</sup>

While neither the Lebanese nor the Egyptian laws explicitly mention same-sex sexual relations among the list of prohibited sexual practices, the laws are written vaguely enough to allow for the inclusion of a wide variety of practices if needed. Article 534 of the Lebanese Penal Code prohibits ‘Any sexual intercourse contrary to the order of nature’ (Al Farchichi and Saghiyeh 2009), while Article 9(c) of Law 10/1961 in Egypt punishes ‘whoever habitually engages in debauchery or prostitution’ (Human Rights Watch 2004). Neither ‘nature’ in the Lebanese article nor Egypt’s ‘debauchery’ are defined, making it possible for the state to include any practice that it deems unfavourable.<sup>7</sup> Until very recently, any form of SGN behaviour would have easily qualified for either charge.<sup>8</sup>

Amid present-day representations of the West as the global guardian of ‘LGBT people’ (Anderson 2015), and the common misconception that their prohibition in the Arabo-Islamic World stems from religious or cultural influences, it is important to bear one point in mind. That is, the (arguably major) role played by the West in promoting ‘acceptable sexual practices’ and introducing the idea of criminalising unacceptable practices in the first place (Makarem 2011). This is not meant to suggest there was complete tolerance of SGN behaviour in the Arab world prior to colonisation – El-Rouayheb (2005) discusses other standards that were used to judge/determine the acceptability of ‘non-heterosexual’ relations<sup>9</sup> – but rather, to identify one of the important influences on the current social/legal status of SGNs in the Arab world.

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<sup>5</sup> It has also been argued that this theory stands only in the case of British colonies, as the French Penal Code of 1791 decriminalised consensual sodomy between adults (i.e. before the French mandate in Syria and Lebanon in the 1900s). See Han and O’Mahoney (2014).

<sup>6</sup> In Egypt, this manifested as a call by secular nationalists and the Muslim Brotherhood to shut down licensed brothels (Long 2004).

<sup>7</sup> For example, an article in Youm7 online newspaper reports the arrest of six female dancers on charges of ‘incitement to immorality and debauchery’ (Abd-Alrady 2015). Lundqvist (2008) speaks of Article 534 not being used ‘in its full capacity, but primarily [being] used to violate the privacy of LGBT persons’.

<sup>8</sup> Recent developments in Lebanon, discussed later in this report, have challenged the viability of continuing to classify homosexuality as unnatural.

<sup>9</sup> El-Rouayheb considers ‘homosexuality’ to be an anachronism when discussing Arabic/Islamic history. The term conflates several sexual and non-sexual practices, some of which were more acceptable than others in previous eras (e.g. same-sex anal intercourse was thought to be forbidden in Islam, while non-penetrative sex was less frowned upon).

### 3 Methodology

The sensitivity of this topic and the particularly sensitive conditions facing sexual and gender nonconformists (SGNs) at the time of writing this report (especially in Egypt) has ruled out the option of conducting full-scale primary research. As I explain later, rumours of ongoing mass surveillance of social media in Egypt have, understandably, made many people unwilling to openly participate in this research. Fortunately, because most forms of SGN-related sexual rights activism are digital in Egypt (and digitised in Lebanon), the information required to cover that aspect of the report was found on social networking sites (namely Facebook and Twitter). This information was in the public domain at the time the research was conducted and had already been publicised by its authors. Since most of the content used was either posted anonymously or under pseudonyms (by unofficial organisations),<sup>10</sup> this eliminated the threat of revealing too much about the creators' personal identities.

Information on Lebanon was more easily accessible given the institutionalisation of its sexual rights movement. The official website for HELEM, a Lebanese organisation supporting LGBT rights, provides a wide range of studies (in English and Arabic) about Lebanon's LGBT movement. The Lebanese non-profit 'Raynbow' provides up-to-date information on a wide range of issues (through news, blogs and events) on the Lebanese LGBT Media Monitor page on Facebook. I was also able to use interviews conducted with two Lebanese activists as part of the field research for a forthcoming IDS study by Yasamin Alkhansa and Elizabeth Mills on the connections between sexuality laws and poverty; these interviews were conducted in 2014 and 2015, and excerpts have been included in discussion with the study's authors given their interrelated focus.

Given this report's concern with contemporary socio-political changes in Lebanon and Egypt, online newspapers and blogs served as an important source of information. Many academic journal articles and books were used for information on (and analyses of) events relating to SGNs in both countries. Access to books and digital libraries was provided by the University of Sussex Library and the British Library for Development Studies.

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<sup>10</sup> With the exception of information on Ramy Youssef's queer activism locally and internationally.

## 4 Egypt and Lebanon: post-independence to present

Post-independence, social and political conditions in Egypt and Lebanon were drastically different. While Lebanon struggled with a weak state and demographic tensions over the growing social, political and economic inequality among its religiously diverse population, culminating in a 15-year civil war (1975–90), Egypt went through a series of dictatorships and managed to maintain a relatively harmonious populace as it engaged in physical and political wars with external enemies (such as Israel and the United States (US)). Both countries retained colonial-era laws used to prosecute people suspected of engaging in sexual and gender nonconformist behaviour.

Until today, these kinds of behaviour are still largely considered to be harmful and deviant. Eliminating such behaviour is portrayed as a way to protect society and preserve Arab culture and masculinity (Human Rights Watch 2013b). Religious views on sexual and gender nonconformity – widely thought to be unfavourable in both countries – are often used to reinforce social and state hostility towards SGNs (Berkouwer, Sultan and Yehia 2015; Sobhy 2014b; HELEM n.d.a).

The previous section reviewed historical attitudes towards sexual and gender nonconformity in the Arab world and Europe, and how they came to influence social and legal attitudes towards SGN behaviour. This section reviews the subsequent developments in both countries under the influence of laws such as Article 534 of the Lebanese Penal Code, which prohibits sexual intercourse that is ‘contrary to nature’, and Article 9(c) of Egypt’s ‘Law on the Combating of Prostitution’, which prohibits the habitual practice of debauchery. The aim is to track events that suggest a change in attitudes towards SGNs in both countries.

### 4.1 Lebanon

One could argue that in Lebanon, the civil war and its resultant transformations played a crucial role in allowing the creation of ‘queer space’, the introduction of an LGBT politics of human rights, and the subsequent organisation of a small LGBT community (Merabet 2014; Moussawi 2013; Gagné 2012). While the Lebanese state had already been weak before the war,<sup>11</sup> a decade and a half of conflict completely undermined its power, eventually rendering it unable to provide for the basic needs of its citizens. This necessitated the presence of strong CSOs in Lebanon. The state’s perpetual weakness helped CSOs operate freely and with little government intervention.

Moreover, the emigration of hundreds of thousands of people from Lebanon during the war (some of whom returned after it ended) is thought to have aided the introduction of foreign lifestyles/identities to Lebanon. ‘Lebanese who had moved to the US or Europe for safety also returned, often with teenage families who had grown up abroad and acquired a Western lifestyle’ (Whitaker 2011: 48). ‘[W]ar weariness’ had allegedly elicited a general tolerance of diversity in Lebanon (*ibid.*), helping these new subjectivities to become accepted (albeit selectively). It was under these conditions that Lebanon’s pro-LGBT movement emerged.

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<sup>11</sup> The Lebanese state had been weak before the war, possibly due to rampant clientelism, which has a very long history in Lebanon. The benefits afforded to political leaders by such a system are thought to have strengthened their interests in alienating the state, which was seen as a competitor. (See Najem 2012 for various theories regarding the collapse of the Lebanese Government.)

Azzi (2011) and Makarem (2011) – both cofounders of HELEM, the Arab world’s first and leading ‘LGBTIQ’ organisation (HELEM’s own terminology)<sup>12</sup> – recount the history of Lebanon’s LGBT movement, starting with the early efforts to amass and communicate online. In a context where ‘unnatural intercourse’ is legally punishable and socially unacceptable, the internet served as a private and secure medium through which Lebanon’s SGNs could ‘[create] spaces to satisfy their needs’ (Makarem 2011: 102). Azzi (2011) mentions one of the more popular online groups, gaylebanon, which eventually turned into an underground society, Club-Free, which would later register with the Ministry of Interior under the name HELEM (in 2004).

In the early 2000s, these small formal and informal groups started organising events to highlight the struggles they faced and to spread awareness on issues of sexuality and gender identity – thereby confirming the emergence of an LGBT community in Lebanon (Azzi 2011; Makarem 2011). Their demands would soon be echoed by other, more well-established Lebanese human rights organisations such as the Multi-Initiative on Rights: Search, Assist and Defend (MIRSAD) and Hurriyat Khassa (HELEM n.d.a.). Realising their shared interest in fighting the state’s obstruction of the right to privacy and freedom of expression, many more CSOs joined the fight against Article 534 for its capacity to infringe upon those rights.

*The mere factor (sic) that Article 534 exists means that, as an LGBT individual you are a second-class citizen, a criminal, and you cannot seek protection from police if you get harassed, if your family specially is harassing you or if you are facing any kind of blackmailing, which are realities of day-to-day lives of a lot of LGBTI individuals in Lebanon.*  
(Azzi 2015)

The establishment of HELEM and its increased visibility through ‘LGBTIQ’ activism and service provision brought more negative attention for SGNs in the media (Azzi 2011). But its growing network, which included regional and international organisations, eventually led to its recognition by local and governmental structures, hence facilitating its dealings with the police (Dabaghi, Mack and Jaalouk 2009).

In 2005, HELEM started collaborating with the Lebanese Ministry of Public Health to raise awareness of HIV/AIDS among local SGNs. The Ministry would later become the first governmental agency to call for the decriminalisation of homosexuality in Lebanon in 2008 as part of its strategy for combating HIV/AIDS. In 2012, the Lebanese Order of Physicians denounced anal tests, occasionally used as evidence of sodomy,<sup>13</sup> rendering them ineffectual and a form of torture (Human Rights Watch 2012). That same year, the Lebanese Minister of Justice joined in by publicly announcing his opposition to anal tests (Littauer 2012). In 2013, the Lebanese Psychiatric Society released a statement declaring that it does not consider ‘homosexuality’ to be a mental disorder (LebMASH 2013), does not recommend its treatment, that homosexuality itself does not result in any mental defects, and that it is not a consequence of ‘disturbances in the family dynamic or unbalanced psychological development’ (Littauer 2013).

The Lebanese judiciary has yet to follow in these footsteps by adjusting or eliminating Article 534 of the Penal Code. In fact, the arrest of 28 people at a Turkish bathhouse in 2014 saw additional criminal charges used to penalise SGN behaviour (i.e. Articles 531 and 532,

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<sup>12</sup> HELEM is an acronym for ‘Lebanese Protection for Lesbians, Gays, Bisexuals and Transgenders’ (HELEM n.d.b). The organisation’s official Facebook page refers to it as an ‘LGBTIQ organization’ (HELEM n.d.c), hence my reference to it as an LGBTIQ organisation. LGBTIQ is an acronym for lesbian, gay, bisexual, transsexual/transgender, intersex, queer/questioning. However, HELEM’s website states that the organisation also stands for the rights of ‘persons with non-conforming sexuality or gender identity’ (HELEM n.d.b). The term ‘*helem*’ itself is the Arabic word for ‘dream’.

<sup>13</sup> Introduced by *Forensic Study of Assaults Against Decency*, a French medical book published in 1857.

sanctioning acts that infringe on public morals and ethics) (Wansa 2014). Saleh and Qubaia (2015) also mention Article 521,<sup>14</sup> which is used to harass and arrest people who fail/refuse to comply with the male/female gender binary, especially ‘transwomen’.<sup>15</sup>

However, two recent judicial rulings have worked to undermine Article 534. In 2009, Lebanese judge Mounir Suleiman voiced his objection to its ambiguity during the trial of two men who had been suspected of engaging in same-sex sexual relations. Suleiman pointed out that not only does the definition of ‘nature’ change by time and ‘according to the mood of a society’, but that humans are an element of nature and their behaviour should, therefore, not be considered contradictory to it (Human Rights Watch 2013a: 11).

More recently, in 2014, a ‘transsexual’ woman who had been accused of violating Article 534 by engaging in ‘acts of sodomy’ and group sex (The Legal Agenda 2014) was acquitted by Judge Naji Dahdah on the grounds of insufficient evidence and not meeting his interpretation of the Article. In his ruling, Dahdah used the ambiguity of the Article’s phrasing (i.e. the lack of an official definition of what constitutes ‘sexual intercourse that is contrary to the order of nature’) to conclude that ‘the issue [is left] to the discretion of the judiciary on a case-by-case basis’. Dahdah conceded that although gender dysphoria might deviate from the norm, it should not be considered unnatural (Makhlouf 2014).

Despite a steady increase in the number of pro-LGBT organisations<sup>16</sup> and public figures in Lebanon, sexual and gender nonconformity continues to be criminalised and widely stigmatised. While few SGNs are being indicted, police harassment of this population group – encouraged and legitimised by the web of anti-SGN laws – is alive and well (Lundqvist 2008; Zeidan 2014). While local and international pro-LGBT organisations provide some social and legal backing for some SGNs in Lebanon, it is important to note that people’s access to such protection often depends on various factors, including their socioeconomic class, ethnicity and nationality. While the particularities of such complexities are beyond the scope of this report, suffice to say that pro-LGBT organisations in Lebanon only manage to provide protection to a limited number of their constituents (Benoist 2014). In fact, Massad (2007) believes that they have, on the contrary, contributed to the hardships faced by SGNs – pointing to their alleged role in prompting the social estrangement of, and resistance to, SGN behaviour in the Arab world by introducing and promoting foreign sexual identities, lifestyles and sexual epistemologies.

A 2013 study estimated that 80 per cent of the Lebanese population do not think that homosexuality should be acceptable (Pew Research Center 2013). Lebanese police and judiciary continue to target SGNs, particularly those from the most disadvantaged parts of society (Littauer 2014; Makarem 2011; Human Rights Watch 2013a; Azzi 2015), arresting and detaining them over unsubstantiated charges (Human Rights Watch 2013a). However, some of Lebanon’s SGNs can now count on the social and legal backing of a steadily growing pro-SGN circle.

## 4.2 Egypt

Following the complete withdrawal of British troops from Egypt in 1956, the country underwent a series of dictatorships, which started with President Gamal Abdel Nasser in 1956 and is continuing – arguably, and to a lesser extent – under al-Sisi in 2014. Nasser’s use of the state as a ‘tool for structuring and controlling the population’ (Russell 2013) is a practice that was continued long after his death. This was made possible by the relative

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<sup>14</sup> Article 521 of the Lebanese Penal Code forbids men from dressing up like women and entering areas that are designated for women only.

<sup>15</sup> ‘Transwoman’ is an abbreviation of transgender woman.

<sup>16</sup> e.g. Meem, an offshoot of HELEM for LBTQ women; The Arab Foundation for Freedoms and Equality; Marsa, a sexual health centre that started as an initiative by HELEM; and Proud Lebanon, a non-profit organisation that advocates and provides legal and medical services to ‘marginalized groups’ in ‘Lebanon and the region’ (Proud Lebanon 2014).

stability of Egypt's central political authority compared with Lebanon, possibly because of the relative homogeneity of Egypt's population. This, however, has allowed for the centralisation of power in the hands of the state and the application of laws that restrict civil society groups, and specifically those that challenge the authority of the state.

Agati (2007) points out that the antagonistic relationship between the state and CSOs in Egypt only started to develop when CSOs diversified their activities beyond apolitical philanthropy, under the rule of Nasser. Agati describes a sort of 'social pact of development' between the citizens and the state, which authorised the disregard of democracy as long as the state was able to provide for its citizens in a basic way.

One aspect of this pact was Egypt's Emergency Law, enforced during the Arab-Israeli war in 1967, suspended temporarily during Anwar Sadat's rule, then re-imposed after his assassination and throughout Mubarak's rule. The law suspended constitutional rights and expanded the powers of the police, allowing for the unwarranted arrest of citizens and the restriction of non-governmental political activities. Naturally, this strongly hampered the formation and operation of many CSOs, particularly those the state did not approve of. Just as with laws that were used to prosecute 'debauchers', Mubarak-era laws governing CSOs were phrased ambiguously enough to allow the state to obstruct the formation/operation of a broad range of groups (Agati 2007).

Moreover, the country's political make-up since the Mubarak era is thought to have played an important role in its stance towards SGN behaviour. In attempting to explain the logic behind the Egyptian state's acute targeting of sexual dissent post-2001, several scholars have referred to it as a case of a pseudo-secular autocratic state that is fending off a fairly influential Islamist opposition whose claim to power is reinforced by their claims to piety. The persecution of SGNs is thought to be an easy way to gain religious credentials<sup>17</sup> and to distract people from the state's other failures (Bahgat 2001; El Menyawi 2006b; Pratt 2007).

Like Lebanon, Egypt still retains its colonial-era laws regulating sex. Although Egypt's 'anti-debauchery' law had originally been introduced with the intent of outlawing sex work – historically a legal practice in Egypt – the introduction of the Arabic term *fujur* (i.e. debauchery) in the process of revising the law was allegedly meant to emphasise the fact that the law covered commercial sex between men too (Human Rights Watch 2004).<sup>18</sup> However, the broadness of the term and its detachment from commerciality allows for its current interpretation, which penalises commercial as well as non-commercial sex between consenting adult males. It is interesting to note that, unlike the situation in Lebanon, Egypt's legal position on female same-sex sexual practices is 'unclear' (Itaborahy and Zhu 2014: 33) and arguably non-existent.

In its 2014 report on state-sponsored homophobia, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) lists several other clauses that are sometimes used to prosecute men suspected of deviant sexual practices in Egypt. Among these are: Article 98(f) of Law 58/1937, which prohibits, among other actions '[Exploiting] religion in advocating and propagating by talk or in writing, or by any other method, extremist thoughts with the aim of contempting (sic) any of the heavenly religions'; and Article 296 of the same law, punishing 'Whoever is found on a public road or a traveled and frequented place inciting the passersby with signals or words to commit indecency' (Itaborahy and Zhu 2014: 33).

Although Egypt's Constitution does not explicitly prohibit discrimination on the basis of sexual orientation or gender identity (Mouzourakis n.d.), the state's harassment of SGNs clearly

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<sup>17</sup> While most Muslim-majority countries consider Islam to be prohibitive of same-sex sexual relations, it has more recently been argued by – mostly Western – scholars that such interpretations of Islam are a product of homophobic cultures rather than an objective reading of the script (see Kugle 2010).

<sup>18</sup> *Da'ara*, the Arabic word for sex work, was erroneously thought to mean female sex work only.

contradicts Articles 58 and 57 of the current constitution,<sup>19</sup> guaranteeing respect for the private lives of citizens and the sanctity of their homes respectively. In addition to that, Human Rights Watch (2004) pointed out how such behaviour conflicts with several terms in the International Covenant on Civil and Political Rights (ICCPR), an international agreement to which Egypt is a signatory.

Perhaps the most prominent incident of state-led abuse of SGNs was 2001's Queen Boat trial, in which around 52<sup>20</sup> allegedly 'gay' men were arrested on suspicions of 'sexual perversion' from various streets, homes, and a club located on the Queen Boat (Pratt 2007). The men were subjected to severe verbal and physical abuse while in detention (Massad 2007; El Menyawi 2006a), a practice that was not uncommon with many prisoners in Egypt at the time (Amnesty International 2001). Similar to their counterparts in Lebanon, the suspects reported undergoing anal testing, supposedly to confirm their culpability (Massad 2007). The men were tried in an Emergency State Security Court, a structure that had been established in 1981 to deal with cases that threatened national security after the assassination of the Egyptian president, Anwar al-Sadat.<sup>21</sup> The men were tried twice; once starting in July 2001, and the second time around May 2002 after the then president, Mubarak, ordered their retrial (Pratt 2007). Around half the men were found guilty of 'habitual debauchery', while one defendant (who was not present on the Queen Boat) was charged with 'contempt of religion' (Pratt 2007: 132).

The prominence of this case does not stem so much from the nature of the 'crime' or the number of suspects implicated, but has more to do with the unanticipated level of media attention the trials received. State-controlled media published several fabricated accounts of what had taken place on the Queen Boat, sometimes including the names, addresses, workplaces, and pictures of defendants prior to the verdicts. This made life after the trial difficult for many of the men involved (Pratt 2007; Whitaker 2011; Human Rights Watch 2004). Also, the (supposed) novelty and exoticism of the 'phenomenon' were emphasised, sometimes linking its emergence in Egypt to non-Muslim, non-Arab countries like the US and Israel.

A 2004 report published by Human Rights Watch claims that 179 men have been arrested or detained in Egypt under the charge of debauchery since 2001. Human Rights Watch concedes that, 'in all probability', its records represent 'a minuscule percentage of the true total' (Human Rights Watch 2004: 1). And even though Egypt's campaign against 'sexual perversion' seemed to fade out between 2004 and 2013, possibly due to pressure from international organisations like Human Rights Watch (Azimi 2006), erratic arrests continued during that period. For example, in 2008, Human Rights Watch reported the arrest of more than 24 men in Cairo and Alexandria (between 2007 and 2008) on suspicion of being HIV-positive, which was sometimes taken to be evidence of 'homosexuality'. On testing positive, the men would be chained to their hospital beds and eventually convicted of engaging in habitual debauchery.

In 2011, following the overthrow of Mubarak's 30-year dictatorship, hopes were high for a new democratically elected leadership that would bring to fruition the main demands of the revolution – 'bread, freedom, and social justice'. However, initial enthusiasm quickly collapsed with the military's assumption of power following Mubarak's removal in 2011, maintaining the status quo. The near domination of executive and legislative power by the Muslim Brotherhood (an Egyptian religious, social, and political movement) between mid-2012 and 2013 made the prospect of sexual liberation seem less likely.

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<sup>19</sup> Article numbers used here correspond to Egypt's current constitution. Same articles could be found in the 1971–2011 constitution which was operative during the Mubarak era (Articles 10 and 11).

<sup>20</sup> The exact number differs from one source to another.

<sup>21</sup> Mubarak, al-Sadat's successor, allowed for the continuation of the unconstitutional 'state of emergency' in Egypt, allowing the state to arrest citizens without due process.

However, it was after the Brotherhood's forceful removal from power by former army chief Abdel Fattah al-Sisi, and his subsequent assumption of power, that the state's attention was reverted back to morality policing. The result was heightened surveillance and penalisation of SGN behaviour (comparable to 2001–04 attitudes), specifically men practising same-sex sexual relations and 'transgender' women (Alga'fary 2014; El-Sayyid 2014; Sobhy 2014a; Trew 2014). This was part of a general crackdown on many forms of political and social dissent in the country during that time as a means of protecting the nation:

*The absence of morals from the present-day scene has allowed some people [to stoop to] this level of baseness. This burdens us with a great responsibility towards our religion, our nation, and our traditional cultural values, which reject perversion and perverts, delinquency and delinquents, those who deviate from the society's values, customs, and established traditions; and those who promote obscenity, promiscuity, and debauchery under any designation... [actions which] any honest patriot... would refuse to engage in.* (Own translation) Egypt's Minister of Religious Endowments, Mohamed Mokhtar Goma'a.  
(Abd-Elrahman 2014)

Amid largely unfavourable views on 'homosexuality' in Egypt (Pew Research Center 2013), Egyptian human rights organisations are most often reluctant to get involved in cases for fear of aggravating their already insecure standing. However, recent assaults and rumours of heightened online surveillance – part of a war on terror and debauchery – have elicited organised online responses by anonymous 'LGBT' activists (Malone and Shiloach 2014). In April 2014, Facebook and Twitter campaigns were launched in protest against discrimination on the basis of sexual orientation and gender identity in Egypt. The creators of the events claim that in the span of almost one year 'the police has arrested more than 80 people for the "crime" of being gay or transgender' (Stop Homophobia & Transphobia in Egypt 2014). The campaign, the name of which translates to 'Homosexuality is Not a Crime', encouraged people to blog and tweet for two consecutive days, using an Arabic hashtag that translates to 'Against Imprisoning Homosexuals'.

A similar campaign was run in September 2014 in an attempt to draw wider attention towards the unjust treatment of Egypt's 'LGBTQ' community and prompt an international 'solidarity protest... To tell both, the society and the Egyptian government, that people with diverse sexualities and gender identities can't be punished for who they are' (Tan 2014). The campaign would soon expand to include a protest against Blue Coat Systems. The California-based internet security firm stands accused of selling the Egyptian Government the programme that is to be used for its (allegedly more extensive and proficient) internet surveillance – a claim that the government and the company deny (Iaccino 2014).

A self-proclaimed non-profit organisation that goes by the name Solidarity with Egypt LGBT (SELGBT) claims to be responsible for organising both campaigns (SELGBT 2014). The number of people involved and their identities are difficult to confirm given the warranted anonymity of such organisations. *Mada Masr*, an independent Egyptian online newspaper that carried an interview with SELGBT, claims that the 'members are Egyptian but wish to remain anonymous' (Magid 2014). However, not all activists opt for anonymity. In 2013, Egyptian gay rights activist Ramy Youssef, 'the first Egyptian to come out on Twitter', organised a similar campaign in response to rampant homophobia on social networking websites (Carr 2013). '[T]housands and thousands of people were tweeting against homophobia using this hashtag', Youssef claimed, while giving a speech at Amsterdam Gay Pride in 2014. 'That's exactly when I knew that LGBTIQs in Egypt [no longer wish to] stay silent', he said (RNW 2014).



Although some of these campaigns have succeeded in attracting international attention (see Tan 2014; Lopez 2014; Magid 2014), their reach in Egypt has been fairly limited thus far. The general unpopularity of SGNs tends to marginalise them from other segments of society and discourage opportunities for overt cooperation and support, leaving them an easy target for state abuse.

In explaining the factors that contributed to the success of LGBT activism in Lebanon as opposed to Egypt, Azzi (2015), in an interview with Yasamin Alkhansa, said:

*Media played a key role in changing police practices [in Lebanon]... Police had to take a step back and explain themselves... because of the aggressive reaction from the media. If I want to compare that with what is happening in Egypt... the media was actually encouraging the police to do more work and clean the society from LGBT individuals, which increased the number of arrests and entrapment via social applications.*

Moreover, the continued existence of prohibitive laws in Egypt and their frequent abuse by the state inhibits the formation of an SGN community, as has happened in Lebanon and the West, that can work towards protecting its own rights or accessing services crucial to the development and safety of their own members (such as healthcare, education and employment) as well as other people.

Take the example of Nesma, a 23-year-old woman who was designated as male at birth (DMAB),<sup>22</sup> one of six DMAB women who were arrested in an apartment in Cairo in May 2014, accused of running a sex work operation (Samir 2014). The following exchange occurs between Nesma, an interviewer from the Egyptian newspaper *Al-Youm Al-Sabi*, and an unidentified man who is most likely a police officer at the detention centre:

Interviewer: Have you had a [sex change] operation?

Nesma: I want to have an operation, of course, but the operation...

Man: No! They are all male. All male.

Interviewer (addressing the officer): [According to the] ID card?

Man: [According to the] ID cards, they are males. [They have] male genitalia

Interviewer (addressing Nesma): Continue

Nesma: I consulted with a doctor for some time. I took hormones so I can get a [sex change] operation. The operation is not carried out in Egypt, it's carried out in Thailand. It is very costly. That is all.

...

Interviewer: Where are your parents?

Nesma: My parents are still here,<sup>23</sup> but they have completely rejected me.

...

Nesma: I can't get an honourable job. They will ask for my ID and papers... If I gave them my papers, they would think they're forged.

...

Interviewer: Have you had an education?

Nesma: No, I left school due to [verbal] abuse and these kinds of things  
(Own translation) (Samir 2014)

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<sup>22</sup> Popularly referred to as 'transwomen'. The Arabic newspaper reporting this incident refers to Nesma as a '*Mukhannath*' (Samir 2014). *Mukhannath* is the Arabic word for 'effeminate'. It is sometimes used to refer to effeminate men (Lagrange 2000) and is commonly used to refer to transgender women.

<sup>23</sup> i.e. alive.

This case perfectly highlights how sexual rights and the rights to education, work, and health intersect. The stigma attached to sexual and gender nonconformity, reinforced by the law, obstructed Nesma's access to education as a child and to 'honourable' employment later in life; it limited her access to healthcare, and forced<sup>24</sup> her to pursue a profession that is illegal in Egypt, leading to her subsequent arrest.

Due to the current shortage of information on similar cases in Egypt, it is not possible to determine how many other people face the same fate as Nesma. However, it is not unreasonable to assume that other Egyptian DMAB women go through similar experiences. Saleh and Qubaia (2015), in their study on the struggles of 'transwomen' in Lebanon, report similar difficulties. The stigma attached to nonconforming gender identity and expression limits the ability of Lebanese transgender women to navigate the city freely or access the same jobs as other citizens. '[M]any transwomen are pushed [into] outdoors sex work', which is illegal in Lebanon, and some have reported being sexually abused by police and judges following their arrest. HELEM's Director of Fundraising and Strategic Planning, Tarek Zeidan, reports a similar story:

*... when a transwoman would like to get a job somewhere and her official documents say male, good luck getting a job. So a lot of them end up being sex workers. And once you get an indictment for being a sex worker or for having drugs, you should forget about any embassy repatriating you, you can forget about receiving any form of assistance outside grass-roots movements, like HELEM. (Zeidan 2014)*

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<sup>24</sup> At some point during the interview, Nesma informs the interviewer that, had she been given the option of not being a sex worker, she would have gladly taken it (Samir 2014).

## 5 Conclusion

Neither Egypt nor Lebanon can be said to offer social or legal environments that are supportive of sexual and gender nonconformists (SGNs) – at least not at the present time. With the exception of restricted local efforts, there are no signs of an imminent change to the social or legal standing of SGNs in Egypt. In Lebanon, the emergence of pro-LGBT organisations has been a crucial step in their fight for social and legal rights and can be said to have led to a shift in attitudes towards some SGNs. This shift is interpreted as a product of socio-political factors that have been favourable to the introduction and emergence of new subjectivities in Lebanon.

LGBT activism in Lebanon has allowed organisations like HELEM to provide legal and health services for SGNs. But these services have arguably only succeeded in protecting a limited number of individuals, typically the more affluent members of society, while ignoring – and, in some cases, even harming – those from marginalised and disadvantaged groups, who either do not or cannot identify with the ideas promoted by LGBT organisations (Makarem 2011; Benoist 2014). Scholars such as Massad, for example, would argue that it is foreign and foreign-funded organisations (like ILGA and HELEM respectively) that are helping create gay communities in Lebanon by promoting Western sexual epistemologies and identity categories. This, according to the author, problematises SGN behaviour and subsequently elicits further intervention to support those communities (Massad 2007, 2015).

The discrimination experienced by SGNs in both countries has proven detrimental to the wellbeing of the individuals concerned and the broader societies in which they live. But promoting safety and freedom for SGNs that relies on their conflation with SGNs in the West – or representing SGN behaviour as antithetical to long-established cultural and religious values – is likely to give an inaccurate representation of SGNs in the region and their struggles (see Borai's statement at the start of this report). This, in turn, overshadows the harms caused by discriminating against SGNs and further alienates them from society. This is not meant to discourage local and international efforts to support and protect SGNs or hold local and international activists fully responsible for the current conditions; rather, it suggests the need to encourage them to adapt to the non-Western environments in which they operate.

Furthermore, it is important to invalidate the hierarchical view of development, which obscures the close links between sexuality and other, more popular issues. Doing so will not necessarily spur on CSOs to adopt the issue of sexual rights – largely due to unfavourable state and societal attitudes towards SGN behaviour. But it will, at the very least, refute opinions suggesting an irrationality and impracticality in working simultaneously on various pressing development issues, and highlight the need to start a serious national discourse to address the issue.

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