

Third cycle

# **UNIVERSAL PERIODIC REVIEW - LEBANON**

*The LGBTIQ+ community in Lebanon.  
by Proud Lebanon*

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

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During its second cycle review, Lebanon has received 10 recommendations on sexual orientation and gender identity and 'noted' them all. This includes "Repealing Articles 487, 488, 522 and 534 of the Penal Code", and "decriminalizing homosexuality and ensure non-discrimination on the basis of sexual orientation and gender identity".

Proud Lebanon is glad to be sharing with you the following report, where issues faced by the LGBTIQ+ community in Lebanon, and will cover multiple axes including the civil and political rights in addition to social-economic rights.

The following report has been designed to be submitted to the third cycle of the Universal Periodic Review of Lebanon.

## **Article 534 of the Lebanese Penal Code**

Article 534 of the Lebanese penal code criminalizes sexual intercourse that happens against the order of nature, for it states: *"any carnal union against the order of nature shall be punished with imprisonment for up to one year."*

We have been seeing progress when it comes to court rulings since the 2<sup>nd</sup> cycle of UPR for Lebanon, where some judges are ignoring the application of article 534 and enforcing principles such as equality. In July 2018, the Penal Appeal Court of Mount Lebanon upheld a lower court ruling which acquitted nine people prosecuted over being gay. The lower court held that homosexuality was "a practice of their fundamental rights". The Appeal Court agreed and found that consensual sex between same-sex partners cannot be considered "unnatural" so long as it does not violate morality and ethics, such as "when it is seen or heard by others, or performed in a public place, or involving a minor who must be protected"<sup>1</sup>.

In 2019, the former military Court Judge Peter Germanous acquitted four military personnel accused of "sodomy" in a landmark ruling, clearing the group of charges of committing sexual acts *"contrary to nature"* and declaring that sodomy is *"not punishable by law"*<sup>2</sup>.

On a more positive note, some political parties and deputies cooperated with Proud Lebanon to issue the draft of a proposal to amend article 534 of the Lebanese penal law, such as Al Kataeb, Lebanese Forces, the progressive socialist party and Paula Yacoubian. The law draft was not put forward since Proud Lebanon was advised by some political parties that it was not the time to submit such a law draft proposition.

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<sup>1</sup><https://www.metroweekly.com/2018/07/appeals-court-lebanon-rules-consensual-same-sex-relations-not-unlawful/>

<sup>2</sup> "Lebanon court 'acquits military personnel' in sodomy case". Al Jazeera. 30 Mar 2019.

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- In 2017, and following the mass movement of the LGBTIQ+ community in Lebanon preparing Beirut Pride, The Muslim Scholars threatened to shut the event if the government won't comply in canceling the events organized for the anti-homophobia day; an event prepared by Proud Lebanon.
  - In addition, LGBTIQ+ individuals are systematically subjected to HIV and Drug testing on arrival to the Hbeish morality police station (Ras Beirut) morality police station, and are sometimes moved to Ramlet El Bayda Police Station due to the overpopulation in the first place. HIV individuals are separated from the rest of the inmates in case they are HIV positive and mainly kept at the blue building once transferred to Roumieh central prison.

## **Recommendation**

- Lebanon should explicitly prohibit discrimination on the basis of sexual orientation and gender identity and ensure that LGBTIQ+ individuals are afforded both in law and in practice adequate and effective protection against all forms of discrimination, hate speech or violence based on sexual orientation or gender identity, and that such acts are properly investigated, prosecuted and, if the perpetrators are convicted, punished with appropriate penalties.
- In reference to Slovenia's, Norway's, Sweden's, Austria's, Spain's, Canada's and Czechia's recommendation during the 2nd cycle of the UPR for Lebanon, Lebanon should decriminalize sexual relations between consenting adults of the same sex with a view to bringing its legislation in compliance with the Covenant, and take all measures necessary repeal article 534 of the Lebanese Penal Code. This recommendation has been noted and not supported. In this round, We recommend that these countries would pressure on the fact that Lebanon should adopt this recommendation.
- Coordinate with the independent expert on sexual orientation and gender identity (SOGIE).
- Provide extensive trainings to judges on sexual orientation and gender identity.
- Implement new legislations that criminalize all types of discrimination and hate speech based on sexual orientation or gender identity.
- Ban the use of anal probe tests.
- Ensure the presence of lawyers during the interrogations by amending the criminal procedure code, free of cost by initiating the Beirut Bar Association and the Tripoli Bar Association.

## **Civil rights of the transgender people**

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

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The competent tribunals to lookup transition procedures are personal status courts, which are governed by religious institutions in the absence of any civil personal status law in Lebanon. In January 2016, the Court of Appeals of Beirut confirmed the right of a transgender man to change his official papers, granting him access to necessary treatment and privacy. Transgender people are required to undergo sex reassignment surgery in order to change their legal gender<sup>3</sup>.

On the 9<sup>th</sup> of March 2020, a video appeared on a Facebook page<sup>5</sup> of municipality police officers beating up a transsexual woman was all over social media. Proud Lebanon was informed by the general prosecutor of Mount Lebanon Nazek El Khatib that she interfered and opened an investigation on the spot to arrest the police members for excessive use of force, later on a migrant worker approached the prosecutor to clear the incident and claim she was the victim and not the transsexual women.

### **Recommendation**

- Adopting a civil personal status law code that is applied to all citizens ensuring equality.
- Implement new decrees that regulate the legal transition of transsexuals in Lebanon and specify the procedures and the requirements.
- Capacity building of both law enforcement officers and judges working in personal status courts on sexual orientation and gender identity.

### **Torture and the LGBTIQ+ community**

Lebanon has ratified the convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, and has implemented the law of October 26 2017<sup>4</sup> that condemns torture. However, the LGBTIQ+ community is among the ones suffering from ill-treatment during detention committed by security forces.

In addition, the anal probe tests remain the ultimate tortuous action LGBTIQ+ individuals face during detention and that continues to be used every time an individual has been arrested under article 534 of the Lebanese penal code. Effectively, detainees have the right to refuse to undergo such tests, but are left no choice when detained.

LGBTIQ+ individuals are often detained for long periods of time without having any legal justification for their detention. The conditions in which those individuals are kept are horrific and inhuman, in addition to the humiliation that they face from law enforcement personnel, other inmates, in addition, having that lawyers are not allowed to meet with the LGBTIQ+ detainees nor attend the interrogations.

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<sup>3</sup> <https://www.aljazeera.com/indepth/features/2016/02/transgender-ruling-lebanon-empowering-moment-160206125311413.html>

<sup>4</sup> <https://www.hrw.org/news/2017/11/13/lebanon-new-torture-law-positive-incomplete>

<sup>5</sup> <https://www.facebook.com/watch/?v=239712440532068>

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## **Recommendation**

- Enforce the anti-torture law of October 26 2017 that bans all types of ill-treatment by security forces.
- Sue every law enforcement personnel and hold him accountable for having committed an act of torture by applying the law of 2017.
- Provide rehabilitation and compensation to the victims of torture.
- Train the prosecutors and prosecutor's offices' staff on sexual orientation and gender identity issues to avoid any kind of excessive use of power.

## **LGBTIQ+ individuals in detention centers and prisons**

When detained, the LGBTIQ+ community members are obliged to undergo HIV testing, and are frequently moved to the blue building of Roumieh prison, alongside people living with HIV. The blue building is known to be the mental illness department, which doesn't justify moving LGBTIQ+ individuals there.

Knowing that the antiretroviral treatment is provided by the National Aids Program for all diagnosed detainees.

Detained LGBTIQ+ are subject to bullying from some law enforcement personnel, which often leads to bullying, rape, sexual assault and abuse from their fellow inmates.

## **Recommendation**

- Train law enforcement personnel working in the different prisons on sexual orientation and gender identity by implementing the "Towards the Effective Protection of LGBTI Persons Deprived of Liberty" prepared by the APT.
- Train the Human Rights department at the ISF to be more LGBTIQ+ inclusive in their approach.
- Integrate the LGBTIQ+ individuals in a safe detention system that includes all inmates.
- Provide protection to LGBTIQ+ individuals in all detention centers and prisons.

## **Mobile Phones - a new way to intimidate LGBTIQ+ individuals**

Article 224 of law 17/1990 states that law enforcement personnel should not bother citizens in their private life. Based on that law, the cassation penal court of Beirut, led by Judge Rabih Maalouf in 2019, ruled that it is forbidden to search detainee's mobile phones without permission from the court. However, queer dating applications, messages and pictures found on the phones of members of the LGBTIQ+ community are used to

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intimidate the detainee in order to force them into confessing their sexual orientation or gender identity, and therefore be sentenced under article 534 of the penal code. Even though gender identity does not contradict article 534 of the Lebanese penal code, transsexual individuals are still being charged with this article. The Lebanese legal system is not based on precedents, which opens the way for judges to explain articles in a broader way: In the LGBTIQ+ case, this opens the door for unlawful interpretations.

### **Recommendation**

- Ensure that the privacy of detainees is respected by ensuring the application of law 17/1990.

### **LGBTIQ+ themed related censorship**

"I Say Dust", "Wasp", "L'inconnu du lac" are among a long list of LGBTIQ+ Themed movies that were not granted screening permits by the Lebanese censorship bureau due to their LGBTIQ+ themes; the bureau is referring to the existence of the article 534 as a reason to ban these movies. In order to avoid this obstacle, festival organizers are forced to screen such movies at the French cultural center located at the French embassy.

In 2018, LebMash launched an advertisement that promotes tolerance toward the LGBTIQ+ community, where it said "Homosexuality is not a disease". However, those banners were shut down by the General Security after they were displayed on the roads.

In 2019, a concert was to be held by Mashrou' Leila (an LGBTIQ+ friendly band) in Byblos, however, it was cancelled due to major opposition from Christian religious figures. This topic caused huge controversy in Lebanon due to the intervention of religious authorities in art expression.

### **Recommendation**

- Stop the intervention of religious figures (specifically the catholic media center) from imposing their religious dogma leading to censoring art and stop all types of censorships by closing the censorship bureau.
- Support cultural activities that have LGBTIQ+ themes as it fights discrimination and stigma related to this community.

### **LGBTIQ+ events cancelled**

Proud Lebanon's events and activities were frequently targeted by religious figures (both Christian and Muslim).

In 2017 the Muslim Scholars in Lebanon led a huge campaign against the Anti-homophobia events organized by Proud Lebanon, where the security forces put pressure on the venue where the event was taking place to cancel the reservation claiming that "they cannot

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guarantee [participants] security”, in addition, they disseminated to all event venues across the city the notion that Proud Lebanon cannot host its event somewhere else in Lebanon. This issue left Proud Lebanon unable to move its event somewhere else and potentially being targeted by fanatic groups without any protection by security forces. This issue was faced a couple of days later by other organizations.

In 2018, The Beirut Pride organizer got detained and was forced to sign a pledge to stop all LGBTIQ+ related events.

In 2019, Beirut Pride events got canceled after religious authorities raised objections and considered the event to be a “debauched and immoral” event.

### **Recommendation**

- Respect the constitution and ensure that all citizens have the right to organize their cultural events.
- Condemn all types of hate speeches especially against the LGBTIQ+ community.
- Ensure that all civic rights are respected.
- Ensure that protection is ensured to all citizens.
- Organize national campaigns that promote diversity and tolerance.

### **The right to freedom of peaceful association**

According to the old Ottoman law still enforced, organizations are required to register at the ministry of interior in order to be able to open a bank account, and therefore collect funds. It is to be noted that the ministry of interior won't grant the NGO the registration record if the demander states that they are working for the LGBTIQ+ community.

Accordingly, people wanting to work for the LGBTIQ+ community and open NGOs are forced to mask the term and register their organization under other subjects, such as dealing with vulnerable groups without literally stating to the ministry of interior that said association wants to work with the LGBTIQ+ community.

### **Recommendation**

- Legislate a new law that allows the independent creation of NGOs without requiring the prior approval of the ministry of interior, and therefore amend the currently enforceable ottoman law.
- Provide support to the LGBTIQ+ organizations that includes funds and capacity building.

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## **The right to work**

The right to work is a constitutional right guaranteed by the 1990 constitution of Lebanon, not only that but also, it is guarded by the ICCPR which Lebanon has ratified. However, it has been witnessed that a lot of members of the LGBTIQ+ community have lost their jobs due to their sexual orientation or gender identity without compensation.

Helem Organization heard the story of a victim: *"when I was arrested, a police officer called my workplace to inform them about my arrest. When I was released, I was expelled from work for no valid reason."*

Effectively, people living with HIV have also lost their jobs and got their reputations ruined by their former employers due to their treatable illness.

### **Recommendation**

- Modify the Lebanese labor law and include the rights of the members of the LGBTIQ+ community by considering firing an employee for sexual orientation as a case of unfair and arbitrary dismissal.
- Provide employers training on the right of the members of the LGBTIQ+ community.

## **The right to health**

PrEP and PEP are methods for preventing HIV infections that involve taking HIV medicines. PrEP is not available in Lebanon through any program; it can be found in pharmacies but is very expensive.

PEP is only available through the National AIDS Control Program for heterosexual married couples where one of the partners is living with HIV, in which case it is provided free of charge. Not only that but it is also available for victims of rape, LGBTIQ+ couples and heterosexual couples.

The latest numbers in the 5 past years are showing that HIV is increasing within the LGBTIQ+ community which means that it is being transformed into an epidemic, which explains the needs of PrEP and PEP in Lebanon. Based on the epidemiological report of the National AIDS program, 204 new cases of HIV were reported in 2019, out of which 191 are for homosexual individuals (94.1%).

Rapid, confidential and free testing for HIV is provided free of charge in Lebanon by the NAP through a number of organizations like Proud Lebanon.

The LGBTIQ+ community has to live through the pressure of the society, where they are marginalized and judged. Members of the community suffer from anxiety and stress that can lead to depression and sometimes suicide! Omar, a 28 year-old member of the LGBTIQ+ community was offered to have sex with a woman by his father, but kindly



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declined. He said: *"I had suicidal thoughts - and when I said that to my dad, he expressed a sort of relief if I would commit suicide to relieve the shame on the family."*<sup>5 6</sup>

Even though the Lebanese labor law gives all employees the right to social security (CNSS), the services provided by this program do not cover the basic needs of the LGBTIQ+ community such as free therapy sessions with licensed professionals. It is to note that transsexuals have to pay for their gender surgery since it is not covered by the ministry of health.

## **Recommendations**

- Provide PEP to members of the LGBTIQ+ community for free.
- Provide PrEP for free to the communities at risk.
- Provide healthcare assistance to all members of the LGBTIQ+ community, for free by including the specific needed services in the CNSS (such as free therapy sessions).
- Make transitioning surgeries free to all transsexuals in Lebanon by allocating a special budget in the ministry of health and adding the transition as a free service in the CNSS.

## **COVID19 and the LGBTIQ+ community**

The COVID-19 crisis is having a specific impact on LGBTIQ+ people. LGBTIQ+ people need safe and dignified health care, protection from safety and security risks resulting from movement restrictions, and assistance to overcome loss of livelihoods. In many instances, these challenges faced by LGBTIQ+ people during the COVID-19 crisis are exacerbated by entrenched legal, social and economic inequalities.

In addition to needs in the relief phase, discrimination experienced by LGBTIQ+ people in families, communities, workplaces and other contexts will provide additional challenges for re-establishing livelihoods and managing stress during recovery phases. LGBTIQ+ CSOs and allied organisations<sup>2</sup> have reported that:

- LGBTIQ+ has lost livelihoods, especially transgender and gender diverse people who rely on street-based work or charity. Losses of income and movement restrictions have affected access to food, accommodation and other basic necessities.
- Living constraints have forced some LGBTIQ+ people into potentially unsafe living arrangements with family members who do not accept diversity of gender and/or sexuality. Enactment of emergency laws has led to fears of abuse and violence against diverse the LGBTIQ+ community.
- LGBTIQ+ individuals often have significantly lower health outcomes than others, due to access issues related to stigma and discrimination, lack of legal identification

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<sup>5</sup> <https://www.reuters.com/article/us-lebanon-lgbt-health/i-had-suicidal-thoughts-gay-lebanese-speak-out-against-conversion-therapy-idUSKCN1ND32V>

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documents, bias from healthcare providers, and limited financial resources. Consequently, they are more likely to have underlying health conditions, including HIV and other chronic illnesses. The multiple and intersecting vulnerabilities experienced by LGBTIQ+ people place them at higher risk of developing mental health issues, for which there is often little to no access to specialized psychosocial services. LGBTIQ+ people are also more likely to live in informal housing and areas without safe and reliable access to Water, Sanitation and Hygiene facilities, and so are less equipped to engage in preventative health measures.

### **Recommendation**

- Support community-based response to meet immediate community needs by providing quick-response low-complexity funding.
- Support regional coordination between LGBTIQ+ organizations, governments and traditional humanitarian actors.
- Ensure that the design of COVID-19 specific emergency response programs addresses the rights, needs and strengths of the LGBTIQ+ community, in areas including food, shelter, psychosocial support, and early recovery.