



OUR IDENTITIES UNDER ARREST

A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions

2023

SECOND EDITION



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A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions

2023

Second Edition

Geneva – November 2023

ilga.org

CONTENT WARNING

This publication contains written descriptions and illustrations depicting physical and sexual violence, abuse, torture, death, and extreme homophobia, transphobia, and prejudice.

Reader discretion is advised.

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Foreword from the ILGA World Co-Secretaries General

By Luz Elena Aranda¹ and Ymania Brown²

In December 2021 we at ILGA World proudly launched the first edition of *Our Identities Under Arrest*. Perhaps the first report of its kind. This report shed light on an area that remains under-investigated and under-reported: how laws criminalising diverse sexual orientations, gender identities, and gender expressions, are enforced in practice.

Now, we are proud to present to you an expanded and updated second edition of this groundbreaking publication, which collates over 1,000 cases of criminal enforcement from 70 countries across the globe. The data contained herein is perhaps more important now than ever before.

The stories shared here underscore the importance of challenging not only explicit legislation but also the subtle mechanisms of oppression that target our communities. It is these stories that urge us to continue our advocacy and activism with renewed vigour. These stories show what the impersonal legal jargon means in practice, affecting people's lived experiences in ways that demand our attention and action.

We are grateful to the passionate activists, allies, researchers and members who have collaborated tirelessly to bring these narratives to light, and who work in this field daily at great risk to themselves. Their dedication allows us to witness to the human impact of these oppressive laws, and to stand in solidarity with those who persist despite the odds being stacked against them.

We also extend a deep thanks to the consultants of the ILGA World Research Programme for their labour, not just in putting together this publication, but in monitoring legal

developments and news stories with cutting-edge new tools, such as the *ILGA World Monitor*. Sifting through terms and sources validated by our member organisations in over 70 languages, the *ILGA World Monitor* offers us a real-time wellspring of information and has become an indispensable cornerstone of ILGA World's work. These data collection efforts in this era of increased backlash and negativity are an embodiment of the very principles that fuel our ongoing fight for justice and equality from an intersectional feminist perspective.

Yet many stories remain untold, buried in the shadows of under-reported jurisdictions and unrecorded violations. This incompleteness serves as a stark reminder of the urgent need to persist in our efforts, to illuminate the obscured narratives, and to amplify the voices of those rendered voiceless by systems of power.

To the resilient voices of our community whose experiences are documented in this report, we say: **Your stories matter, and we are committed to building a safer and more compassionate world with you.**

To those whose voices have not yet been documented or gained international attention, we say: **We will keep striving for systemic change – equality, freedom, and social justice – for you.**

And to those who seek to harm or erase us by enforcing and expanding violent and abusive legislation, we say simply: **The world is watching you, we are watching you.**

¹ **Luz Elena Aranda** (she/her) is a bisexual *activist*. She studied Dramatic Literature at UNAM and Ethnology at ENAH, in addition to a technical career in Production in Media and Communication at the Ansel Adams Photography School. She is the General Director of Las Reinas Chulas Cabaret and Human Rights AC and Director of the International Cabaret Festival. She has worked in different organizations, including ProDesarrollo, Finanzas and Microempresa (where she developed the theatre component for the Methodology for the Incorporation of the Gender Approach in the Mexican Microfinance Institutions MEGIM), Faces and Voices FDS, AC (where she created the campaign against poverty I look, I know, I act), and Oxfam Mexico, where she was a consultant for the project Building an integrated approach to inequality: indigenous peoples, rural populations and women victims of violence in Mexico. She obtained the Leadership Scholarship from the MacArthur Foundation through the Mexican Society for Women's Rights AC (SEMILLAS) and the recognition "Women investing in women" by the same institution. She is part of generation 54 of the Global Women in Management program: Advancing Women's Economic Opportunities sponsored by CEDPA and EXXON MOBIL.

² **Tuisina Ymania Brown** (lau afioga/lau tofa) is an unyielding pillar in the global trans movement. A proud fa'afafine trans woman from Samoa, she lives in Brisbane, Australia, on the lands of the Yaggers nation people. A testament to resilience, triumphing over child rape, spousal gender-based violence, racial profiling, and unrelenting anti-trans violence, she is a compelling public speaker and former intellectual property attorney. She's a devoted mother to two adopted sons and a recent grandmother. With over 15 years in international NGOs, she serves as co-Secretary General at ILGA World, and her affiliations include former Co-Chair role in the Global Interfaith Network on Sex, Sexual Orientation, Gender Identity, and Expression (Johannesburg), International Advisory Board Member for Copenhagen2021 (Copenhagen), former International Advisory Board Member Astraea Lesbian Foundation for Justice (New York), and Co-Chair of the International Trans Fund (Toronto) and a number of specific campaign related committees. She was the Strategic Adviser/Project Lead for Equality Australia/Sydney World Pride award winning Human Rights Conference, the largest-ever LBTIQ+ human rights conference in the world as part of Sydney World Pride 2023 and she is the Chair of the newly formed TransEquality Council in Australia.

About the Authors

This ILGA World report has benefited from the dedicated and collaborative efforts of several individuals who have played key roles in its creation. ILGA World extends our gratitude and recognition to the following individuals:

Lead Author: Kellyn Botha.

Contributing Authors: Alan Cueli, Alejandro Hilarión Moncada, Hanlu Hu, Claudia Langianese, Taha Laroussi, Sebastián Martínez Peralta, Curro Peña Díaz, Alexa Rogers, and Dhia Rezki Rohaizad.

Editor: Lucas Ramón Mendos.

The lead author, contributing authors, and editor have collectively invested substantial time, expertise, and commitment in crafting and refining the content within this report. Their contributions have been instrumental in ensuring the quality, accuracy, and cohesiveness of the information presented. The lead author has been responsible for guiding the overall narrative of the report and overseeing the coordination of the creation and validation of content from various contributors, with assistance from the editor. The lead and contributing authors have conducted research, corresponded with activists for consultation and validation purposes, and contributed valuable insights to the specific sections they were responsible for. The editor has reviewed the report, ensuring clarity, coherence, and adherence to our organisation's standards.

Below, readers will find concise biographical profiles of each individual mentioned above, presented in alphabetical order.

Kellyn Botha – Lead Author

Kellyn (she/her) is an LGBTQI+ human rights defender from South Africa. She holds a Bachelor of Journalism from Rhodes University with a secondary major of Politics and International Relations. She also holds a Master's in Film Studies from the University of the Witwatersrand, having produced a thesis on the representation of transgender women in the media.

Her advocacy work has included communications, documentation, research and educational-outreach for a number of South African and international organisations such as Irantí, the Gay and Lesbian Archive of South Africa (GALA), Matimba, and Pan Africa ILGA. She sits on the Wits RHI Trans Health Clinic Community Advisory Board and in the Department of Basic Education Social Inclusion Working Group in South Africa.

As an ILGA World Research consultant, Kellyn has contributed to the 2020 *State-Sponsored Homophobia Update* report, and authored the first edition of *Our Identities Under Arrest* in 2021, as well as working on a range of additional projects within the research programme.

Alan Cueli – Contributing Author

Alan (he/him) is an ILGA World Research Consultant hailing from Buenos Aires, Argentina. He is an activist who is currently a student pursuing a Bachelor's degree in English Translation at the University of Buenos Aires. Additionally,

he has completed Chinese language proficiency courses at the National Taipei University of Education, which enables him to assist in media-monitoring for Chinese media outlets.

Alejandro Hilarión Moncada – Contributing Author

Alejandro Hilarión (he/him) is a social communicator and journalist trained at the University of Manizales in Colombia. He is currently engaged in research and media-monitoring at ILGA World as a Research Consultant. He was trained as an intern with the Women Foundation and Youth Social Impact Leaders in soft skills, leadership, and the creation of social projects focused on the United Nations 2030 Agenda.

Alejandro founded *Vive Positivo*, a project focused on informing and breaking down stigma around HIV, with the objective of making the situation around the virus visible, and involving the youth population in Manizales in sexuality issues.

Hanlu Hu – Contributing Author

Hanlu (she/her) is a Research Consultant at ILGA World, and a 30 for 2030 Youth Leader with UN Women Asia and the Pacific. Holding a Master's in International Affairs from the Geneva Graduate Institute of International and Development Studies (Switzerland), Hanlu is embarking on an MSc in International Project Management at the ESCP Business School (France).

A passionate Chinese queer feminist with a rich interdisciplinary background, Hanlu holds a strong commitment to gender equality. Her past work includes roles as a Youth Envoy for EQUALS-EU, an EU-funded initiative promoting digital gender equity in Europe, as well as internships at the United Nations Industrial Development Organisation (UNIDO) Vienna headquarters and United Nations Children's Fund (UNICEF) China.

Claudia Langianese – Contributing Author

Claudia (she/her) is an Italian human rights researcher and defender with a specific interest in the topic of violence and discrimination against LGBTQI+ people, women and children. She holds a Master's in Law from the University of Roma Tre and has experience in the field of Refugee Law. Claudia recently finished an LL.M in Human Rights and Humanitarian Law at the Geneva Academy. In 2023 she joined ILGA World's research programme as a Junior Consultant.

Taha Laroussi – Contributing Author

Taha (he/him) is a Junior Consultant working with the ILGA World research programme from Morocco. He holds a Bachelor's degree in Sociology, where he researched the impact of cultural globalisation through Instagram on youth cultures. He has contributed to the ongoing media monitoring, Database development, and a number of research projects with the ILGA World team, and offered insights, trainings and translations for Arabic-language sources.

Notably, before joining ILGA World, Taha worked on oral history and archival projects for the “Tarikhna Hna” archive project of the Tanit Feminist Research Platform, where he currently holds the position of Research Coordinator. Additionally, he has consulted for the Astrea Lesbian Foundation for Justice as the Assistant Consultant of Morocco. His other work and activities can be found on [LinkedIn](#).

Sebastián Martínez Peralta – Contributing Author

Sebastián (she/her) is a law student in Guatemala with two years of experience in LGBTI strategic litigation, advocacy and activism. She's passionate about International Human Rights Law and Public International Law, and is particularly interested in the topics of the application of the conventionality control and the use of constitutional principles as means to secure LGBTI protections.

She is currently part of the board of the organization *Visibles*, where she has worked as a legal consultant, has delivered educational workshops on LGBTI topics, and is currently leading efforts to build a cohort of youth-focused civil society organisations to advance civil rights in Guatemala. She is also presently a Junior Consultant with the ILGA World research programme.

Lucas Ramón Mendos – Editor

Lucas Ramón (he/him) is a lawyer (University of Buenos Aires; *cum laude*), as well as a professor and researcher, with a Master's in Sexuality and Law (University of California, Los Angeles, UCLA; *cum laude*). With more than 15 years of experience working in the public sector, international organisations, and civil society organisations, he has focused his career on sexual and gender diversity issues in the field of international and comparative law for more than a decade. As Research Manager at ILGA World, he leads the organisation's global research work. In this position, he oversees the creation and implementation of high-impact projects that further ILGA World's mission, such as the *ILGA World Database* and the *ILGA World Monitor*.

Prior to joining ILGA World, he worked at the LGBTI Rapporteurship of the Inter-American Commission on Human Rights (IACHR), the Williams Institute of the University of California at Los Angeles and the Swedish LGBTQ Federation (RFSL). In Argentina, he served as an advisor on diversity issues at the Secretariat of Human Rights of the Province of Buenos Aires, and intervened in international litigation and as a defence lawyer for asylum seekers at the National Public Defender's Office (Defensoría General de la Nación).

In addition to his work at ILGA World, he is also a guest lecturer in several academic courses on sexuality and law. Through his work as a professor, he has the privilege of inspiring and guiding the next generation of LGBT human rights defenders around the world.

Curro Peña Díaz – Contributing Author

Curro (he/him) is a Spanish lawyer, researcher and communicator specialising in International Human Rights Law and Refugee Law from a queer perspective. He holds a PhD in Law from the Universities of Milan and Málaga with a thesis focused on the rights of LGBTI+ asylum-seekers in the Common European Asylum System.

Curro has worked as a consultant for the Council of Europe to evaluate the situation of trans rights in Spain and to develop an e-learning course for legal professionals on the rights of LGBTI+ asylum-seekers. He has also consulted for the Spanish Ministry of Equality and several NGOs on topics such as LGBTI+ asylum and the legal gender recognition of non-binary identities.

He is currently a Research Consultant with ILGA World. Moreover, he's authored the blog *Queerídico.es* and raises awareness on human rights issues on his X (@Currikitaum) and [LinkedIn](#) accounts.

Dhia Rezki Rohaizad – Contributing Author

Dhia Rezki (he/him) is a human rights defender and social scientist from Kuala Lumpur, Malaysia. Over the course of his career, he has worked in the areas of educational gender equity, refugee rights to education, prison health management, and LGBTQ+ equality in local and international non-governmental organisations, as well as in grassroots movements.

He is currently a Research Consultant with ILGA World and the Deputy President of JEJAKA, a Malaysian NGO focussed on providing differentiated HIV services and advocating for LGBTI equality. He also sits on the executive committee of the Country Coordinating Mechanism (CCM) of Malaysia in overseeing the strategic implementation of the national HIV/AIDS response.

He is a 2022 YSEALI Professional Alum with the Stonewall Caucus of the Democratic Party of Hawai'i. He is also a Konrad-Adenauer-Stiftung (KAS) Young Scholar, currently undertaking a Master's in Development Studies at the University of Malaya. Before that, he earned his Bachelor of Commerce in Accounting and Commercial Law from Victoria University of Wellington as a MARA scholar.

Alexa Rogers – Contributing Author

Alexa (she/her) is a human rights lawyer from the United States. She holds a Juris Doctor from CUNY School of Law and has recently completed a Master's in Transition Justice, Human Rights, and Rule of Law at the Geneva Academy of International Humanitarian Law and Human Rights. In 2023 she joined ILGA World's research programme as a Junior Consultant.

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Special gratitude is extended to ILGA World's dedicated consultants and junior consultants, past and present, for their pivotal role in maintaining ILGA World's media monitoring. Their commitment and expertise have been instrumental in the success of this endeavour. The results of their work ignited the concept of creating this comprehensive document. The capabilities of our media monitoring consultants in collecting, curating, and organizing media data have not only made this report possible but have also enhanced its quality and depth. We extend our sincere appreciation to the whole team consultants and especially to NAFTEC Ltda. for their unwavering commitment and innovative technology, which empowers us to create a meaningful impact.

The authors are deeply appreciative of the expert support and guidance of this report's editor, Lucas Ramón Mendos, without whom this publication would largely not have been possible.

Special thanks to all ILGA World staff and especially to Senior Decriminalisation and Regions Engagement Officer, Stephanie Leitch; UN Programme Consultant, Gitau Mwangi; Communications Manager, Daniele Paletta; and Communications Consultant, Suelle Anglin.

Lastly, the authors and editor extend a special thanks to the many researchers and human rights defenders listed below for their assistance and contributions to this edition of the report. Without the insights of individuals and organisations working in criminalising countries and with criminalised communities, the difficulty faced in identifying, verifying, and understanding the situations in these spaces would be made many times more difficult. We acknowledge the risk that many of these contributors have put themselves through in the name of defending our communities and attaining equality, and hope for a day where many of those who assisted in this document need not be kept anonymous for reasons of safety and security. Named or not, their labour is deeply appreciated.

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Lead Author's Preface

By Kellyn Botha

Two years after the launch of the first edition of *Our Identities Under Arrest*, it is with great pride that I can finally introduce readers to the updated second edition of this unique report. To date, no other publication attempts to compile information on the enforcement of criminalising legislation at the international level in quite this way, bringing together as much information as possible about these issues under one roof, for activists, researchers, and legal professionals.

Since the publication of the first edition of the report back in 2021, we have seen clear signs of the value thereof. *Our Identities Under Arrest* has been cited in Country of Origin Information (COI) reports issued by migration and asylum governmental agencies in multiple key receiving countries, including the United Kingdom Home Office, and in some published decisions from within the office of Belgium's Commissioner General for Refugees and Stateless Persons (CGVS) as well as reputable organisations dedicated to producing COI Research. Anecdotally, human rights defenders within the European Union have also informed ILGA World of the role that this report has played in preventing the unjust deportation of asylum-seekers of diverse SOGIE.

Though perhaps small in the grand scheme of things, the above examples demonstrate not only the value of this work to those working on migration and asylum issues, but also to the vulnerable human beings who face persecution the world over. Those whose testimonies may not be taken seriously by the powers that be when attempting to flee to safety. Indeed, we have seen in recent years a disturbing trend toward the undermining of international law and established human rights frameworks by a well-funded anti-gender and anti-democratic movement. The fight to ensure the safety of our global community is more dire now than ever. The human stories contained within this report, then, serve as a visceral reminder to readers of the importance of this work in a context where, increasingly, we cannot rely solely on raw data or legal analysis to sway hearts and minds.

If nothing else, we hope that this publication will serve as a snapshot of our time. A history lesson for those who come after us, and a rallying cry for those still doing the important work of decriminalisation.

Their efforts, and the efforts of those existing within criminalising States to offer legal, financial, and other forms of support to our communities, vital and yet so often overlooked. By the very nature of this report, though, positive developments are obscured. Our focus remains on the very real targeting of our communities, and the backsliding seen in multiple jurisdictions. But that does not mean there is no hope. Progress, though sometimes small, has buoyed our spirits through the last two years of writing this report.

Since 2021, five countries have decriminalised same-sex sexual acts between consenting adults. Antigua and Barbuda, Barbados, Saint Kitts and Nevis, Singapore, and Mauritius have all taken steps toward equality for our communities. In Guyana, Sri Lanka, Lebanon, Namibia and elsewhere, we have seen steps at varying levels of the State which give us hope that the third edition of this report will contain fewer entries, not more.

But it is perhaps unwise to think in these terms. Any apparent trends in one direction can unexpectedly change course. In 2023 Uganda adopted aggressive new legislation, the negative impact of which is already being felt across the region. Kenya, Tanzania, Nigeria, Ghana and Senegal have made attempts to also aggravate their existing legislation, while Niger, Mali, Iraq and Indonesia have experienced increased efforts to formally criminalise our communities where no law existed before. Experience thus tells us that the path to equality is rarely a straight line.

As the lead author of this report, I would like to extend my deepest gratitude to all of those who helped me to track that line, through all of its twists and turns. The labours and insights of my co-authors, our editor, and our colleagues at ILGA World are the ones who made this report possible through both personal and professional hardship.

Mostly, though, I must thank the human rights defenders working internationally and on the ground for the time they have taken to review our entries and steer us right wherever we may have missed or misunderstood something. If one thing comes of this report, I hope that it will be for its readers to take the time to engage with ILGA World's member organisations directly, to learn from them, and to assist them, as they fight the good fight for us all.

Methodology

Our Identities Under Arrest is an exploratory study which compiles hundreds of examples of enforcement of criminalising legislation from several UN Member States and other jurisdictions, and provides an overview on how these laws appear to have been enforced in each country. In particular, this report incorporates and contextualises various examples of arrests, pre-trial detentions, prosecutions, imprisonment and other State-backed actions against consensual same-sex sexual activity and free gender expression.

1. Subject matter

Being a report on the enforcement of criminalising legislation or policies focused exclusively on consensual same-sex sexual acts and gender expression, the parameters for inclusion of documented instances are necessarily restrictive.

Though a few exceptions may be highlighted in certain jurisdictions for reasons explained in each case, the scope of this report generally **excludes** the following:

- Arrests or legal proceedings on the basis of non-consensual same-sex activity (rape, sexual assault, or incidents involving minors). To this end, two specific elements are always corroborated for every single entry to the best of ILGA World's ability: (a) that the ages of everyone involved in any alleged sexual activity is above 18 years of age, in line with the definition of "child" under the Convention on the Rights of the Child, and regardless of lower local ages of consent; and (b) that the alleged conduct in question was consensual. Instances were discarded where lack of clarity affected any of these two requisites.
- Arrests or legal proceedings brought against individuals of diverse SOGIE on the basis of their real or presumed status as sex workers, persons dealing with narcotics addictions, "vagrants", etc.¹ Actions by law enforcement, courts or other State actors against individuals of diverse SOGIE for reasons deemed irrelevant to their identities, sexual activities, gender expressions or public advocacy.
- Incidents of violence, harassment, or intimidation from State actors that appear to be due to personal or institutional prejudice, rather than forming part of any overarching policy.
- Cases of deportation or *refoulement* of individuals of diverse SOGIE from non-criminalising countries back to criminalising ones, unless the incident can be directly tied to a known case of criminal enforcement.
- Acts of discrimination against individuals of diverse SOGIE in the sectors of employment, healthcare, education, etc.
- Prohibitions on legal gender recognition and gender-affirming care for trans and gender-diverse persons.
- Detention conditions of trans and gender-diverse persons in prisons, police stations, or other detention facilities not aligned with their gender, unless the detention itself comes as a result of criminalisation.
- Prohibitions on same-sex marriage, adoptions, or rainbow family issues broadly, where the threat of incarceration or criminalisation is not present.
- The prohibition of same-sex sexual acts, gender-affirming medical processes, or bans on the participation of persons of diverse SOGIESC in a country's armed forces (army, navy, air-force).
- Restrictions on the right to peaceful assembly and the banning of events and gatherings, such as public protests or Pride marches and celebrations, except where a clear pattern of deprivation of liberty of individuals participating in such events has emerged.
- Acts of censorship of media and publications (notwithstanding the inclusion of some instances of targeting against activists).

2. Time period

The scope of this second edition of *Our Identities Under Arrest* aims to identify instances where laws criminalising consensual same-sex sexual acts and diverse gender expressions were enforced up until **30 June 2023**. This review also extends backward for approximately the previous two and a half decades. Any events occurring after 30 June 2023 shall be incorporated into a third edition of this report.

The diversity of local contexts and the variability in data accessibility pose challenges. The further back we attempt to collect information, the more fragmented the data becomes. As a result, only a few country entries in this report provide information dating back to the year 2000 or earlier.

3. *De jure vs. de facto* criminalisation

Of the 74 country entries included in this report, only 53 maintain explicit laws criminalising consensual same-sex sexual acts between adults nationwide. This *de jure* ("by law") criminalisation is what is most often referred to when discussing criminalising jurisdictions.

In addition, all ILGA World reports additionally list two countries—Egypt and Iraq—as having *de facto* ("in fact") criminalisation of consensual same-sex activity, due to the consistent and institutionalised use of seemingly unrelated or ambiguous legislation to target LGBTQI+ persons. The remaining 19 entries in this report relate to countries which are not generally listed as "criminalising" consensual same-sex sexual acts or diverse gender expressions, but where instances of State-targeting have been documented.

¹ Trans and gender-diverse sex workers are disproportionately targeted around the world, though the stigma against sex work as a whole, and the fact that most such cases result in charges and prosecutions for "prostitution", means that it is often impossible to verify whether any given case involved targeting on the basis of a sex worker's sexual orientation, gender identity or expression. For more, see the Main Findings section in this report.

4. A note on terminology

Throughout this report, reference to “consensual same-sex sexual acts between adults” is made, and often used interchangeably with variations in the phrase, such as “same-sex acts”. This refers not only to penetrative intercourse between persons of the same sex or gender, but to a wide range of intimate activities commonly associated with sex or romantic interaction between adults.

Reference is also regularly made to “diverse sexual orientations, gender identities and expressions”—i.e., “diverse SOGIE”, which serves here as a broad umbrella term for lesbian, bisexual, gay, transgender, non-binary, pansexual, and many other non-heterosexual or non-cisgender identities, including culturally and geographically unique identities, such as *hijra*. This report will predominantly refer to SOGIE, given that the focus here is on diverse sexual orientations, gender identities, and gender expressions broadly, but may be used interchangeably from time to time with acronyms such as LGBT, LGBTQI+, etc.

Aside from speaking broadly on gender identity and expression, “trans” or “transgender”, are used interchangeably. This is used to denote the identities of individual persons, just as specific references are made to persons identified as “gay” or “lesbian”. However, local media or government reporting on instances of criminal enforcement often conflates sexual orientation and gender identity, resulting in a significant number of reports of “gay males”, “men in dresses” or “cross-dressers”. Though the erasure of myriad transgender, transfeminine, transmasculine, non-binary, and gender-diverse identities is evident when such reporting is viewed in its entirety, it would be presumptuous to assign “trans” labels to otherwise unidentified persons. Where reporting is suspect, then, the authors have endeavoured to refer to individuals in a gender-neutral manner and highlight the ways in which other sources have referred to them.

Finally, the derogatory nature with which authorities and the media in many criminalising jurisdictions refer to persons of diverse SOGIE means that quite apart from ignorant or exclusionary language, many sources are rife with quotes or other references to outright slurs. It has not been a policy in writing this report to expunge such harmful phrases entirely from the report, though they have not been reproduced here unless directly relevant to the story being documented.

5. Sources

In gathering and verifying information for this report, the following different sources have been relied on, including:

a. *Prior research, publications, and statements*

ILGA World has been able to make great use of an existing body of work from around the world to piece together and verify individual stories, or better understand local contexts, in our global overview of criminal enforcement. Publications from fellow human rights organisations, international bodies, legal databases, and academia have all found their way into this report.

International human rights advocacy and monitoring organisations have also been immensely useful in the researching of this report, with the extensive archive of publications by Human Rights Watch identifying many

cases in individual countries forming a significant portion of citations herein. Publications by OutRight Action International (formerly known as IGLHRC) have played a similarly vital role, as have outputs by Amnesty International—including their vital urgent appeals—, Human Dignity Trust, and many others.

Research outputs and articles by numerous ILGA World member organisations at the local and regional levels have also been heavily utilised, as have publications and press statements by ILGA Asia and Pan Africa ILGA. Indeed, through these two regional ILGA chapters, ILGA World also able to set up valuable meetings with local human rights defenders to gain insights not necessarily published elsewhere.

b. *Engagements with activists on the ground*

A report of this nature would simply not be complete without hearing first-hand from activists on the ground.

Many human rights defenders with whom ILGA World did engage have had to remain anonymous for their own safety, given that they live and operate in jurisdictions which may target them. The inputs of these individuals and organisations have allowed us to include information not widely published elsewhere, and to verify the accuracy of content produced through desktop research.

c. *International supervision (UN Mechanisms)*

Of particular value have been the records and reports disseminated by various United Nations mechanisms—in particular Universal Periodic Review outputs, UN Treaty Bodies and UN Special Procedures. Among them are the Special Rapporteurs on Arbitrary detention; Extrajudicial, summary or arbitrary executions; Protecting human rights while countering terrorism; Torture and other cruel, inhuman or degrading treatment or punishment; Freedom of opinion and expression; Freedoms of peaceful assembly and of association; Discrimination against women and girls; and—of course—the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

It is thanks to many mandate holders’ urgent appeals—and the responses by some UN Member States to their questions—that ILGA World was able to track numerous instances of enforcement. To date, these calls are one of the most valuable UN mechanisms to bring international attention to cases of enforcement of criminalising laws.

d. *Media and news outlets*

With persons and communities of diverse SOGIE being targeted across the globe, often in areas where human rights defenders are themselves harassed by authorities or otherwise prohibited from carrying out their work, ILGA World’s primary sources for the compilation of this report have been news and media outlets—often publications local to the jurisdictions being covered.

Recent expansions in data processing and media monitoring by the ILGA World research team have meant that a truly remarkable number of media outlets and their outputs have been tracked since the inception of *Our Identities Under Arrest* in 2021, allowing for a more comprehensive scan than ever before for instances of criminal enforcement.

The creation of the *ILGA World Monitor*, which identifies relevant news stories and publications from across the globe, has been key in this. The Monitor’s collating and

translating of headlines into a searchable database for ILGA World staff and external allies has made keeping up-to-date with local and international developments more comprehensive and proactive than ever.

Often, local media outlets publicise stories and cases that would otherwise fall under the radar, and provide incident details that would otherwise be beyond the ILGA World team's capacity to acquire—such as quotes from police, backlash from local communities, or reasons for the all-too-common postponements of judicial proceedings. However, this reliance on local media outlets comes with significant and unavoidable problems, such as the propensity for many local news outlets to engage in derogatory and inflammatory reporting.

Some sources may also note the names of targets of criminal enforcement, and even publish images of them, not always out of hate but simply as a matter of local standard journalistic practice. These sources put our communities at risk by shining a spotlight on already vulnerable and criminalised individuals. For this reason, ILGA World has endeavoured to redact most citations

which identify LGBT+ persons still residing in criminalising countries. For access to these sources, readers may reach out to ILGA World, and the request will be considered on a case-by-case basis. Sources themselves are often publicly available and accessible via any search engine, but ILGA World has adopted this strategy to minimise as much as possible the potential for causing additional harm.

The role of international and regional media must also be noted, given the sources and connections that journalists not necessarily located within a jurisdiction often have. News outlets such as the *BBC*, *AFP*, *Deutsche Welle*, *Aljazeera*, *The Guardian*, *Reuters/Openly*, *Washington Blade*, *Mamba Online*, and others too innumerable to name have been cited throughout this report.

Special note must be made of the immense value drawn from articles published by outlets with a particular focus on criminal enforcement, such as *Erasing 76 Crimes*, and human rights violations, such as *Radio Free Europe/Radio Liberty*, among many others.

Limitations

The exploratory nature of this report means that the data presented herein is not meant to be used for quantitative analysis and should be mainly read as an effort to compile information for visibility and advocacy purposes, as well as to understand, compare and contrast common elements present across time and regions.

Besides the limitations imposed by desktop research, time and resource constraints, there is strong indication that arrests and prosecutions are considerably underreported across regions. Even when well over 1,300 instances are compiled in this report, ILGA World notes that numerous factors operate as considerable obstacles for the collection of data on enforcement of criminalising provisions. In the paragraphs below, most of these obstacles are explored.

ILGA World stresses that more research on how countries enforce criminalising provisions is needed to gain a better understanding of this matter. Some international civil society organisations such as Human Rights Watch, Amnesty International, the Human Dignity Trust and OutRight Action International, have carried out invaluable research projects in numerous criminalising countries and have thus been relied upon as sources for this publication. Numerous local organisations have also conducted research and collected data domestically, and their work has also served as a key source. However, most of these sources have focused on only one country or region at a time, and some jurisdictions still remain largely uncovered.

Further research could lead to the collection and analysis of more official records produced and systematised by States, where available. ILGA World did not engage directly with governments or diplomatic missions for any aspect of the production of this report and cited official records only where they were made publicly available online. Advocacy efforts to engage with criminalising States and request them to produce and disseminate these records depend largely on the possibilities and contexts assessed at the local level in each country.

More contextualised information on how UN Member States and other jurisdictions continue to enforce these provisions is needed in order to hold States accountable to their international human rights obligations and debunk narratives of “dormant” laws or lack of enforcement where needed. Global trends also require further research.

Longitudinal assessments on how enforcement rates have evolved—both globally and within each country—therefore cannot be carried out based on the data presented in this report alone. Based on years of documentation by ILGA World in annual publications such as the *State-Sponsored Homophobia Report* or the *Trans Legal Mapping Report*, there appears to be a broad global trend toward decriminalisation and the repeal of problematic legislation.¹ However, what this means specifically for enforcement cannot be applied across the board. Since the first edition of *Our Identities Under Arrest* was published in 2021, the situations in several jurisdictions have in fact worsened. Therefore, it is

impossible to say based on this report alone whether enforcement rates are increasing or decreasing globally.

A better understanding of the extent to which enforcement of these laws is taking place will also help assess the needs of local organisations, especially with regard to resources needed to provide legal assistance, humanitarian aid and services to those who are arrested, prosecuted or sentenced under these laws. Members of our communities directly targeted by State actors are often deprived of any possibility of protection from any official security mechanism and depend largely on community and peer assistance, if it is at all available. The existence of online crowdfunding initiatives to cover the costs of bail and to pay for food and hygiene products for people who were imprisoned for allegedly having engaged in consensual same-sex sexual acts speaks to the state of vulnerability of many of them. While legal reform remains an important aim, providing immediate support to those that are suffering the consequences of the enforcement of these provisions should always be a high priority. By mapping the extent to which these laws are enforced, those who fall victim to these systems of oppression will also be accounted for.

Research specifically focusing on how enforcement is being assessed in asylum claims by migration agencies in receiving States could also assist in identifying best practices—and inadequate standards—in this regard. Indeed, asylum claims based on the applicant’s sexual orientation, gender identity or gender expression are deeply affected by the ways in which enforcement is considered in Country of Origin (COI) research.

Structural difficulties in data gathering

The following is a non-exhaustive list of factors that contribute to the difficulties in accessing data on enforcement of criminalising provisions in numerous countries. In a nutshell, relevant official records of instances of enforcement will often simply not exist and will only be trackable through complementary sources—if at all—such as testimonies by victims, witnesses, and civil society data collection efforts. Where such official records do exist, they may remain inaccessible to the public and researchers, and when they are indeed accessible, they can still be defective, incomplete, or unclear to the extent that many of them will not be of use for data collection.

Additionally, reports obtained through other complementary sources, such as the media, pose a number of challenges and shortcomings that need to be navigated with special care.

a. Non-existent records

Police and other authorities in several countries have a propensity for keeping many cases off the books, resulting in incomplete or non-existent data. Testimonies show that

¹ Daryl Yang, “Global Trends on the Decriminalisation of Consensual Same-Sex Sexual Acts (1969 - 2019)” in ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva: ILGA World, March 2019), 175. Additionally, it should be taken into account that the global trend to decriminalise is not as evident in every single region of the world, especially in the SWANA region.

this is the case in numerous jurisdictions across regions and may account for a sizeable number of cases that will never get officially recorded.

Even if a detention is not officially recorded by the relevant authorities, arbitrary arrests could be reported and eventually achieve some form of documentation. However, as explained throughout this publication, in criminalising jurisdictions people of diverse SOGIE encounter major obstacles or run the risk of being revictimised while reporting crimes or human rights violations committed against them. Lack of will or an inability to report violations may also stem from a fear of reprisals or the need to keep a low profile after being targeted. Many victims also simply do not have the means to access legal services, or to contact the media or international human rights bodies to seek redress and document the situation. In many countries, professional and personal reputation, as well as family honour, can be tarnished if an arrest or prosecution on the basis of SOGIE becomes known within the community. Authorities throughout this report have been documented to threaten persons of diverse SOGIE with being outed publicly, violence, or even death if they complain.

Further, as noted in several country entries in this publication, large parts of a country's territory may not even be controlled by the central government, in which case keeping track of incidences of enforcement can become all but impossible.

b. Inaccessible records

Accessibility of available records represents an additional hurdle for data collection. Records of arrests generated at the lower levels of the administrative divisions of security forces and justice systems are usually not publicly available and need to be compiled and systematised by the authorities in order to become accessible. Resources and capacity to do so may not always be available in all countries, especially where there is little in the way of an institutional culture of record keeping, or the technology required to do so is not available.

Judicial processes themselves can also be opaque, with rulings not being published at all, kept in an accessible format, or being made in traditional, religious, or tribal courts outside of formal reporting systems.

c. Defective records

Where data is formally recorded, it is not always disaggregated into a format that permits the verification of the consensual nature of the acts. Where victims are arrested and charged in countries where consensual and non-consensual same-sex sexual acts are prohibited under the same provision, official records can make no distinction of the underlying cause of arrest. This makes it difficult to ascertain whether the acts in question were consensual or not. This legal shortcoming may also affect media reports on these cases (see below).

In jurisdictions where *de facto* criminalisation or similar State-targeting is enforced, the arrest and charging of suspects under vague, obscure or irrelevant provisions makes it difficult to identify cases. In researching this report, persons of diverse SOGIE have variously been accused of hooliganism, engaging in sex work, distributing pornography, vagrancy, fraud and terrorism. In most instances, these cases may fly under the radar unless additional information or a documented trend of relying on certain provisions to criminalise people of diverse SOGIE is identified. Additionally, specific information on the facts of

the case will be required to determine if it is relevant to a report such as this one.

d. Issues in media reporting

Many local media outlets—especially in criminalising jurisdictions in the SWANA region—have displayed a pattern of clear bias against sexual and gender diversity, which brings into question the reliability of some of their reporting. In many countries, media outlets report on cases of people being arrested or convicted for “homosexuality” or “sodomy” in cases of same-sex child abuse and male or anal rape. This can sometimes be explained by the fact that in several countries the term “sodomy” encompasses both consensual and non-consensual sexual acts, but in numerous cases outright prejudice and wilful conflation of sexual and gender diversity will sexual predation and paedophilia is also prevalent.

Another shortcoming in relying on media outlets for information comes from the fact that such bodies rarely appear to follow up on any but the most high-profile of cases. On several occasions, ILGA World has been made aware of reports about an arrest or a pending court case, only for all information about the case to dry up shortly after the initial reports.

One can only assume that the dearth of stories reported to their conclusion also indicates that many more cases of criminalisation go entirely undocumented. It is possible that many media outlets simply do not have the capacity and resources to track more than a few cases at a time, or otherwise lack the interest or mandate to cover such topics. Further, in many countries, especially in rural and peri-urban settings, the overall reach of the media can be very limited as well.

e. Language barriers

Just as the conflation of consensual same-sex sexual acts between adults with issues of rape and sexual abuse of minors, due in large part to antiquated “sodomy” legislation, makes identifying and tracking cases of anti-LGBTQ+ criminalisation more difficult, so too does language. In the course of researching and writing this report, every endeavour has been made to accurately translate legislation and media reports from their original languages, such as Arabic, Persian, Malay, Yoruba or Kiswahili. But limited resources and understandings of local cultural contexts, as well as imperfect translation technologies, have made this a challenge.

In Arabic, for example, where one translation may refer to “homosexuality”, another may refer to “immorality”, “indecentcy”. In 2023 research for this report similarly found that media reports out of Malawi often conflated the legalisation of same-sex sexual acts with the legalisation of same-sex marriage, possibly due to the specific structures of the Chichewa language.

It is for this reason that, wherever possible, local activists and native language speakers were consulted on the accuracy of the content of the report. This has resulted in the exclusion of some content found to be irrelevant to the report, but it is impossible to know which items were never considered for inclusion to begin with, due to misunderstandings and mistranslations of local terms.

It does, at least, highlight the need for all human rights groups to take linguistic diversity into account in their own research, and advocacy given that terminology so commonly used at the international level (“SOGIESC”, “homosexual”, “transgender”, “queer” – to name but a few) is rooted in Global North and Anglophone culture.

“The Tip of the Iceberg”

Structural difficulties in gathering data on criminal enforcement

Data available thanks to

- Reporting and documentation from ILGA members organisations and allies.
- Urgent calls made by UN Special Procedures.
- CSO research reports.
- Testimonies by refugees.
- Government-issued statistics.

Data not available due to

- **Inexistent Records**

No formal records kept of arrests by law enforcement.

Victims unable or unwilling to report due to lack of adequate mechanisms or fear of reprisals.

Regions of the country remain outside of the effective control of the central government.

- **Inaccessible records**

Police records remain out of reach when not collected or systematised.

Judicial decisions (or of religious or tribal bodies) are not registered, systematized or published.

- **Defective records**

Key data in original records are incomplete, unclear or not disaggregated.

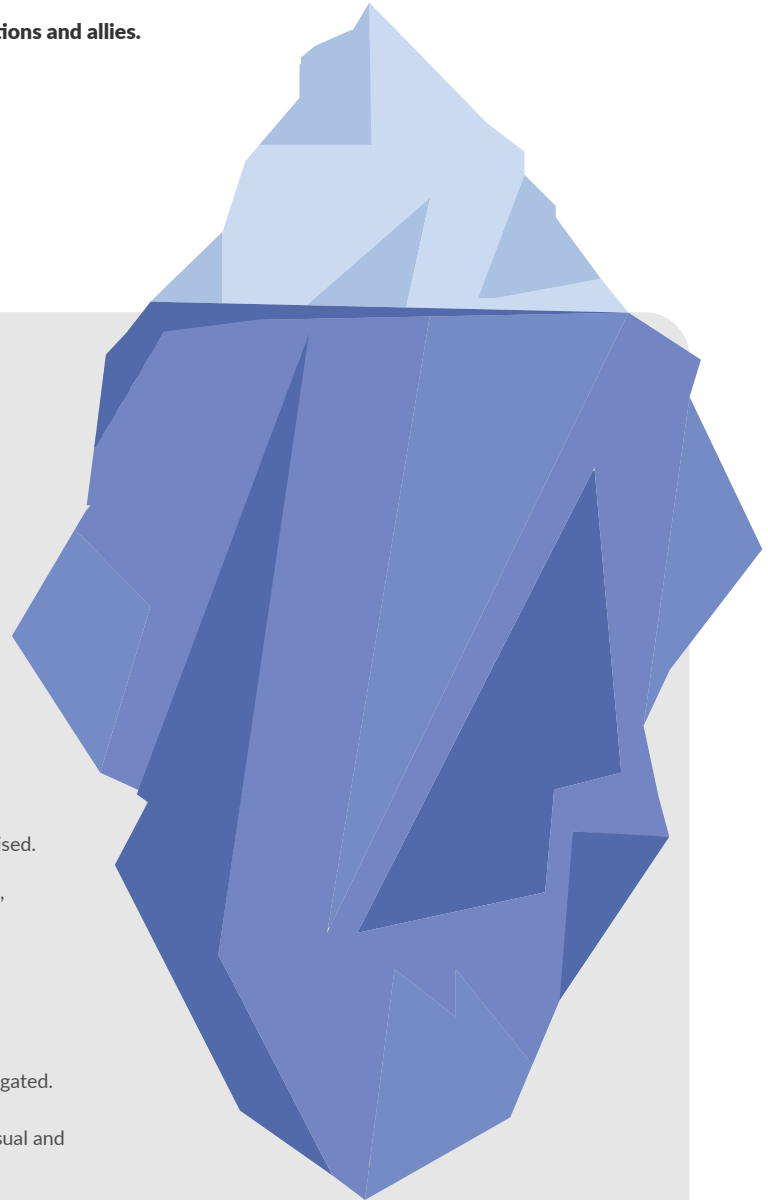
Records are produced based on provisions that criminalize consensual and non-consensual sexual acts at the same time, which often makes disaggregation impossible.

- **Issues in Media Reporting**

Limitations based on the lack of interest or capacity to cover these events by local media.

Inaccurate, incomplete or unclear reports regarding the consensual nature of the relevant acts or whether children were involved.

Linguistic or translation limitations.



Main Findings

This report selected, compiled, and analysed well-over 1,300 examples of instances of criminal enforcement from 72 different countries.¹ Approximately 900 of these instances were included in the first edition of this report in 2021. As stated in the limitations section—and reiterated throughout this report—these numbers do reflect only a fraction of the actual number of instances and represent only the limited portion of cases that get documented in some way.²

However, upon observation and analysis of the information available, certain facts and commonalities could be identified:

1. Arrests and prosecutions for consensual same-sex sexual acts or for diverse gender expressions continued to take place into 2023;
2. There is strong indication that arrests and prosecutions are considerably underreported across regions;
3. Consensual same-sex sexual acts continued to be punished with fines, imprisonment, corporal punishment and (possibly) the death penalty in several countries;
4. Enforcement within each country can vary greatly in frequency and intensity on short notice;
5. Judicial prosecution is a poor indicator to assess levels of enforcement;
6. Gender expression appears to play a key role in numerous instances of enforcement;
7. Binary and essentialist notions of gender make trans and gender-diverse people prone to being targeted for so-called “same-sex” sexual acts;
8. The media (including social media) can play an important role in how States enforce criminalising provisions;
9. Certain methods of arrest appear to be common across different regions;
10. Certain forms of “evidence” are commonly used to arrest and charge people across regions;
11. Police abuse and mistreatment of detainees appears to be present in almost all documented instances of enforcement;
12. A person’s economic or social status can play a key role in evading enforcement.

In the following pages, further detail for each of these main findings is provided.

1. Arrests and prosecutions for consensual same-sex sexual acts or for diverse gender expressions continued to take place into 2023

The data collected for this report shows that arrests and prosecutions for consensual same-sex sexual acts or for diverse gender expressions continue to take place around the world.

ILGA World notes from the limited data available that in 2023, documented evidence of enforcement could be found in at least 32 UN Member States (27 of these maintained *de jure* criminalising legislation). In 2022 evidence could be located for at least 38 UN Members (28 of which feature *de jure* criminalising legislation). In 2021—the year that the first edition of *Our Identities Under Arrest* was first published—evidence was found relating to at least 38 countries (of which 29 formally criminalised). Over the five years preceding the writing of this report (October 2018 – October 2023), evidence could be found for 65 of the 72 jurisdictions included in this report.

However, these are just reflections of the limited data available and do not show trends but rather provide a rough idea of the number of countries that, at the very least, appear to be arresting, prosecuting, and sentencing people for engaging in consensual same-sex sexual acts or for having a diverse gender expression. It should also be noted that there is no correlation between the number of enforcing countries and the number of people affected by these arrests and prosecutions, as certain countries appear to be responsible for a much larger number of instances than others, and the number of people affected by each instance can vary greatly as well.

Additionally, the boundaries of *de facto* criminalisation of gender expression are blurred by the plethora of laws and regulations that can be used to harass and arrest trans and gender-diverse people around the world, many of which lie beyond the scope of this report. Therefore, actual numbers of arrests related to the *de facto* criminalisation of gender expression are expected to be considerably higher.

Overall, it is imperative to acknowledge that although certain trends within individual countries can be tentatively discerned from the country-specific entries, it is not advisable for readers to extrapolate any global trends from this report. The data available remains insufficient, and the local contexts are incredibly diverse, making any such generalizations highly prone to inaccuracy.

Nevertheless, a broader and notable observation is the persistent and unwavering threat and effective criminal enforcement against communities of diverse SOGIE worldwide, even as we progress into 2023. This observation, in itself, holds significant value and is robustly supported by the data presented in this report.

¹ The full list of countries include: Africa: Algeria, Benin, Burundi, Cameroon, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Malawi, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe; Asia: Afghanistan, Bahrain, Bangladesh, Brunei, Indonesia, Iran, Iraq, Jordan, Kuwait, Kyrgyzstan, Lebanon, Malaysia, Maldives, Myanmar, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Syria, Tajikistan, Turkmenistan, United Arab Emirates, Uzbekistan, Yemen; The Americas: Dominica, Grenada, Guyana, Jamaica; Oceania: Papua New Guinea; Europe: Azerbaijan, Georgia, Turkey, and the Russian Federation.

² For a thorough explanation on the difficulties of gathering data regarding enforcement of criminalising laws please read the “Limitations” section of this report.

2. There is strong indication that arrests and prosecutions are considerably underreported across countries

The data compiled for this report shows that there are strong reasons to believe that the number of instances of enforcement included in this publication represent only a small fraction of the actual number of arrests and prosecutions that take place around the world.

The first one of these reasons resides in the striking gap between official records published by certain governments and the number of instances documented through other sources that ILGA World was able to collect for this report. Indeed, at least six UN Member States have, at some point, published official statistical records on enforcement of provisions criminalising consensual same-sex sexual acts, namely Cameroon, Morocco, Qatar, Sri Lanka, Uzbekistan and Zambia (these figures are further discussed in each specific country entry).

- In 2016 Cameroon informed the UN Human Rights Committee that in 2011 there were 36 criminal investigations into “homosexuality”, resulting in 16 trials and 14 convictions. The number of disaggregated instances that ILGA World was able to document for that year amount to just three—all of which resulted in convictions. This means a difference of 366.7% for known convictions, and 1,100% for all known cases that year.
- In 2018, Morocco’s Public Prosecutor reported that 170 people had been charged with “homosexuality” in 147 separate cases that year. The report also notes that 2017 saw 197 trials on the same basis. The year 2019 saw 168 registered cases, with 283 trials documented by the State. In 2020, the Public Prosecutor reported 141 registered cases and 188 trials. Lastly, in 2021, there were 212 registered cases and 287 trials. Moroccan law, however, does not clearly differentiate between consensual and non-consensual same-sex acts and as such these numbers should not be taken at face value.
- In April 2021, Qatar provided official statistics on persons in detention for non-violent acts to the UN Human Rights Committee and confirmed that at least eight people were in prison at that time for “homosexuality”.
- In a 2018 performance report, Sri Lankan police noted that 2016 saw 17 cases of “homosexuality”, all of which were prosecuted. ILGA World could identify just one individually disaggregated arrest made that year. This amounts to a difference of 1,600%. These statistics, however, also do not clearly disaggregate consensual and non-consensual acts.
- In April 2021, Uzbekistan’s Interior Ministry reportedly indicated that 49 persons remained incarcerated for “sodomy” under Article 120 of the Criminal Code, with nine of those being arrested in 2020 alone. ILGA World was able to document only one such incident for 2020, amounting to a difference of 800%. Government reporting from 2022 claimed that across 2021, 13 new adult males had been convicted and were serving prison sentences.
- In September 2022, Zambia’s Home Affairs Minister submitted a letter to the Speaker of Parliament including a breakdown of 18 “cases of sodomy countrywide” between 1 January and 20 September

2022. Of these, the Minister’s data indicated that 15 arrests had been made, of which three were under investigation at the time. One had resulted in a prison sentence of eight years with “hard labour”. None of these cases seem to have been recorded in any publicly accessible media or are known to ILGA World.

These figures are particularly disturbing and provide a rough idea of the sheer dimension of the enormous gap in data we may be facing.

Needless to say, official records reflect only the number of cases that have been formally registered, so even with these records, numerous arrests still fall outside of these figures. Indeed, testimonies provided by victims frequently include accounts of numerous arrests that never make it into any form of formal record, especially when detainees are extorted or forced to pay bribes to police officers in order to be liberated without being charged.

For those countries where official records are not accessible or non-existent, the task of compiling data on enforcement is affected by all the limitations enumerated in the “limitations” section of this report.

These considerations support the idea that the data compiled in this report is considerably limited and represents just the proverbial “tip of the iceberg”. Further research and improved mechanisms for data collection and monitoring of enforcement are urgently needed to have a clearer understanding of the dimension of this problem.

It is important to note, though, that due to the fact that many pieces of criminalising legislation make no distinction between consensual and non-consensual same-sex sexual acts, and that official State data is thus rarely disaggregated in this way, either. Morocco and Sri Lanka, for example, apparently make no distinction in the statistics provided between rape and consensual same-sex acts between adults. It is for this reason, in conjunction with the scarcity of records to begin with, that other complementary sources—as those described in the “methodology” section of this report—become paramount when attempting to document the scale of persecution against our communities.

3. Consensual same-sex sexual acts continued to be punished with fines, imprisonment, corporal punishment and (possibly) the death penalty

Formal prosecution leading to the imposition of the penalties established by law continued to take place in several countries in 2023 and in previous years.

Fines and high bail fees have often been imposed by courts as ancillary penalties to suspended or effective imprisonment, with additional prison time being imposed on many who do not have the financial means to pay.

Terms of imprisonment imposed by courts vary greatly across time and regions, ranging from imprisonment for a couple of months or a year to more prolonged sentences: up to 10, 15, or even 30 years in certain documented cases. Exceptionally, when a case makes international headlines, some victims have been reportedly pardoned or liberated by an “act of grace” of the Executive.

Among the documented cases that ILGA World compiled and analysed for this report, approximately 30 resulted in the imposition of corporal punishment, consisting mainly in lashes or strokes of the cane (also referred to as “flogging”).

The modalities and intensity of this type of punishment can vary greatly, ranging from six lashes in one 2019 case from Malaysia, up to a striking 14,200 lashes distributed along multiple flogging sessions in a 2005 case from Saudi Arabia.

Having access to documented instances of enforcement of the death penalty continued to be challenging, with numerous instances being reported in ways that make it very difficult to ascertain whether people have effectively been executed exclusively or partly for consensual same-sex sexual acts. Executions by the State have been documented in Iran, Saudi Arabia, and by the *de facto* authorities in Afghanistan—the Taliban. Other instances of extrajudicial execution by groups that gained effective control over parts of countries have been documented across the temporal scope of this report, namely in Iraq, Libya, Somalia, Syria, among others.³

4. Enforcement within each country can vary greatly in frequency and intensity on short notice

The data compiled in this report shows that the frequency and intensity with which countries enforce criminalising provisions can vary greatly across time, with steep increases in the number of documented examples, followed by periods of time—either long or short—with no documented instances of official enforcement.

In many countries, authorities and law enforcement officials enforce criminalising provisions spasmodically and in ways that can become difficult to anticipate. Certain countries that at one point in time may widely have been regarded as “safe” or “quiet” due to lack of information on enforcement of criminalising provisions can—and have—seen sudden shifts on relatively short notice.

In some countries, such spikes have often come as a result of growing hate speech against sexual and gender diversity, either from political figures or religious and community leaders, and often in the form of crackdowns or organised campaigns. However, this is not always the case, as arrests and prosecutions may surface even in the absence of such specific context. Past instances of enforcement and official attitudes with regard to this issue can potentially offer indications that the authorities can and will resort to enforcing these provisions without prior notice.

This finding is of particular relevance to the risk assessment carried out by migration authorities deciding on asylum petitions in receiving States, as the risk of persecution is often considered to be lower in jurisdictions with minimal or no record of past enforcement. For instance, countries such as Algeria, Mauritania and Zambia, once regarded as jurisdictions where criminalising provisions were “rarely enforced”, have in recent years seen multiple arrests, prosecutions, and the overall aggravation of the socio-political landscape against persons of diverse SOGIE. And indeed, States such as Malawi, where a moratorium on arrests for those suspected of same-sex conduct was implemented, did see a resurgence in arrests as well.

Since the publication of the first edition of this report, a single incident of same-sex intimacy caught on video in the

Maldives snowballed into multiple arrests and prosecutions, raising the number of individuals known to have been affected by criminalising legislation more than tenfold. The Comoros similarly, saw reports in 2022 of what local media called the first person to be imprisoned under the country’s anti-homosexuality legislation, nearly a decade after any attempts at arrest or prosecution were last reported.

Therefore, given the unpredictability of criminal enforcement, any assessment of the extent to which a provision may be actively enforced in the future should look beyond the mere number of past documented instances and take into account the local context of hostility, official rhetoric, incitement to hatred, violence or discrimination by influential groups or organisations, the local record of police abuse, the practice of stirring up anti-diversity sentiments for clout, and the existence of strong anti-diversity sentiment among the population at large.

In other words, authorities working on issues of migration and asylum should try to identify signs of coming increases in levels of criminal enforcement and violence. When decisions are based only on the formalistic consideration that the country of origin has “only rarely” enforced criminalising provisions in the past, receiving States run the risk of sending asylum seekers back to countries where the situation may be quickly deteriorating.

5. Judicial prosecution is a poor indicator to assess levels of enforcement

The majority of documented instances included in this report show that arrests and detentions not followed by formal judicial proceedings appear to be the primary way in which criminalising provisions are enforced. In many cases, detention without trial can extend to several days, weeks, or even months without any form of judicial or administrative review.

The crux of the enforcement of provisions that criminalise gender expression and consensual same-sex sexual acts occurs at the level of security forces (police, intelligence agents, etc.), which deprive people of their liberty often in wanton disregard of procedural safeguards. Elements of police forces entrusted with law enforcement in general are responsible for most arrests, but in some jurisdictions special brigades or commissions specifically mandated to monitor and protect “morality” are also heavily involved in enforcing criminalising provisions or religious precepts.

The data collected by ILGA World shows that, with notable exceptions, in numerous criminalising countries the judiciary remains largely uninvolved in enforcement and in some others it intervenes summarily, often to dismiss charges for lack of proper evidence to substantiate a case.⁴ In several documented cases, prosecutors fail to make a strong case or provide evidence, causing court proceedings to be repeatedly postponed and eventually thrown out.

In numerous documented instances, law enforcement will release detainees after extorting bribes and favours, often in exchange for not referring them to formal prosecution. Other times, activists, friends or relatives will intervene and secure the release of a detainee prior to prosecution or

³ Many such instances are not disaggregated within this report, due to the blurred distinction between executions carried out by *de facto* authorities and less organized violence in contexts where the rule of law is eroding. Such situations may also arise from ongoing conflicts, coup d’états, or the presence of belligerent groups claiming state authority.

⁴ Nevertheless, as stated above, formal judicial prosecutions do exist and lead to sentences of imprisonment, fines, corporal punishment and possibly even the death penalty. See finding 3 above.

formal charges. This tends to happen in the absence of formal records, and in contexts where power abuse and corruption is rife. For instance, in jurisdictions such as Sri Lanka, formal prosecutions tend to be rare on the basis that activists and lawyers work to secure the release of detainees before charges are formally filed. This is reportedly the only way to prevent prosecution in court, meaning that a majority of cases of State-targeting have no formal record at all.

Furthermore, in countries where the rule of law has faded, possibly due to internal conflict or civil war, and where central governments have lost effective control over parts of the territory, the infrastructure required to conduct formal prosecutions can be extremely limited or non-existent. In these contexts, vigilante, tribal or insurgent groups can enforce their own rules and decisions through means that do not amount to or even resemble formal judicial prosecutions, but in practice have the same effect of imposing a penalty for consensual same-sex sexual acts or diverse gender expressions.

Therefore, assessing the extent to which criminalising provisions are enforced based on whether a State formally prosecutes people or not for consensual same-sex sexual acts or for their gender expression fails to capture the true dimension of criminal enforcement. This extremely high threshold appears to be divorced from the local realities in most countries around the world and further compounds the existing difficulties on gathering data on enforcement, leading to unrealistic and formalistic approaches to the assessment of the risk that people may face in numerous criminalising countries and the level of protection they offer. In other words, suggesting that State protection can be inferred from the absence of prosecutions is a proposition that does not resist a serious analysis.

6. Gender expression appears to play a key role in numerous instances of enforcement

In numerous instances compiled in this report, diverse gender expressions (also referred to as “non-conforming gender expressions” or “non-normative gender expressions”) appear to be a main target and a central element triggering arrests. This occurs despite the fact that the vast majority of criminalising jurisdictions do not have legislation expressly targeting diverse gender expressions.

Diverse gender expressions defy and subvert culturally established norms on how each of the two “fixed” binary genders should appear, dress, behave, speak and groom, among other many aspects of daily life. The subversion or questioning of these rigid cultural norms still triggers harsh, prejudiced reactions from members of society— especially in conservative and religious contexts— including from elements of law enforcement. On the one hand, diverse gender expressions are often framed as affronts to “good mores” and “decency” in and of themselves, prompting law enforcement to react based on the idea that such gender expressions are scandalous or contrary to morality. On the other hand, the conflation of gender expression with sexual orientation, and the presumption that those of diverse sexual orientations are guilty of engaging in same-sex acts, has resulted in a warped, circular logic within the law enforcement and court systems of virtually all criminalising jurisdictions. In other words, the perception of gender expressions that do not align with local cultural norms triggers the suspicion that a person is “homosexual” and that they usually engage in the “criminal act of sodomy” and hence, are seen as criminal subjects, susceptible to

arrest. As such, in many jurisdictions it is far more likely for someone to be targeted for their appearance or mannerisms than for any verifiable illicit sexual act.

This report contains numerous examples of such incidents. In 2020 authorities in Chad arrested a “man in a dress” despite claims by the individual that they were forced to put on women’s clothing against their will. The following year saw an individual in Cameroon arrested for wearing a red thong, and two Cameroonian trans women sentenced to five years behind bars for “attempted homosexuality, private indecency, [and] lack of a national identity card” on the basis that they slept in the same house overnight and had feminine gender expressions.

Numerous cases of authorities targeting trans women for “cross-dressing” have been identified over the years, with some bordering on the farcical. Examples include a woman who was detained for having images of kittens on her pyjamas, and another case in which a woman was accused of “cross-dressing” for wearing a bra to support her breasts, but was otherwise not wearing women’s clothing.

Even where people do not have clearly non-normative gender expressions, but carry themselves in a manner that may “alert” police that they might be “gay” or otherwise non-cisgender or non-heterosexual under stereotypical views, violence and targeting occurs. Examples have been documented in multiple jurisdictions, such as in 2013 in Tanzania where two gay men were arrested because one was “walking like a woman”, and in 2020 in Nigeria where a young man was threatened with arrest because police felt that his piercings and tattoo made him “look like a gay”. One official from Chad is documented as saying: “A homosexual is difficult to spot, but we look at their behaviours and their manner of dress. Then, the courts will determine”. Cisgender women are targeted through this kind of profiling, too. For example, a presumed lesbian woman was detained in Burundi in 2011, with police claiming her hairstyle had alerted them to the fact that she was a “homosexual”. Another woman was also arrested and beaten in Cameroon on account of her “weird hairstyle”.

Furthermore, in cases where persons of diverse gender expressions and identities are not directly targeted because of how they look, authorities still may notice a mismatch between their appearance and the legally registered gender on their ID documents. Arrests or violence often ensue. This is illustrated in numerous cases included throughout this publication.

The issue of the media misgendering, or simply not being clear on the gender identities of suspects and victims, has been a recurring one in regard to accurately documenting cases for this report, though “men in dresses”, “crossdressers”, “waria”, “hijra”, “third-sex” and “trans women”—in short, persons of feminine gender expression who were assigned male at birth—have faced disproportionate harassment, incarceration, physical violence and sexual abuse by police, prison staff, inmates and members of their communities. This is a recurring issue in almost all jurisdictions to some degree or another.

While exact numbers are hard to come by, it appears that persons targeted for their gender expression (or other identifiers that lead to presumptions about their gender identity or sexual orientation), make up a significant portion of cases. At the very least, such situations might well exceed the number of arrests on the basis of being “caught in the act” of same-sex intercourse. This, despite the fact that it is usually only the intercourse itself, and not the gender expression, being criminalised in most countries.

In conclusion, diverse gender expressions or non-normative behaviour is largely read as evidence or indication of non-

heterosexuality and thus is considered indicative of probable “criminal activity”. In this way, public appearance becomes an indicator of identity, and identity is linked to presumed private behaviour, and the presumed private behaviour is largely illegal. Hence, as both appearance and identity become conflated, diverse gender expressions and identities are targeted. At the level of law enforcement, this is enough to warrant an arrest, which may result in several days, weeks or months in detention without trial.

This is not a new trend, with IGLHRC (now Outright Action International) reporting on Africa back in 2007 that:

[t]he vast majority of arrests of men and women on charges related to homosexuality are not based on the witnessing or reporting of a same-sex act, but on the presumed identity of the individual.⁵



⁵ Cary Alan Johnson, *Off the Map: How HIV/Aids programming is failing same-sex practicing people in Africa* (New York: IGLHRC, 2007), 20.

7. Binary and essentialist notions of gender make trans and gender-diverse people prone to being targeted for consensual same-sex sexual acts

Many documented instances compiled for this report show how trans and gender-diverse people are targeted under laws criminalising consensual same-sex sexual acts. This finding corroborates information previously presented by ILGA World in the third edition of the *Trans Legal Mapping Report* in 2019.⁶

Besides the conflation between gender expression and sexual orientation explained above, bio-essentialist notions of gender held by local authorities—compounded by the legal impossibility of trans and gender-diverse people amending their identification documents—means that trans women engaging in consensual sex with each other or with cisgender men, and trans men engaging in consensual sex with each other or cisgender women, will be framed as criminal. In all likelihood, non-binary people will be treated according to their gender assigned at birth, too.

One high-profile case took place in Malawi in 2009, when a trans woman and a cisgender man participated in a traditional engagement ceremony and were arrested and sentenced to 14 years' hard labour as a result. At the time of writing, another case out of Malawi remains pending in the courts, assessing the constitutionality of the arrest, prosecution, and imprisonment of a transgender woman in 2022 for engaging in sex acts with men. In the eyes of Malawi's courts trans women—and indeed all transfeminine persons—are “men” and thus subject to laws criminalising sexual acts between people of the same sex. Similar cases were identified in Pakistan—with the identities of trans individuals coming under scrutiny on suspicion of their engaging in “same-sex” sexual acts—as well as in several other countries.

Less well-documented is the impact that all of these issues have on persons of diverse sex characteristics. Intersex persons, while almost never included in criminalising legislation or reports on criminalisation, have been found on some occasions to be targeted by the authorities or the public due to their appearance or physiology, as a result of similar misconceptions to those which see gender-diverse persons accused of homosexuality. The complexities of these situations, and the negative impacts that criminalisation has on persons of diverse sex characteristics, require further and deeper investigation.

8. The media (including social media) can play an important role in how States enforce criminalising provisions

Mainstream media (magazines, newspapers, news websites and radio stations, both State-funded and private), as well as social media and blogs, have an impact on how criminalising provisions are enforced which simply cannot be overstated.

Media outlets, as the primary carriers and disseminators of information, including hostile rhetoric from politicians and religious figures, play an outsized role in stoking

community backlash, violence and hatred against sexual and gender diversity, or in amplifying certain negative social attitudes in such a way as to provide law enforcement and other State actors with a supposed mandate to enforce criminalising provisions.

Political leaders have on occasion been accused of “being soft on homosexuality” by the media or opposition parties seeking to play off of negative social attitudes to score points, potentially pushing those in leadership positions to expand the targeting of suspected people of diverse SOGIE in an effort to maintain their own popularity and power. It is not only the opposition which engages in this, however, with those in power regularly also scapegoating or speaking derogatorily about sexual and gender diversity. This has also included hostile speech and inflammatory rhetoric from both Christian and Muslim clerics.

Further, the use of the names, photos, or other identifiers of victims of violence or State targeting in articles has led to the targeting and persecution of those victims. Thus, when hostility is evident, and the media is deliberately weaponised against marginalised communities, the impact becomes even more damaging. Hostile or detractor media will often outright work to stoke violence or aid police.⁷ Several articles posted by news outlets within criminalising countries have identified suspects declared to be “fugitives”, and called upon readers to supply the authorities with any information they can. Others might simply speak in a derogatory manner about specific victims, their acts, or about SOGIE issues broadly.

Several high-profile examples can be mentioned for illustrative purposes:

- In late 2014, Egyptian TV presenter Mona Iraqi played a key role in the raid carried out on a bathhouse in El Cairo which resulted the arrest of 26 men and gave a new boost to the moral panic against homosexuality initiated by the Queen Boat arrests in 2001. The presenter proudly posted pictures of herself filming the line of crouched naked men being humiliated and taken into custody while stating that her TV show was revealing “the biggest den of group perversion [*shuzooz gama'ay*] in the heart of Cairo”, which—she alleged—was responsible for the spread of AIDS in Egypt. The men were physically and verbally tortured during their time in custody, and subjected to forced anal examinations. After being released, one of the men set himself alight.
- In 2012 in Lebanon, a local media outlet also broadcast a video showing a cinema allegedly being used as a gay dating spot, which resulted in a police raid and the arrest of 36 people in an entirely different cinema that had no links to the inflammatory video.
- In 2008, the Senegalese magazine, *lcône*, published an unsubstantiated story which incited a chain of arrests and persecution against suspected gay men. The media continued to fuel public outrage and endanger the men even after they were freed, encouraging people to hunt them from town to town across the country.

⁶ ILGA World: Zhan Chiam, Sandra Duffy, Matilda González Gil, Lara Goodwin, and Nigel Timothy Mpemba Patel, *Trans Legal Mapping Report 2019: Recognition before the law* (2020).

⁷ Wherever sources located in criminalising countries have named or posted images of victims or suspects, ILGA World has endeavoured to redact the source as a security measure. In some cases, where persons are prominent public figures, have passed away, or worked in public collaboration with allied organisations, identifying details might not have been redacted.

- In 2006 the Uganda tabloid *Red Pepper* published lists of nearly 50 men and women they claimed to be “homosexuals” and inviting readers to “send in names of these deviants so that we publish and shame them, rid our motherland of this deadly vice” [sic]. The resultant “outings” sent a number of those named into hiding and generated a rash of arbitrary arrests of suspected gay men around the country.

Moreover, the impact of international media, and sites based in the Global North, can also have a negative impact. In several cases, lack of caution with which some news outlets in non-criminalising countries treat sensitive information can—and has—put vulnerable persons in extreme danger.

The advent and spread of social media and the internet has also been a catalyst in instigating moral panic and identifying individuals of diverse SOGIE for targeting. Several cases identified in this report have seemingly hinged on compromising videos, photographs or conversations being leaked online, though the dissemination of homophobic and transphobic content in the same way as legacy media is likely far more impactful, broadly. Limitations faced by social media platforms in moderating disinformation or hate speech in diverse cultures and languages, and the rise in so-called “bot farms” across the globe, likely make it difficult, if not impossible to reign in many hateful comments or posts. The vastness of the digital space in question, and challenges in verifying content there, do mean that this impact is for the most part beyond the reach of this report’s analysis.

9. Certain methods of arrest appear to be common across different regions

Based on the number of documented instances compiled for this report, certain common methods of arrest could be identified across regions. These include:

a. *Catching suspects “in flagrante delicto” (red handed)*

While some of the techniques outlined further below may assist police in catching people “in the act”, there is often an element of happenstance to arrests of this nature. Several cases throughout the report indicate that police patrols would arrest couples having sex or making out in parked cars deemed “suspicious”, or otherwise spotting individuals engaging in some form of public display of affection.

Sometimes police will claim that they caught suspects engaging in same-sex sexual activity during a raid, while other times cases of entrapment will involve police setting up a scenario which would allow them to apprehend a person in the act. Claims by police that they caught a suspect while engaged in sexual intercourse or public displays of affection are widespread enough that they form a feature across virtually all criminalising jurisdictions to some degree, though such cases appear to be a minority of the total.

b. *Raids*

Through various means of evidence gathering (which includes flimsy evidence based on prejudice or misinformation), police will often coordinate to target a location they feel is hosting illegal activities or events.

The homes of suspected gay couples or groups have notably been raided in numerous countries and, to expand

the definition of “home”, 2020 and 2021 saw two raids of LGBT+ shelters in Uganda. Such raids have also been documented as targeting human rights defenders, the offices of civil society organisations, and HIV healthcare service providers.

Night-clubs and parties are also commonly raided, particularly in the SWANA (South-West Asia and North Africa) region, with numerous parties and celebrations claimed by authorities to be “gay weddings” also being targeted. Indeed, raids on presumed “gay weddings” seem to reflect a kind of social anxiety regarding SOGIE visibility and non-normative behaviour far more than they represent actual cases of weddings taking place. Raids on venues such as spas or saunas believed to be frequented by gay men have also been documented in numerous jurisdictions.

c. *Arbitrary stops and searches*

Arbitrary stops and searches appear most common in jurisdictions with a heightened military presence, widespread police checkpoints, or some form of “state of emergency” in place, though the practice is by no means unique to such jurisdictions and examples can be found across virtually all criminalising countries. Police have been known to randomly stop suspects in the street or at checkpoints and search their personal belongings for anything illicit, though sometimes this is far from random and in fact informed through police profiling and prejudice. In some cases, the presence of condoms or antiretroviral medication will arouse suspicion, in others the possession of makeup by someone not legally recognised as a woman. Human rights defenders with educational materials or publications on their person are also regularly detained.

The widespread searching of smartphones and computers for incriminating evidence, either arbitrarily in the street or after the detention of a suspect, has also been documented. Inspection of pictures stored in smartphones or conversations on social media and dating apps appear to be a primary source of “incriminating” evidence in numerous documented instances.

d. *Entrapment (by security forces)*

Entrapment, usually online, has been identified as a common tactic worldwide. Entrapment is not exclusively utilised by police, as vigilante groups might also engage in this behaviour to lure and assault suspected gay men and MSM (men who have sex with men), or simply to hand those they entrap over to police themselves. But regardless of the perpetrator, some key features are common in such cases, such as the use of apps specifically meant for dating; the arrangement of an in-person meeting at the home of one of the parties, a hotel, or in a public space such as a park or coffee shop; and the presence of police either at the scene or waiting nearby. Often, police will approach the suspect with cameras to document the encounter, or otherwise use the digital record of communications between the suspect and the entraper as evidence upon which to lay charges, or simply demand a bribe.

Notably, police entrapment plays an outsized role in arrests and targeting in jurisdictions such as Egypt, to a degree which suggests it has taken on an almost-formal status as a part of police procedure.

e. *Informant tip-offs and community allegations*

A significant number of examples of enforcement throughout this report, in virtually all regions, come from community allegations or information supplied by third parties. Some of the tactics used for online entrapment involve the use of an informant (or sometimes a victim

working to identify a new target for police in exchange for their freedom). Law enforcement also regularly receive calls from neighbours, colleagues and even family members. On occasion, a mob caught assaulting a person of diverse SOGIE, or some other individual guilty of theft or assault against the person, will evade justice by identifying their victim as a member of the LGBT+ community.

The standard of evidence in many of these cases is astoundingly low. Interpersonal animosity, suspicion of anyone behaving outside of social norms, or simple misunderstandings can often lead to almost immediate action by authorities. Where investigations do take place, they will usually occur while suspects are in detention as a means to retroactively seek evidence and justify acting on hearsay.

f. Profiling

Each region has its own stereotypes about the appearance, behaviour and motivations of people of diverse SOGIE. These often lead to law enforcement or informants simply detaining those deemed non-normative by local standards. This may result in the targeting those with diverse gender expressions, as outlined above, or it may manifest as police frequenting known or suspected “hangouts”. Men who live on the same property, or sit together in a parked car, are

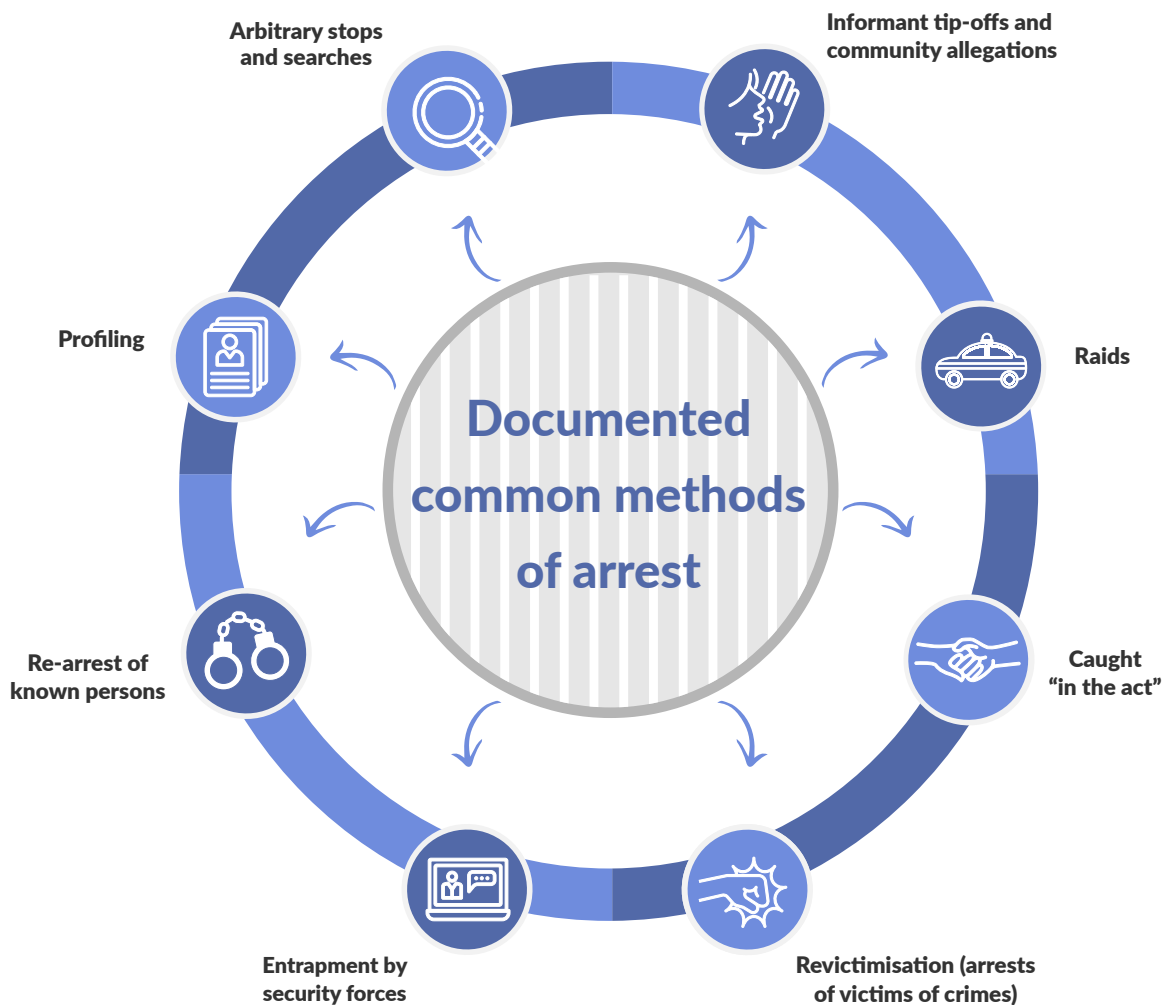
often profiled as being gay, while lesbian women can be targeted for simply refusing the advances of the men around them (including police officers), hugging in public, or having unusual hairstyles.

Trans women, and indeed many persons of diverse SOGIE identities, are also often profiled as sex workers and thus targeted on that basis if found loitering in public for extended periods. Many such cases of profiling are not included in this report, however, given the uncertainty around whether victims were indeed targeted directly as a result of their SOGIE status, or rather on the basis of “prostitution”.

g. Revictimisation (arrests of victims of crimes)

Numerous instances documented in this report show how people of diverse SOGIE who were victims of crimes were arrested when trying to report those crimes to the police, on the basis that their testimonies or behaviours arouse police suspicion. This has even been the case with victims trying to report sexual abuse and rape and receiving incarceration as a response.

These cases represent clear evidence that in numerous criminalising jurisdictions the State provides no protection to people of diverse SOGIE, even when in need of assistance. Where diverse gender expression—or another



trait or known characteristic—has the potential to render any interaction with authorities a venture that brings with it the risk of imprisonment, State protection becomes virtually non-existent.

The risk of victims being revictimised and arrested upon reporting crimes they suffered has even been acknowledged by the Cameroonian delegation to the UN when it noted in 2016 that the criminalisation of same-sex sexual activity might preclude people of diverse SOGIE from feeling safe to do so.⁸

Additionally, in many criminalising jurisdictions people previously arrested by police will be rearrested or revictimised. Sometimes police recognise them, or possibly maintain some kind of database, while other times the stigma of arrest results in repeated allegations by neighbours or community members, resulting in a self-perpetuating cycle.

10. Certain forms of “evidence” are commonly used to arrest and charge people across regions

Based on the number of documented instances compiled for this report, certain forms of questionable evidence commonly used by authorities to arrest and charge people could be identified across regions. These include:

a. First-hand accounts

As identified above, testimonies from witnesses, as well as police witnessing same-sex activity and catching suspects “in the act” form a significant portion of the evidence in a great deal of instances of enforcement.

While investigations will often seek other forms of evidence, or attempt to coerce confessions from detainees, the evidentiary requirements from witnesses is quite often low, often resulting in hasty arrests and lengthy pretrial detentions.

Notably, several Sharia courts require four male witnesses for convictions, especially in cases where the death penalty may be meted out. This, however, only occasionally seems to happen in these jurisdictions, with some notable examples being of judges in Iran supplementing a lack of witnesses with their “discretionary knowledge”.⁹

b. “Incriminating” items and online content

Across many jurisdictions which criminalise “crossdressing” and “impersonating the opposite sex”, the mere possession of makeup by persons not legally recognised as women has resulted in their arrest, regardless of whether they were presenting in a feminine manner at the time of their encounter with law enforcement. Many trans women who have undergone medical transition by taking feminising hormones will also have their own bodies used against them, being accused of impersonation on account of having feminine facial features or breasts.

Persons of diverse SOGIE also remain susceptible to arrest if found with condoms, lubricant, or other items associated by authorities with anal sex. HIV-related medication, literature on sexual health, or publications on SOGIE advocacy and human rights, have also been used as evidence against suspects.

Numerous cases from many different jurisdictions also demonstrate the use of digital photographs or videos (both those posted online or kept privately on phones and computers), and explicit conversations between suspects and third parties, as another form of evidence.

c. Forced anal examinations

Numerous jurisdictions covered in this report have been documented as forcing persons suspected of engaging in same-sex activity (primarily trans women, gay men and MSM) to undergo anal examinations.¹⁰ Anal examinations have long been denounced as human rights violations and torture by bodies such as the UN Special Rapporteur on Torture and the International Rehabilitation Council for Torture Victims, to name but a few.¹¹ Anal exams are an inaccurate method for gathering so-called “evidence” of anal intercourse. This invasive and pseudo-scientific practice usually involves a law enforcement officer or medical practitioner visually examining and feeling a detainee’s rectum to determine its shape.¹²

Such tests have been documented as being used against victims of rape as well, with authorities reportedly refusing to arrest alleged rapists on the basis that their victim had a presumed history of anal intercourse, often resulting in the victim being arrested and charged instead. Notably, widespread outcry regarding this practice did lead to its prohibition in Lebanon in 2012 and Kenya in 2016, though in the years after the bans several detainees would still be subjected to anal examination by authorities. Tunisia also banned forced anal examinations in 2017, but permitted suspects to submit themselves voluntarily to the practice. Since then, several examples have been documented of police and courts interpreting suspects’ refusals to undergo the exams voluntarily as evidence that they are attempting to hide their guilt.

The practice of vaginal examination or “virginity testing” has also been identified in numerous countries. This practice—less widely documented but no less invasive or inaccurate than anal examination—is often used to determine the sexual histories of lesbian women and trans men.

d. Confessions

Though some suspects may confess willingly to police that they had engaged in same-sex sexual activity, either not realising that they would incriminate themselves as having engaged in illegal acts, or believing it would result in clemency from the authorities, confessions are not always given willingly. Across the board, ILGA World has noted cases of confessions allegedly extracted through torture and beatings, deprivation of food or other basic human

⁸ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure. Fifth periodic reports of States parties due in 2013: Cameroon*, CCPR/C/CMR/5, 29 December 2016, para. 46.

⁹ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston “Addendum, A/HRC/14/24/Add.1 (2010), para. 450; Iran Human Rights Documentation Centre, Denied Identity: Human Rights Abuses Against Iran’s LGBT Community (2013), 21-22.*

¹⁰ For more information on this issue, please read the essay by Taha Laroussi in this report.

¹¹ “Tunisia: UN Panel Condemns Forced Anal Exams”, *Human Rights Watch*, 23 May 2016; International Rehabilitation Council for Torture Victims, *Statement on Anal Examinations in Cases of Alleged Homosexuality* (accessed: November 2021).

¹² Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions (2016).*

rights, or as a result of authorities falsely promising to release the accused in exchange for a confession.

Several cases have been documented in which police draft confessions for detainees to sign, paying no heed to whether the content therein is accurate and often not even giving them an opportunity to read or dispute the document before making them sign it.

The confession of the accused is often treated as the highest possible proof that a crime has been committed, but across the globe a great number of confessions appear to have been made under such conditions that their validity should be strongly questioned.

e. *No evidence*

Based on the details around the primary types of evidence put forward by authorities against suspects, and the widespread nature of police prejudicial profiling against non-normative persons, it should come as no surprise that a significant number of cases simply are not based on any evidence, whatsoever. In numerous jurisdictions, a mere accusation, suspicion, or interpersonal gripe can land someone in police custody. Police have sometimes been accused of planting evidence when they failed to find any at the scene of an arrest.

A lack of evidence can and does regularly lead to suspects being released without having to go to trial, or being acquitted in court, but the impact of the abuse and detention on innocent persons in such situations cannot be overstated.

11. Police abuse and mistreatment of detainees appears to be present in every documented instance of enforcement

There is overwhelming documentation of police beating, humiliating, torturing, raping or otherwise abusing people of diverse SOGIE while arresting and detaining them. This is evident in virtually all countries identified in this report.

Requests for sexual favours appear to be a recurrent practice, especially when trans women are arrested. Profanity and derogatory language have been largely removed from each individual entry throughout the report, as have some of the particulars of physical abuse, but in almost every single case mistreatment appears to be the rule. In many documented cases, while detainees are locked up in police stations, officers incite or allow abuse to be perpetrated by other inmates with impunity, which may even include rape and other forms of sexual, physical and psychological violence.

A common tactic of psychological violence against trans women and transfeminine persons is forced “masculinisation”, in which authorities will shave their hair or make them undergo rigorous physical activities, often akin to military bootcamps. This attempt at enforcing State power through humiliation has been noted in numerous jurisdictions, but of course has no efficacy on the gender identities of detainees.

The existence of criminalising provisions appears, then, to give law enforcement officers a sense of power over their victims, allowing them to abuse suspected persons of diverse SOGIE with impunity, or extort bribes from them. Many victims of such violations do not lay formal complaints for fear of revictimisation.

12. A person’s economic or social status can play a key role in evading enforcement

Enforcement of provisions criminalising consensual same-sex sexual acts and gender expression do not escape the logics and the dynamics of criminal enforcement in general. Hence, as with other forms of institutional violence, economic status tends to serve as a major factor in protection against the most serious violations, with criminal systems disproportionately targeting the poor and the destitute.

In numerous jurisdictions where police corruption is rife, the impact of criminal enforcement often varies greatly depending on an individual’s ability to bribe law enforcement and “buy” their way out of lockup, or avoid it altogether. In this regard, avoiding imprisonment can be crucial to avoid a context in which numerous other— and often more serious—violations frequently occur.

Additionally, even within the boundaries of the law, prohibitive monetary bail costs mean that those who cannot afford them—or do not have a support network from which to receive help—will usually remain incarcerated for longer periods of time and will thus likely be exposed to more violence, humiliation and rights violations.

Other intersecting vulnerabilities and sociopolitical factors may also exacerbate an individual’s risk of persecution. Ethnic and racial divides within a society, and the legal divide between citizens and refugees, are but two examples of this. Human rights defenders from Mauritania have informed ILGA World of disproportionate targeting in the country’s capital of black African youths, with Tunisian activists similarly providing information on raids against buildings known by authorities to house large numbers of gender-nonconforming refugees from Sub-Saharan Africa.

Likewise, refugees from Syria and surrounds appear to be disproportionately targeted by Turkish and Lebanese authorities, while Stateless persons such as the Kurds, Bidoun are also reportedly disproportionately targeted. Heightened levels of violence have also been noted in refugee camps, particularly in Kenya, with authorities acting with impunity against queer refugees protesting their unsafe living conditions.

In Qatar, several incidents outlined in this report involve migrant labourers who face arrest and deportation for their SOGIE-status, while far fewer arrests involving middle- or high-income Qataris or tourists from the Global North were documented. In countries such as Malaysia, laws prohibiting “cross-dressing” apply only to Muslims, and while non-Muslims still face targeting in other ways, this institutionalised double-standard cannot be escaped, as it is not possible for persons registered as Muslim to amend their details on their documents.

A note must be made here on the situation of sex workers, also, who are often criminalised in and of themselves by a number of States. Sex workers of diverse SOGIE then find themselves doubly criminalised and disproportionately targeted. However, as the scope of this publication does not extend to the criminalisation of sex work, many such cases are excluded despite this clear intersection, as it is not always possible to determine the degree to which an individual reportedly arrested for sex work was actually arrested for their SOGIE status. Expanding the coverage of this report is currently a challenge primarily due to limitations in capacity and resources.

The State of Malawi v. Jana Gonani

A case study on the non-justice of criminalising judiciaries

By Sebastian Martínez Peralta¹

Documenting instances of enforcement of laws that criminalise consensual same-sex sexual acts among adults is often challenging because of the structural difficulties in gathering data directly from the authorities of criminalising jurisdictions. This compels us to rely heavily on secondary sources such as media and news outlets. However, those rare cases where direct official documentation from authorities enforcing criminalising laws is available are an invaluable opportunity to scrutinise and expose the inherent prejudice, absence of due process, and cruelty that collaborate to suppress and penalise sexual and gender diversity.

The arrest, prosecution, conviction, and subsequent proceedings surrounding the efforts to challenge the legality of the criminalising provisions enforced against Jana Gonani, a trans woman from Malawi persecuted for her work as a sex worker in late 2021, is a paradigmatic example of such cases. The events in question illustrate sharply many of the elements seen only fragmentarily in cases of enforcement across the globe. The Senior Resident Magistrate's ruling thus presents a distinct opportunity to dissect the intricate anatomy of the enforcement of criminalising provisions.

1. Legal background

Consensual same-sex sexual acts in Malawi are criminalised under the Penal Code through Section 153, which punishes "unnatural offences" defined as engaging in "carnal knowledge of any person against the order of nature", carrying a penalty of up to fourteen years of imprisonment. Section 154 further penalises the "attempt to commit unnatural offences". Additionally, Sections 137A and 156 criminalise "gross indecency" acts between females and males, respectively, with a penalty of up to five years of imprisonment.

2. Summary of events as presented by the prosecution based on the accusers' testimonies

On 14 October 2021, Jana Gonani, a trans woman and sex worker, was approached at a nightclub by a man interested in having sex with her. After negotiating a price for her services, they proceeded to her room at a nearby hotel. Upon arriving at the hotel room, Jana requested to be paid

in advance, to which the man agreed. Once she received the payment, Jana temporarily left the room, locking the man inside. Later, Jana returned to the room under the influence of alcohol and fell asleep on the bed. While unconscious, the man started to undress and touch her without her consent until he noticed she had a penis and testicles. He then claimed to have stayed in the room waiting until dawn when she woke up. According to the man's account, she requested additional money from him the following day. When he refused, Jana allegedly took his phone and some change before leaving.²

A few days later, on 19 October 2021, Jana met with a male friend at a local bar and asked him to accompany her back to her hotel room. While in the room, she started to caress him romantically. Despite offering to have sex with him in exchange for pay, she agreed to do it for free since they were friends, and he had no money. The man claimed in his testimony that she grabbed his penis and penetrated herself without him noticing that they were having anal sex. After having sex, they returned to the bar for drinks together and later returned to her room to have sex again since, according to him, she thought he had strong feelings for her. They had sex for a second time, allegedly without him noticing they were having penetrative anal intercourse. Despite agreeing that there would be no payment in exchange for having sex, the following day, she asked him for money. Since he refused to pay her, she took his phone, to which he responded by saying he would go to the police to report her. She then locked him in the room and left.³

Later that day, the police arrived at the hotel room to release the man after having arrested Jana following a report that she had been seen at a nearby location wearing women's clothes. Upon arrest, the police reported finding the two allegedly stolen cell phones in her handbag. After being detained, Jana was subjected to a forceful genital verification exam by a male officer despite her protest. She was then placed in a male cell while awaiting remission to Court.⁴

The following day, Jana was subjected to an unconsented medical examination so a medical practitioner could "establish whether [she] was a male person or a female person" [sic]. The medical practitioner also certified that "her mental faculties were fine" since the police said they suspected "she was mad". During the Court proceedings, a police officer in charge of the investigation said that "they were surprised to hear that [the second man had a [sic] sexual intercourse with the accused person".⁵

¹ Sebastián (she/her) is a law student in Guatemala with two years' experience in LGBTI strategic litigation, advocacy and activism. She's passionate about International Human Rights Law and Public International Law and is particularly interested in the topics of the application of the conventionality control and the use of constitutional principles as means to secure LGBTI protections. She is currently part of the board of *Visibles*, where she has worked as a legal consultant, has delivered educational workshops on LGBTI topics and is currently leading efforts to build a cohort of youth-focused civil society organisations to advance civil rights in Guatemala.

² Mangochi Senior Resident Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021, para. 2.1.

³ *Id.*, Judgment p. 4-5.

⁴ *Id.*, Judgment para. 2.4.

⁵ *Id.*, Judgment paras. 2.4-2.5.

Jana was subsequently charged with two counts of “obtaining by false pretence” for receiving payment as a sex worker by “falsely representing [herself as a woman]” and one count of committing an “unnatural offence” for having sexual intercourse “against the order of nature”. The State did not prosecute the men who reported her to the police. Instead, their witness testimony was the only evidence presented by the prosecution regarding the “unnatural offence” charges.

Jana was not afforded legal representation during the criminal proceedings against her. Although the Court records affirm that Jana was informed of her right to suitable legal counsel, she has stated that she was not presented with this option and was consequently compelled to represent herself in Court. Notably, the local civil society organisation providing her with legal assistance to appeal the decision did not know about the case until after her conviction had received widespread media attention.⁶

3. The judgment

On 23 December 2021, a judgment was rendered by the Senior Resident Magistrate in Mangochi, Rhodrick Stephen Michongwe, culminating in the conviction of Jana Gonani on all charges levied by the prosecution against her. This decision not only serves to underscore the profound bias and prejudice often exhibited by authorities against sexual and gender minorities in criminalising jurisdictions but also serves as the example *par excellence* of the complex and intricate questions at the heart of most instances of enforcement of laws which criminalise consensual same-sex sexual acts.

For example, while the judgment touches on the issue of Jana’s gender identity, the question of consent, the standard of proof in sexual offences, and the enforceability of criminalising provisions, all these considerations appear to present themselves as an elaborate juridical farce with the apparent purpose of hiding the fact that a *prima facie* presumption of guilt had already been imposed on Jana since the very moment she was arrested.

3.1. Assessment of the “obtaining by false pretence” offence

Section 319 subsection 1 of Malawi’s Penal Code establishes:

Obtaining by false pretences: (1) Any person who, by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen or any services or induces any other person to deliver to any person anything capable of being stolen shall be guilty of a misdemeanour and shall be liable to imprisonment for five years.

Despite stating at the beginning of its judgment that the Court would use Jana’s pronouns to respect her gender identity, the Resident Magistrate later showed complete

disregard for her identity and instead relied on the “medical” examination and the first man’s account of the events to determine that she “was a man”.⁷ Therefore, the Court considered Jana’s gender identity and expression to be a “false representation” with the purpose to wrongfully “induce the other party to enter into an agreement”.⁸ It further stated that Jana “knew [sh]e was a man but chose to conduct [her]self as a woman”.⁹

In addition to the remuneration received, the Resident Magistrate also deemed the cell phones discovered by the police to constitute a form of compensation acquired from the two men in return for her services as a sex worker. Regarding the element of intent to defraud, a crucial component of the offence of “obtaining by false pretence”, the Court considered that she “falsely represented herself as a woman” with the explicit intention “to defraud men”, noting that her conduct (i.e., her gender expression) was “well premeditated”.⁹

Regarding the perceived harm attributed to Jana, the Court said, “If not attended to, the convict’s conduct can render many people [to] be robbed off in this way. The conduct has a potential of bringing fear and insecurity to the residents of Mangochi and those who tour this tourist district”.¹⁰

However, the Court later attempted to determine if Jana was “transgender” (although the purpose of this line of reasoning is not clear). It stated that “some people feel that the sex they were assigned at birth doesn’t match their gender identity” and recommended that the High Court should settle the “debatable issue” of trans people’s gender identity to provide guidance on the constitutionality of criminalising provisions.¹¹

Hence, Jana’s gender identity and expression not only fuelled the biases evident in the Prosecutor’s investigation and the language employed in the Court’s sentencing but were, in this instance, construed as an aggravating circumstance—a perceived fabrication or deceit aimed at enticing men for fraudulent purposes. The Court equates the mere expression of her gender identity with the capability to terrorise the entire population of Mangochi as if she were a latent threat to society, which stands in striking contrast with the lived realities of gender-nonconforming people in Malawi who are exposed to a significantly greater risk of suffering physical, verbal, and sexual violence than the general population.¹²

3.2. Assessment of the commission of an “unnatural offence”

Section 153(c) of the Penal Code reads as follows:

Unnatural offences: “Any person who permits a male person to have carnal knowledge of him or her against the order of nature, shall be guilty of a felony and shall be liable to imprisonment for fourteen years”.

While assessing whether there had been “carnal knowledge against the order of nature”, the Resident Magistrate

⁶ Information supplied by the Nyasa Rainbow Alliance.

⁷ Mangochi Senior Resident Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021, para. 6.9.4.

⁸ *Id.*, Judgment, para. 6.8.2.

⁹ *Id.*, Sentence, para. 6.

¹⁰ *Id.*, Sentence, para. 10.

¹¹ *Id.*, Judgment, para. 8.14.3.

¹² Southern Africa Litigation Centre, “*We get traumatized in different ways*”, *Key issues related to sexual; orientation, gender identity and expression identified by a community consultation in Malawi*, October 2020, 16.

considered the mere fact that Jana is a trans woman and her admission that she had locked a man in her room as enough proof to confirm the claims of the second man, that intercourse had taken place:

[Sh]e said [sh]e was born like a person with disability and [sh]e does not do sexual intercourse with ladies. [Sh]e feels like [sh]e is a woman. [Sh]e has no sexual feelings towards women. The accused person told the court that [sh]e indeed locked up the 2nd victim in the said room 29 at Alipo Rest House. [Sh]e says, [sh]e did that because of security. [Sh]e said [sh]e did not do sexual intercourse because [her]self is a man too. The court thinks this evidence corroborates the evidence of the 2nd victim that the two went into the room and had sexual intercourse.¹³

The sole evidence supporting the prosecution's accusation that Jana engaged in sexual acts with the second man "against the order of nature" was the testimony of the man himself, who concurrently served as the accuser, primary witness, and the other party involved in the sexual acts. Notably, in its judgment, the Resident Magistrate failed to even question the credibility of the man's statements, despite the possibility of his own liability under Section 153. It is, at the very least, perplexing that the Resident Magistrate would completely ignore the far-fetched notion that the man engaged in sexual acts with Jana twice without ever paying any attention to either her or his own genitals.

Furthermore, given that the prosecution solely relied on the testimonies of the men, it appears that the Resident Magistrate felt compelled to rationalise its decision not to demand corroborative evidence to substantiate their claims. To that end, it cited a judicial precedent from the East Africa Court of Appeals related to the standard of proof in cases of sexual abuse against women to ground its objectionable reasoning that witness testimony does not require corroborative evidence to determine that "carnal knowledge against the order of nature" had occurred.¹⁴

In assessing the gravity of the offence, using language reflecting a strong bias and prejudiced tone, the Resident Magistrate asserted that it regarded Jana as one of the most egregious offenders ever to exist. It went as far as suggesting that a worse offender was "yet to be born". The Resident Magistrate contended that Jana deserved "a hefty punishment" based on the assertion that her actions carried with them "a sense of shock against the morals of Malawian society". This highly exaggerated qualification of events not only demonstrates the bias of the Court but also strongly suggests that the Resident Magistrate harboured significant prejudice against gender minorities from the outset and made little effort to conceal it. Moreover, the Court declared that it perceived its duty as protecting "men like the victims in this case", "sex workers who do their work properly", and "society at large", further emphasising its predisposition.¹⁵

The Resident Magistrate further emphasised:

I find this conduct of the convict to be not normal. The conduct that could shock the victim and the citizenry of Mangochi in particular, and Malawi at large. This could rightly be said a foreign behaviour in our traditional culture as it stands now. The conduct can corrupt the district's morals and if continued it has a potential to perpetrate the decaying of the morals in the district and Malawi at large. This was evidenced in that the convict had no remorse at all.¹⁶

3.3. Assessment of consent within Malawian law

The Resident Magistrate assessed whether the second man had consented to the sexual acts. The Court concluded that since Jana had not disclosed that she was a trans woman, this "marred" the consent with "nondisclosure". In its reasoning, it asked itself: "Did the [second] victim consent to the act? Yes, but just like the [first] victim, he was misled by the victim into believing that he was doing everything he did with a woman. The consent was not a full one".¹⁷

Section 153 of the Penal Code penalises both insertive and receptive "carnal knowledge against the order of nature" and, despite considering that the sexual acts were not "fully consented to", the Resident Magistrate backtracked in its reasoning to clarify that consent is to be considered immaterial in the context of determining if an "unnatural offence" had taken place.¹⁸

Therefore, it is noteworthy that despite the Resident Magistrate's prompt inclination to conclude that sexual intercourse "against the order of nature" had occurred, relying solely on the allegations made by the two men and considering that "consent" was deemed by the Resident Magistrate itself not be necessary to commit the offence under Section 153, its judgment neither questioned nor addressed whether the man who admitted to having had sex with Jana should also have been subject to prosecution.

3.4. Assessment of the enforceability of criminalising provisions

The Resident Magistrate also appears to have felt compelled to justify whether provisions criminalising consensual same-sex sexual acts were enforceable in Malawi. To this end, it stated that it considered the provisions to be "good law" on the basis that they "protect the Malawi society" and that "Malawians are not yet ready for this conduct".¹⁹

To further support its claim of enforceability, the Resident Magistrate referred to the case of the *Republic v Steve Munjeza Soko and Tiwonge Chimbalanga* (2009), in which a trans woman and her husband-to-be were arrested, charged, and convicted to fourteen years of imprisonment under Section 153 for participating in a traditional

¹³ Mangochi Senior Resident Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021, para. 8.10.

¹⁴ *Id.*, Judgment, para. 5.5.2.

¹⁵ *Id.*, Sentence, para. 15-19.

¹⁶ *Id.*, Sentence, para. 11.

¹⁷ *Id.*, Judgment, para. 8.11.3.

¹⁸ *Id.*, Judgment, para. 8.11.13.

¹⁹ *Id.*, Sentence, para. 13.

engagement ceremony. Even though same-sex marriage is not legal in Malawi and that Section 153 does not prohibit celebrating engagement ceremonies between “same-sex” couples, the Court stated the following:

I do not believe [the Malawi society] is ready at this point in time to see its sons getting married to other sons or cohabiting or conducting engagement ceremonies. I do not believe Malawi is ready to smile at her daughters marrying each other. Let posterity judge this judgment.

The couple was pardoned by the President in 2010 following strong international condemnation. In 2012, the Ministry of Justice and Constitutional Affairs issued a moratorium on the arrest or prosecution of “homosexuals” pending a vote by Parliament and a review by the High Court. However, the moratorium was challenged in 2016 and was subsequently annulled.²⁰

The Resident Magistrate, therefore, considered that Section 153 was enforceable and stated that it intended to recommend its judgment for review by the High Court “for clarity[’s] sake on the Constitutionality of [said] offences”.²¹ However, to ILGA World’s knowledge, there is no record of the Court referring its judgment to the High Court.

3.5. The verdict

Jana Gonani was sentenced to eight years of imprisonment for committing an “unnatural offence” under Section 153(c) of the Penal Code and to six years of imprisonment for “obtaining by false pretence” under Section 319 of the Penal Code.

Despite Jana being a first offender and the “obtaining by false pretence” charges amounting to misdemeanours, the Court decided to waive her right to a suspended sentence under Sections 339 and 340 of the Criminal Procedure Code based on the supposed “seriousness” of the charges levied against her.

4. The constitutional challenge against Sections 153, 154 and 156 of the Penal Code

After the decision by the Resident Magistrate Court was rendered, the case started garnering media attention, reaching a local civil society organisation, which contacted Jana and assumed her legal representation.

Jana’s new legal representatives appealed to the High Court, arguing that the application of Section 153 was unconstitutional, that her sentence was disproportionate and that the failure to prosecute the two individuals who reported her to the police constituted discriminatory treatment towards her. In parallel to the appeal, a constitutional referral was requested challenging Sections 153, 154 and 156 of the Penal Code as contrary to the human rights recognised by Malawi’s Constitution.

Given the anticipated extended duration of the decisions to be made by the High Court regarding both the appeal and

the constitutional referral, Jana’s legal team submitted a request to the Resident Magistrate, who had initially convicted her, seeking her release on bail until these decisions were reached. However, it was reported that the Resident Magistrate firmly declined to sign the necessary documents to arrange a date for the hearing on the bail request. Displaying offence at the request, presumably prompted by the fact that his decision had been questioned and was pending appeal, the Magistrate completely disregarded Jana’s lawyer’s request. This resistance persisted to the extent that the proposal had to be filed before the High Court instead, deviating from the established procedure. The High Court, upon reviewing the situation, expressed astonishment regarding the events. Despite the unusual circumstances, it agreed to entertain the request and reserved its ruling for an unspecified future date. As of the time of publication, this ruling is still pending.²²

Though in Malawi there is no permanent Constitutional Court as in other jurisdictions, in accordance with Article 9 of the Courts Act (1958), a panel composed of three High Court judges can be appointed by the Supreme Court to sit temporarily as a Constitutional Court and review the constitutionality of laws referred to it.²³

4.1. Summary of proceedings before the Constitutional Court

Once the Constitutional Court had been appointed in January 2023, it made the troubling decision to consolidate Jana’s case with another constitutional referral initiated by a Dutch national facing criminal charges under Sections 153 and 156 after being accused of sexual abuse and trafficking of minors.²⁴ The Constitutional Court considered that the cases shared sufficient similarities to warrant joint consideration. Although the role of the Constitutional Court is to focus on the abstract conformity of challenged provisions with the Constitution, the simultaneous review of two profoundly distinct issues—particularly the decriminalisation of consensual same-sex acts among adults—is regrettable.

Additionally, on 27 April 2023, during the initial oral hearing on the matter, the State’s representative requested the recusal of one of the judges, alleging past public support for “same-sex and minority rights”. The argument was that the judge’s alleged prior stance might predetermine the Court’s decision. In response to the petition, the judge chose to recuse himself.²⁵

Furthermore, during the cross-examination of witnesses, a medical professional and researcher from the University of Cape Town, whom Jana’s lawyers presented to testify on how criminalising provisions foster discrimination and violence against sexual and gender minorities in Malawi, was accused of being biased since she had focused on interviewing LGBTI people for her research. The State’s lawyers also pressured her to disclose her sexual orientation in front of the panel, which allowed this line of questioning. In a criminalising jurisdiction, she was compelled to admit to the Court that she was a lesbian. The State Attorney further claimed that the results of her

²⁰ “Suspension of anti-homosexuality laws in Malawi a historic step forward”, *Amnesty International*, 5 November 2012; “Malawi suspends anti-gay laws as MPs debate repeal”, *The Guardian*, 5 November 2012; “Malawi court rejects moratorium on gays: Police can arrest homosexuals”, *Nyasa Times*, 10 February 2016.

²¹ Mangochi Senior Resident Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021, para. 8.13.4.

²² *Information supplied by the Nyasa Rainbow Alliance*.

²³ Mwiza Jo Nkhata, *The High Court of Malawi as a constitutional court: constitutional adjudication the Malawian way* (2020), 3.

²⁴ “CSOs call for swift conclusion of Akster sodomy case”, *Yonoco FM*, 23 May 2023.

²⁵ “CJ allocates same-sex case another judge”, *The Nation*, 6 May 2023.

research could not be objective since she was herself a sexual minority.²⁶

Both incidents highlight the irrational categorical opposition to any semblance of support for sexual and gender minorities and for the repeal of criminalising provisions, which formed a central part of the State's position during the proceedings. Therefore, one must question: if expressing a view in favour of decriminalising consensual same-sex acts is deemed biased, how could arguments challenging the provisions be raised at all? Following this reasoning, wouldn't labelling all opinions against decriminalisation as biased and lacking objectivity be equally valid?

During the course of the case hearings, the offices of one of the organisations openly supporting Jana's case were broken into by unknown individuals. The intruders took off with several documents and electronic equipment.²⁷ The organisation also reported on how virtually all media outlets refused to include their testimonies during the reporting of these events.

The Constitutional Court finished hearing the case on 29 August 2023, reserving its judgment for an undetermined date. At the time of publication, the decision had yet to be rendered.

5. The role of the media and anti-rights groups in influencing public sentiment against the constitutional referral

Legal challenges aimed at questioning the legality of provisions criminalising consensual same-sex sexual acts between adults typically draw substantial public attention, resulting in widespread media coverage. While a positive impact on the result of these efforts due to increased public awareness might be warranted in some jurisdictions, the constitutional referral of the Case of Jana Gonani also serves as an illustrative example of how public discourse on these matters is often framed, distorted, and misrepresented.

Such distortions can reach a level where discerning the subject of discussion becomes challenging. This section seeks to showcase how local religious authorities and the media's framing of decriminalisation efforts in Malawi has mischaracterised the intention of decriminalising consensual same-sex sexual acts by associating it with an alleged threat to the institution of "traditional marriage", thereby jeopardising the chances of success of such decriminalisation attempts. Additional supportive explanations are also explored.

While this issue is predominant in media coverage in Malawi, examples can be found across multiple jurisdictions that have discussed decriminalising or further criminalising same-sex sexual acts between adults. For instance, support in Ghana for the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill (2021) (frequently referred to as the "anti-LGBTQ+ bill") has often been characterised in the media as a stand against same-sex marriage.²⁸ In Kenya, public discourse criticising the Supreme Court's ruling in February 2023 to uphold the right to freedom of association for LGBT organisations was frequently presented as opposition to same-sex marriage.²⁹

While the initial news coverage focusing on the case submitted to the High Court did not mention same-sex marriage.³⁰ In April 2023, public statements from religious authorities appear to have influenced the narrative presented by the media.³¹ In May 2023, a joint press conference regarding the case was convened by the Episcopal Conference of Malawi, the Malawi Council of Churches, the Evangelical Association of Malawi, and the Muslim Mother Bodies. They publicly called on the Judiciary "not to change this fundamental law without consultation to all Malawians". They stated: "The faith community should unite and earnestly pray against legalisation and same-sex marriages in Malawi".³²

Shortly after, multiple religious demonstrations were organised against "the legalisation of same-sex marriage" across the country.³³ From this point onward, the case garnered significant attention from the public and the media, with reports failing to make a discernible distinction between the actual purpose of the proceedings and the non-existent attempts to legalise same-sex marriage.³⁴ Even media outlets, which had in the past reported accurately on the matter, began referring to the case as related to same-sex marriage in their headlines.³⁵

During the demonstrations held on 13 July 2023, attendants could be seen holding protest signs with messages such as "we reject same-sex marriages", "my son, my choice", "nature has already decided", and "homosexuality is a sin". In their declarations, faith leaders continuously stated that the purpose of the demonstrations was to petition the High Court against legalising same-sex marriages in the country.³⁶

Therefore, organised religious groups seem to have a clear strategy with the purpose of provoking public outrage, which has significantly influenced the media's framing of the constitutional referral. Instead of focusing on decriminalisation, the media has portrayed the referral as a question of the legality of same-sex marriage. This same mischaracterisation was also present in the submissions

²⁶ "Clergy, CSOs join same-sex case", *The Nation*, 6 June 2023; "AG satisfied with cross-examination in gay case", *Malawi24*, 6 June 2023.

²⁷ "Thugs break into office of pro-gay rights group", *Malawi 24*, 18 June 2023.

²⁸ "Same-sex marriage must be rejected by all Ghanaians", *Joy FM*, 14 April 2023.

²⁹ "In rare unity, MPs call for stiffer laws against same s*x relations", *Kenya Moja*, 17 March 2023.

³⁰ "Same sex law on trial", *The Nation*, 9 April 2023.

³¹ "BT Synod Reaffirms Stand Against Homosexuality", *Zodiak*, 22 April 2023; "Malawi Catholic Church condemns same sex marriages", *Nyasa Times*, 2 May 2023.

³² "Malawi's Christian mother bodies demands Judiciary not to legalise same sex marriages", *Nyasa Times*, 19 May 2023; Muslim Mother Bodies, *Statement Of Muslim Mother Bodies In Malawi On The Constitutional Case Seeking To Legalise Homosexuality (Sodomy)*, 5 June 2023.

³³ "Malawi Faith leaders march against homosexuality, same sex marriages", *Nyasa Times*, 23 May 2023.

³⁴ "Chief Justice assigns two more judges on same sex marriage case", *Nyasa Times*, 24 May 2023; "Faith groups in Mzuzu march against legalization of same sex marriages", *Face of Malawi*, 2 June 2023; "Clergy, CSOs join same-sex case", *The Nation*, 6 June 2023; "Chihana tells international community off over same sex marriages", *Nyasa Times*, 13 June 2023; "Nkhoma CCAP Synod Joining Same-Sex Marriage Case", *Malawi Freedom Network*, 13 July 2023; "Malawi's same sex marriages case adjourned to next month", *Malawi Voice*, 19 July 2023.

³⁵ "Same Sex Marriage On Trial", *Face of Malawi*, 18 July 2023; "Same sex law on trial", *The Nation*, 9 April 2023.

³⁶ "Malawi's Parliament Recommends Referendum on Same-Sex Marriages", *Voice of America*, 16 August 2023.

filed before the Court by the religious groups who were admitted in the proceedings as “friends of the court”.³⁷

6. Additional challenges in decriminalisation advocacy

Nevertheless, even if the previous observation is accurate, it must be noted that in Malawi, the issue of laws criminalising consensual same-sex sexual acts has long been closely associated with same-sex marriage. Regarding the criminalisation case of Tiwonge Chimbanga back in 2009, although there was no evidence of her and her partner engaging in sexual acts, they were charged under Section 153. Despite the charges being related to the couple’s alleged “carnal knowledge against the order of nature”, media outlets at the time portrayed the case as a matter concerning the legality of same-sex marriage.³⁸

Furthermore, it has been proposed that the conflation in jurisdictions such as Malawi between any LGBT advocacy, inclusive of endeavours to repeal criminalising laws, and the legal recognition of same-sex marriage or the “legalisation of homosexuality”, might stem from the use of “Western” terminology that doesn’t account for how Malawians construct incompatible local meanings for advocacy terms in other languages, such as in Chichewa.³⁹ For instance, words such as “gay rights” or “LGBT rights” are frequently translated by the media as “ufulu woti amuna adzikwatirana”, which would roughly mean the “freedom for men to marry” and “ufulu wa mathanyula”, denoting the “same-sex sex”. Notably, the latter doesn’t distinguish between consensual and non-consensual same-sex acts and is commonly used by the media to describe sexual abuse against underaged boys.⁴⁰

Regardless of whether local media manages to accurately report on the repealing of laws criminalising consensual same-sex sexual acts between adults, it is probable that when translated into local languages such as Chichewa, the meaning of these discussions is, at best, perceived as an attempt to legalise same-sex marriage, and at worst, as a form of advocacy for sexual abuse against minors. In this scenario, same-sex marriage appears to be the only acceptable alternative despite being far from describing the actual demands of local activists and human rights defenders.

While it would be naive to disregard the potential for intentional misrepresentation by local organised religious anti-rights groups aiming to manipulate public sentiment against the “legalisation of same-sex marriage” rather than directly addressing the compatibility of laws criminalising consensual same-sex sexual acts between adults in private with the Constitution and international human rights

standards, it is essential to consider other factors, such as the linguistic incompatibility between Western-sourced advocacy terms and their translation to Chichewa, which may elucidate the considerable challenges local activists face when attempting to communicate their demands to the Malawian public, including to the judiciary.

7. Conclusion

Far from being a one-off, research for this report has indicated that such miscarriages of justice as seen in the *State of Malawi v. Jana Gonani* are all too common in many countries which criminalise consensual same-sex acts between adults, though rarely do so many elements of procedural and social bias get revealed in such totality. Where a lack of comprehensive information, visible prosecution, and media reporting may lead some to believe that targeting of sexual and gender minorities in such countries is limited or non-existent, the information above serves as a valuable case study in the range of violations that may occur in the proverbial shadows.

Jana’s case showcases many of the key findings outlined in this report since its first edition regarding the common elements of the enforcement of criminalising laws. For instance, the focal role of gender expression in the prosecution and enforcement of criminalising provisions, the conflation of sexual orientation and gender identity, the strong bias stemming from a binary essentialist view of gender, the conspicuous absence of any respect for due process in proceedings against sexual and gender minorities, and the media’s careless complicity in fostering community bias against criminalised individuals; all make an insidious appearance in the systemic efforts to punish Jana based on her sexual orientation and gender identity.

Furthermore, although the enforcement of provisions criminalising consensual same-sex sexual acts and diverse gender expressions may seem straightforward at times, this case highlights the inherent complexities and intricate questions also common to many cases of enforcement that often resist simplification. At every corner, Jana’s case is tainted by inconsistencies, fallacies, and absurdities that can only be attributed to a deliberate effort to ignore any element that might even slightly favour the accused or to a gross disregard for the proper administration of justice.

Still, one thing is clear: authorities in criminalising jurisdictions operate from within a system that constantly seeks to uphold its main priority, which is to keep criminalising provisions in place and punitively harm those the system sees as “corrupting the mind of a whole nation” and the “worst offenders” to have ever lived.

³⁷ Information supplied by the Nyasa Rainbow Alliance.

³⁸ “Malawians Debate Legalizing Gay Marriage”, *Voice of America*, 18 February 2010.

³⁹ Alan Msosa, *Human Rights and Same-sex Intimacies in Malawi* (2017), 23-24.

⁴⁰ *Id.*, 106-107.



Africa

On 30 June 2023, 31 out of 51 UN Member States had legal frameworks explicitly criminalising consensual same-sex sexual acts in Africa: Algeria, Burundi, Cameroon, Chad, Comoros, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Malawi, Mauritania, Mauritius,¹ Morocco, Nigeria, Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe. Among these, several also criminalise diverse gender-expressions *de jure*.² Furthermore, ILGA World has consistently classified Egypt as a *de facto* criminalising country, given the extended and consistent pattern of state persecution of consensual same-sex sexual acts on the basis of other related or unrelated legal provisions.³

In addition to the above list, ILGA World has provided entries on 9 countries in which varying levels of State-targeting were found, despite no *de jure* criminalising legislation being identified. This list includes Benin, Burkina Faso, Central African Republic, Cote D'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Niger, and Rwanda.

There is full legal certainty that the death penalty exists as a prescribed punishment for consensual same-sex sexual activity in Mauritania, Uganda, and in 12 states in Northern Nigeria. In addition, extrajudicial executions in regions not under direct State control in certain African countries have been documented, from both armed militia groups and community-based vigilantes.

Furthermore, worrying efforts to criminalise or aggravate and expand existing criminalising laws could be seen across the continent in countries such as Kenya, Tanzania, Ghana, Senegal, Niger, and Mali.⁴

In the process of creating this report, several local human rights defenders have requested that their stories not be mentioned here due to the growing risk of backlash, and the need to act strategically at a time when local politicians are increasingly using international advocacy as an easy target to detract from human rights frameworks.



Algeria

Criminalising Provisions

Article 333 of the Penal Code (1966) criminalises “public indecency” with a prison sentence of between two months and two years, with a fine of 500 to 2000 Algerian Dinars. Under Article 338 this is expanded to note that any person found guilty of “an act of homosexuality” is liable to receive the same penalty.⁵

Enforcement Overview

ILGA World was able to identify around 10 examples of possible criminal enforcement in Algeria, though many of these involve the arrest of large groups of people, such as in 2020 when 44 suspects were detained in a raid of a so-called “gay wedding”, and again in 2021 when 13 were detained after an “indecent” video went viral. Research

from multiple sources indicates that the number of actual incidents is likely far higher, with most cases going unreported.

While in the past several sources have indicated that criminalising provisions were only “rarely enforced” in Algeria, a growing trend in recent years serves as a key reminder that local authorities can at any time resort to the enforcement of these provisions. The spasmodic nature of enforcement indicates that a country labelled “safe” for not having implemented its criminalising laws in recent years could at any moment turn on its residents. Indeed, Algerian officials have on multiple occasions in 2022 and 2023 confiscated items, such as copies of the Qur’an, for allegedly featuring rainbow Pride colours, and in January 2023 began an apparent “awareness campaign” against the sale of any product featuring such colours. This demonstrates that even when enforcement of criminalising

¹ Note: After the cutoff date of this report (30 June 2023), in October 2023, the Supreme Court of Mauritius decided in *Fokeerbox and Others v. Mauritius* (2023) that Section 250(1) of the Criminal Code was unconstitutional and violated section 16 of the Constitution of Mauritius in so far as it prohibits consensual acts of sodomy between consenting male adults in private and should accordingly be read to exclude such consensual acts from the ambit of section 250(1). Mauritius was thus removed from the list of criminalising UN Member States after the cut-off date for this publication.

² See, inter alia: ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020).

³ For more information see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Egypt* (accessed: 30 June 2023).

⁴ For more information see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts* (accessed: 30 June 2023).

⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Algeria* (accessed: 30 June 2023).

legislation temporarily subsides, the State itself remains committed to excluding or targeting the LGBTQ+ community.⁶

At the international level, in 2017 Algeria rejected a specific recommendation to “stop arresting people for same-sex relations” in its third cycle of the Universal Periodic Review before the UN Human Rights Council.⁷ The reason for not accepting the recommendations was stated in the following terms:

The Government of Algeria does not endorse these recommendations because a number of them are contrary to the Algerian Constitution or undermine the values and rules that bind together Algerian society, while others are presented in mandatory or even intrusive language.⁸

In the same vein, in 2018 the Human Rights Committee urged Algeria to release all persons detained on the basis of Article 338 of the Criminal Code.⁹

Examples of Enforcement

On **16 May 2005**, two men were arrested by security forces for participating in a ceremonial same-sex marriage. They were alleged to have booked the venue under the pretence of having a party. Further details of the case remain unknown.¹⁰

In **March 2010** it was reported in the Algerian publication, *l'Expression*, that an Imam in the town of Tizi Ouzou was found to be engaging in same-sex sexual activity. Both he and his partner were sentenced to two years' imprisonment and a fine.¹¹

It was reported in **May 2013** that two young men from the city of Oran were placed in pre-trial detention for “indecent behaviour and incitement to immorality” after publicising their marital bond with one another on social media. Further details of their fate are unclear.¹²

According to judgment in an asylum case, from Germany's Federal Office for Migration and Refugees, a gay man faced arrest in **2016**. He had been attacked by three young men, and when he went to the local police station with the case he was insulted and threatened. The plaintiff claimed to the court that the only reason he was not detained was that one of the officers present knew his father and uncle, but he was told he would be arrested if he was caught again.¹³

Some time prior to **May 2017** several LGBT activists were arrested amid peaceful anti-government demonstrations. Unfortunately, no further details could be obtained prior to publication.¹⁴

In **July 2020**, 44 people (35 men and nine women) were arrested and charged for allegedly organising and participating in a “same-sex wedding” between two men in the city of El Khroub, Constantine province. Media outlets reported that neighbours alerted the National Gendarmerie about the “possible presence of a group of homosexuals in an apartment”. Security forces arrived at the premises and arrested all attendees, many of whom had reportedly come from several parts of the country.¹⁵ At least two men were immediately placed in pre-trial detention and the rest remained under judicial supervision awaiting trial.¹⁶ In **September 2020** two individuals from this group were sentenced to three years in prison, and 42 others to one year suspended prison sentences.¹⁷ A lawyer involved in the case told Human Rights Watch that the court used police reports describing the decorations, flowers, and sweets “indicative of a wedding celebration”, and the men's supposedly “gay appearance”, as evidence of guilt.¹⁸

In **September 2020** a similar case took place in the wilaya of Annaba in eastern Algeria. According to local sources, elements of the Urban Security Force of the 11th district of Annaba arrested around 27 individuals for “having organised a wedding between two men” in an apartment. The band performing at the event was also arrested.¹⁹

Also in **September 2020**, a brief news report surfaced stating that a “health director” in the city of Khenchela had

⁶ “Saisie de 81 livres de Coran porteurs des couleurs en Algérie” [Seizure of 81 Quran books bearing the colours in Algeria], IQNA (*International Quran News Agency*), 1 July 2022; “ميلة بحجز 80 مصحفا يحمل ألوان راية المثليين” [Mila: 80 Qurans bearing the colours of the “gay” banner were seized], *Ennahar*, 8 September 2022; “La paranoïa des couleurs “LGBT” gagne les algériens” [The paranoia of “LGBT” colours is winning over Algerians], *Algerie 360*, 10 January 2023; “ميلة بحجز 162 مصحفا شريفا يحمل شعار المثليين” [Mila: 162 Holy Qur'ans with the gay slogan were seized], *Ennahar*, 14 March 2023.

⁷ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Algeria*, A/HRC/36/13, 19 July 2017, para. 129.65.

⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Algeria. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/36/13/Add.1, para. 53.

⁹ Human Rights Committee, *Concluding observations on the fourth periodic report of Algeria*, CCPR/C/DZA/CO/4, 17 August 2018, para. 20(d).

¹⁰ “Correction: First Middle East Gay Wedding in Algeria”, ...Or Does It Explode: Inside the struggle for civil rights in the Middle East, 27 August 2005.

¹¹ “Deux ans de prison pour l'imam homosexuel” [Two years in prison for gay Imam], *l'Expression*, 15 March 2010.

¹² “Oran: deux homosexuels en prison” [Oran: two homosexuals in prison], *Prochoix*, 7 May 2013.

¹³ Federal Office for Migration and Refugees (BAMF), *Decision Az 7774449 – 221*, 1 April 2019.

¹⁴ “Concerns of the ALOUEN association regarding the situation of the right to non-discrimination and equality: case of LGBTI Algerians”, *Alouen*, 17 May 2017.

¹⁵ موقع جزائري: الدرك يوقف 44 متلبا بصدد إقامة مراسم حفل زفاف بين شابين” [Arrestation d'un groupe d'homosexuels dans un appartement à Constantine”, *Algerie 360*, 26 July 2020; “الأمّن يوقف مجموعة من المثليين بصدد إقامة حفل زفاف بين شابين..عذابة” [Annaba: Security forces stop a group of homosexuals about to hold a wedding party between two young men], *Ennahar* web site: The gendarmerie arrests 44 gay men in the process of holding a wedding ceremony between two young men], *Al-Quds*, 25 July 2020.

¹⁶ “نية الخروب: الحيس المؤقت لشابين مثليين حولاً عند” [Constantine..the temporary imprisonment of two gay men who tried to marry their marriage to Ali Mingli], *Ennahar*, 29 July 2020; “إيداع شابين مثليين الحيس المؤقت” [Two gay men were held in temporary custody], *Al Jazair 1*, 29 July 2020; “توقيف مثليين كانوا بصدد إقامة حفل زفاف بين شابين في عذابة” [Arrest of gay men who were about to hold a wedding party between two young men in Annaba], *Djazaïress*, 26 September 2020; “Des étudiants condamnés à la prison pour avoir assisté à un « mariage gay »” [Students sentenced to prison for attending a “gay marriage”], 45 *Secondes*, 17 October 2020; “Algeria sentences 44 arrested at ‘gay wedding’”, *Rights Africa*, 18 October 2020.

¹⁷ “الحيس 3 سنوات للمتهمين الرئيسيين في قضية عرس المثليين بقسنطينة” [Three years imprisonment for the main defendants in the case of the gay wedding in Constantine], *Ennahar*, 4 September 2020; “Algérie : Deux personnes condamnés à 3 ans de prison ferme pour un « mariage gay »”, *ObservAlgerie*, 3 September 2020; “Mariage homosexuel à Constantine : Le tribunal rend son verdict” [Homosexual marriage in Constantine: The court delivers its verdict], *Algerie 360*, 3 September 2020; “Algeria: Mass Convictions for Homosexuality”, *All Africa*, 17 October 2020; “40 personas en prisión por acudir a “una boda gay”” [40 people in prison for attending “a gay wedding”], *Cromosoma X*, 21 October 2020; “Des étudiants condamnés à la prison pour avoir assisté à un « mariage gay »” [Students sentenced to prison for attending a “gay marriage”], 45 *Secondes*, 17 October 2020; “Algeria sentences 44 arrested at ‘gay wedding’”, *Rights Africa*, 18 October 2020.

¹⁸ “Algeria: Mass Convictions for Homosexuality”, *Human Rights Watch*, 15 October 2020.

¹⁹ “Algérie : Des homosexuels arrêtés par la police lors d'un mariage gay à Annaba” [Algeria: homosexuals arrested by police at gay wedding in Annaba], *Observe Algerie*, 27 September 2020; “عذابة: الأمن يوقف مجموعة من المثليين بصدد إقامة حفل زفاف بين شابين..عذابة” [Annaba: Security forces stop a group of homosexuals about to hold a wedding party between two young men], *Ennahar*, 26 September 2020; “توقيف مثليين كانوا بصدد إقامة حفل زفاف بين شابين في عذابة” [Arrest of gay men who were about to hold a wedding party between two young men in Annaba], *Djazaïress*, 26 September 2020; “عذابة: إحالة 27 شخصا على العدالة لإقامة حفل دون ترخيص” [Annaba: 27 people referred to justice for holding a party without a permit], *El Khabar (Algeria)*, 29 September 2020.

been imprisoned on charges of “homosexuality”. No further details could be verified at the time of publication, however.²⁰

In **April 2021**, the Misdemeanours Chamber of the Ahras Market Court ordered that seven people, including a woman, be placed in temporary pre-trial detention after being involved in a scandal related to a video circulating on social media. The video allegedly showed two men engaged in same-sex sexual activity.²¹ Other sources stated that 13 people in total were being investigated, including three women and a member of the military.²² The investigation determined that the video had been filmed in **2018** inside a classroom. Defendants were charged with homosexuality and the production of “pictures [of an] indecent nature”, with a hearing being scheduled for **13 April 2021**. All defendants were placed in temporary detention.²³

It was reported in **March 2023** that an undisclosed number of people were arrested in northern Algeria for practicing “magic, sorcery and homosexuality” in an apartment. Authorities raided the location after complaints from community members, with media citing condoms and ritual talismans as evidence. The group were later released under unclear circumstances. It is unknown whether any formal charges were filed or investigations initiated.²⁴



Benin

Enforcement Overview

Though Benin does not explicitly criminalise same-sex sexual activity or diverse gender expressions, Article 544 of the Penal Code (2018) punishes “public indecency” with three months to two years in prison, and a fine. This and other public order provisions have reportedly been used to subject transgender and gender-diverse people to harassment, arbitrary search, arrest, and detention.²⁵

Attempts were made to formally criminalise same-sex sexual acts in the draft Penal Code of 1996, though these provisions were never voted into law.²⁶ A criminalising bill

was put back on the table for discussion in 2010, though the discussions were reportedly unsuccessful and was abandoned once again.²⁷

Social stigma, discrimination and violence remains common in Benin.²⁸ In December 2021 the country’s National Human Rights Commission expressed concern about “physical and sexual assaults, arbitrary detention, torture and inhuman and degrading treatment observed” based on sexual orientation, gender identity or gender expression.²⁹ According to local sources, 31% of assault survivors do not report the incidents as a result of these concerns. When incidents are reported, 80% of survivors hide their identity to ensure fair treatment under the law, as revealing their gender identity or sexual orientation, which might have triggered the assault, often leads to discrimination and arrest by the police.³⁰

A dearth of international reporting on the situation in Benin and its lack of clear criminalising legislation has made verifying information for this report difficult. Nevertheless, ILGA World has identified several notable incidents between 2006 and the time of publication.

Examples of Enforcement

It has been alleged that in **2006** a foreign national was arrested and held for two months after a friend mentioned to police that he was gay. Details are unclear, though he may have been charged for “outrage against public decency”. He was released on a bail of 700,000 CFA francs (approximately USD 1,400) and does not appear to have gone to trial.³¹

Sometime in **2011** or **2012** a young trans woman, who had become an increasingly vocal activist in her community, received a police summons “affronting public decency”. Rather than face possible imprisonment and a fine, she and her mother fled the country.³²

On **4 February 2022** a transgender woman in Ouidah was assaulted by a group of taxi drivers, accusing her and several other trans women of theft. After beating her, stripping her naked and photographing her, they took her to a police station in Pahou, where officers also beat her, photographed her naked in order to determine her sex, and encouraged other inmates to sexually and physically assault

²⁰ “السجن لمدير الصحة بتهمة الشذوذ الجنسي” [Imprisonment of health director on charges of homosexuality], *Al Jazair 1*, 11 September 2020.

²¹ “إيداع 7 أشخاص الحبس في فضيحة أخلاقية” [Seven people are imprisoned in a moral scandal], *Echorouk El Yawmi*, 9 April 2021.

²² “سوق اهراس: 13 شخصا متورطا في قضية شذوذ جنسي الحبس المؤقت [آخر ساعة]” [Souk Ahras: 13 persons involved in the case of homosexuality are placed in temporary detention | Last hour], *Akher Saa*, 11 April 2021.

²³ “سوق اهراس: 13 شخصا متورطا في قضية شذوذ جنسي الحبس المؤقت [آخر ساعة]” [Souk Ahras: 13 persons involved in the case of homosexuality are placed in temporary detention | Last hour], *Akher Saa*, 11 April 2021; “مشاهدة فيديو فضيحة سوق اهراس في الجزائر كامل” [Watch the full video of the Souk Ahras scandal in Algeria], *Palasawa*, 7 April 2021; “هذه قضية فيديو” [These are the details of the issue of homosexuality in a classroom in Souk Ahras], *El Bilad*, 8 April 2021; “تفاصيل قضية الشذوذ الجنسي داخل قاعة تدريس في سوق اهراس” [Video case of homosexuality in classroom. 8 people are imprisoned], *Assawt*, 9 April 2021.

²⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁵ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 21.

²⁶ Kuchu Times, *Benin* (accessed: 30 June 2023).

²⁷ Information supplied to ILGA World by Sheba Akpokli.

²⁸ “Videos of transgender women beaten and forced to strip in Benin go viral” *France24*, 5 May 2021; “Essere un adolescente gay in Benin significa vivere nascosti al mondo intero”, [Being a gay teenager in Benin means living hidden from the whole world], *Progetto Gionata*, 17 July 2022; Outright Action International, *Country Profile: Benin* (accessed: 30 June 2023).

²⁹ Commission Béninoise des droits de l’homme, *Rapport sur l’état des droits de l’homme au Bénin, 2020-2021* [Report on the state of human rights in Benin, 2020-2021], 30 November 2021.

³⁰ Synergie Trans Benin (STB), Alliance des Femmes pour une Releve Orientee (AFRO-BENIN), Alliance des Femmes Battantes du Benin (AFB), Force Feminine du Benin (FFB), *Rapport alternatif en réponse aux violations des droits humains des femmes lesbiennes, bisexuelles et femmes transgenres au Bénin: Rapport présenté au Comité pour l’élimination de la discrimination à l’égard des femmes 82e session* [Alternative report in response to violations of the human rights of lesbian, bisexual and transgender women in Benin: Report presented to the Committee on the Elimination of Discrimination against Women, 82nd session] (2022), 14.

³¹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³² “Cléo, a transgender activist who has sought asylum in Tunisia”, *Heinrich Böll Stiftung*, 21 June 2016.

her. She was kept in custody until **6 February**, naked and deprived of food the whole time, before being released without charge.³³

On **28 December 2022** police in Cotonou reportedly dismantled a “network of homosexuals”. The alleged leader of the “network” was accused of sexual abuse and “promoting homosexuality” on social media, and detained along with two others when he went to file a libel complaint at a local police station. The remaining members of the supposed “network” were said to be on the run following this incident.³⁴

Burkina Faso

Enforcement Overview

Though Burkina Faso does not expressly criminalise consensual same-sex sexual acts, ILGA World has been made aware of at least five documented examples of targeting by State actors, resulting in the country’s inclusion in this report.

The Penal Code (1996) does, however, punish as an “offence against decency” any “act of a sexual nature that is contrary to good morals and is committed directly and deliberately on another person, with or without force, compulsion or surprise”, per Article 411.³⁵ Article 305 has also been used to disproportionately target persons of diverse gender expressions, as it punishes anyone who “unduly assumes an identity other than that resulting from the statements in their civil status documents” with fines of 50,000 to 200,000 francs. Several cases have been reported in which trans women and cross-dressers are detained by police on allegations of “identity theft” because of this provision.³⁶

At least one attempt to formally criminalise same-sex acts was made in February 2015 by the small National Rebirth Party (PAREN), which submitted a bill banning homosexuality and same-sex marriage. The latter is, of course, already banned in the country. The bill decried the “conception of individual freedom” on the basis that “human reason can be incompetent [and] human conscience can be misguided by birth, taste and destination”. Shortly after the bill’s introduction the United States Ambassador to Burkina Faso, Tulinabo Mushingi,

told journalists: “The basic principle is that universally accepted human rights [...] need to be part of this discussion, regardless of origin, race, religion or sexual orientation”. Mushingi’s statements were decried by local civil society groups such as the Queer African Youth Network (QAYN), on the basis that the media furor now ignited around the topic could give traction to the bill which was otherwise unlikely to progress.³⁷

Indeed, after the introduction of the bill by PAREN, several conferences and rallies by high-ranking Muslim and Christian figures in support of criminalisation were reported. Opposition to sexual and gender diversity from religious groups remains vocal.³⁸ Violence from the broader society is also reportedly common, with those who come out as gay or trans fearing “being poisoned, suffocated in their sleep or rejected by their loved ones”. Mob violence against publicly queer people has also been reported multiple times since 2012, with police on at least one occasion declining to arrest vigilantes due to an apparent history of police stations being attacked by anti-LGBTQ+ mobs.³⁹

In 2021, *Prison Insider* interviewed two activists offering legal support to arrested LGBTQ+ persons. The activist’s testimony indicated that despite a lack of formal criminalisation, stigmatisation from police forces is rife, with many persons of diverse sexual orientations, gender identities and gender expressions paying bribes to avoid landing up in “unhygienic, unhealthy and overpopulated” cells, “often kept naked or in undergarments” and deprived of food, water, or contact with family members. Even minors suspected of being gay are imprisoned under the logic that it will “teach them a lesson”, according to the activist in question.⁴⁰

It must be noted that in January 2022 the government of Burkina Faso was overthrown in a military coup, which saw the country’s constitution temporarily suspended. In September of that year another military coup overthrew the transitional military government. The ostensible reason for both of these incidents was the failure by the civilian government to deal with a jihadist insurgency which has been ongoing since 2016. In the months since, however, rebel forces managed to expand into roughly 50% of Burkina Faso’s territory, inflicting mass casualties on local civilian populations. The specific conditions for persons of diverse sexual orientations and gender identities and expressions in these areas remains opaque due to the limited flow of information. Gathering more recent information for regions under the control of the de facto government of Burkina Faso has also become challenging,

³³ “Benin: Police accused of violently attacking transgender woman”, *Amnesty International*, 7 March 2022.

³⁴ “Bénin: la police démantèle un réseau d’homosexuels à Cotonou” [Benin: police dismantles a network of homosexuals in Cotonou], *Benin Web TV*, 30 December 2022.

³⁵ Immigration and Refugee Board of Canada, *Burkina Faso: Treatment of sexual minorities, including legislation, state protection and support services (2014–April 2016)* (accessed: 7 September 2023).

³⁶ “Rejection of LGBTQI+ people in Burkina Faso”, *Prison Insider*, 25 October 2021 (accessed: 30 June 2023); “Burkina Faso: Humiliation of LGBTQI+ Prisoners”, *Prison Insider*, 29 November 2021 (accessed: 30 June 2023); “In Burkina Faso, trans people self-medicate in ‘dangerous’ transition”, *Reuters*, 30 December 2021.

³⁷ “Burkina Faso’s Gay Rights Debate: What Role for Foreign Voices?”, *Institute of Current World Affairs*, 16 June 2015.

³⁸ “Burkina Faso’s Gay Rights Debate: What Role for Foreign Voices?”, *Institute of Current World Affairs*, 16 June 2015; QAYN, *Il ne faut pas réveiller le lion qui dort: Cartographie juridique de la situation des personnes LGBTQ en Afrique de l’Ouest Francophone* (2015), 24; Immigration and Refugee Board of Canada, *Burkina Faso: Treatment of sexual minorities, including legislation, state protection and support services (2014–April 2016)* (accessed: 7 September 2023).

³⁹ QAYN, *Il ne faut pas réveiller le lion qui dort: Cartographie juridique de la situation des personnes LGBTQ en Afrique de l’Ouest Francophone*, July 2015; “Rejection of LGBTQI+ people in Burkina Faso”, *Prison Insider*, 25 October 2021; “Ouagadougou : des homosexuels fêtant Noël ont été chassés, Et leur maison détruite” [Ouagadougou: homosexuals celebrating Christmas were chased away, and their houses destroyed], *Actualite.bf*, 29 December 2021; “Burkina Faso: another homosexual beaten up in sector 4 of Ouahigouya” [Burkina Faso: another homosexual beaten up in sector 4 of Ouahigouya], *NetAfrique*, 22 January 2022.

⁴⁰ “Rejection of LGBTQI+ people in Burkina Faso”, *Prison Insider*, 25 October 2021; “Burkina Faso: Humiliation of LGBTQI+ Prisoners”, *Prison Insider*, 29 November 2021 (accessed: 30 June 2023).

due to the military junta's own targeting of civilians, the media, and civil society groups opposed to their rule.⁴¹

Examples of Enforcement

A 2015 report from QAYN indicated that at least one person interviewed in the court of data analysis had been arbitrarily arrested by the police due to their sexual orientation. No further information could be identified at the time of publication.⁴²

In October 2021 an LGBTQ+ Burkinabé human rights defender told *Prison Insider* that he himself had been arrested detained at Ouagadougou's central police station. No further details were disclosed of these incidents, however.⁴³

The same activist also said in October 2021 that a transgender woman he knew was put on public display in a police station courtyard "like a peacock in a zoo".⁴⁴

The activist further noted in October 2021 the case of "two young people who were arrested for cross-dressing" to whom he offered legal assistance to secure their release. One of the pair had been sexually assaulted while in custody, and contracted HIV as a result.⁴⁵

In November 2021 another Burkinabé human rights defender recounted the story of a 17-year-old "cross-dresser" who had been arrested for "identity theft" on account of their gender expression. The victim was housed with adult male inmates, with guards allegedly encouraging the men to engage in sexual assault with their new cellmate and congratulating them for it. One of the men offered protection in exchange for a fee, but when the victim could not pay, they were raped anyway.⁴⁶



Criminalising Provisions

While the Constitution (2005) prohibited same-sex marriage, there was no law against same-sex sexual activity in Burundi until 2009, with the adoption of the Penal Code (2009). Article 567 of Section 5 establishes that "anyone who has sex with a person of the same sex" is liable to a fine of 50,000 to 100,000 francs, or a prison sentence of three months to two years. Additionally, Article 565 punishes public acts that "offend modesty".⁴⁷

Under Burundian law transgender and gender-diverse people are indirectly criminalised through a number of Penal Code provisions criminalising "impersonation" and "falsifying identity". These can be found in Law No. 1/27 of 29 December 2017 concerning the revision of the Penal Code, Articles 366, 367, 368, 378, 379 and 380. Burundi also retains several provisions that are used to disproportionately target trans and gender-diverse individuals whose gender expressions do not align with their legal documents.⁴⁸

Enforcement Overview

Owing to its small size and the relative prominence of its neighbours, Burundi has not garnered much international attention in recent years, leading to a dearth in verifiable, accessible sources in the course of researching this report. That should not be taken, however, to mean there is not a significant issue around criminal enforcement in the country, with ILGA World identifying at least 14 cases between 2009 and 2023.

Prior to the adoption of the 2009 Penal Code the country did not criminalise consensual same sex sexual activity, but in the years following this act of criminalisation several cases of inflammatory rhetoric from State actors have been identified. The 2009 Penal Code, Promulgated by former President Pierre Nkurunziza, marked the first time in Burundi's history where it criminalised same-sex sexual activity since its independence in 1962.⁴⁹ In November 2009 Nkurunziza, declared homosexuality to be a "curse" and attributed his reception of the Assisi Peace Prize to his stance against homosexuality. In July 2011, the Minister of Education indicated that it was justifiable for schools to expel LGBT students, and in 2013 the Dutch Embassy's pro-LGBT Human Rights Day event was cancelled without explanation.⁵⁰

The State has in more recent years made clear that decriminalisation is not a priority and that enforcement of the law remains the *status quo*, given that criminalising provisions remained after the adoption in 2017 of "Law No. 1/27 concerning the revision of the Penal Code". The same year, as the revisions came into force, authorities reportedly announced a "hunt" for individuals with diverse sexual orientations and gender identities.

On 1 March 2023 Nkurunziza's successor, Evariste Ndayishimiye, spoke out against homosexuality at a national prayer breakfast, saying:

I ask all Burundians to curse those who indulge in homosexuality because God cannot bear it. They

⁴¹ "How Burkina Faso became the epicentre of conflict in the Sahel", *Aljazeera*, 11 March 2022; "Growing threats against journalists in Burkina Faso", *Reporters Sans Frontières*, 4 July 2022; "Gunfire Is Heard in Burkina Faso's Capital, Kindling Fears of a Coup", *New York Times*, 30 September 2022; "Journalists Threatened and Attacked; HRD Detained; Protest Banned" *Civicus Monitor*, 7 September 2022; "Understanding Burkina Faso's Latest Coup", *Africa Center for Strategic Studies*, 28 October 2022; "Fight against insurgents: Burkina Faso announces curfew", *Africa News*, 7 March 2023; "Burkina Faso expels 2 French journalists, no reason given", *Associated Press*, 3 April 2023; "Burkina Faso: Upsurge in Atrocities by Islamist Armed Groups", *Human Rights Watch*, 15 June 2023; "Burkina Faso: Unlawful Killings, 'Disappearances' by the Army", *Human Rights Watch*, 29 June 2023.

⁴² QAYN, *Il ne faut pas réveiller le lion qui dort: Cartographie juridique de la situation des personnes LGBTQ en Afrique de l'Ouest Francophone*, July 2015, 24.

⁴³ "Rejection of LGBTQI+ people in Burkina Faso", *Prison Insider*, 25 October 2021 (accessed: 30 June 2023).

⁴⁴ "Rejection of LGBTQI+ people in Burkina Faso", *Prison Insider*, 25 October 2021 (accessed: 30 June 2023).

⁴⁵ *Ibid.*

⁴⁶ "Burkina Faso: Humiliation of LGBTQI+ Prisoners", *Prison Insider*, 29 November 2021 (accessed: 30 June 2023).

⁴⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Burundi* (accessed: 30 June 2023).

⁴⁸ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 107.

⁴⁹ Human Dignity Trust, *Country Profile: Burundi* (accessed: 15 June 2023).

⁵⁰ Mouvement pour les Libertés Individuelles (MOLI), Rainbow Candle Light, Heartland Alliance, Vermont Law School, *The status of lesbian, gay, bisexual and transgender rights in Burundi: A Shadow Report* (2014), 9-10.

must be banished, treated as pariahs in our country because they bring us [a] curse.⁵¹

Local organisations have decried the fact that in many cases of arrest, police officers will offer the possibility of release upon payment of an unspecified “fine” which is oftentimes unrecorded. Hundreds, or even thousands, of these instances fly under the radar of this and other reports. Additionally, mistreatment and poor detention conditions are reported to be common situations. In 2016 a trans woman explained that police officers ask questions like “are you a man or a woman?” and usually hit and assault detainees “in order to correct them”. Testimonies also indicate that detainees tend to be deprived of the right to the usual interrogation session with a senior police officer to assess the person’s innocence.⁵²

The rights to education and freedom of expression with regard to SOGIE issues are also heavily restricted. Authorities have repeatedly summoned and arrested activists and forced the suspension of workshops on HIV and sexual health under the pretence that such activities “promote homosexuality”.⁵³

Both the UN Human Rights Committee and the UN Committee against Torture made specific inquiries regarding the number of individuals arrested, detained, and prosecuted for homosexuality in Burundi in 2021 and 2023, respectively.⁵⁴ Notably, in its reply to the Human Rights Committee, the Burundian Government denied that there had been any arrests, detentions, or prosecutions for the offence of homosexuality. In the same line, the Government of Burundi rejected the Committee’s call to decriminalise same-sex acts, stating that that “in order to protect its culture, morals and customs, the Government has come down in favour of criminalizing homosexuality and does not intend to yield on this point”.⁵⁵

Examples of Enforcement

In **June 2009**, shortly after consensual same-sex sexual relations were criminalised, a trans man was arrested in Bujumbura on the grounds of “homosexuality” by a judicial police officer. He was freed after posting bail of approximately 200 USD to the judicial police officer in order to avoid spending the night in a jail cell where the other prisoners were verbally and physically assault him.⁵⁶

In **April 2011** in Bujumbura a police officer allegedly accused two transgender individuals of being gay, demanding that they pay USD 75 to avoid arrest. Local

sources indicated that neither of the two reported the incident to authorities out of fear of backlash and detention.⁵⁷

In **August 2011** a trans woman in Bujumbura allegedly brought a pickpocket who had stolen her wallet to a police station to have him arrested, though was instead beaten by police and detained for three days. She had her hair cut off, with police claiming her hairstyle had been what identified her as a “homosexual” to them.⁵⁸

On **5 April 2012** two women arguing in public were accused of being a couple by police and detained. They were held for several days under the pretence of being “investigated”, though they were never charged. Through the efforts of local activists, they were eventually released.⁵⁹

In **May 2012**, a transgender woman who worked at a local market was arrested and locked up in a police post being accused of “being a homosexual and a demon” (sic). After being liberated, and as a consequence of her arrest, she was not allowed to work at the market anymore.⁶⁰

On **25 November 2013** three individuals were arrested in a raid of a party they organised, on suspicion of participating in same-sex sexual activity. Police considered it suspicious to organise a party during the week rather than on a weekend. Two detainees were released after several hours, though a third, the presumed party organiser, was held for at least two days.⁶¹

In **2014**, an LGBT activist and educator who was working on a project to fight HIV received a summons from the Bujumbura judicial police on the grounds of “undermining good morals” under Section 565 of the Penal Code. The activist was summoned following the complaint lodged by the mother of a participant in an awareness-raising session who accused him of “leading her son into debauchery and promoting homosexuality”.⁶²

A Vietnamese employee of a telecommunications company (also based out of Vietnam) was arrested on **16 September 2014** on charges of “homosexual practices” after allegations were made that he was gay. He was allegedly caught with his Burundian partner who managed to flee, though there is no direct evidence that the two men were engaged in any form of same-sex sexual activity. The accused avoided jail time by paying a fine of 100,000 francs (approximately USD 64 at the time).⁶³

A transgender woman from Bujumbura recounted in **2016** how she was stopped by police officers while driving and

⁵¹ “National prayer breakfast: President Ndayishimiye asks Burundians to fight against homosexuality”, *Region Week*, 1 March 2023; “Burundi arrests 24 in anti-gay crackdown”, *Kenya Moja*, 4 March 2023.

⁵² The East African Sexual Health and Rights Initiative, *A landscape analysis of the human rights of sex workers and LGBT Communities in Burundi* (2016), 42.

⁵³ “Burundi arrests 24 in anti-gay crackdown”, *Kenya Moja*, 4 March 2023; “Burundi’s homosexuality crackdown: 24 people prosecuted”, *Africa News*, 9 March 2023.

⁵⁴ Human Rights Committee, *List of issues in relation to the third periodic report of Burundi*, CCPR/C/BDI/Q/3, 18 August 2021, para. 4; Committee against Torture, *List of issues relating to the third periodic report of Burundi*, CAT/C/BDI/Q/3, 5 June 2023, para. 27.

⁵⁵ Human Rights Committee, *Third periodic report submitted by Burundi under article 40 of the Covenant, due in 2018*, CCPR/C/BDI/3, 13 November 2020, para. 27; Human Rights Committee, *Replies of Burundi to the list of issues in relation to its third periodic report*, CCPR/C/BDI/RQ/3, 13 January 2023, para. 4.

⁵⁶ MOLI, “I love my country, but my country does not love me.” *Human Rights: The Situation of Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Burundi* (2003-2013) (2014), 15.

⁵⁷ *Id.*, 11.

⁵⁸ *Ibid.*

⁵⁹ *Id.*, 10.

⁶⁰ MOLI, “I love my country, but my country does not love me.” *Human Rights: The Situation of Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Burundi* (2003-2013) (2014), 15.

⁶¹ *Id.*, 11.

⁶² MOLI, Transgender, Intersex in Action, and Association Rainbow Candle Light, *Situation des personnes LGBT au Burundi : Contribution écrite conjointe a l’Examen Périodique Universel du Burundi* (2017), 7.

⁶³ “New in Burundi: An arrest for ‘homosexual practices’”, *Erasing 76 Crimes*, 25 September 2014; “\$64 fine settles 1st court case citing Burundi’s anti-gay law”, *Erasing 76 Crimes*, 29 September 2014.

requested to show her identification. She was then made to get out of her car and arrested. Police interrogated her on her gender, and she was asked if her identification really belonged to her. A police officer also attempted to touch her genitals to verify her gender. She was released after being held for two hours when someone she knew urged the police to “forgive” her.⁶⁴

In **October 2016**, four young people were arrested by police officers in the neighbourhood of Bubanza. Officers told them that they were being arrested “because they [are] homosexuals”. They were taken to the detention centre of Ntahangwa, where they were held without having appeared before the Judicial Police Officer to draw up the minutes of their arrest. They had their hair cut with bayonets and they were mistreated by their fellow inmates who forced them to do 100 push-ups in order to punish them for being effeminate. While one of them was released because he was sick, the chief officer demanded nearly 50,000 francs (around USD 27) per person from the remaining three in order to be released and avoid prosecution. Families in distress sought the money and the three young people were released.⁶⁵

In a similar case to that of the activist summoned in **2014** after facilitating a workshop on HIV, in **2016**, a Red Cross peer educator was arrested in Muyinga, also accused of “promoting homosexuality”. He was locked up for three weeks before being released.⁶⁶

In **October 2017**, several outlets reported that authorities in Burundi had started an official “hunt” for individuals of diverse sexual orientations and gender identities. Reportedly, numerous detained individuals had to pay bribes to secure their freedom or face up to two years in prison.⁶⁷ Mere days before the “hunt” was announced, two teenage boys were arrested, allegedly for simply dancing together.⁶⁸ That same month, seven individuals were arrested in the urban area of Kamenge during the day by the police because they were perceived to be gay, and charged on the grounds of homosexuality while they were in detention.⁶⁹

On **23 February 2023**, authorities in Gitega took into custody 24 people who were participating in an educational workshop at the premises of MUCO Burundi, which focused on HIV-related matters. Local community members alerted the authorities, who found condoms and “documents on the rights of homosexuals” at the venue. After being detained and interrogated for ten days, the 24 accused were charged with “homosexual practices and incitement to homosexual practices” by the Public Prosecutor and transferred to the central prison of Gitega pending trial.⁷⁰

Cameroon

Criminalising Provisions

Under Section 347-1 of the Penal Code (2016), anyone who “has sexual relations with a person of the same sex” may face a penalty of six months to five years in prison and/or a fine. Cameroon’s first Penal Code, enacted in 1965, did not criminalise consensual same-sex sexual acts. An Ordinance issued in September of 1972 by President Ahmadou Ahidjo introduced Article 347 bis (now 347-1). This amendment took place a few months after the advent of the unitary State under the new Constitution, when the National Assembly had not yet been elected.⁷¹

Enforcement Overview

Offering a comprehensive report of known examples of enforcement prior to 2020 is not possible given the sheer scale of apparent incidents in Cameroon. Between 2005 and 2023, ILGA World identified nearly 90 examples of criminal enforcement through the monitoring of media, and the assistance of local organisations working on the ground. However, this concerning number remains only the tip of the iceberg and falls very short of representing a realistic measure of the extent to which criminalising provisions are relied upon by law enforcement.

A 2010 report by Human Rights Watch, ADEFHO, Alternatives Cameroun, and IGLHRC, explores in detail the measures often inflicted on queer citizens until that point.⁷² Also in 2010, Alternatives Cameroun and other civil society organisations submitted a report to the UN Human Rights Committee stating that individuals were commonly arrested under Article 347 bis (now 347-1) of the Cameroonian Criminal Code without evidence and because of their real or perceived sexual orientation. The report also elaborated on lengthy pretrial detention periods without charges being made before a judge, the multiple violations of the Cameroonian Criminal Procedure Code, forced anal examinations, and lack of access to HIV medication in detention centres.⁷³

In 2013, Amnesty International reported that arrests had been on the rise since 2005. Back then, the Association pour la Défense de Homosexuel-le-s (ADEFHO) had documented at least 51 arrests and prosecutions of people for “homosexuality” and/or “attempted homosexuality”.

⁶⁴ East African Sexual Health and Rights Initiative, *Turi Abande? (Where do we Belong): A landscape analysis of the human rights of sex workers and LGBT communities in Burundi*, (2016), 27.

⁶⁵ MOLI, Transgender, Intersexe in Action, and Association Rainbow Candle Light, *Situation des personnes LGBT au Burundi : Contribution écrite conjointe a l'Examen Périodique Universel du Burundi* (2017), 5.

⁶⁶ *Id.*, 7.

⁶⁷ “Burundi: Crackdown on LGBTQ community”, *Mamba Online*, 13 October 2017; “Burundi announces ‘official hunt’ for LGBTI people”, *Erasing 76 Crimes*, 9 November 2017.

⁶⁸ “Two gay teens arrested for dancing together”, *GSN*, 10 October 2017

⁶⁹ ILGA World, *Third Cycle: Burundi Universal Periodic Review, December 2017 Advocacy Sheet* (2017), 2.

⁷⁰ “Burundi arrests 24 in anti-gay crackdown”, *Kenya Moja*, 4 March 2023; “Burundi’s homosexuality crackdown: 24 people prosecuted”, *Africa News*, 9 March 2023; “Homophobic violence and arrests erupt in Burundi, Zambia, Ghana”, *Erasing 76 Crimes*, 10 March 2023; “Burundi charges 24 people with ‘homosexual practices’ in anti-gay crackdown”, *RFI*, 3 September 2023.

⁷¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Cameroon* (accessed: 12 September 2023).

⁷² Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010).

⁷³ Alternatives Cameroun, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010).

The report also noted that those arrested under Article 347 bis were frequently subjected to forced anal examinations and other degrading treatments, including solitary confinement. Amnesty International also found that some individuals had been imprisoned “for up to three years without charge or trial”.⁷⁴

In a rare case of official data being made available by a State, the Government of Cameroon submitted a report to the UN Human Rights Committee in 2016 noting statistics on prosecutions under Article 347 bis for 2010 and 2011. The Government indicated that: “in 2010, only 27 cases of homosexuality led to criminal investigations in all the courts in Cameroon. Out of these 27 cases, seven were dismissed while proceedings were instituted for the other 20 cases”. In 2011 the number of cases increased, with 36 preliminary investigations registered in the various legal departments and 37 individuals indicted. Out of 16 people who went on trial, 14 were convicted and two acquitted. 2012 reportedly saw 23 cases.⁷⁵

Further, the United Kingdom Home Office noted in 2020 that local civil society organisations documented 21 cases in 2014 of arbitrary arrest, seven cases in 2015, and 33 cases in 2016.⁷⁶ Between 2016 and 2018 there were nearly 1,800 known reports of arrests, extortion, and violence against individuals based on their sexual orientations and gender expressions by authorities.⁷⁷ According to Humanity First’s 2015 Annual Report, 14 cases of arbitrary arrest and detention were recorded in Cameroon that year alone, as well as six cases of imprisonment.⁷⁸ By 2019 Humanity First and Alternatives Cameroun noted that there were 27 arbitrary arrests based on sexual orientation that year, with over one thousand reported incidents of violence and discrimination targeting individuals due to their sexual orientation.⁷⁹

One joint report between multiple local organisations indicated at least 32 arbitrary arrests between August 2015 and the end of December 2017, with several arrest cases involving multiple accused. The report also notes more than 20 cases of detention in prisons.⁸⁰ And according to Human Rights Watch “security forces have arbitrarily arrested, beaten, or threatened at least 24 people for allegedly being gay or gender nonconforming” between just February and April 2021.⁸¹ Police reportedly also practise forced anal examinations on those suspected of having had same-sex sexual conduct.⁸²

Local activists have indicated to ILGA World that the seemingly higher levels of reporting of criminal

enforcement in these reports can be correlated to an extensive campaign to train civil society organisations to recognise and document human rights violations in recent years.⁸³

Some reporting indicates that it is common practice for all prisoners incarcerated in Cameroon to be given just one meal per day, with friends and relatives supplying additional food and supplies. Given a prevalent social stigma against homosexuality, then, many prisoners accused of engaging in same-sex acts are rejected by their families and receive no such support, or must rely on civil society.⁸⁴

At the international level, in 2017, the UN Human Rights Committee deplored the pretrial detention of lesbian, gay, bisexual, transgender and intersex persons for extended periods of time, in violation of section 221 of the Code of Criminal Procedure.⁸⁵

Community violence remains another key issue facing SOGIE Cameroonians, with police often ignoring or actively participating in the victimisation of queer individuals. The government did note in its 2016 report to the UN Human Rights Committee that “[a]ny proven act of physical violence brought before judicial authorities is punishable in accordance with the law regardless of its cause”, seemingly as an argument for sound restitutory frameworks within the legal system for victims. However, the report continued by saying “where victims suffer such violence because of their sexual orientation they would not confess [sic] because they are conscious of the fact that homosexuality is punishable”.⁸⁶ Indeed, it would appear that access to justice for people of diverse sexual orientations and gender identities in Cameroon is elusive by design, with law enforcement and vigilante groups given unchecked freedom to harass and violate them. A Human Rights Watch report published in May 2022 found that at least 12 people faced such attacks in the preceding month, and that organisations such as CAMFAIDS had identified 32 such cases since the start of the year. In the report, Human Rights Watch noted that questions put to the Justice Minister, State Secretary at the Defense Ministry in charge of the national gendarmerie; and the Delegate General for National Security, all went unanswered.⁸⁷

Furthermore, it has been reported that since 2005 officials and media outlets have portrayed being gay or lesbian not as a private matter but as “a menace to public safety”, which likely adds to the ill-treatment of people of diverse sexual orientations and gender identities and expressions

⁷⁴ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 23.

⁷⁵ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure. Fifth periodic reports of States parties due in 2013: Cameroon*, CCPR/C/CMR/5, 29 December 2016, para. 48-49.

⁷⁶ UK Home Office, *Cameroon: Sexual orientation and gender identity or expression* (2020), 14.

⁷⁷ Acodevo et al, *Torture and Other Cruel, Inhuman and Degrading Treatment of LGBT Individuals in Cameroon* (2017), 17; Alternatives Cameroun et al., *Violences et violations de droits à l'encontre des LGBTI au Cameroun Rapport Annuel 2017* (2018); Id., *L'ignorance. Rapport annuel des Violences et violations faites aux minorités sexuelles et de genre au Cameroun* (2018); Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 49.

⁷⁸ Humanity First, *La Nouveau Visage de la Haine: Rapport annuel 2015 de Humanity First Cameroon sur les Violations des Droits de L'Homme* [The New Face of Hate: Humanity First Cameroon Annual Report 2015 on Human Rights Violations] (2015), 6. (Uploaded to *Erasing 76 Crimes*, 2017).

⁷⁹ Humanity First-Cameroon & Alternatives Cameroun, *Guilty Silence: Violence and rights violations based on sexual orientation, gender identity and gender expression in Cameroon* (2019).

⁸⁰ Observatoire National et al., *Observatoire National de Droits des Personnes LGBTI et de Leurs Défenseurs: Phase Pilote: Rapport National de Violation de Droit Humaines* [National Human Rights Observatory of LGBTI people and their Defenders: Pilot Phase: National Human Rights Violation Report], February 2017.

⁸¹ Human Rights Watch, *Cameroon: Wave of Arrests, Abuse Against LGBT People: Repeal Law, Protect LGBT Rights*, 14 April 2021.

⁸² Human Rights Watch, *Dignity Debated: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 19-23.

⁸³ *Information supplied to ILGA World by Jean Paul Enama.*

⁸⁴ “Betrayed by parents, two gay prisoners await results of our plea for funds”, *Erasing 76 Crimes*, 12 July 2022.

⁸⁵ Human Rights Committee, *Concluding observations on the fifth periodic report of Cameroon*, CCPR/C/CMR/CO/5, 30 November 2017, para. 13(b).

⁸⁶ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure. Fifth periodic reports of States parties due in 2013: Cameroon*, CCPR/C/CMR/5, 29 December 2016, para. 46.

⁸⁷ Human Rights Watch, *Cameroon: Rising Violence Against LGBTI People: No Protection from Group Attacks; Authorities Arrest, Detain Victims* (11 May 2022).

by security forces. In 2006, the then Vice Prime Minister and Minister of Justice, Amadou Ali, stated in a letter to International Gay and Lesbian Human Rights Commission (IGLHRC, now OutRight International) that “Article 347 bis must be enforced because homosexuality has no part in positive African cultural values.”⁸⁸ Further, several sources consulted by Amnesty International indicated that after an inflammatory homily in 2005 by the Catholic Archbishop of Yaoundé, Victor Tonyé Bakot, the number of arrests increased. The Archbishop condemned homosexuality, claimed that “gay men were involved in a plot to gain power in the ‘buttocks of young men’” and described a “western plot” to destroy Africa through homosexuality, as the dire economic situation was creating the perfect environment for the ‘recruitment’ of young and poor men. The statement is said to have encouraged judges and the police to arrest LGBT people.⁸⁹ The Archbishop also alleged that in some schools “classes are taught to children to make them accept and tolerate homosexuality.” However, in 2005 alone, at least a dozen secondary school students were expelled from schools on “suspicion” of homosexuality.⁹⁰

The fiery rhetoric of more than a decade and a half ago has not subsided, as can be seen in a 2021 story of a gay migrant who left Cameroon and returned briefly to his home village with his Franco-Swiss husband, which inflamed local media discourse. At least one political party, the Cameroonian Democratic Front, urged the government to immediately expel the couple from the country “in order to preserve our cultural and ancestral dignity”.⁹¹ It appears that no action was taken against the couple, which is why that particular case will not be found in the list of *Examples of Enforcement* below, but it serves as a demonstration that any hint that the government is “soft” on homosexuality is regularly used by opposition parties as a tool to vie for political clout,⁹² which naturally complicates any attempt to work toward decriminalisation or non-enforcement of existing legislation.

One prominent story from 2021 which does appear in the *Examples of Enforcement* section is that of two trans women arrested for “attempted homosexuality”. Cameroon is far from the only jurisdiction to conflate diverse gender expressions and identities with “homosexuality”, nor is it the only one to violently enforce that conflation, but the number of such cases from Cameroon alone and the widespread attention that this particular instance garnered means the issue warrants special mention here. Throughout this report it is evident that regardless of their sexual orientation or sexual activity, the struggles of trans and gender-diverse persons are deeply intertwined with those of the rest of our communities, and vice versa.

Examples of Enforcement

On **21 May 2005**, up to 32 people were arrested at a nightclub in the capital city of Yaoundé by the Nlongkak Gendarmerie without a warrant and charged under Article 347 bis of the Penal Code. Most were released after bribing the officers, though 11 could not pay and were held in pre-trial detention. The group were allegedly threatened by the government with anal examinations to search for evidence of consensual same-sex sexual activity, and were held for 13 days without access to a lawyer, and paraded in front of the entire country on a national television station. On **13 June** they were transferred to Kondengui Prison to await trial. According to a report published by the UN Working Group on Arbitrary Detention, the prosecution could provide no evidence of consensual same-sex sexual acts during the **March-April 2006** trial period, and as such the judge acquitted the group. They remained in detention, however, as the Office of the Public Prosecutor refused to issue a release order and instead demanded a re-trial. On **10 May 2006** two of the accused were released, however, as were the remaining detainees on **26 June**, given that their period of incarceration had by then exceeded the term of imprisonment for which they had been initially sentenced. One of the accused reportedly died one week after release from prison due to the severe abuse and medical neglect he suffered in prison due to a lack of medical treatment over the preceding month—though some reports indicate that he died shortly after release. This was certainly not the first case of criminal enforcement in Cameroon, but it is reported to be a watershed moment which not only seems to have drawn international attention to the country, but which may also have informed the ongoing violations which took place over subsequent months and years. In **2006** the UN Working Group on Arbitrary Detention decried the incident as a violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, calling on Cameroon to amend local legislation to prevent further such incidents. The government, however, declared that the criminalisation of consensual same-sex sexual acts violates neither, and that Article 29 of the Universal Declaration of Human Rights permits the limitation of rights and freedoms as part of “the just requirements of morality, public order and the general welfare in a democratic society”.⁹³

Also detained in **2005** was a woman, aged 33, who was charged under Article 346 of the Penal Code for “indecent with a minor,” despite the fact that her partner was 21 at the time. The younger woman’s family accused the older woman of “disturbing” their child and dragged her to the police station where she was held for four days. The

⁸⁸ Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 3.

⁸⁹ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-saharan Africa* (2013), 44.

⁹⁰ Cary Alan Johnson, *Off the Map: How HIV/AIDS programming is failing same-sex practicing people in Africa* (New York: IGLHRC, 2007), 23.

⁹¹ “Homosexualité au Cameroun : un milliardaire franco-suisse dote un camerounais dans son village”, *Actu Cameroun*, 4 August 2021; “Cameroon: A political party calls for the expulsion of a gay couple”, *Afrique sur 7*, 5 August 2021; “Professor Bahebeck destroys the gay couple Begono-Paulin (video)”, *Cameroon Magazine*, 9 August 2021.

⁹² “Cameroun: quand l’homophobie devient un stratagème de disqualification politique” [Cameroon: when homophobia becomes a political disqualification play], *Erasing 76 Crimes*, 15 November 2020.

⁹³ OHCHR, *Implementation of General Assembly Resolution 60/251. Opinions adopted by the Working Group on Arbitrary Detention*, A/HRC/4/40/Add.1 (2007), 91-93; Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 10; Alternatives Cameroun, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 9; Amnesty International, *Africa: Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 25.

younger woman managed to escape. Police said they would not release the older woman until the younger woman was found, which they did. The family of the young woman allegedly tied her up for a week as punishment.⁹⁴

On **7 June 2006**, four young women were accused of being lesbians by the grandmother of one of the group. The grandmother informed the police, and the group was sentenced to three years' imprisonment on probation.⁹⁵

On **20 January 2007** a university student in Douala, Cameroon's largest city, was arrested after an unknown accuser told police he was gay. Police held him at the police station for four days, all the while beating him to coerce a confession and allowing his cellmates to assault him. He was then transferred to the local New Bell Prison (still beating him in the vehicle during the transfer process). He spent nine months in prison before his trial. The court sentenced him to two and a half years in prison based only on the anonymous accusation, of which he spent one and a half years behind bars before being released.⁹⁶

In **July 2007**, according to Human Rights Watch, a young man in Douala was arrested at a salon, and beaten by police to coerce a confession that he was gay. They also tried to extort 100,000 CFA francs (approximately USD 200 at the time) as a "cell fee". After making him sign a document affirming that he was gay, police transferred him to New Bell Prison where he alleged severe torture, verbal abuse and sexual assault from fellow inmates and prison guards. He wrote a formal letter of complaint to prison authorities regarding his treatment, but no response ever came.⁹⁷

Between **20 and 21 July 2007**, six men in Douala were detained after a woman complained to police of theft. They were charged under Article 347 bis of the Penal Code and held for at least five days before being referred to the Wouri Crown Court and placed from there into pre-trial detention. It took until **6 March 2008** for a judge to order their provisional release on account of several procedural missteps by police.⁹⁸

In the early hours of **16 August 2007** two young men were detained by a police night patrol and taken to Nlongkak police station, allegedly for being caught having sex with one another. They appear to have been held throughout the various court dates and adjournments until they were finally sentenced on **13 March 2008** to imprisonment of unknown duration and a fine of 250,000 CFA francs (around USD 500).⁹⁹

On **30 August 2007** three more men in Douala were also arrested for theft as had happened the previous month,

and were also charged for same-sex conduct by the Douala Public Prosecutor's Department. They were held for nearly five months before being found guilty of "attempted homosexuality" and sentenced to six months' imprisonment and a fine. Given the long period of pre-trial detention they were released after serving two months of their sentence.¹⁰⁰

Human Rights Watch further noted the case of a 17-year-old boy who was imprisoned with adults at an **undisclosed date** despite being a minor. While imprisoned, other inmates reportedly hit him with stones. Authorities initially refused to house him with minors as they believed "he would turn them gay", though he was transferred after complaints from a lawyer. Before long, however, he was sent back to be held with adults and no response was given by officials to further protests from attorneys and rights groups.¹⁰¹

In early **March 2008** local media reported that two alleged lesbian women were arrested when the management of a Douala hotel alerted police to a "brawl" in one of the rooms. The families of the two women are said to have begged the prosecutor to drop the charges against them, but no further details are known.¹⁰²

On **16 August 2008**, a 28-year-old man in Yaoundé was arrested without a warrant after his landlord accused him of being gay. He was transferred on **31 August** to Kondengui Prison where he suffered regular assaults and mistreatments from guards and fellow inmates for three months before being released.¹⁰³

On **28 March 2009**, a 22-year-old man was swimming in a lake near Douala airport when a gang came and demanded money from him. When police arrived on the scene the gang accused the young man of being a homosexual and he was arrested while they were let free. The individual was charged under article 347 bis on the grounds of "flagrant homosexuality" and was kept in a prison cell for one week, permitted to wear only his underwear. As reported by civil society, over the course of the week, police repeatedly beat him until he escaped the police station on April 5.¹⁰⁴

On **7 June 2009** a famed Douala gay hangout—a club called Formula 1, which has since closed—was subjected to one in an apparent long-line of regular police raids. Officers from the Douala District 9 Police entered the premises and demanded "fuel money" from the manager lest all his patrons be arrested. He paid them the bribe with the cash available, 5,000 CFA francs (approximately USD 12), and they left, but not before beating up one patron and arresting three others who were released a few hours later after being subjected to anal examinations.¹⁰⁵

⁹⁴ Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 19.

⁹⁵ *Id.*, 4.

⁹⁶ *Id.*, 23.

⁹⁷ *Id.*, 28-30.

⁹⁸ Alternatives Cameroun, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 9-10.

⁹⁹ *Id.*, 10.

¹⁰⁰ *Ibid.*

¹⁰¹ Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 31.

¹⁰² Alternatives Cameroun, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 12.

¹⁰³ Human Rights Watch, ADEFHO, Alternatives Cameroun, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 30-31.

¹⁰⁴ Alternatives Cameroun, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 7.

¹⁰⁵ *Id.*, 13.

On **8 November 2009** a young man in Douala was locked in his neighbour's house after the pair had met for drinks, by a gang attempting to extort money from him. When he refused to pay, they took him to the police and accused him of homosexuality, leading to him being held for 13 days and allegedly being beaten and kicked by officers to force a confession. He was placed in pre-trial detention at Douala Central Prison on **20 November**, where he stayed for eight days before pleading not-guilty at the hearing. On **30 November** he was released due to a lack of evidence.¹⁰⁶

In **March 2010** a woman from Yaoundé was detained and severely beaten while in the custody of police in Douala, for allegedly engaging in consensual same-sex sexual activity with another young woman. She was sexually assaulted and then released after giving evidence that she could provide a "guarantor" sum of 450,000 CFA francs (approximately USD 1,022).¹⁰⁷

On **26 March 2010** three men (one of whom was a local activist for Alternatives Cameroon and another of whom was an Australian citizen and friend of the activist) were arrested while chatting in a hotel lobby, as police reportedly received a tip-off alleging the Australian visitor had engaged in sexual activity with the two Cameroonian men. They were released three days later.¹⁰⁸

2010 also saw a gay bar owner in Douala assaulted and had his business vandalised by neighbours, who then called the police to have him arrested. He spent five months in New Bell Prison, though his boyfriend who recounted the story to international media had not heard anything directly from him since the date of his arrest. The boyfriend managed to flee the scene and avoid arrest, managing to get to Italy on a cargo ship before finally winning a two-year legal battle for asylum in Switzerland.¹⁰⁹

A human rights defender and student by the name of Jean-Claude Roger Mbede¹¹⁰ was arrested in Yaoundé on **2 March 2011** for sending a text to another man, who was a government employee, saying that he loved him. He was sentenced to three years in prison for "homosexuality" and "attempted homosexuality" on **28 April 2011**. He appealed against his conviction and sentence, though that hearing was adjourned several times before he was granted provisional release by the Court of Appeal in Yaoundé on **16 July 2012**. On **17 December** the court upheld his sentence and he was returned to Kondengui Prison for its remainder. The young man told Amnesty International that he had suffered beatings, sexual assault and malnutrition whilst in prison, and he had to have a hernia operation upon release. In **2014** he passed away, one month after his family removed him from hospital and prevented him access to ongoing medical treatment for his hernia. They

allegedly considered him a "curse" and sought to "remove the homosexuality which is in him".¹¹¹

On **26 July 2011** police stopped three individuals, two of whom were identified in a report by the Human Dignity Trust as being trans women (though organisations such as Amnesty International have identified them as men wearing typically feminine clothing). They were arrested after being unable to provide identity documents, with police alleging they had been groping each other's genitals and felling one another—an allegation strongly denied by the accused. The trio were tried on **22 November 2011**, and sentenced to five years in prison and a fine of 200,000 CFA francs (approximately USD 400 at the time). The judge made his disdain for the accused clear by stating openly that "a normal man doesn't wear skirts, doesn't drink Bailey's whiskey, and doesn't wear a weave". While imprisoned they suffered regular beatings, with one of the accused being assaulted for refusing to braid a female guard's hair. On **7 January 2013** at least two of the individuals were acquitted and released due to a lack of evidence, but threats of violence from community members forced them into hiding. After being assaulted later in **2013** they went to the police to file a complaint, at which point they were re-arrested and held for three days.¹¹²

In **August 2011** four men accused of "homosexuality" were arrested and detained. One person, aged 46, was arrested at his home after his neighbours accused him of being gay based on his receiving of tourists at his home. He was subjected to a forced anal examination to find proof of anal sex. Two others, aged 34 and 17, were arrested while visiting him in custody at a police station in Yaoundé. The fourth, aged 19, was arrested at later at a third location. All four, including the minor, were held for more than one week at the Gendarmerie du lac in Yaoundé. On **26 August 2011** they appeared before a court in Mfoundi. They were denied bail and remanded in custody. The four were held at Kondengui prison until **20 July 2012**, when two men were released. The other two remained in detention awaiting trial, which was repeatedly postponed.¹¹³

In **November 2011** two men at a nightclub in Yaoundé were suspected of being gay due to their appearance, mannerisms or expressions, and were arrested and sentenced to five years in jail.¹¹⁴

On **27 March 2012**, government officials prevented human rights defenders from holding an EU-funded workshop on SOGIE rights in Yaoundé. This came after the workshop was violently disrupted by an anti-LGBTI vigilante group. Security forces arrested the workshop organiser and detained him for several hours but it appears no action was

¹⁰⁶ Human Rights Watch, ADEFHO, Alternatives Cameroon, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 21; Alternatives Cameroon, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 11.

¹⁰⁷ Alternatives Cameroon, Centre for Human Rights at the University of Pretoria, Global Rights, IGLHRC, *The status of lesbian, gay, bisexual and transgender rights in Cameroon: A shadow report* (2010), 7.

¹⁰⁸ Human Rights Watch, ADEFHO, Alternatives Cameroon, IGLHRC, *Criminalizing Identities Rights Abuses in Cameroon based on Sexual Orientation and Gender Identity* (2010), 24.

¹⁰⁹ "Gay Cameroonian wins asylum in Switzerland", *The Local*, 6 November 2012.

¹¹⁰ *The identity of this victim can be released as he died in 2014.*

¹¹¹ Amnesty International, *Write for Rights: Act now for Jean-Claude Roger Mbede* (2011); "Cameroon: Justice Delayed for Jean-Claude Roger Mbede", *OutRight Action International*, 27 September 2012; "Gay man jailed in Cameroon has died, says lawyer", *The Guardian*, 13 January 2014; "Roger Mbede, victime d'homophobie, vient de mourir au Cameroun" [Roger Mbede, victim of homophobia, has just died in Cameroon], *Stop Homophobie*, 12 January 2014.

¹¹² Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 49-50; Amnesty International, Cameroon: Acquittal of 'gay' men jailed for wearing women's clothes exposes discrimination, 8 January 2013.

¹¹³ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 23-24.

¹¹⁴ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

taken against the homophobic vigilantes.¹¹⁵

In **October 2013** two men in Yaoundé were arrested following accusations of engaging in homosexual acts by a mob. They were subjected to forced anal exams conducted by a doctor who insulted them during the process. The judge relied partially on the medical reports from this harmful and debunked process as "evidence", and sentenced them to six months in prison.¹¹⁶

On **1 February 2014** a police officer in Limbe, allegedly seeking the services of a sex worker, beat and arrested a trans woman when he learned she was not a cisgender woman. This was not the first time the victim had been targeted by authorities or local communities. Local organisations worked to secure her release though no further details could be verified of this incident.¹¹⁷

In **May 2014** four men were detained in northern Cameroon after being found with condoms and lubricant. The police assumed their possession indicated intent to engage in same-sex acts. After three days of physical abuse, the men were released in exchange for cleaning the police station.¹¹⁸

Also in **May 2014**, two women were convicted of having engaged in same-sex acts and sentenced to four months in prison, fines of 100,000 CFA francs (approximately USD 211) each, and legal costs of 30,000 CFA francs (approximately USD 63). Due to time already served, their attorney stated the two women would be released after paying fines and court costs.¹¹⁹

In **June 2014** a 19-year-old boy was reported to the authorities by his family and taken to the Eséka police station. He endured daily beatings by the officers during a one-month period of detention.¹²⁰

In **June 2014** it was reported that two men, one 19 and one 38, were targeted by their community in the town of Bertoua for allegedly being in a same sex relationship. They assaulted the pair until police intervened and arrested the two men on charges of "indecency, public disorder and homosexuality". The older of the two secured their freedom with a bribe of 300,000 CFA francs (approximately USD 620 at the time), but facing threats of violence and execution from their neighbours, the pair were planning to migrate elsewhere in the last known instance of reporting on their case.¹²¹

It was reported that on **1 October 2014** police in Yaoundé raided a house after neighbours reported the house was "frequented by effeminate homosexuals". The group of six detainees, apparently made up of some gay men and transgender women, were charged with "homosexuality, prostitution and pimping", and all were allegedly arrested previously on similar offences. Camfaids, a local organisation, managed to assist the accused by bringing

them juice and bread to sustain themselves while being held. Two of those arrested were released the next day after interventions from friends or family, though the majority were held until **7 October**, whereupon the prosecutor agreed to their provisional release pending further findings in the investigation against them.¹²²

On **17 November 2014** a university student in Yaoundé was entrapped by another man whom he had been texting with, and taken to the local police station. Police refused his family and human rights defenders access to him, and even prevented his lawyer from meeting him for a time. When the lawyer indicated that the accused has a right to legal representation, officers responded that "the [police] captain has power over the law". The accused was released on **20 November** after the accuser retracted his accusation of homosexuality, though police made clear they intended to continue prosecuting the case, regardless. While in custody police went through the young man's cell phone contacts, and seem to have used this information to lure and entrap more people, as friends and relatives started to get strange calls at this time from anonymous persons requesting to meet up. One young man, also a university student, was subsequently entrapped and arrested. He and the first accused were chained to the floor together, with police demanding bribes for their release. It is unclear if bribes were paid but after private meetings between the lawyer, prosecutors and local activists, the pair were set free.¹²³

According to Humanity First's **2015 Annual Report**, 14 cases of arbitrary arrest and detention were recorded in Cameroon that year, as well as six cases of imprisonment. This is in addition to several other documented cases of blackmail, vigilante violence, denial of service, evictions and other forms of discrimination identified in the report. Not all of the cases are outlined in the report in detail, though two notable incidents are mentioned. Two women accused by local men of being lesbians were beaten up, leading one of the women—who was pregnant at the time—to lose her child. The women went to lay a charge with police, at which point they were arrested, beaten again, and held for four months. Another young woman was arrested and held for four days in Yaoundé on account of her having a "weird hairstyle" which led police to believe she must have been a lesbian.¹²⁴

On **24 June 2015**, two men in Guider City were arrested by police after hotel staff became suspicious of the pair, who would often rent a room together. They were held for four days in police custody, unable to gather the money for any sort of bail or bribe, and their families ignoring their pleas for assistance. Despite support from a pro bono lawyer and Jeunes Solidaires de Garoua, a local organisation, the pair put on trial were sentenced to six years in Guider City prison. Reporting alleges abuse and maltreatment from

¹¹⁵ Amnesty International, *Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa* (2013), 32.

¹¹⁶ UK Home Office, *Cameroon: Sexual orientation and gender identity or expression* (2020), 14.

¹¹⁷ "Cameroon sex worker jailed for not being a girl", *Erasing 76 Crimes*, 3 February 2014.

¹¹⁸ UK Home Office, *Cameroon: Sexual orientation and gender identity or expression* (2020), 14.

¹¹⁹ "Cameroon sentence: 4 months for lesbian activity", *Erasing 76 Crimes*, 5 May 2014.

¹²⁰ UK Home Office, *Cameroon: Sexual orientation and gender identity or expression* (2020), 14.

¹²¹ "Bribe frees 2 from jail, not from Cameroon neighbors", *Erasing 76 Crimes*, 11 June 2014.

¹²² "Anti-gay Cameroon resumes arrests; 7 nabbed in raid", *Erasing 76 Crimes*, 2 October 2014; "Cameroon arrestees freed, but possible probe looms", *Erasing 76 Crimes*, 10 October 2014; UK Home Office, *Cameroon: Sexual orientation and gender identity or expression* (2020), 14.

¹²³ "Cameroon: Accuser relents, but police won't free alleged gay man", *Erasing 76 Crimes*, 23 November 2014; "Cameroon police entrap gay men to extort bribes", *Erasing 76 Crimes*, 21 January 2015.

¹²⁴ Humanity First, *La Nouveau Visage de la Haine: Rapport annuel 2015 de Humanity First Cameroon sur les Violations des Droits de L'Homme* [The New Face of Hate: Humanity First Cameroon Annual Report 2015 on Human Rights Violations], 2015, 6, 18-19. (Uploaded to *Erasing 76 Crimes*, 2017).

prison officials, and notes that at least one of the pair looked malnourished when interviewed three years into his sentence.¹²⁵

In **January 2016**, according to local organisation Camfaids, three incidents took place. An individual identified as a "cross-dresser" was assaulted by two men, who accused the victim of homosexuality when police came to intervene. This led the police to arrest the victim and let the assailants go, though Camfaids acted to prevent incarceration. Another case was reported of a man—who has by now been targeted by police on more than one occasion—being made to pay 100,000 CFA francs (approximately USD 168) to police when trying to lay a complaint about blackmail he was facing. The third incident involved a threat made to a young man that police would be called, though Camfaids reportedly intervened before any such action could be taken.¹²⁶

On **4 April 2016** a 25-year-old gay man in Yaoundé was arrested through entrapment. He had been targeted by a member of the Presidential Guard, who claimed his girlfriend had seen texts from the accused and needed him to come over and assure her that he was not a homosexual. He was arrested instead and pressured into confessing that he had made sexual advances on the Presidential Guard member, and into disclosing the identities of staff at the Cameroonian advocacy NGO, Humanity First. Members of Humanity First worked on the accused's legal case and also reported receiving death threats for their work at this time. The accused was released on bail after nine days in custody, but was evicted by an apparently homophobic landlord on his return home.¹²⁷

In **August 2016** a young gay man who was physically attacked and afterward was forced by his attacker to reveal his sexuality to a crowd of people at a university campus in Yaoundé. The crowd chased him to a nearby police station, where he was taken into custody. He was reportedly denied access to an attorney, and the outcome of his trial is unknown.¹²⁸

On **2 September 2016** three cabaret dancers were arrested by the gendarmerie in Nkomesseng, and were beaten all night on suspicion of being gay, and had their cell phones destroyed. Intervention from Camfaids, got them released, but a lack of funds meant no legal recourse could be sought.¹²⁹

On **29 November 2016** police in Yaoundé arrested 12 men for being in possession of condoms and lubricants while watching a pornographic video at a club. Initially the club's doorman said the group was well-behaved but was allegedly pressured into telling police they were homosexuals. Police had reportedly concluded that the group of men must be gay as that is the demographic believed to most often be in possession of condoms, lubricants and other materials aimed at combating the

spread of STIs and HIV. The men were released two days later after interventions from lawyers at Global Fund. The men were reportedly given the condoms by Humanity First, as part of a local project funded by UNAIDS.¹³⁰

In **January 2017**, authorities named a gay man—allegedly identified as having participated in same-sex sexual activity in **2013** and **2015**—and declared him a wanted fugitive.¹³¹

In **January 2017**, a gay man who went to the authorities to report a physical attack was blackmailed by a deputy police commissioner and was jailed because he was unable to pay. Although the man was eventually released, when news of the ordeal reached his landlord, he was forced to leave his home.¹³²

On **5 February 2017** a man travelled from his hometown to the city of Dschang to give tickets for his upcoming birthday party to his friends. While there, he was asked by a man whom he had been talking to via text message to meet up. He did so, but the man had entrapped him and immediately took him to the local police station, where he was forced to sign a confession that he was gay and promise to never speak to the man who entrapped him again. He did this, believing it would result in his being freed, though police continued to hold him, using the names of birthday party guests on his person to seek out and target more people in the city. He was also told he would not be allowed to leave until he paid 60,000 CFA francs (approximately USD 97). Local human rights group, Unity, intervened and the man was eventually released.¹³³

On **11 February 2017** a human rights activist working for Avenir Jeunes de l'Ouest was arrested in the town of Bafoussam while attending to the case of another man detained for his alleged sexual orientation six days prior. The Bafoussam police commissioner demanded 60,000 CFA francs (approximately USD 97) for the release of the original detainee, though he was freed after the intervention of local lawyers. The prosecutor of the case felt that the human rights defender had wrongly intervened in the case, leading to the detained man to walk free, and demanded 100,000 CFA francs (approximately USD 161 at the time) as compensation. The human rights defender refused and was promptly locked in his home by the prosecutor. He managed to escape, however, and a few days later the prosecutor phoned him to assure him that no charges would be laid against the original detainee.¹³⁴

On **14 March 2017** a 16-year-old transgender girl had been walking home with a young man to whom she had been introduced by her foster sister. The orphaned girl was not formally adopted by the family, and it appears that nobody knew about her identity. A mob attacked her, ripping her clothes off to reveal her identity, which prompted the young man to take her to a police station and leave her there. As a minor with no adult next of kin, a social worker was reportedly called in, though the girl was kept in police

¹²⁵ "6 years in prison because Abdelaziz loved a man", *Erasing 76 Crimes*, 28 November 2018.

¹²⁶ "One arrest, one scam, one threat in Cameroon", *Erasing 76 Crimes*, 23 February 2016.

¹²⁷ "Cameroon police detain accused gay man for 9 days", *Erasing 76 Crimes*, 15 April 2016.

¹²⁸ The Advocates for Human Rights et al., *Cameroon: Joint Stakeholder Report for the United Nations Universal Periodic Review* (2017), 8.

¹²⁹ Observatoire National et al., *Observatoire National de Droits des Personnes LGBTI et de Leurs Défenseurs: Phase Pilote: Rapport National de Violation de Droit Humaines* [National Human Rights Observatory of LGBTI people and their Defenders: Pilot Phase: National Human Rights Violation Report], February 2017, 27-28.

¹³⁰ "12 arrested in Cameroon for possessing condoms", *Erasing 76 Crimes*, 6 December 2016.

¹³¹ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

¹³² The Advocates for Human Rights et al., *Cameroon: Joint Stakeholder Report for the United Nations Universal Periodic Review* (2017), 5.

¹³³ Observatoire National et al., *Observatoire National de Droits des Personnes LGBTI et de Leurs Défenseurs: Phase Pilote: Rapport National de Violation de Droit Humaines* [National Human Rights Observatory of LGBTI people and their Defenders: Pilot Phase: National Human Rights Violation Report], February 2017, 35-36.

¹³⁴ "Cameroon prosecutor locks up LGBT activist, demands money", *Erasing 76 Crimes*, 1 March 2017.

detention until she went to court on **17 March**. She was thereafter transferred to Ebolowa Prison.¹³⁵

Two transgender women alleged that they had been arrested three times in various areas of Yaoundé throughout **April 2017**, solely because of their feminine gender expressions.¹³⁶

On **22 November 2017** three trans individuals standing near a bakery in Garoua were accused of homosexuality by the local baker, and were subsequently arrested. They were held for three days and their families reportedly refused to assist them. Association Jeunes Solidaire de Garoua (Garoua Youth Solidarity Association) raised funds to secure their release.¹³⁷

In **December 2017** two women, aged 19 and 20, were arrested for walking together through a park in Douala. The pair maintained they were not a couple, simply both students who had met up to go for a walk, but a group of local men had accused them of being lesbians after their sexual advances were refused by the women. The pair were taken to local gendarmerie headquarters where they were kicked and beaten—sometimes hit with the broad side of a machete blade—and eventually handcuffed to a window frame. They were held like this for three days. The pair later confessed to being lesbians, reportedly in the hopes that a confession, true or not, would bring an end to the ordeal. The women were only released after their families and local human rights groups collected 100,000 CFA francs (approximately USD 182) as payment to the gendarmerie.¹³⁸

On **17 December 2017**, three men in Ebolowa were arrested by an undercover military officer who had entrapped them, though one of the arrested men was released as he was a church seminarian. The other two were made to undergo invasive anal examinations at the local military base. They were denied access to a lawyer and allegedly had their money stolen by soldiers there. They were released, but re-arrested by the military the next morning and told they were “facing charges of attempted homosexuality with a soldier”, and that they were to be tried in military court for the crime. Local human rights organisation, Unity, arranged a lawyer on their behalf and the two were granted bail.¹³⁹

Sometime in **2017** a local human rights defender had his research on SOGIE issues in Cameroon leaked by a local news outlet, which allegedly resulted in his arrest and ongoing harassment and threats from police, paralegal bodies, and wider society. Targeting of activists promoting SOGIESC rights is not uncommon, though some cases, such as the violent murder of a human rights defender in 2013, cannot be expressly tied to police or other State actors.¹⁴⁰

On **16 January 2018** in Douala, a 20-year-old woman was engaged in consensual same-sex sexual activity with her 22-year-old partner when her parents walked in on them. They dragged her partner to the local police station while their daughter fled the scene. They demanded the woman they had captured be placed in a cell, but declined to lay formal charges and so she was released the next morning after the 20-year-old secured the assistance of a local organisation working to assist lesbian and queer women in Douala.¹⁴¹

On **8 March 2018**, a lesbian woman near a gay-friendly bar was approached by a plainclothes police officer. Not knowing why she was being questioned by a stranger, the woman refused to provide her personal details, at which point he beat her and arrested her. She was placed in a police station cell with men, and was allegedly refused any medical care or the opportunity to phone someone. A friend notified the Network of Central African Human Rights Defenders (REDHAC), which organised legal representation for the woman, though on **13 April** the court found her guilty of homosexuality and gave her a three-year suspended sentence on condition that she never be arrested for homosexuality again, lest her next sentence be enforced.¹⁴²

On **20 April 2018**, police raided the offices of Jeune de l'Ouest, a local organisation in the city of Dschang working on issues of sexual and gender diversity and HIV. A total of 23 individuals, including five of the organisation's members, were arrested on suspicion of “engaging in same-sex sexual activity”. They were held for six days but not given access to lawyers until **24 April**. The group were set to undergo invasive anal examinations, though legal intervention prevented this and they were never charged. They were released on bail after the interventions of other human rights defenders and a lawyer hired by UNAIDS.¹⁴³

It was reported on **8 May 2018** that a “man” who was “dressed like a woman” was arrested in Mbalayo for allegedly attempting to seduce a taxi driver. The accused was driven to a local police station by the taxi driver when he realised that he was not flirting with a cisgender woman. The accused was presented to the Public Prosecutor and imprisoned in Mbalayo Prison, though details of whether any sentencing had formally taken place and how long the imprisonment had been scheduled for were not clear.¹⁴⁴

In the early hours of **12 May 2018**, police raided several locations in Yaoundé believed to be hotspots for same-sex sexual activity, such as a club and a cinema. In total, 25 people were arrested, though two were released soon after being identified as witnesses rather than potential suspects. The remaining 23 were allegedly held and tortured for two days and then released without being

¹³⁵ “2 weeks (so far) in Cameroon prison for being trans”, *Erasing 76 Crimes*, 31 March 2017.

¹³⁶ The Advocates for Human Rights et al., *Cameroon: Joint Stakeholder Report for the United Nations Universal Periodic Review* (2017), 5-6.

¹³⁷ Observatoire National et al., *Observatoire National de Droits des Personnes LGBTI et de Leurs Défenseurs: Phase Pilote: Rapport National de Violation de Droit Humaines* [National Human Rights Observatory of LGBTI people and their Defenders: Pilot Phase: National Human Rights Violation Report], February 2017, 35-36, 40.

¹³⁸ “Cameroon: Two women arrested for walking together”, *Erasing 76 Crimes*, 28 December 2017.

¹³⁹ “Anti-gay military action in Cameroon: 2 arrests”, *Erasing 76 Crimes*, 23 December 2017.

¹⁴⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁴¹ “Lesbian lovers face parents' wrath, police lockup”, *Erasing 76 Crimes*, 12 February 2018.

¹⁴² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁴³ “Cameroon: 5 gay-rights arrests; 7 days in jail and counting”, *Erasing 76 Crimes*, 26 April 2018; “Cameroon: 5 activists skip anal tests, free on bail”, *Erasing 76 Crimes*, 7 May 2018; United States Department of State, *Country Reports on Human Rights Practices for 2018: Cameroon* (2018), 36.

¹⁴⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

charged. The police commander is reported as saying of the incident: "Personally, I do not judge anyone and do not condemn anyone on the basis of their sexual orientation [...] however, Cameroon has laws to enforce".¹⁴⁵

On **14 July 2018** a trans woman in Yaoundé was reportedly assaulted by a group of seven men. They stole her handbag, ripped her clothes, beat her and burnt her hands. Police eventually intervened but the assailants were released while the victim was held in custody. Police cut her hair and refused to provide her with medical attention, demanding instead that she stop dressing like a woman. Her friends later paid the bond to have her released.¹⁴⁶

On **1 August 2018** two men, one of whom was a police officer, entrapped a gay man from Buea and had him arrested. His boyfriend, who was a staff member at a local organisation called Colibri, as well as another member of Colibri, were also arrested—though one of the activists was not accused of same-sex sexual conduct but rather supporting "a separatist movement" in the Anglophone part of Cameroon. The station Commander said he would release them if paid 500,000 CFA francs (approximately USD 900), but when they managed to scrape together some money the Commander could not be reached to accept the bribe. Camnafaw, the Cameroon National Association for Family Welfare, then intervened and secured their release, though the details of any agreements made to do so are not known.¹⁴⁷

Later in **August 2018**, a lesbian couple in Bertoua roused the suspicions of police when they "hugged passionately" while waiting for a ride home from a party. They were arrested and held in custody for two days, unable to pay the 200,000 CFA franc (approximately USD 334) bribe, before being tried and sentenced to two years in prison with a fine of 138,000 CFA francs each (approximately USD 238 each), with the potential for having the sentence extended in lieu of paying the fine.¹⁴⁸

On **19 July 2019** a trans sex worker in Bertoua was stopped by police to have her identity documents checked. When her ID did not match her appearance, she was arrested and detained for three days before being tried and sentenced to one year in prison plus a fine of 106,000 CFA francs (approximately USD 177).¹⁴⁹

In **August 2019**, donors and activists joined forces to achieve the early release of a gay man who was serving a three-year sentence for homosexuality.¹⁵⁰

After a lesbian woman refused the sexual advances of a man, she and her girlfriend were outed to police and arrested. They were sentenced to 18 months behind bars in **December 2019**, and fined 400,600 CFA francs (approximately USD 730). Their sentence was extended by four months as they could not afford to pay the fine, though they were released on **23 June 2021** due to funds

raised by "Project Not Alone" - a campaign set up by the *Erasing 76 Crimes* online news site.¹⁵¹

On **16 May 2020** in Bafoussam police arrested 53 individuals who had gathered to celebrate International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) at an event organised by Colibri, the local advocacy organisation. The group were accused of "promotion of homosexuality and violations of public health regulations" during the Covid-19 pandemic, but were released after supporters of the group raised 1,000,000 CFA francs (approximately USD 1,694). No other charges were reported as pending against members of the group and the case was closed. According to Human Rights Watch, at least six people, including three minors aged between 15 and 17, were subjected to forced anal examinations and HIV tests, with Colibri members also claiming that STI testing equipment and antiretroviral medication were confiscated during the raid.¹⁵²

After being charged with homosexuality in **June 2020**, three men were fined and a fourth was fined and sentenced to one year in prison. Donors and activists again worked to assist in raising funds to pay the fees.¹⁵³

Also in **June 2020**, in Kekem, another four men were arrested. One had been violently assaulted by two strangers he had made plans to meet with, and when he recounted events to his family, they allegedly beat him until he revealed which of his friends were also gay. He and three friends were taken to police where they were tortured until they confessed to being gay. While one of the four was released due to interventions from a lawyer in his family, the other three were charged with indecency and engaging in "homosexual behaviour". On **28 July** the Bafang Court of First Instance sentenced one of the four men to a month in prison and the other three to a fine, despite their lawyer arguing for the case to be thrown out due to their confessions being attained by means of torture.¹⁵⁴

In **2020** two men, an accountant and a secretary working at an undisclosed company in Yaoundé, went on a date at a bar. The pair had already been cohabiting for some time but were not "out". They were reportedly spotted at the bar by their boss, who did not confront them but stopped paying them without an explanation. When they confronted him about their salaries being withheld, he reported them to the police, and on **17 October 2020** they were charged with violating Section 347-1 of the Penal Code. They were held in Kondengui Prison for almost a year without trial. Eventually they were tried and sentenced to 18 months behind bars, though the judge counted their year in prison toward that sentence retroactively. This sentence was extended to 24 months, however, as the men could not afford their 212,100 CFA franc (about USD 356) and 214,300 CFA franc (about USD

¹⁴⁵ "Cameroon police arrest and torture 25 men for being gay", *Pink News*, 15 May 2018.

¹⁴⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁴⁷ "Gay man woos policeman's brother in Cameroon. Result: 3 arrests", *Erasing 76 Crimes*, 14 August 2018.

¹⁴⁸ "Two years in a Cameroon prison for two women's passionate hug", *Erasing 76 Crimes*, 14 April 2020.

¹⁴⁹ "Trans woman seeks to leave prison and sex work. You can help", *Erasing 76 Crimes*, 14 April 2020.

¹⁵⁰ "Donors, activists free gay man from Cameroon prison", *Erasing 76 Crimes*, 6 August 2019.

¹⁵¹ "Help us free 11 imprisoned LGBT victims of homophobia - Rights Africa", *Rights Africa*, 31 May 2021; "Faites un don pour libérer un couple homosexuel" [Donate to free a gay couple], *Erasing 76 Crimes*, 24 July 2021; "Imprisoned for whom they love, lesbian couple has been set free", *Erasing 76 Crimes*, 26 June 2021.

¹⁵² "Cameroon: Charges dropped against 53 arrested in Bafoussam", *Erasing 76 Crimes*, 2 June 2020; "Cameroon: Vague d'arrestations et abus à l'encontre de personnes LGBT" [Cameroon: Wave of Arrests and Abuses Against LGBT People], *Human Rights Watch*, 14 April 2021; *Additional Information supplied to ILGA World by Colibri*.

¹⁵³ "Homosexuality in Cameroon: 4 plead guilty and are set free", *Erasing 76 Crimes*, 19 August 2020.

¹⁵⁴ "Cameroon: Four gay men arrested, beaten in Kekem", *Erasing 76 Crimes*, 15 June 2020; Cedoca (Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons), *Rapport COI Focus: CAMEROUN. L'homosexualité* (2021), 8.

359) fines. Interventions from “Project Not Alone”—a fundraising campaign by the *Erasing 76 Crimes* news site—saw the fines paid and on **10 February 2022** the pair were freed.¹⁵⁵

According to reports in **January 2021**, police in Ebolowa, arrested a suspected gay man in **December 2020**. The police reportedly noticed the accused’s red thong sticking out while on a motorbike, and thereafter subjected the accused to an anal exam. Authorities allegedly also searched the suspect’s cell phone to find “compromising” images. The accused was released after two days in custody, allegedly after a bribe was paid.¹⁵⁶

On **24 January 2021** a 33-year-old man in Douala was accused of being gay and beaten by community members. They handed him over to the Douala 10th police district, which remanded him in custody for a day before transferring him to New Bell Central Prison. The victim was reportedly held there for three months without trial before being released, by which point he had lost his job and been evicted from his home.¹⁵⁷

On **8 February 2021** in Douala, a well-known transgender social media influencer known as Shakiro was arrested after staying overnight at a friend’s home.¹⁵⁸ The arrest appears to have been predicated on the view that the accused trans women were men, and the assumption that the two individuals would have participated in same-sex sexual activity while staying together. The two were charged with “attempted homosexuality, private indecency, [and] lack of a national identity card” at a trial held one day after arrest, reportedly without access to legal representation. They were thereafter incarcerated to await further judicial proceedings, and eventually obtained the services of a lawyer. On **11 May** a court sentenced the accused to a fine of 200,000 CFA francs (approximately USD 380), and five years’ imprisonment—the maximum penalty.¹⁵⁹ In response, several human rights defenders campaigned for the release of the two women, with a Cameroonian group, Working For Wellbeing, creating an international petition to put pressure on various government agencies in Cameroon, and Pan Africa ILGA publicly decrying the “[d]iscrimination and hatred towards innocent members of our community”.¹⁶⁰ On **13 July** the pair were granted provisional release by the Court of Appeal of Douala, pending an appeal ruling, though faced assault and harassment from members of the public. While free the harsh prison conditions were described to the

media, with the pair claiming they had been chained up, and made to pay money to the guards to unchain them.¹⁶¹ They also alleged that they had been sexually assaulted while in prison. As a result of the abuse she faced, the social media influencer fled to Nigeria in **2022**, though she also faced harassment there and could not access her gender-affirming medication regimen. Fearing for her safety in both Nigeria and Cameroon, she applied for asylum in several European countries, but alleges that her application was rejected by France and the United Kingdom. It was reported in **January 2023** that she had been granted asylum in Belgium after a year in exile, with her appeal still not having been heard in Cameroon.¹⁶² The fate of the other transgender woman could not be ascertained at the time of publication.

According to Human Rights Watch, gendarmes arbitrarily arrested two transgender women on **8 February 2021** in Douala because of their gender expression. Prosecutors accused them of “homosexual conduct”, lack of identity cards and indecent behaviour in public.¹⁶³

On **11 February 2021**—Cameroon’s Youth Day—12 teenage boys were arrested and beaten by police when it was alleged that they had been kissing one another. According to Human Rights Watch, they were arrested at a restaurant and released the same day without charge.¹⁶⁴

And on **24 February 2021**, it was reported that 13 people with connections to Colibri were arrested on charges of homosexuality, and while they were released a few days later, several of those arrested later attested to the violent and dehumanising manner in which they were treated. Police allegedly told those in custody that they were “devils, not humans, not normal”, physically assaulted several of them, and made them sign statements without allowing them to read what the statements said or allowing them access to legal representation.¹⁶⁵ The raid on the healthcare NGO came after a sexual encounter between two men, one of whom refused to give the other his cell phone back. This prompted the man to lay a charge of theft with local police, who arrested both the accused and the complainant, allegedly for their homosexuality. It was upon discovering that both men had received HIV treatment from Colibri that the organisation was also raided, with both staff and clients being taken into custody.¹⁶⁶

On **14 April 2021**, Human Rights Watch published a summary of known cases up to that point, noting that

¹⁵⁵ “Please help free 2 gay men, outed and arrested at work”, *Erasing 76 Crimes*, 11 June 2021; “Cameroon: Freed after 18 months, gay men say ‘thank you’ to supporters”, *Erasing 76 Crimes*, 22 March 2022.

¹⁵⁶ “Camerun, arrestato per un tanga rosso: “È la prova che è omosessuale” [Cameroon, arrested for a red thong: “It is proof that he is homosexual”], *Il Grande Colibri*, 12 January 2021.

¹⁵⁷ US Department of State, *2021 Country Reports on Human Rights Practices: Cameroon* (2021).

¹⁵⁸ While it is standard practice for this report to redact the names of criminalised persons for their safety, the prolific reporting by both international media and human rights defenders has mooted this. An exception has thus been made to allow readers a clearer understanding of the incident.

¹⁵⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁶⁰ “Pan Africa ILGA’s statement on the arrest of Cameroonian Trans Celebrity”, *Pan Africa ILGA*, 12 March 2021.

¹⁶¹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁶² “Homosexualité: Shakiro s’est réfugiée en Belgique!” [Homosexuality: Shakiro took refuge in Belgium!], *Actu Camroun*, 27 January 2023; “Cameroonian transgender activist arrives in Belgium after receiving asylum”, *InfoMigrants*, 27 January 2023; “Now I’m Free’: Influencer Jailed for 5 Years for Being Trans Speaks Out”, *Vice News*, 31 March 2023.

¹⁶³ “Cameroon : Vague d’arrestations et abus à l’encontre de personnes LGBT”, *Human Rights Watch*, 14 April 2021.

¹⁶⁴ “Cameroon: Police arrest 12 teens on homosexuality charges”, *Erasing 76 Crimes*, 15 February 2021; “Cameroon : Vague d’arrestations et abus à l’encontre de personnes LGBT”, *Human Rights Watch*, 14 April 2021.

¹⁶⁵ Human Rights Watch, *Cameroon: Wave of Arrests, Abuse Against LGBT People: Repeal Law, Protect LGBT Rights*, 14 April 2021.

¹⁶⁶ “Arrest of 13 presumed homosexuals, anti-AIDS workers in Cameroon”, *Erasing 76 Crimes*, 4 March 2021; US Department of State, *2021 Country Reports on Human Rights Practices: Cameroon* (2021); Another entry has been redacted for the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

"security forces have arbitrarily arrested, beaten, or threatened at least 24 people, including a 17-year-old boy, for allegedly being gay or gender nonconforming, since **February 2021**", with several individuals made to undergo invasive anal exams.¹⁶⁷

Broadly speaking, it appears that the State-backed targeting of people of diverse gender expressions and sexual orientations in Cameroon is so widespread that the cases outlined in this report likely do not account for a significant proportion of total attacks. A local website, *Cameroun Web*, reported on **7 June 2021** for example that there had been "mass arrests at gay bar in Cameroon", but details of the place, date and number of arrested persons were not published.¹⁶⁸ It is likely that many such cases do not even receive this level of reporting to begin with.

In **July 2021** three young people in Bafoussam were arrested and beaten, with police forcing them to provide the names of gay people in the region. The group had been staying with a human rights defender because they had all been rejected by their families due to their sexual orientation. It seems that on **17 September** police stormed the activist's home to harass and threaten him. At the police station the investigator informed him that he would need to pay 50,000 CFA francs (approximately USD 89) to secure the release of the three young detainees.¹⁶⁹

On **28 August 2021** a group of four trans women in Yaoundé were attacked by a mob because of their gender expression, but were saved by police. However, the police then arrested them, and at the police station the women were stripped, beaten, and threatened with death. They were held for two days before they managed to secure their release by paying a bribe.¹⁷⁰

A trans woman was arrested on **19 December 2021** by police in Yaoundé on charges of "homosexuality, night-time vagrancy and lack of a national identity card". On **22 December** representatives of Camfaids went to Central Police Station Number 1 to seek her release, but were themselves arrested on suspicion of homosexuality, according to police. The arrested human rights defenders have alleged that while in custody police beat them and forced them to unlock their cellphones to be searched without a warrant. Alternatives Cameroon intervened and the activists were released the following day, but police refused to free the trans woman on the grounds that she was a "repeat offender". She was transferred to Kondengui Prison.¹⁷¹

On **30 December 2021** a Nigerian woman was arrested after her girlfriend's mother found out about their relationship and reported her to the authorities. She was sentenced to seven months in Kondengui Prison for engaging in same-sex acts. According to reporting she was due for release in **July 2022**, but had no money to pay her outstanding fine and would thus be detained for an

unknown additional period. By **February 2023** she had been released due to the fundraising efforts of campaigns such as Project Not Alone.¹⁷²

On **4 January 2022** two gay men living together in a suburb of Yaoundé, and two of their friends who had been visiting, were arrested and beaten by police after being reported by the landlord. It is not clear why police were called on the group, but reports indicate that they were arrested after police noticed their "feminine mannerisms". Each of the four were found guilty of homosexuality and sentenced to six months in prison and a one-year suspended sentence in addition to a fine of 200,000 CFA francs (approximately USD 419). Their sentences were extended from **10 July** to **10 November** as they could not afford to pay the fines, though they were released on **28 July** after *Erasing 76 Crimes'* "Project Not Alone" fundraiser paid off the fee. While imprisoned, two of the men fell ill but could not afford the cost of medication instituted by the prison. According to *Erasing 76 Crimes*, two of the men fled the country after being released, with the intention of seeking asylum in the European Union, while the two who fell ill remained in Cameroon as they were not well enough to make the journey.¹⁷³

On **9 March 2022** a schoolteacher in the city of Buea was attacked by a mob accusing him of being gay. Police arrested three of the attackers but released them after taking their statements and detained the teacher instead on suspicion of homosexuality. His lawyer urged the authorities to prioritise his health, given the severity of his wounds, but he was held in his cell overnight and merely given painkillers the next day. He was released after paying a bribe of 50,000 CFA francs (approximately USD 82), and his lawyer has said he has declined to press charges against his attackers for fear of retaliation.¹⁷⁴

On **17 March 2022** two men in Yaoundé were arrested after eloping to an apartment on the far end of the city. Their parents thus began asking others in their neighbourhood for information about their missing sons, and came to learn of their relationship. The parents of both men took the matter to the police, who beat them to extract a confession and transferred them to Kondengui Prison. They were held there for pre-trial detention for around four months, and reporting indicates that they had been subsisting on just one meal a day during that time. This appears to be common practice in Cameroonian prisons, with many prisoners being provided with additional food and supplies by their friends and family, though the men in question, disowned by their family, did not receive such support. In **August** the pair finally gained access to a lawyer, and their trial commenced in **October**. Both were sentenced to eight months in prison, with their time in pre-trial detention counting toward this. They also received fines of 200,000 CFA francs (approximately USD 420) each, and court costs of 38,700 CFA francs

¹⁶⁷ Human Rights Watch, *Cameroon: Wave of Arrests, Abuse Against LGBT People: Repeal Law, Protect LGBT Rights*, 14 April 2021.

¹⁶⁸ "Mass arrests at gay bar in Cameroon", *Camerounweb*, 7 June 2021.

¹⁶⁹ Information provided to ILGA World by Humanity First Cameroon.

¹⁷⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁷¹ "Cameroon: Police arrest trans woman, then her would-be rescuers", *Erasing 76 Crimes*, 1 January 2022.

¹⁷² "Help us free 7 imprisoned LGBT victims of homophobia", *Erasing 76 Crimes*, 30 June 2022; "Imprisoned for being a lesbian, aided by donors, Octavia has been set free", *Erasing 76 Crimes*, 3 February 2023.

¹⁷³ "Help us free 7 imprisoned LGBT victims of homophobia", *Erasing 76 Crimes*, 30 June 2022; "Cameroon: Avec l'aide des lecteurs, nous avons libéré 4 prisonniers LGBT" [Cameroon: With the help of readers, we freed 4 LGBT prisoners], *Erasing 76 Crimes*, 5 September 2022.

¹⁷⁴ Human Rights Watch, *Cameroon: Rising Violence Against LGBTI People: No Protection from Group Attacks; Authorities Arrest, Detain Victims* (11 May 2022).

(approximately USD 81) each. Activist fundraising efforts assisted them in paying off these costs and the pair were released on **13 December 2022**.¹⁷⁵

On **31 March 2022** in Douala an armed gang entered several homes of suspected gay men, looting and defacing the properties and attacking the residents. The gang then called the police, who subsequently arrested at least six of the suspected gay men and none of the attackers. One of the victims was released after a few hours while the rest were freed between **1 April** and **4 April**. Human Rights Watch reported that police verbally abused the men in custody, and that at least one of the detainees had to pay a 100,000 CFA franc (approximately USD 164) bribe to be released.¹⁷⁶

Human Rights Watch reported that on **10 April 2022** in Yaoundé, a gang of eight armed men attacked a private party of at least 10 LGBT+ individuals. Two of the victims were assisted by a community member in getting to a nearby police station, though the gendarmes on duty mocked and physically assaulted them instead, saying: "We should kill you because you are monsters". The officers searched their phones for evidence that they were gay and released them only after they paid a bribe of 15,000 CFA francs (approximately USD 24). The eight remaining victims were trapped and assaulted by the angry mob for at least two hours with no intervention from the gendarmerie, with the attackers robbing them before dispersing.¹⁷⁷

Five gay men were arrested in the city of Bafoussam in **December 2022**. Police raided a private apartment at which the men had gathered to watch a pornographic film. As of **May 2023** they remained in detention without trial or legal representation.¹⁷⁸

Sometime in **late 2022**, two gay men were arrested in the town of Mfou. They were fined 200,000 CFA francs (about approximately USD 336) each and sentenced to six months in prison. Not being able to pay their fines, they remained incarcerated after their sentence had been served, and were expected to be released in August 2023.¹⁷⁹

In **January 2023** two young lesbian women were arrested when neighbours overheard them having sex and alerted the authorities. They were sentenced to a year in prison and fined 198,000 CFA francs (about USD 333) each. Reporting indicates that their sentence would be extended by four months on the basis that they could not afford to pay their fines.¹⁸⁰

January 2023 also saw the arrest of another lesbian couple, this time in the town of Mfou. The pair were in an argument, to which neighbours alerted local police. As of **May 2023**, they remained in detention without trial or a lawyer to represent them.¹⁸¹



Central African Republic

Enforcement Overview

Even though the Penal Code (2010) of the CAR does not outlaw consensual same-sex sexual acts between adults in private, Article 85 criminalises "acts against nature committed in public", defining them as "attacks on public morals" and imposing harsher penalties compared to other attacks on "morals".¹⁸² This provision is likely used as well to target trans and gender-diverse individuals.

Between 2014 and the time of publication, ILGA World has noted at least two examples of apparent *de facto* criminal enforcement.

Examples of Enforcement

In **2014**, three individuals were arrested by military personnel on suspicion that they were engaging in same-sex sexual activity in their home. The military entered without any form of warrant and held them in detention for three days without food or water, beating them repeatedly.¹⁸³

In **October 2017** a gay man was arrested by police on allegations that he had been selling semen to traditional spiritual healers and was held for three days by police before they released him due to a lack of evidence.¹⁸⁴



Chad

Criminalising Provisions

Article 354 of the Penal Code (2017) outlines a penalty of three months to two years and/or a fine for "sexual relations with a person of the same gender". Prior to this, the legal situation was not particularly clear in Chad. Article 272 of the previous Criminal Code only punished those who committed "acts against nature" with persons under 21 years of age. A bill to criminalise same-sex relations

¹⁷⁵ "Help us free 7 imprisoned LGBT victims of homophobia", *Erasing 76 Crimes*, 30 June 2022; "Betrayed by parents, two gay prisoners await results of our plea for funds", *Erasing 76 Crimes*, 12 July 2022; "Cameroun: Avec l'aide des lecteurs, nous avons libéré 4 prisonniers LGBT" [Cameroon: With the help of readers, we freed 4 LGBT prisoners], *Erasing 76 Crimes*, 5 September 2022; "Victories 23 and 24: Donors free gay couple from Cameroon prison", *Erasing 76 Crimes*, 8 March 2023.

¹⁷⁶ Human Rights Watch, *Cameroon: Rising Violence Against LGBTI People: No Protection from Group Attacks; Authorities Arrest, Detain Victims* (11 May 2022).

¹⁷⁷ *Ibid.*

¹⁷⁸ "Help us free 13 imprisoned LGBTQ victims of homophobia", *Erasing 76 Crimes*, 8 May 2023.

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

¹⁸² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Central African Republic* (retrieved: 30 June 2023).

¹⁸³ Alternatives Centrafrique, *Rapport sur la situation des minorités sexuelles et de genre en Centrafrique* (2018), 6.

¹⁸⁴ *Ibid.*

with up to 20 years in prison was debated in Parliament in 2016 but failed to pass, before the law in its current form was adopted.¹⁸⁵

Enforcement Overview

Information on SOGIE issues from Chad is considerably hard to gather as there are no ILGA member organisations or other groups known to carry out SOGIESC-related advocacy work locally. ILGA World has nevertheless been able to identify at least three examples of enforcement between 2013 and 2023, with one occurring prior to the 2017 Penal Code amendment.

Examples of Enforcement

On **20 September 2013**, two individuals reported to be gay men (though one of the pair was said to be wearing a dress and makeup and may have been a trans woman or transfeminine person) were arrested in Abéché and charged with "indecent exposure". It is alleged that they were dancing together at a bar in celebration of their wedding. Details are not consistent across all media reports, with some articles stating that all other attendees and witnesses were also arrested. On **8 October** the initial sentence of two years' imprisonment and a fine of 50,000 CFA francs (around USD 85) was reduced to a two-year suspended sentence and a fine. The bar was reportedly ordered to close for two years as a result of the incident. According to one local media outlet, the arrests and convictions were based on Article 271 of the old Penal Code which criminalised acts of indecency (*outrage à la pudeur*).¹⁸⁶

A US Department of State Country Report on Chad claimed that in **September 2019**, authorities in the town of Moussoro arrested 22 men for "same-sex conduct", though it is not clear whether this represents a single act of enforcement, or multiple over a longer period.¹⁸⁷

In **July 2020** an individual reported to be "a man dressed as a woman" was arrested, claiming that they had been trapped by a third party and forced to wear traditionally female attire. This case highlights the widespread conflation of sexual orientation and gender identity/expression in many criminalising countries. Talking to local media outlets on the arrest, the spokesperson for the National Gendarmerie, Abakar Abdramane Haggar, stated: "A homosexual is difficult to spot, but we look at their behaviours and their manner of dress. Then, the courts will determine". Moreover, Deputy Prosecutor Wambel Assoucia Ngueli said that "homosexuality is becoming an increasingly rampant phenomenon in our society" and instructed the investigation units of the Gendarmerie to proceed to hearings without delay.¹⁸⁸



Criminalising Provisions

Under Article 318(3) of the Comorian Penal Code (1981) engaging in an "indecent" or "unnatural" act with an individual of the same sex is punishable by imprisonment ranging from one to five years and a fine.

Enforcement Overview

Although Comoros has been commonly reported as a "safe" country due to the limited evidence on criminal enforcement, it is important to note that ILGA World has identified a few cases dating back approximately a decade. Most notably, a more prominent case came to light in 2022, where active enforcement by authorities was reported. These instances underscore the concern that even when certain countries seldom enforce criminalising laws, they can suddenly be applied arbitrarily, impacting the rights and well-being of its residents of diverse SOGIE.

In 2014, the government stated before the Human Rights Council that the political majority required to amend the law did not exist.¹⁸⁹

Examples of Enforcement

Though details remain unclear, there were reportedly at least three prosecutions between **2012** and **2013** against individuals alleged to have participated in same-sex sexual activity.¹⁹⁰ Given that arrests do not necessarily lead to prosecution in all instances, it is possible that there are more cases which have not yet come to light.

In **May 2022** a video showing two men engaging in a same-sex sexual act was leaked on social media, which sparked backlash in the country. One of the men was identified by social media users, and he was subsequently arrested at Prince Said Ibrahim International Airport. He had disguised himself and was attempting to flee the country at the time of his arrest. Some Comorian media claimed he was the first person to be imprisoned for his sexual orientation in the country. On 24 May he was placed in pre-trial detention in the remand centre of Moroni on charges of "sexual acts against nature and contrary to morality" and "disseminating pornographic images". On 9 June his request for provisional release was rejected, as the legal period of preventive detention is four months and can be renewed once.¹⁹¹

¹⁸⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Chad* (accessed: 20 June 2023).

¹⁸⁶ "Chad: Homosexual marriage in Abéché", *Le Tchadanthropus*, 25 September 2013; "Tchad: 2 ans de prison ferme pour les homosexuels d'Abéché", *Tchadinfos*, 4 October 2013; "Chad: the population of Abéché wind up against a gay couple", *RFI*, 27 October 2013; United States Department of State, *2013 Country Reports on Human Rights Practices - Chad* (2014); Human Rights Campaign & Human Rights First, *Report: The state of human rights for LGBT people in Africa* (2014), 7.

¹⁸⁷ United States Department of State, *2019 Country Reports on Human Rights Practices: Chad* (2019).

¹⁸⁸ "Tchad: un homme suspect habillé en femme arrêté", *Alwihda Info*, 24 July 2020.

¹⁸⁹ *Report of the Working Group on the Universal Periodic Review: Comoros*, "A/HRC/26/11, 7 April 2014, para. 73.

¹⁹⁰ Human Rights Campaign & Human Rights First, *Report: The state of human rights for LGBT people in Africa* (2014), 7.

¹⁹¹ "Aux Comores, ces gays que l'on ne veut pas voir" [In the Comoros, these gays we don't want to see], *Afrique XXI*, 22 June 2022



Cote d'Ivoire

Enforcement Overview

While consensual same-sex sexual activity is not explicitly criminalised, Article 360 of the Penal Code (1981, as amended in 2019) prohibits “debauchery” and “corruption of minors” with two to five years’ imprisonment and a fine. Prior to June 2019, Article 360 was not limited to acts involving minors, and stipulated aggravated penalties for acts against “public modesty” involving persons of the same sex. Prior to this amendment, Article 360 was reported by local activists as having been used only twice—once in 2014 and once in 2016. Ivorian human rights defenders have, however, claimed that the amendment has not addressed the issues of discrimination and arbitrary detention in Côte d'Ivoire, however, and the age of consent remains unequal under Articles 413 and 414 of the Code (15 for different-sex, and 18 for same-sex sexual acts).¹⁹²

In 2014, UN Special Procedures requested specific information from the Ivorian government in light of the lack of protection offered to LGBTQ+ people and human rights defenders.¹⁹³ Homophobic and transphobic stigma is common among religious and conservative elements of Ivorian society and State officials, and attempts to expand or enforce protections for sexual or gender minorities appear to face staunch opposition.¹⁹⁴ In October 2021 an anti-discrimination bill, which included sexual orientation as a protected ground, saw fierce backlash, with some MPs claiming falsely that it would also protect paedophilia and bestiality. Some also claimed that it would lead to the legalisation of same-sex marriage. As such the bill was amended to remove sexual orientation protections before being passed.¹⁹⁵

Sources indicate that law enforcement agencies are often reluctant to investigate or protect cases of violence against LGBTQ+ people, and victims often do not even bother to file a complaint.¹⁹⁶ Law enforcement officers are reported to remain indifferent even in cases of extreme violence.¹⁹⁷ To some extent this inaction may be reflected in State policy, with local activists informing ILGA World that in February 2023 the Ministry of Women, Family and Infants stated that their understanding of gender is limited to that

of binary male and female divisions, and that transgender persons are not recognised and thus do not form part of the State’s plans to combat gender-based violence (GBV).¹⁹⁸

In all, ILGA World identified four examples of State-targeting between 2011 and 2023, but reporting by local activists on the ground indicates targeting is more widespread than the individual cases that could be disaggregated below.

Examples of Enforcement

In **April 2011** military personnel of the Republic Forces of Côte d'Ivoire (FRCI) and Abidjan law enforcement raided a gay bar in the city and arrested all those who were effeminate or gender nonconforming. It is not clear how many were effectively detained in total, but the owner of the bar was reportedly required to pay 25,000 CFA francs (around USD 55) per detainee to secure their release.¹⁹⁹

In **2012** an HIV activist was arrested in the town of Dabou on the accusation that he was “initiating young men [into homosexuality]”. He was stripped and his genitals were beaten with batons. He was refused access to his HIV medication, with police claiming that the medicine was “drugs”, and when they later realised he was living with HIV they punched him.²⁰⁰

Some time prior to **2013** a case was documented by Arc-en-Ciel Plus in which a community member was arrested on accusations of “paedophilia” despite the fact that the men he slept with were over 21 years of age. Arc-en-Ciel Plus paid 200,000 francs (approximately USD 440) for his release, and so no legal proceedings took place. The organisation notes that it is common practice for police to arrest trans or gender-nonconforming persons as well, accusing them of being sex workers and beating them.²⁰¹

In **October 2016**, two gay men were arrested in San Pedro, for engaging in consensual same-sex sexual acts in private. The two men—aged 31 and 19—were caught having sex by the youngest’s uncle, who immediately reported them to the Gendarmerie forces. They were both quickly arrested and referred to the Sassandra Prosecutor’s Office. At the hearing, the couple admitted being in a loving relationship and stated that “they didn’t see how their act constitutes a crime”. Media outlets quoted the prosecutor stating that “the law qualifies this immodest act as unnatural” and indicating that sexual relations between two people of the

¹⁹² AMSHeR, Alternative Côte d'Ivoire, Arc en Ciel Plus, Lesbian Life Association Côte d'Ivoire, Queer African Youth Networking Center, Et al., *UN Shadow Report: les violations des droits de l'homme sur la base de l'orientation sexuelle et identité de genre en la république de Côte d'Ivoire* (2012), 7-8; QAYN, *Il ne faut pas réveiller le lion qui dort: Cartographie juridique de la situation des personnes LGBTQ en Afrique de l'Ouest Francophone* (2015); Organisation suisse d'aide aux réfugiés (OSAR), *Côte d'Ivoire : situation des personnes LGBTQI et protection de l'État*, (2021), 4; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Côte d'Ivoire* (accessed: 12 September 2023); *Additional Information supplied to ILGA World by the African Queer Youth Initiative*.

¹⁹³ OHCHR, *UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (33-27) CIV 1/2014* (2014).

¹⁹⁴ “Senegalese refugee says Ivory Coast is not safe for LGBTI+ people”, *Erasing 76 Crimes*, 20 March 2023; “Homosexualité, les évêques catholiques de Côte d'Ivoire dénoncent”, *7 Info*, 6 June 2023; “Côte d'Ivoire : Le Consistoire protestant s'élève contre les mouvements LGBT”, *Afrique Sur 7*, 10 June 2023.

¹⁹⁵ “Côte d'Ivoire : la nouvelle loi contre les discriminations exclut les personnes homosexuelles”, *TV5 Monde*, 11 November 2021; *Additional Information supplied to ILGA World by Sheba Akpokli and the African Queer Youth Initiative*.

¹⁹⁶ Organisation suisse d'aide aux réfugiés (OSAR), *Côte d'Ivoire : situation des personnes LGBTQI et protection de l'État* (2021), 8.

¹⁹⁷ Office français de protection des réfugiés et apatrides (OFPRA), *Rapport de mission en République de Côte d'Ivoire* (2013), 159.

¹⁹⁸ *Information supplied to ILGA World by the African Queer Youth Initiative*.

¹⁹⁹ *Ibid.*

²⁰⁰ AMSHeR, Alternative Côte d'Ivoire, Arc en Ciel Plus, Lesbian Life Association Côte d'Ivoire, Queer African Youth Networking Center, Et al., *UN Shadow Report: les violations des droits de l'homme sur la base de l'orientation sexuelle et identité de genre en la république de Côte d'Ivoire* (2012), 11.

²⁰¹ *Ibid.*

same sex must be “punished”. In **November** the Sassandra Court of First Instance sentenced the two defendants to 18 months in prison each. Some local activists have claimed that this incident could be the first known case of using Article 360 of the Penal Code to imprison gay individuals in the country. The pair were reportedly released in **January 2017** after three months in detention.²⁰²



Democratic Republic of the Congo

Enforcement Overview

Even though there are no provisions outlawing consensual same-sex sexual acts between adults in the Democratic Republic of the Congo, Article 176 of the Penal Code (1940)—which criminalises activities against “public decency”—has been used as the legal basis to criminalise LGBT persons.²⁰³

Societal stigma against persons of diverse SOGIE appears to be widespread, and local sources have documented how public officials and religious groups openly condemn homosexuality, often drawing parallels between same-sex relationships, Satanism and paedophilia. Some pastors reportedly utilise TV platforms to preach that homosexuals “will face dire consequences”, to stigmatise LGBTQ+ individuals as “witches or demons”, and associate “homosexuality” with mental illness or Western influence.²⁰⁴

These attitudes seem to extend into law enforcement, too, with incidents being documented in which police extort people for money in exchange for not pressing criminal charges, or even join in on mob attacks against LGBTQ+ persons.²⁰⁵ In 2021 it was reported by a local civil society organisation that a total of 23 LGBTQ+ persons were arrested after they had sought protection from the police. The source added that persons of diverse SOGIE are not afforded protection since they are viewed as criminals by the police based solely on their identity.²⁰⁶

The UN Human Rights Committee expressed concern about this and recommended in 2017 that the DRC ensures that no person is prosecuted under Article 176 of the Penal Code because of their sexual orientation or gender identity, and further recommended the State enact anti-discrimination legislation that expressly includes sexual orientation and gender identity.²⁰⁷

Any attempts to follow through on such recommendations, however, would need to take place against a backdrop in which it is politically beneficial for elected representatives to attack SOGIESC human rights. Numerous attempts have been made over the last decade to explicitly criminalise consensual same-sex sexual activity, such as in 2010 when a member of Parliament, Ejiba Yamapia, attempted to gather support for a bill on “Sexual Practices Against Nature” which sanctioned same-sex sexual acts as “unnatural” and “immoral”. In 2013, another member of Parliament, Steve Mbikayi, proposed a similar bill that sought to criminalise same-sex sexual activity as well as ban Pride events, advocacy meetings, or any other form of “promotion of homosexuality”. Mbikayi’s bill prescribed a jail sentence of between three to five years for gay people, and three to twelve years for transgender people. The bill was rejected, though Mbikayi presented similar legislation in 2015 and 2016.²⁰⁸

In all, between 2012 and the time of publication ILGA World has identified at least 15 examples of *de facto* criminal enforcement and targeting, though several of these instances come from reports indicating that they are simply individual examples of known patterns.

Examples of Enforcement

In **2012** a woman was arrested and had her home searched by members of the National Intelligence Agency after a Congolese woman who had already moved to Europe tipped them off. The woman’s underwear was used as evidence that she regularly entertained other women in her home and was therefore a lesbian. She was allowed to walk free after National Intelligence officials extorted USD 5,000 from her.²⁰⁹

In **December 2012** police surrounded the offices of an organisation based in the eastern city of Bukavu, Rainbow Sunrise Mapambazuko, in an apparent attempt to arrest the group’s leader. They did not succeed, though Rainbow Sunrise Mapambazuko activists would continue to be

²⁰² “Justice : première condamnation pour pratique homosexuelle en Côte d’Ivoire”, *Abidjan Net*, 14 November 2016; “Pour la première fois, la Côte d’Ivoire condamne deux hommes pour homosexualité”, *Aufeminine*, 18 November 2016; “Côte d’Ivoire : des homosexuels condamnés à 18 mois de prison”, *Afrique sur 7*, 16 November 2016; “Ivory Coast officials refuse to explain why two gay men were jailed”, *The Guardian*, 26 January 2017; “Jailing of gay Ivorian men stokes fears in LGBT safe haven”, *Reuters*, 22 March 2017.

²⁰³ Penal Code of the DRC, article 176: “A person who engages in activities against public decency will be liable to a term of imprisonment of eight days to three years and/or fined twenty-five to one thousand zaires”. For more information, see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Democratic Republic of Congo* (retrieved: 30 June 2023).

²⁰⁴ Focus Droits et Accès, *Rapport Alternatif au Comité des Droits Économiques Sociaux et Culturels : La jouissance des droits économiques, sociaux et culturels des personnes LGBTI en Province du Nord-Kivu, République Démocratique du Congo, Mythe ou Réalité* [Alternative Report to the Committee on Economic, Social and Cultural Rights: The enjoyment of economic, social and cultural rights of LGBTI people in the Province of North Kivu, Democratic Republic of Congo, Myth or Reality], (2022), 5; Youth for the Peace in Great Lakes Region, *LGBTI Communities Economic, Social and Cultural Rights in the Fragile Context at East of DR Congo: Shadow Report to the Committee on Economic, Social and Cultural Rights for its 71st Session* (2022), 6.

²⁰⁵ Focus Droits et Accès, *Rapport Alternatif au Comité des Droits Économiques Sociaux et Culturels : La jouissance des droits économiques, sociaux et culturels des personnes LGBTI en Province du Nord-Kivu, République Démocratique du Congo, Mythe ou Réalité* [Alternative Report to the Committee on Economic, Social and Cultural Rights: The enjoyment of economic, social and cultural rights of LGBTI people in the Province of North Kivu, Democratic Republic of Congo, Myth or Reality], (2022), 5.

²⁰⁶ WEKA Organisation (WEO), *Shadow report on Social, Economic and Cultural Rights of LGBTI People in the Democratic Republic of Congo. Submitted for the DRC review at the 71st Session of the Committee on Economic, Social and Cultural Rights (CESCR)* (2022), 5-6.

²⁰⁷ Human Rights Committee, *Concluding observations on the fourth periodic report of the Democratic Republic of the Congo*, CCPR/C/COD/CO/4, 30 November 2017, para. 13-14.

²⁰⁸ MOPREDS, Jeunialissime, Oasis Club Kinshasa, Rainbow Sunrise Mapambazuko, MOLI and Synergia, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)* (2017), 14-15.

²⁰⁹ *Id.*, 9.

targeted.²¹⁰ Other organisations also face targeting, with The Executive Director of MOPREDS reportedly being threatened and harassed by the police and National Intelligence Agency.²¹¹

On **4 May 2013** the head of Rainbow Sunrise Mapambazuko was arrested in Bukavu on charges of promoting homosexuality. He was denied food or water and tortured during his four days in detention. He claimed he was raped with sticks at least three times and beaten by inmates as well. On **8 May** he was released after his colleagues raised USD 400 to pay authorities, but one colleague who had come to the station to call for his release had himself also been arrested at this point, and was released on **10 May**. Both men spent several days in hospital recovering, but unknown assailants allegedly tried and failed to assassinate the organisation leader as soon as he returned home. He fled to neighbouring Uganda but was soon arrested there as well on a charge of “sodomy”, and fled to Europe after being released on bail.²¹²

On **22 July 2013**, police officers and neighbours armed with hammers and machetes raided the home of a lesbian activist providing shelter to LGBTQ+ young people in Bukavu. Around 20 individuals, including officers from a sanitation police branch, forcibly entered her house, accusing her of “disrupting neighbourhood morality”. They damaged her property, verbally and physically assaulted her, and threatened her life. In the wake of the attack, the youths who had sought refuge in the activist’s home were forced to scatter in various directions to ensure their safety.²¹³

In **2014** two women were arrested, officially due to issues with licensing at the bar owned by one of them, though local media quickly outed them as lesbians. Activists in the area claimed that the pair were targeted as part of a campaign for the proposed criminalisation of same-sex sexual activity put forward by a local politician.²¹⁴

Also in **2014**, a gay couple were found kissing in the locker room at a public swimming pool in the capital city of Kinshasa. The manager handed them over to police who extorted a bribe of approximately USD 100 from them in exchange for not exposing them to the public.²¹⁵

In **June 2015** in the eastern city of Goma, a gay man was killed by police while in jail. Specific details of the circumstances of his detention or what led to his murder are unknown.²¹⁶

In **2016** at the funeral of a young gay man in Kinshasa, police rounded up a group of mourners on the basis that they were “promoting homosexual practices in public”.²¹⁷

Also in **2016** in Kinshasa, the manager of a bar was arrested after a work-related dispute with an employee - though it is claimed that police took action against the man on account of his perceived sexual orientation. He was made to pay a bribe of unknown value to secure his release.²¹⁸

Sometime “not so long” before the publication of an **October 2017** UN shadow report by a coalition of local organisations, a gay man in Goma alleged having been stopped by police who demanded his money and his cell phone. They discussed what they should do with the man, suggesting the possibility of simply killing him, before finally letting him go.²¹⁹

Eight trans individuals were also arrested in Goma and surrounding regions at an **unknown date in or before 2017**. The apparently arbitrary detention lasted six months.²²⁰

In **October 2021** a group of seven individuals—which included LGBTI activists—found themselves trapped within the offices of the Weka organisation by an enraged mob, who were directing homophobic slurs and threats towards the men confined within the office premises. The police intervened, effectively dispersing the agitated mob, but then themselves engaged in derogatory conduct towards the seven and subsequently proceeded detain them. The police conducted a search of the premises, during which they seized condoms, lubricants, and anti-retroviral medicines. Additionally, the detained men were subjected to anal examinations.²²¹

Also in **2021**, four gay men were arrested while visiting a friend who was being held at a local detention centre. As reported by a local source, the officers arrested the men because they “looked like homos” [sic].²²²

On **24 March 2022** the Executive Director of Rainbow Sunrise Mapambazuko fled to Kinshasa from Bukavu upon hearing news that he was wanted by local Judicial Police. He had already known he was under investigation by the Public Prosecutor’s office for “promoting homosexuality” and had been facing death threats. He later returned to Bukavu to continue his work, with his lawyer indicating to the media in **April** that his temporary relocation to

²¹⁰ “Congo: LGBT activists arrested, beaten, released (update)”, *Erasing 76 Crimes*, 22 May 2013.

²¹¹ MOPREDS, Jeunialissime, Oasis Club Kinshasa, Rainbow Sunrise Mapambazuko, MOLI and Synergia, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)* (2017), 4.

²¹² “Congo: LGBT activists arrested, beaten, released (update)”, *Erasing 76 Crimes*, 22 May 2013; “Police watched as prisoners raped gay activist with sticks in Congo”, *Gay Star News*, 29 July 2013; “Abuse of Congo’s LGBT Community puts US Supreme Court ruling in perspective”, *The Ground Truth Project*, 2 July 2015.

²¹³ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

²¹⁴ MOPREDS, Jeunialissime, Oasis Club Kinshasa, Rainbow Sunrise Mapambazuko, MOLI and Synergia, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)* (2017), 9-10.

²¹⁵ *Id.*, 10.

²¹⁶ “Abuse of Congo’s LGBT Community puts US Supreme Court ruling in perspective”, *The Ground Truth Project*, 2 July 2015.

²¹⁷ MOPREDS, Jeunialissime, Oasis Club Kinshasa, Rainbow Sunrise Mapambazuko, MOLI and Synergia, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)* (2017), 10.

²¹⁸ *Ibid.*

²¹⁹ *Id.*, 8.

²²⁰ *Id.*, 9.

²²¹ WEKA Organisation (WEO), *Shadow report on Social, Economic and Cultural Rights of LGBTI People in the Democratic Republic of Congo. Submitted for the DRC review at the 71st Session of the Committee on Economic, Social and Cultural Rights (CESCR)* (2022), 5.

²²² *Ibid.*

Kinshasa was to avoid a lengthy pre-trial detention before the case was due in court.²²³

It was reported in **August 2022** that seven trans women had been given shelter in the Bukavu offices of Rainbow Sunrise Mapambazuko after fleeing from a nearby village. Community members in the village had called for the women to be put to death, but local traditional leaders opted to enslave them as a punishment for their violation of social customs. It is unclear to what extent such village chiefs are considered representatives of the State or to have been acting within a legal capacity, though they do arguably have *de facto* authority over their respective regions in light of the limited reach of the central government in some parts of the DRC.²²⁴



Enforcement Overview

ILGA World has identified more than 75 examples of *de facto* criminal enforcement in Egypt between 1998 and 2023. This does not account for the high number of people targeted in some raids or crackdowns, nor does it account for the many borderline cases which could not be verified for inclusion in this report, as the provisions used to target SOGIE persons are also regularly employed against sex workers—some of the most targeted persons under this law—“adulterers” and, rarely, political dissidents.²²⁵

There is no law that explicitly criminalises consensual same-sex sexual activity in Egypt. However, Law No. 10/1961 on the Combating of Prostitution (1961) is selectively used to target individuals of diverse sexual orientations and gender identities. The main charges brought against suspects include “habitual practice of debauchery” (Article 9-c), “publicising an invitation to induce debauchery” (Article 14), and “incitement to debauchery” (Article 1). While these articles provide for a maximum of three years imprisonment, Bedayaa, a local NGO, noted that some cases could receive up to six years.²²⁶ Article 25 of Law No. 175/2018 on Cybercrimes (2018) also has been used to target persons of diverse SOGIE and activists, as per this provision “anyone who publishes online content that threatens society’s and family’s values shall be punished for at least six months of prison and a fine of at least fifty thousand pounds”.²²⁷ According to organisations such as Cairo 52, this law has been used to target sex workers and LGBTQ+ persons far more extensively than Law No. 10/1961 over the past

decade. This and other provisions regulating the use of the internet, media and telecommunications against acts which “infringe on any family principles or values in Egyptian society” have been used in a range of cases to target SOGIE identities—specifically gay men and transgender women. Media monitoring by Cairo 52 between January 2021 and December 2022 found that at least 28 LGBTQ+ persons were arrested based on these regulations. 10 people in 2021, and 18 in 2022.²²⁸

In 2020 it appeared that a draft law to increase the minimum prison sentence for offences under Law No. 10/1961 from three to seven years had advanced to the Parliament’s Legislative and Constitutional Committee, though it is unclear if anything came of these legislative efforts. More recently, in January 2022, it was reported that a Senator in the Constitutional and Legislative Affairs Committee, Yasser Al-Hudhaibi, had submitted a draft bill to Parliament to explicitly criminalise same-sex sexual acts for men and women with two to six years in prison—and eight years for repeat offenders.²²⁹ The following month it was also reported that Riyad Abdel Sattar, a member of the House of Representatives, was in the process of finalising a similar law against the “promotion of homosexuality”.²³⁰

Additionally, the Egyptian *Dar Al Iftaa* (Islamic advisory body to the government) issued a series of *fatwas* (legal opinions) in 2020, including one condemning homosexuality and outlining the need for medical intervention (i.e., “conversion therapies”).²³¹ This sentiment is also common within the Coptic church and other Christian groups in Egypt, which also maintain “in-house” anti-homosexuality programmes practicing so-called “conversion therapy”. For example, St. Mark’s Orthodox Coptic Cathedral declared in December 2017 that it was planning to organise a conference titled “Volcano of Homosexuality”, with the aim of achieving the “speedy recovery” from homosexuality based on series of lectures by the priests.²³²

Police and other authorities have demonstrated a common tactic of using online entrapment, raiding of known “gay hangouts”, and illegally seizing and searching cell phones for incriminating content, in order to justify the arbitrary detention of suspects. Once the accused are in custody, physical and psychological violence, and sexual assault are also reportedly common, and legal procedures remain opaque to make access to justice difficult. It is thus often impossible to parse where the delineation between criminalisation and simple prejudice on the part of individual State actors lies, given the nebulous ways in which laws can and have been interpreted to include SOGIE identities and activities. At the very least a clear State-backed policy of targeting of persons based on their SOGIE through provisions against public indecency, sex work, adultery, rape and others is at play, though social

²²³ “LGBTI+ rights defender in the Congo: I’m threatened with death”, *Erasing 76 Crimes*, 22 March 2022; “Congo: LGBTI+ rights defender hides from death threats, faces prosecution”, *Erasing 76 Crimes*, 6 April 2022; “Traditional chiefs in DR Congo condemn 7 trans women to slavery”, *Erasing 76 Crimes*, 16 August 2022.

²²⁴ “Traditional chiefs in DR Congo condemn 7 trans women to slavery”, *Erasing 76 Crimes*, 16 August 2022.

²²⁵ Information supplied to ILGA World by Cairo 52.

²²⁶ “Repression in Egypt: 92 LGBTQI+ arrests last year”, *Rights Africa*, 8 March 2020.

²²⁷ Hassan Mostafa and Nora Noralla, *The Legal and Media Observatory of Sex Work Crimes in Egypt: Based on Media Monitoring Between January 2021 and December 2022*, Cairo 52 Legal Research Institute, (June 2023); ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Egypt* (accessed: 30 June 2023).

²²⁸ Article 19, *Digital Crime Scenes*, 4 March 2022; Cairo 52, *The Legal and Media Observatory of Sex Work Crimes in Egypt: Based on Media Monitoring Between January 2021 and December 2022* (June 2023);

²²⁹ “تصل للسجن 8 سنوات.. تعديلات في مجلس الشيوخ لحظر المثلية الجنسية إخص” [Up to 8 years in prison .. Amendments in the Senate to ban homosexuality | Special], *Cairo24*, 23 January 2022.

²³⁰ “برلماني: إعداد مشروع قانون لتجريم المثلية.. ويؤكد: يخالف الشريعة الإسلامية” [Parliamentary: Preparing a draft law to criminalize homosexuality.. and confirms: It violates Islamic Sharia], *Faith News*, 9 February 2022.

²³¹ “المزيد على دنيا الوطن ثلاث فتاوى متتالية للإفتاء المصري عن الانتحار والشذوذ والغفران آثار الجدل” [More on Dunya Al-Watan Three consecutive fatwas of the Egyptian fatwa on suicide, homosexuality, and forgiveness sparked controversy], *Alwatan Voice*, 22 June 2020.

²³² “Coptic Church Organizes ‘volcano of homosexuality’ conference”, *Egypt Independent*, 28 September 2017; Additional Information supplied to ILGA World by Cairo 52.

attitudes, a vocal religious sector, the need for political scapegoating during times of instability and a hostile media landscape all interact in myriad ways.²³³

According to an anonymous Egyptian organisation which engaged with ILGA World in 2019, much of the targeting of SOGIE persons by the State can be seen as a response to societal outcry and backlash, leading to periods of relative quiet and tolerance (such as before the 2001 “Queen Boat” incident) giving way suddenly to severe repression. The anonymous organisation noted the recent example of a 2017 crackdown after a concert was held by a Lebanese rock band and media publicised images of those waving rainbow flags at the event, explaining that:

The media adopted a rhetoric that incited violence against LGBTQI individuals, with [...] TV presenters calling on the State to act. A few days after this media campaign, the moral police started to round up individuals either from dating applications [...] through online entrapment, or from certain public areas allegedly known for being a hot-spots for gay men. Furthermore, the National Security Police hunted down two individuals who reportedly raised the flags during the concert. Another individual was later arrested in early October 2017 for posting supportive content of LGBTQI communities on his social media accounts.²³⁴

The organisation notes that at least 80 arrests took place after the concert.²³⁵ This is corroborated by a 2017 UN Special Procedures Urgent Appeal, which noted that, from 22 September to 25 October of that year:

[A]rrrests and detention of 70 individuals have been reported, including arrests and detention of activists defending the human rights of LGBTI persons. In some of these cases, the Egyptian security forces have used the method of online dating application entrapment in order to proceed with the arrests.²³⁶

Prior to that case, a 2017 report by the Egyptian Initiative for Personal Rights (EIPR) found that in the period from October 2013 to March 2017, at least 232 individuals were arrested in Egypt based on their actual or perceived sexual orientation and gender identity.²³⁷

Egypt received numerous pertinent recommendations from the UN Universal Periodic Review process in November 2019. Iceland recommended that the government “[e]nd the arrest and prosecution of people for their real or perceived sexual orientation or gender identity and repeal laws criminalising consensual same-sex relations”. The Netherlands also issued a recommendation to “[e]nd the practice of entrapment and subsequent arrest and

prosecution based on sexual orientation and gender identity”.²³⁸ The Egyptian delegation rejected these recommendations as being formulated on the basis of “inaccurate” information.²³⁹

Germany’s recommendation to “[t]ake steps to protect the rights of lesbian, gay, bisexual, transgender and intersex individuals and ensure that they are not subject to discriminatory arrest or prosecution under criminal charges of indecency or debauchery” was partially accepted.

Examples of Enforcement

In **1997**, 12 people were arrested near Ramses train station by the Ramses Vice Police Squad, according to a Human Rights Watch report. Authorities are quoted as saying: “We received information that some young sexual perverts frequent Ramses Square to hunt clients who are seeking forbidden desires with men, to practice debauchery with them”. No further information about their case is known.²⁴⁰

Also in **1997**, a person assigned male at birth but of unknown identity was picked up by a police car in the street for having long hair. Their appearance led the officers to suspect that the individual was gay, and as such was abused while in detention with fire, hot wax, cigarette lighters and gas cannisters. Further information about this case is not known.²⁴¹

On **11 December 1998**, Tourism Police raided a bar and arrested an unknown number of people. The testimony of one individual reveals that police had likely relied on an informant to identify gay individuals at the venue, and forced detainees to sign an arrest report under threat of violence.²⁴²

In **May 2000** a man was arrested in Tahrir Square in the context of an arrest campaign by the Cairo Vice Police. The individual was asked by police in English whether he was gay, with suspects being able to pronounce the word “gay” being counted as evidence. The man was then taken to a local police station—where he claimed around 150 other detainees were already being held—and had the colour of his underwear checked as further “evidence” of homosexuality. Detainees were reportedly severely beaten, and forced to sign police reports in order to end the abuse. Eventually, prosecutors charged the detainees with “habitual practice of debauchery”, and ordered their release pending trial. Human Rights Watch noted that the police gave each defendant individual case file and number, seemingly to preserve the fiction that no mass arrests had taken place.²⁴³

In **January 2001** two men were reportedly entrapped through the internet by a man claiming to be a gay tourist from Switzerland. They were arrested at the meeting place,

²³³ EIPR, *The Trap: Punishing sexual difference in Egypt* (2017); OHCHR, *UA EGY 17/2017* (2017); “The Policies of Suppressing Sexual Rights in Egypt”, *The Legal Agenda*, 2 February 2018; “Rights of LGBTQ People in Egypt: Between State, Society, and de facto Criminalisation”, in: ILGA World, *State-Sponsored Homophobia 13th edition* (2019), 520-522; ““Clean the Streets of Faggots” Digital Targeting of LGBT People by Middle East/North Africa Governments”, *Human Rights Watch*, 4 August 2021.

²³⁴ “Rights of LGBTQ People in Egypt: Between State, Society, and de facto Criminalisation” in: ILGA World: Lucas Ramón Mendos, *State-Sponsored Homophobia 2019* (2019), 520-522.

²³⁵ *Ibid.*

²³⁶ OHCHR, *UA EGY 17/2017* (2017), 1-3.

²³⁷ EIPR, *The Trap: Punishing sexual difference in Egypt* (2017), 6.

²³⁸ *Report of the Working Group on the Universal Periodic Review: Egypt*, A/HRC/43/16 (2019), para. 31.57, 31.61.

²³⁹ *Report of the Working Group on the Universal Periodic Review: Egypt: Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/43/16/Add.1 (2020).

²⁴⁰ Human Rights Watch, *In a Time of Torture* (2004).

²⁴¹ *Ibid.*

²⁴² *Ibid.*

²⁴³ *Ibid.*

and both were sentenced to three months' imprisonment.²⁴⁴

On **3 March 2001** two persons were arrested in Tahrir Square while waiting for a potential partner, whom they met through an internet. No further information is known about this case.²⁴⁵

On **11 May 2001** the Queen Boat, a riverboat which also served as a gay nightclub, was raided by undercover officers from the Cairo Vice Squad and State Security Agency, in what has widely been considered the infamous beginning of a nationwide anti-LGBT crackdown which has now outlasted the government which implemented it by more than a decade. Between 52 and 55 men were arrested and subjected to beatings and anal examinations, in addition to being named and degraded in the media. Initially they were refused access to their lawyers and families. On **14 November 21** of the accused were found guilty of "habitual debauchery" while another was found guilty of "insulting religion", and the presumed party organiser was found guilty of both charges. The rest were cleared, until **May 2002** when a retrial was ordered for all suspects, including those previously found not-guilty. In **March 2003** the trial finally ended, with 21 being sentenced to three years' imprisonment and 29 being acquitted.²⁴⁶

In **September 2001**, an informant of the Giza Vice Police invited seven people to a birthday party as a trap. Once they had all arrived, 12 police officers arrived without a warrant to arrest them. Officers checked the colour of the group's underwear, which would supposedly act as "evidence" that they were gay, and forced them under threat of violence to sign confessions saying that they were engaged in "prostitution". They were held in detention for several weeks on charges of "habitual debauchery", and eventually sentenced to six months' imprisonment. They were freed after six weeks, though, without any explanation being given.²⁴⁷

In **January 2002**, the police in Damanhur initiated an arrest campaign after a police officer was murdered, as the crime scene yielded supposed evidence that the officer had been gay. The authorities began investigating all of the deceased officer's connections in the region, and asking them to point out other gay people from the list of contacts they had compiled. At least five suspected LGBT+ individuals were detained on this basis and subjected to physical abuse and forced anal examinations. In **March** a trial was held and at least one man was sentenced to three years' imprisonment, to be followed with three years of police supervision, and a fine. It does not appear this individual had any involvement in the murder of the officer, and was sentenced purely because of his sexual orientation. All detainees were released after three months' imprisonment after a successful appeal.²⁴⁸

In **March 2002** police in Tanta used an informant to entrap three men, who were subsequently tortured into

confessing to having sexual relations with each other. The police report accused them of forming a Satan-worshipping group, and obtained a warrant to arrest them. On **25 March** the three prisoners were charged under Article 9(c) of Law No. 10/1961 that criminalises the "habitual practice of prostitution or debauchery". On **11 April**, at a subsequent hearing, the accused were freed on bail, but the trial continued for over a year. On 26 May 2003, all three were convicted in absentia. Two of the men were sentenced to one year each, while the owner of the apartment where they were caught was sentenced to three years in prison.²⁴⁹

On **14 June 2002**, 10 men were arrested while exiting a hotel in Cairo. Police stopped them and confiscated their identity documents and forced them into a vehicle. They were held there until the officers could find and detain more suspects, and then taken to a nearby police station. Officers told the group they had been arrested for being "khawalat" (gays). They were beaten and forced to sign confessions, before being released on bail.²⁵⁰

On **19 August 2002**, 11 men were entrapped by a police informant from the Giza Vice Squad. Police raided the informant's apartment, detaining 12 of 40 people present, including the informant. The detainees were severely beaten, asked about their sexual "position", and referred to the Forensic Medical Authority where they were all examined by a single doctor, who told the authorities that they had participated in "sodomy for a long time". By **2 October** they were charged under Article 9(c) of Law No. 10/1961. This included the informant, who was referred to as a "fugitive defendant" and additionally charged with "managing a house for debauchery" under Article 9(b). On **12 November**, all were sentenced to three years' imprisonment, followed by three years of police supervision. The informant was not imprisoned and remained free despite the charges. In **2003** the remaining 11 appealed, but had their sentences upheld. On **16 March 2003**, one of the detainees told Human Rights Watch that the guards were keeping the 11 of them together in a separate cell—called the "women's cell" as a way of demeaning the gay men. The group were not allowed to interact with other inmates, even when they were let into the exercise yard for their daily hour outside of the cell.²⁵¹

In **January 2003** a man believed to be gay by his neighbours was reported to the Tourism Police, the Morality Intelligence Unity of which received court permission to tap the suspect's phone for evidence of misconduct. On **17 February** police received a warrant to arrest the man and any other man who had visited his apartment to "practice debauchery" or engaged in "criminal telephone conversations" with him. Nine were arrested, in addition to the initial suspect. In the days that followed, police compiled a list of 16 more suspects based on the contacts of those who had been detained, of whom three remained at large and were tried in absentia. Two suspects were acquitted on **17 April**, though the rest were sentenced to two years in prison, and the initial suspect to

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

²⁴⁶ "Egypt: Egyptian Justice on Trial - The Case of the Cairo 52", IGLHRC (OutRight Action International), 15 October 2001; Human Rights Council, *Civil and political rights, including the question of torture and detention: Opinions adopted by the Working Group on Arbitrary Detention*, E/CN.4/2003/8/Add.1 (2003), 68-70; "Cairo, Once 'the Scene,' Cracks Down on Gays", *The New York Times*, 3 April 2003; "III. Scandal and Stigma: The Queen Boat Trials", *Human Rights Watch*, 2004.

²⁴⁷ Human Rights Watch, *In a Time of Torture* (2004).

²⁴⁸ Human Rights Watch, *In a Time of Torture* (2004).

²⁴⁹ *Ibid.*

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

three and a half years. On **19 July** an appeals court overturned the sentences.²⁵²

On **20 November 2007**, four men were arrested in Agouza as part of an alleged crackdown on HIV-positive suspects. Only one of the group had an arrest warrant against his name. In police custody the men were beaten and subjected to non-consensual HIV testing. They were charged with “homosexual conduct” and sentenced on **13 January 2008** to one year in prison for “habitual practice of debauchery” by the Agouza Court of Misdemeanours. The Agouza Appellate Court of Misdemeanours rejected the four men’s appeals on **2 February** and three of them were thus incarcerated in al-Qota Prison. It is claimed that the fourth was sent to hospital for reasons unknown, where he was allegedly chained to his bed for 23 hours each day until being transferred to an unknown prison. The Egyptian government did not refute the claim when communication was sent by the UN Working Group on Arbitrary Detention, though the allegation that the accused were targeted for their HIV-status was not confirmed.²⁵³

12 men were arrested and detained allegedly for living with HIV in early **February 2008**. The men were chained to a bed in a Cairo hospital and forced to have an HIV test without their consent. Initially only eight men were arrested but police managed to extract the names of four more from them. Four men of the group were sentenced to one year in prison after testing positive for HIV, but it is unclear if the remaining eight were also sentenced.²⁵⁴

On **2 January 2009**, 10 men were arrested in Giza without a warrant because they were all staying together in a single residence, and thus charged with “habitual debauchery”. They were held for two days at the offices of the Morality Police before being taken to the Agouza prosecution office and police station, and only then was their arrest formally registered. They were allegedly beaten, made to undergo HIV tests and anal exams, and initially denied the right to inform anyone of their whereabouts. Initially they were to be held in pre-trial detention for four days, but the Agouza prosecution office and various judges cumulatively extended this by at least a further 90 days. On **28 May 2009** the group were released pending further investigation. In a response to communications sent by the UN Working Group on Arbitrary Detention, Egyptian authorities have denied that there was no warrant for the group’s arrest, denied that they were beaten, asserted that they were arrested for “prostitution” and not because of their HIV status or sexual orientations, and justified the lengthy detention as one of the group was allegedly a minor at the time.²⁵⁵

In **October 2013** prosecutors ordered 14 individuals in Cairo suspected of engaging in same-sex sexual activity to be detained and subjected to anal examinations. It is unclear whether the men were later released or sentenced.²⁵⁶

In **April 2014** four individuals, identified by Human Rights Watch as men, were convicted of “debauchery” and sentenced to eight years in prison after holding parties where authorities found makeup and women’s clothing, and which allegedly involved consensual same-sex sexual activity.²⁵⁷

Two men were arrested after witnessing a gang rape in Cairo in late **August 2014**. The men were to give evidence about the case but officers detained them for several days and accused them of homosexual conduct after finding incriminating pictures while unlawfully searching their phones. The men were forced to undergo anal examinations. It is unclear if the two men were later charged under Egypt’s “debauchery” laws.²⁵⁸

On **6 September 2014** eight men were arrested and sentenced to three years in prison for allegedly taking part in a “gay wedding”. The arrest came after a video circulated online, revealing two men allegedly exchanging rings on a boat on the Nile River. The men were charged with “inciting debauchery” and “offending public morality”. All eight men denied the charges but were taken for anal examinations by authorities before their sentencing. The sentence was met with uproar from the families of the defendants and activists around the world.²⁵⁹

In early **December 2014**, a high-profile raid on a sauna in El Cairo took place. This case illustrates the nefarious role that the media can play in the criminalisation and further stigmatisation of sexual and gender diversity by closely collaborating and instigating security forces to enforce criminalising provisions. A bathhouse was raided by police on **7 December 2014**, resulting in the arrest of 26 men. Local TV Presenter Mona Iraqi, working for a pro-government channel, claimed on her social media that her team had led the police to the bathhouse “on the suspicion that its customers were a potential source of Aids”.²⁶⁰ A camera crew accompanied the police on the raid and subsequently posted images of detainees on social media and television. The presenter proudly posted pictures of herself filming the line of crouched naked men being humiliated and taken into custody while stating that her TV show was revealing “the biggest den of group perversion [shuzooz gama’ay] in the heart of Cairo”. The men were physically and verbally tortured during their time in custody, and subjected to forced anal examinations. At several court dates in **December 2014** and **January 2015**, the families of the accused were denied entry, but journalists were permitted to document proceedings. According to the Egyptian Permanent Mission to the UN in Geneva, all of the accused were acquitted on **14 January 2015**, and their acquittal was upheld on **26 January** after the State’s appeal failed. Egyptian delegates further denied allegations of torture.²⁶¹ After being released, one of the men set himself alight, saying that since his arrest his family controlled his movements and that he had “no freedom”. He was confined in one of Cairo’s largest public hospitals

²⁵² *Ibid.*

²⁵³ Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention*, A/HRC/13/30/Add.1 (2010), 109-111.

²⁵⁴ “Egypt: Quartet arrested and chained to beds for having HIV”, *Amnesty International UK*, 15 February 2008.

²⁵⁵ *Report of the Working Group on Arbitrary Detention - Addendum: Opinions adopted by the Working Group on Arbitrary Detention*, A/HRC/16/47/Add.1, Opinion No. 25/2009 (2011), 16-20.

²⁵⁶ “Egypt: 7 Held for Alleged Homosexual Conduct”, *Human Rights Watch*, 9 September 2014.

²⁵⁷ *Ibid.*

²⁵⁸ “Egypt: Security Forces Abuse, Torture LGBT People”, *Human Rights Watch*, 1 October 2020.

²⁵⁹ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

²⁶⁰ “Egyptian TV crew criticised over police raid on Cairo bath house”, *The Guardian*, 9 December 2014.

²⁶¹ OHCHR, EY UGA 1/2015 (2015) 2-4; Permanent Mission of the Arab Republic of Egypt, *HRC/NONE/2015/25 GE.15-03859* (2015).

since his fiery suicide attempt, and he complained of neglect and mistreatment there.²⁶² One of the defence lawyers ended up filing a defamation lawsuit against Mona Iraqi, which resulted in a remarkable victory for the victims when in **December 2015** a Cairo court sentenced her to six months in jail and a fine for defaming and spreading lies about the men in the bath house.²⁶³ However, this victory was short-lived as Iraqi and her team appealed the decision and was subsequently acquitted by a Court of Appeals in **January 2016**.²⁶⁴

In **April 2015** an Egyptian court ruled to uphold a decision to deport a Libyan student because of allegations that he was gay. The Libyan national was first arrested in **2008** and faced trial at a misdemeanour court. He was subsequently deported and barred from future re-entry, unable to complete his education. According to Egyptian media reports, the judge held that the Interior Ministry's deportation order was lawful as it was acting to "prevent the spreading of social ills".²⁶⁵ The young man's fate once returned to Libya could not be ascertained.

In late **June 2015**, a Syrian gay man was sentenced to a year in jail and then deported. This comes after the man allegedly sought sex on a gay dating app. One man he spoke to turned out to be an undercover officer from Egypt's Morality Police. When they met up, the gay man was immediately arrested. The man was then forced to undergo an anal examination. He was charged with "inciting debauchery" and "solicitation to commit immoral acts in public", reports state. The defendant's lawyer denied allegations that his client engaged in same-sex sexual activity, but he was sentenced and deported, regardless.²⁶⁶ His fate once returned to Syria could not be ascertained.

On **21 September 2015**, 11 gay men accused of prostitution were arrested in a police raid ahead of Eid celebrations as part of a "morality campaign".²⁶⁷

In **2017** a man was arrested in Cairo after police demanded to see his ID. Police then found out that he had previously been detained and charged for "debauchery" and "prostitution" in **2014** and **2015**. Police then took away his phone and searched it before beating him up. They took him to a nearby police station and forced him to sign a report. The following day the detainee was subjected to an anal examination, where he is said to have lied about having HIV so that the officers would not touch him. He was detained for three months and police allegedly beat him every day, sexually assaulted him, and constantly insulted him. He was later sentenced to six years in prison, but the appeals court reduced it to six months, after which he was released subject to six months' probation.²⁶⁸

In **2017** a young student en route to university in Alexandria was stopped by police. Police found pictures of the student dressed as a woman while searching through the student's cell phone. On accusations of "imitating women" the student was taken to a local station to be beaten and forced into confessing to having sex with a man. Police also verbally abused the student, referring to the detainee with feminine pronouns derogatorily. Later, the student was sentenced to one year in prison for "inciting debauchery".²⁶⁹

In **January 2017** a gay man in Cairo was arbitrarily arrested on the street and accused of "habitual debauchery". The following month he was sentenced in absentia to one year in prison with bail set at 5,000 Egyptian Pounds (about USD 280 at the time), but was declared innocent at a trial in **November 2020**.²⁷⁰

In **May 2017** a 29-year-old man was arrested after being entrapped by police on a dating app, with police using nude photographs he had sent as evidence against him. He was held in pretrial detention for an initial 45 days, which was later renewed for another 45. The accused was released on **6 June**, but this was appealed by the prosecution and on **6 January 2018** he was sentenced in absentia to one year in prison. His lawyer advised him to go into hiding, and on **6 May 2021** he was finally acquitted, allegedly after paying a bribe.²⁷¹

11 people were arrested for "promoting sexual deviancy" and "debauchery" on social media in late **September 2017** after attending the concert of a popular Lebanese alternative rock band whose lead singer is openly gay. On **2 October** as arrests continued, a woman by the name of Sarah Hegazi was arrested for sitting on a friend's shoulders waving a rainbow flag at the concert in what would go on to become an infamous photo representing anti-LGBT repression by the Egyptian State. At least six of the accused had the case against them dropped, but Hegazi was jailed for three months, during which time she was reportedly tortured with electric shocks and subjected to solitary confinement before being released on bail. Of the 11 initial detainees, all faced anal examinations and at least one was sentenced to a year in prison. Fearing re-arrest, Hegazi fled to Canada and on **14 June 2020** she took her own life, saying in her suicide note: "to the world, you've been greatly cruel, but I forgive". It is claimed by an anonymous group in Egypt which spoke to ILGA World that at least 80 were arrested following the backlash around this concert.²⁷²

Also in **September 2017**, a 17-year-old trans woman was arrested in a Cairo restaurant after police officers had entrapped her through social media. The victim was

²⁶² "One of Mona Iraqi's victims tries to burn himself to death", *A Paper Bird*, 16 February 2015.

²⁶³ "6 months jail sentence for TV host Mona Iraqi for 'defaming' men in Cairo bathhouse case", *Ahram Online*, 25 November 2015.

²⁶⁴ "Controversial host Mona Iraqi acquitted of defamation in bathhouse case", *Egypt Independent*, 19 January 2016.

²⁶⁵ "Net tightens on gays in Egypt as foreigners approved for deportation", *Daily News Egypt*, 15 April 2015; "Egypt court backs deportation of 'gay' Libyan man", *The Guardian*, 15 April 2015.

²⁶⁶ "Man in Egypt tortured, jailed for one year for going on gay hookup app", *Gay Star News*, 24 June 2015; "Bad news: Kyrgyzstan, Morocco, Egypt, Nigeria, more", *Erasing 76 Crimes*, 16 July 2015.

²⁶⁷ "20 LGBTI-related arrests in Egypt, Indonesia", *Erasing 76 Crimes*, 29 September 2015.

²⁶⁸ "Egypt: Security Forces Abuse, Torture LGBT People", *Human Rights Watch*, 1 October 2020.

²⁶⁹ *Ibid.*

²⁷⁰ Information supplied to ILGA World by Bedayaa.

²⁷¹ Human Rights Watch, "All This Terror Because of a Photo": Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa, 21 February 2023, 38-39.

²⁷² "Egypt 'hunting down' gay people, conducting anal exams, says Amnesty International", *The Sunday Morning Herald*, 30 September 2017; OHCHR, UA EGY 17/2017 (2017), 1-3; "Egypt: Security Forces Abuse, Torture LGBT People", *Human Rights Watch*, 1 October 2020; "Egyptian LGBT activist dies by suicide in Canada", *Al Jazeera*, 15 June 2020; "'Clean the Streets of Faggots'" Digital Targeting of LGBT People by Middle East/North Africa Governments", *Human Rights Watch*, 4 August 2021.

reportedly beaten and verbally abused for three days while being detained in a cage under a stairway at the prosecutor's office before later being transferred to a cell with men. The woman was detained for two months and 15 days without a trial until a court sentenced her to another month in prison for "inciting debauchery". Her charges remained on her criminal record for three years after she was released.²⁷³

In **November 2017** a gay man in Cairo was entrapped by police and sentenced to three years' imprisonment, three additional years of police surveillance, and a 300 Pound (about USD 17) fine for "habitual debauchery" and "incitement to debauchery". The sentence was appealed, leading to the man being found innocent of "habitual debauchery", but he still faced two weeks in jail on the charge of "incitement to debauchery".²⁷⁴

In **January 2018** a man was arrested and charged with "habitual debauchery" and "incitement to debauchery". He was sentenced *in absentia* to a year's imprisonment with bail set at 5,000 Pounds (USD 280). According to local advocacy organisation, Bedayaa, the man had previously also been sentenced in **2014** and **2016**.²⁷⁵

In **March 2018** three men were arrested in a nightclub in Cairo and charged with "incitement to debauchery" and "prostitution". Two were sentenced *in absentia* to one year in prison plus a fine of 100 Pounds (a little over USD 5), and bail was set at 5,000 Pounds. The third accused was acquitted.²⁷⁶

In **April 2018** a 33-year-old man was arrested after he was contacted on social media by someone posing as a friend of his in order to entrap him. He was taken to a police station in Giza Governate, where he was forced to reveal the contents of his phone to the police. As they could not find any incriminating evidence, it is alleged that they downloaded a gay dating app onto his phone and fabricated sexually explicit text messages themselves. They then charged him with "inciting debauchery" and detained him for two months.²⁷⁷

In **April 2018**, two men were arrested when they were approached by police while waiting at a bank in Cairo. The police found that one of the men had been arrested and sentenced to three years' imprisonment back in **2007** on charges of "debauchery" after telling a prosecutor he was living with HIV. He received no HIV treatment until the last six months of his sentence, at which point he received expired medication. He left prison in crutches after being beaten and raped by other inmates. During his arrest in **2018**, he and another man were beaten by police and when he showed them his disability card, officers forced him to insert the card up his anus. The pair was forced to sign a statement saying that they had "sex with each other and were arguing in public over money related to their engagement in sex work". Prosecutors refused to listen to their testimony and subjected them to forced anal

examinations. The two men were detained for 26 days, pending trial. The judge later sentenced the men to six years in prison and six additional years of probation. An appeals court reduced the sentences to six months in prison and six additional months of probation.²⁷⁸

In **May 2018** a queer activist was arrested while she was protesting rising prices in the country. She was subjected to three "virginity tests" and charged with "joining a terrorist group aimed at interfering with the constitution". After two months, a court ordered the woman be released subject to two years' probation, during which she had to report to state security offices three days a week. At the offices during her court mandated check-ins, she was allegedly repeatedly beaten, sexually assaulted, humiliated, and harassed.²⁷⁹

In **July 2018** a man in Giza was arrested on charges of debauchery and sentenced to six months' imprisonment.²⁸⁰

In **August 2018** a man was arrested in the streets of Cairo when two officers surrounded him and checked his phone for gay dating apps. The police then found a screenshot of what was deemed an "inappropriate sexual conversation". When the man tried to explain, an officer grabbed him in a chokehold while the other officer beat him. He was later taken to a police station where he was forced to sign a statement confessing to "immorality and incitement to debauchery" and "attempting to satisfy forbidden sexual desires with men in exchange for money". When he refused to sign, an officer beat him and threw him into a cell. On **23 September 2018** a court sentenced the man to six months in prison and six months' probation for "debauchery". He appealed the judgement and the court then dismissed charges against him, but the charges remained on his criminal record until **April 2019**, which prevented him from travelling or securing employment.²⁸¹

A television presenter was arrested and sentenced to one year in prison and a fine of over 3,000 Egyptian Pounds (USD 170) in **August 2018** after he interviewed a gay man. The presenter was charged with contempt of religion and incitement to debauchery. The presenter had publicly expressed his stance against homosexuality before he asked a man to come on air and discuss his lifestyle, though this did not protect him from being arrested and sentenced. It is unclear if the man invited on air was also arrested, as his face was blurred to conceal his identity.²⁸²

In **October 2018** a cafe owner and two customers in Cairo were detained by police on suspicion of "managing a place of prostitution" and "debauchery". The cafe owner was acquitted but the two customers were sentenced to one year in prison and a fine of 100 Pounds (a little over USD 5), plus 1,000 Pounds (USD 56) bail and police surveillance after release.²⁸³

In **November 2018** a gay man from Aswan was entrapped by police in Cairo and charged with debauchery. Though he

²⁷³ "Egypt: Security Forces Abuse, Torture LGBT People", *Human Rights Watch*, 1 October 2020.

²⁷⁴ Information supplied to ILGA World by Bedayaa.

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*

²⁷⁷ Human Rights Watch, "All This Terror Because of a Photo": *Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*, 21 February 2023, 35.

²⁷⁸ "Egypt: Security Forces Abuse, Torture LGBT People", *Human Rights Watch*, 1 October 2020.

²⁷⁹ *Ibid.*

²⁸⁰ Information supplied to ILGA World by Bedayaa.

²⁸¹ "Egypt: Security Forces Abuse, Torture LGBT People", *Human Rights Watch*, 1 October 2020.

²⁸² "1 year in Egyptian prison. The crime? Interviewing a gay man", *Erasing 76 Crimes*, 13 February 2019.

²⁸³ Information supplied to ILGA World by Bedayaa.

denied the charges he was sentenced to one year imprisonment plus a fine of 100 Pounds (about USD 5).²⁸⁴

In early **2019** a man was arrested after meeting a friend in Ramses. Police officers approached him and demanded to see his ID. The man reported that police told him they were “cleaning the streets of faggots”. Police allegedly beat and tortured him in detention for three days without specifying what the charges were. A month later, the man was arbitrarily arrested again on the street, searched, and detained overnight. In **December 2019** a judge acquitted him of charges of “debauchery” which were brought against him the second time he was arrested.²⁸⁵

On **28 February 2019** a trans man was arrested in a café in Cairo and detained in an undisclosed location for four days before being charged with “joining a terrorist group and misusing social media to commit a crime punishable by law”. While he was detained in a women’s prison in Abdeen, Cairo, he said he was subjected to physical examinations and prohibited from continuing his hormone treatment and gender-affirming surgery. He was released after eight months in prison.²⁸⁶

On **6 March 2019** a political activist and trans woman was arrested, six days after participating in a protest in Cairo. She was one of 70 protestors who were targeted. Police arrested her at her home and dragged her by her clothes into the street, where they beat her before taking her to the police station. The police proceeded to detain her for 15 days pending an investigation into accusations of “misusing social media”, though it was also reported that the National Security Agency arrested her on suspicion of being “part of a terrorist group”. During her 15 days in detention she was subjected to a forced anal examination. The young woman was then incarcerated for 135 days in a men’s prison, despite the fact that she had already undergone gender-affirming surgery. Prison officials did not allow her access to medical care or vital hormone treatment. Several UN Special Procedures formally decried the situation and urged the government to adopt measures to prevent the recurrence of such cases, though it is unclear if official steps in that regard were taken. On **16 July 2019** the accused was released, however.²⁸⁷

In **September 2019** a 27-year-old man was arrested after meeting another man in Giza online who turned out to be an undercover police officer. Accused of selling alcohol and “practicing debauchery”, police beat and tortured the young man at the Dokki Police Station until he was left unconscious. After a week he was transferred to Giza Central Prison where he had to bribe guards to get them to stop torturing him. On **30 September** he appeared in the Dokki Misdemeanour Court and was acquitted—which the prosecution appealed, but he was again found not-guilty. Nevertheless, the long-term impact of the incident cannot be overstated, as the young man’s family reportedly no longer speaks to him, and his brother has threatened to kill him for what happened.²⁸⁸

In **2019**, a young trans woman was arbitrarily detained in a male prison for four months, and sexually harassed and abused while there. In **May 2020** a court dismissed the appeal by the young woman’s lawyer, who requested that the Interior Ministry provide a separate detention facility for transgender detainees.²⁸⁹

In **August or September 2020**, a young man accompanied a female friend to a police station in Cairo. She had been arrested in **2014** as part of an investigation into a party at Cairo’s Fairmont hotel. It was reported that another woman was drugged and raped by several men in the hotel room that night and the young man’s friend was being sought to give input as a witness. He voluntarily accompanied her to the police station and had no connection to the **2014** incident as he was only 14 at the time. However, once there, police arbitrarily detained him as well as another man who was at the party. Both were searched and their phones taken away. Police found private photos and detained both for allegedly engaging in homosexual conduct. They remained in jail for more than two months, as judges renewed their detention orders three times, being transferred on **14 October** to al-Nahda Prison where guards shaved their heads, subjected them to anal examinations and housed them with the suspected party rapists. It is unclear whether the men were later released.²⁹⁰

In **September 2020**, there were reports of investigations being carried out on two women who announced that they had married each other. News of the marriage spread on social media and a lawyer who founded the conservative “Keep It Clean” campaign indicated to local media that he would file a complaint with police. It seems, however, that investigations revealed that the announcement was fake and that the two women were left alone thereafter, though tremendous public outcry against them remained.²⁹¹

In **November 2020** three human rights defenders for the Egyptian Initiative for Personal Rights (EIPR) were arrested and investigated for terrorism while being held in Cairo’s Torah prison. The EIPR advocates on issues of SOGIESC, women’s rights, criminal justice, environmental law and health. The three activists were arrested shortly after meeting with diplomats from several European countries to showcase their work.²⁹²

On **17 November 2020** a 23-year-old man and three of his friends were arrested in Cairo after he was entrapped on a dating app by an undercover police officer. The police threatened to kill him by hanging if he did not open his phone for them, where they found pictures of him with long hair and with a man. He was charged with “debauchery”, “indecentcy” and “running an online sex business”. After the accused and his friends had been detained for four days in Bab Sharqi detention centre the judge extended their pretrial detention for 15 more days. One week later, a different judge sentenced them to two years in prison for “debauchery” and “indecentcy”,

²⁸⁴ *Ibid.*

²⁸⁵ “Egypt: Security Forces Abuse, Torture LGBT People”, *Human Rights Watch*, 1 October 2020.

²⁸⁶ OHCHR, UA EGY 14/2019 (2019), 2; “Egypt: Security Forces Abuse, Torture LGBT People”, *Human Rights Watch*, 1 October 2020.

²⁸⁷ OHCHR, UA EGY 4/2019 (2019); “Egypt releases trans teen activist after four months”, *Gay Star News*, 16 July 2019; “Egypt: Security Forces Abuse, Torture LGBT People”, *Human Rights Watch*, 1 October 2020.

²⁸⁸ “Egypt: Security Forces Abuse, Torture LGBT People”, *Human Rights Watch*, 1 October 2020.

²⁸⁹ *Ibid.*

²⁹⁰ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

²⁹¹ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

²⁹² “Verhaftungen in Ägypten nach Treffen mit Schweizer Diplomaten” [Arrests in Egypt after meeting with Swiss diplomats], *SRF*, 22 November 2020.

though they were eventually found not guilty after filing an appeal.²⁹³

In **November 2020** a group of five gay and trans individuals in Cairo were arrested and charged with "habitual debauchery" for being vocal on social media. One of the accused was under 18 and sentenced to one year in prison in **May 2021**, while three others received nine years, and the fifth was given 12 years' imprisonment.²⁹⁴

In **December 2020** a man was entrapped by police in Cairo and sentenced to three years' imprisonment for "debauchery". In **January 2021** an appeal saw his sentence reduced to one year.²⁹⁵

On **4 December 2020** an Egyptian publication shared the story of a young man who had been detained and investigated by the General Administration for the Protection of Morals in the Social Security Sector in Alexandria. He had made social media posts stating that he would participate in same-sex sexual activity in exchange for money. The Montazah Public Prosecution Office in Alexandria ordered his detention for four days during the investigation, but it is not clear what occurred thereafter.²⁹⁶

A man in Cairo was entrapped by police in **January 2021** and sentenced the following month to six years' imprisonment on charges of "habitual debauchery" and "incitement to debauchery". An appeal failed and he was made to pay the trial costs.²⁹⁷

In **February 2021** a 24-year-old man was arrested after he was entrapped on a dating app by an undercover police officer. He was asked to agree on a price in exchange for sex, which was later used as evidence in the charges against him. The accused was taken to the Abbasiya police station where he was verbally abused by the police officers, denied access to his HIV medication, and forced to sign a police report that he was not allowed to read. He was later transferred to the Qasr El-Nil police station where he was placed in solitary confinement. He was then taken to a court in Abdeen for investigation, where he was allegedly placed in a cell with high-profile felons who repeatedly sexually assaulted him due to his sexual orientation. The accused spent 10 days in pretrial detention without any charges being formalised against him before the judge ordered his release.²⁹⁸

In **February 2021**, in Alexandria, a man was charged by officials from the Protection of Morals in the Social Security Sector with "promoting the practice of immoral acts on the Internet and the practice of debauchery", with

seven other men allegedly implicated in the accused's confession.²⁹⁹ It is not clear if this is the same case as the one reported in **December 2020**.

In **May 2021** a man in Cairo was detained for smoking hashish but later also charged with debauchery. He was acquitted, but at the time of publication the prosecution had appealed that decision.³⁰⁰

Two other men were also arbitrarily arrested in **May 2021** in Cairo, but they were acquitted of their debauchery charges the following month.³⁰¹

From **8 May 2021** onward it was reported in several international news outlets that two Israeli trans men had been denied entry into Egypt where they had come to spend a holiday, on account of their passports not matching their appearance and gender expression.³⁰² Border officials detained them temporarily and mocked them, but it is not clear whether this was the result of any State policy on identity documentation and legal gender recognition (either directly or indirectly), or rather a case of personal prejudice by the officials involved.

And as of **21 May 2021**, a trans woman from Cyprus was being held under house arrest in Cyprus for allegedly "promoting and inciting immorality on the Internet" and "insult and scandal of the Egyptian people". Arrested and detained in Egypt in **January 2020**, the accused is said to have been raped and assaulted repeatedly by prison officials and the male inmates with whom she was housed, leading her to require corrective surgery back in Cyprus. In early **2021** she was deported from Egypt back to her home country, but per a bilateral agreement between both States, the sentence meted out against her by Egyptian courts must be completed, despite no such criminalising law having legal effect in Cyprus.³⁰³

In **July 2021** a man in Cairo was entrapped by police online and charged with "habitual debauchery", though he was later found innocent and released.³⁰⁴

A group of four gay and trans individuals were arrested in **July 2021** and charged with debauchery, but at the time of publication no further details have been made available on this case.³⁰⁵

In **January 2022** a young man in Cairo was imprisoned for four days pending an investigation into allegations of "debauchery" in exchange for money. The man had been arrested for engaging on social media with other men seeking "forbidden pleasure", though details around the

²⁹³ Human Rights Watch, "All This Terror Because of a Photo": Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa, 21 February 2023, 29-30.

²⁹⁴ Information supplied to ILGA World by Bedayaa.

²⁹⁵ Ibid.

²⁹⁶ "حبيب شاب بتيممة عرض نفسه لممارسة الشذوذ على فيس بوك" [A young man was imprisoned on charges of exposing himself to perversion on Facebook], *Al Masry Al Youm*, 05 December 2020. "القض على شاب لممارسته الشذوذ الجنسي بالإسكندرية | أهل مصر". [A young man was arrested for practicing homosexuality in Alexandria], *Ahlimasr News*, 24 January 2021.

²⁹⁷ Information supplied to ILGA World by Bedayaa.

²⁹⁸ Human Rights Watch, "All This Terror Because of a Photo": Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa, 21 February 2023, 25-28.

²⁹⁹ "مصر: متهم بالشذوذ يورط 7 رجال أعمال في شبكته" [Egypt: Accused of homosexuality implicates 7 businessmen in his network], *Al Madenah News*, 15 February 2021.

³⁰⁰ Information supplied to ILGA World by Bedayaa.

³⁰¹ Ibid.

³⁰² "Israeli transgender couple said refused entry to Egypt at border crossing", *Times of Israel*, 08 May 2021; "Trans men mocked and denied entry to Egypt by border guards because they 'do not look female'", *Pink News*, 09 May 2021.

³⁰³ "Η Τίνα Λιασή ζητά να αποφυλακιστεί: «Έχω ιατρικά θέματα λόγω των βιασμών μου» - Διαβάστε την ..." [Tina Liasi asks to be released: "I have medical issues due to my rapes"], *Politis*, 04 April 2021; "Με βραχιολάκι σίτιτι της η τρανς κατάδικος" [The trans convict is at home with a bracelet], *Philenews*, 25 May 2021.

³⁰⁴ Information supplied to ILGA World by Bedayaa.

³⁰⁵ Ibid.

outcome of the investigation are not known.³⁰⁶

It was reported in **July 2022** that a group of five young men had been arrested in Giza as part of a police crackdown on a “gay network”. The group allegedly would hook up with one another and other local men via social media. The group, who would regularly spend time getting to know one another at a local coffee shop, were handed over to the Public Prosecutor, though no further details are known.³⁰⁷

In **July 2022** it was also reported that two women in Giza had been arrested after reports that they were in a relationship and using narcotics. This came after police received a tip-off regarding a “network of homosexuality among unemployed youth” and conducted a raid on the area - likely the same alleged network in Giza that resulted in five men being arrested the same month, though local media has treated the cases of the men and women as distinct incidents. The women were accused of “perverted practice” and would have initially appeared before the Giza Criminal Court on **21 July**, but this was postponed until **22 August**. They were each given a one year suspended sentence.³⁰⁸

It was reported on **14 September 2022** that a 24-year-old Syrian national who had moved to Egypt was arrested by security forces in Dakahlia Governorate for using social media to meet up with another man in the region for sex. The case was forwarded to the Public Prosecutor, though no further details could be found at the time of publication.³⁰⁹

On **16 September 2022** three men were arrested in 6th Of October City, near Giza, for allegedly being part of a “network calling for the practice of homosexuality”. The General Department for Combating Immorality Crimes, in conjunction with the Literature Investigation Unit, had been monitoring the group on social media and initiated a plan to entrap its members. The three accused allegedly confessed to promoting “forbidden activity” and were handed to the Public Prosecutor for further investigation.³¹⁰

It was reported on **17 September 2022** that three individuals in Cairo’s Maadi neighbourhood were arrested in a raid on their apartment. They were charged with “debauchery” and handed to the local Misdemeanour Court. Authorities used condoms, incriminating cell phone photographs, and the fact that one of the accused was found wearing “women’s clothes” and nail polish as evidence against them.³¹¹

Another case from Dakahlia was reported on **28 September 2022**, regarding two university students who

had been incarcerated by police pending further investigation into their activities. The two individuals - identified in the media as men - were charged with “inciting immorality” and “practising homosexuality” online, as they had allegedly posted provocative and sexual pictures of themselves on social media - though this could not be verified. Notably, the pair were found to have makeup and women’s wigs in their backpacks when they were arrested, which seems to have been taken by the authorities as further evidence against them. Their case was referred to the Public Prosecutor for investigation but nothing more is currently known.³¹²

On **9 October 2022** two transgender women were arrested in Giza, according to *Raseef22*, an advocacy news site. One of the women was an Egyptian national, while the other was reportedly a refugee from Yemen. The pair were charged by authorities with “habitual practice of debauchery”, with the only evidence for this apparently being photos on social media in which the Yemeni woman was wearing women’s clothing, as well as some additional women’s clothing and condoms found at her home. The pair alleged that they were tortured while in custody as a means to force them into confessing and revealing the locations of other refugees of diverse SOGIE. According to *Raseef22* the prosecutors did not allow for their claims of torture to be formally entered into the court record and the presiding judges did not take the women’s claims into account. Three days after their initial arrest, the pair were reportedly sentenced to two years in prison with a 5,000 Pound (USD 201) fine.³¹³

In **November 2022** three men in Shubra were arrested when local security personnel found them fighting and intervened. It came to light that two of the three men had stolen the wallet of the third and attempted to use photos of him engaged in same-sex sexual acts as blackmail. The victim confessed to engaging in same-sex acts and was handed to the Public Prosecutor’s office for investigation, along with the two who attempted to extort him.³¹⁴

In **January 2023** the *BBC* reported that it had come into possession of several transcripts between police and suspected gay individuals being entrapped on social media and dating apps. Many of these were “too explicit to publish”, according to the article. One case that was described, however, showed an alleged police officer pressuring a gay to meet up in public and then go to the officer’s home. After meeting up, the gay man was arrested.³¹⁵

In another example from the **January 2023** *BBC* article, a foreign man was contacted by an undercover police officer on a dating app. He was arrested, charged with

³⁰⁶ “بعد استخدام برنامج المثليين ..” [“After using the gay program” .. Imprisonment of a gay man who presented himself on social networking sites], *Al Bawaba News*, 13 January 2022.

³⁰⁷ “شواذ.. ضبط مجموعة من الشباب يستدرون الرجال لفعال الحرام بمنطقة الهرم” [Gays... A group of young men were caught luring men to do haram in the Haram area], *Baladna Elyoum*, 14 July 2022; “الممارسة الشاذة.. تأجيل محاكمة سيدتين بالهرم إلى 20 أغسطس” [To practice homosexuality.. Postponing the trial of two women in the pyramid until August 20], *Cairo24*, 22 July 2022.

³⁰⁸ “الممارسة الشاذة.. تأجيل محاكمة سيدتين بالهرم إلى 20 أغسطس” [To practice homosexuality.. Postponing the trial of two women in the pyramid until August 20], *Cairo24*, 22 July 2022; “حجس سيدتين بتهمة ممارسة الشذوذ في فندق بالهرم” [Two women imprisoned for homosexuality in a hotel in the pyramid], *Al Dostor*, 28 August 2022.

³⁰⁹ “ضبط شاب عربي حضر للتفهيبة لممارسة الفجور مع شواذ” [Arresting an Arab young man who came to Dakahlia to practice debauchery with homosexuals], *Ahlmasr News*, 14 September 2022.

³¹⁰ “القبض على شبكة لممارسة الأعمال المنافية للأداب بالجزيرة اليوم الجمعة، 16 سبتمبر 2022 01:36 م” [The arrest of a network for practicing immoral acts in Giza today, Friday, September 16, 2022 01:36 PM], *Masr Alyoum*, 16 September 2022.

³¹¹ “القصة الكاملة لشبكة ممارسة الشذوذ الجنسي داخل شقة بالمعادي” [The full story of the network practicing homosexuality inside an apartment in Maadi], *Baladna Elyoum*, 19 September 2022.

³¹² “كواليس حبس طالبين بتهمة نشر الشذوذ في القهيلية” [Behind the scenes of imprisoning two students on charges of spreading homosexuality in Dakahlia], *Ahlmasr News*, 28 September 2022.

³¹³ “أوضاع العابرين/ات في السجون المصرية بسبب مطنطية القوانين” [Conditions of transients in Egyptian prisons due to the flexibility of laws], *Raseef 22*, 7 January 2023.

³¹⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³¹⁵ “How Egyptian police hunt LGBT people on dating apps”, *BBC News*, 31 January 2023.

"debauchery", and later deported. The text conversation in which the man "admitted" to debauchery, and photographs of himself that he sent to the officer, seem to have been used as evidence.³¹⁶

It was reported on **3 January 2023** that authorities in Damietta raided an apartment after neighbours called to complain about "strange sounds". Inside, three men were found "practising homosexuality", with one of the men jumping from the apartment balcony in an attempt to escape the raid. Due to the height from which he fell, he died on the scene. The two remaining men were remanded in custody for four days while the Public Prosecutor's office investigated them.³¹⁷

On **18 February 2023** it was reported that the security services in 15th of May City arrested three men in an apartment, allegedly being rented by them to hold "homosexual parties". On **20 February** the three were imprisoned on the charges of committing "debauchery" and homosexuality. On **2 March** it was reported that the judge at the Helwan Misdemeanour Court extended their detention for 15 days pending an investigation.³¹⁸

On **22 February 2023** it was reported that an individual was arrested in the city of Alexandria for "cross-dressing" and charged with "inciting immorality". Many details of the incident remain unclear, but it appears that in order to be released the accused used their aunt's personal details and signature during the investigation process. The accused was thus further charged with falsifying official documents and later sentenced to three years in prison.



Equatorial Guinea

Enforcement Overview

Equatorial Guinea has no formal provisions criminalising diverse sexual orientations or gender identities and expressions, though ILGA World has been made aware of at least 11 examples of *de facto* targeting by State actors, though statements from local activist groups indicate that the true numbers are significantly higher.

Social stigma remains high in Equatorial Guinea, and authorities are believed to perpetuate or facilitate this regularly. According to reports, the police have been

known to engage in "corrective" actions at the request of families of individuals of diverse sexual orientations or gender identities. Such actions may involve detaining and physically assaulting people suspected of engaging in same-sex practices, using methods such as torture and sexual abuse. In some cases, these families may also demand that the detained individual sign an agreement to "voluntarily renounce homosexuality" before release. Lesbian and bisexual women are particularly vulnerable in these situations, as they may be compelled to agree to marry and undergo "forced maternity" practices by their families. Often, LGBTI+ individuals are left stranded at police stations, having been disowned by their families. A small number are able to rely on activists and acquaintances for support while in detention in the form of legal assistance, food, or bribe money.³¹⁹ Local activists have reported that police will regularly issue illegal "fines" to detained people of diverse gender identities or sexual orientations.³²⁰

In May 2019, during Equatorial Guinea's Universal Periodic Review third cycle at the United Nations, multiple local and regional organisations offered a joint submission on the status of sexual and gender diversity in Equatorial Guinea.³²¹ As a result, the Dominican Republic, Iceland, and Montenegro made recommendations to "[t]ake the necessary political and legislative steps to combat discrimination on the grounds of sexual orientation and gender identity"; "promote and protect [LGBTI] human rights", and "bring to justice all law enforcement officials who are suspected of having participated [in torture and sexual violence]".³²² Equatorial Guinea formally accepted these recommendations.

In 2020, Somos Parte del Mundo, a local civil society organisation, reported experiencing severe repercussions from the authorities subsequent to submitting information to the UPR. Two members of the collective were allegedly apprehended in 2018 by four plainclothes police officers and the Director General of Crime and Terrorism due to their involvement in producing the report. The arrests led several individuals to recant their testimonies for fear of their safety.³²³ The Ministry of the Interior also ordered the Red Cross of Equatorial Guinea to suspend its operations, claiming that Somos Parte del Mundo was a "clandestine organisation" hidden within the Red Cross's structure. Additionally, the Ministry of Information cancelled all domestic television programs that tackled social issues such as homophobia and feminism.³²⁴

It was reported in 2019 and 2020 that lawmakers were in the process of preparing a draft "bill on prostitution and LGBTI rights" which would criminalise consensual same-sex sexual activity. This was decried by local activists as well as

³¹⁶ Ibid.

³¹⁷ "احدهم ألقي نفسه من الشرفة.. حينئذ شباب متهمين بممارسة الشذوذ في داميطة" [One of them threw himself from the balcony.. Young men accused of practicing homosexuality were imprisoned in Damietta], *Al Bawaba News*, 4 January 2023; "مصرع أحدهم «فقرا من الشباك».. التفاصيل الكاملة للقبض على شبكة «الشذوذ الجنسي» برأس البر" [The death of one of them "jumping out of the window." Full details of the arrest of the "homosexuality" network in Ras al-Bar], *Al Masry Al Youm*, 5 January 2023.

³¹⁸ "حظة جماعية.. 3 شباب في شقة بـ15 مايو" [A "perverse party" .. 3 young men were arrested in an apartment on May 15th], *Al Dostor*, 19 February 2023; "حظة جماعية.. 3 شباب لممارستهم الشذوذ داخل شقة بـ15 مايو" [A group party.. 3 young men continue to be imprisoned for practicing homosexuality in an apartment on May 15th], *Elfagr News*, 4 March 2023.

³¹⁹ Somos Parte del Mundo, *Homofobia de Estado: Estado de los derechos humanos de las personas lesbianas, gais, bisexuales, transexuales, intersexuales y demás orientaciones sexoafectivas e identidades de género en Guinea Ecuatorial*, (2020), 19; UNHRC, *Summary of stakeholders' submissions on Equatorial Guinea*, A/HRC/WG.6/33/GNQ/3 (2019), para. 10-11.

³²⁰ UNHRC, *Joint Submission 2 in Connection with Equatorial Guinea's UPR's third cycle of 2019*, (2019), para. 36.

³²¹ UNHRC, *Summary of stakeholders' submissions on Equatorial Guinea*, A/HRC/WG.6/33/GNQ/3 (2019).

³²² UNHRC, *Report of the Working Group on the Universal Periodic Review: Equatorial Guinea*, A/HRC/42/13 (2019), para. 122.46-122.47; 122.65.

³²³ UNHRC, *Joint Submission 2 in Connection with Equatorial Guinea's UPR's third cycle of 2019*, (2019), para. 32.

³²⁴ Somos Parte del Mundo, *Homofobia de Estado: Estado de los derechos humanos de las personas lesbianas, gais, bisexuales, transexuales, intersexuales y demás orientaciones sexoafectivas e identidades de género en Guinea Ecuatorial*, (2020), 11.

the Community of Portuguese Speaking Countries (CPLP).³²⁵ It is not known to what degree this bill is also the result of backlash against events at the UPR.

During the month of July 2020, after the announcement of the drafting of the bill, police and military officers started to patrol the most frequented areas by transgender people in Malabo and Bata, detaining and interrogating people whose gender expression did not conform to societal expectations.³²⁶

In 2023 representatives of Somos Parte del Mundo told ILGA World of the ongoing arbitrary detentions of these “public order” patrols, saying: “The institutionalisation of the Armed Forces and State security forces as an indispensable public power [for the government]—with the help of the Catholic Church and ancestral ethnic traditions, they strongly violate the human rights of LGTBIQ+ persons. The impunity with which the Armed Forces act allow for these violations”.³²⁷

Examples of Enforcement

In 2014 it was reported that despite no law expressly prohibiting same-sex sexual activity, four young people accused of being gay were arrested by military personnel in Bata after having had their phones searched for incriminating photographs and videos. They were then “forced to explain” their behaviour on a local television network and publicly apologise for their homosexuality.³²⁸

Local sources reported that in 2018 a transgender youth was deprived of liberty and subjected to physical abuse in Bata. The victim was attacked in a raid organised by their own brother, a military officer. With the limited information provided, it was reported that after the victim spent a night in jail, officers summoned their brother to inform him that “the government would allow police officers to continue with the physical abuse as long as the [victim’s] family signs a document making them responsible for anything that may happen”.³²⁹

In September 2019, a female soldier was convicted by a military tribunal to one year imprisonment and dishonourable discharge for engaging in “dishonest acts with same-sex individuals” under Article 352 of the Military Justice Code. This sentence was imposed after the soldier herself was subjected to severe physical assault and torture by four other members of the armed forces from the Bibanco Military Garrison in Malabo. Though these four

individuals were concurrently prosecuted by the same Military Tribunal on the charges of “abuse of authority and grave physical mistreatment”, two of them were issued only a small fine while the other two were acquitted.³³⁰

In 2020 it was reported that following the announcement of the preparation of the draft “bill on prostitution and LGBTI rights”, several officers of the Secret Service and the Judicial Brigade started raiding the homes of trans and gender-diverse individuals. Four trans women were reportedly arrested in Malabo and released after paying a fine.³³¹

Local human rights groups outlined a 2020 case, which may be one of those noted above though it is unclear, in which a transgender was deprived of liberty in the Security Ministry. This came after being accused by their partner’s mother of “making her daughter a lesbian”. The victim was subjected to torture and asked to pay a substantial amount of money as a fine, which they were unable to afford. An LGBTQ+ advocacy organisation intervened to help them, and they were released.³³²

In 2020 a 17-year-old trans youth was arrested and tortured for five days in “Guantánamo” in Bata. “Guantánamo” is a nickname that refers to a branch of the Ministry of Security of Equatorial Guinea, headquartered in Malabo with branches throughout the country. The name is due to the human rights violations that are said to occur at this facility. The victim had agreed to accompany a friend to meet a man from a dating app, but it turned out to be a case of likely entrapment. The man in question drove a car reserved for government officials and took the pair to a nearby police station when they came across him. With the limited information provided, it was reported that both were released without being charged or tried but were held and physically abused for five days.³³³

Also in 2020, a 24-year-old trans woman was reportedly detained by an officer in Malabo and deprived of her liberty for five days in the Ministry of Security. Initially, the officer attempted to talk to the woman, not realising she was transgender. When he learned of her gender identity, he told her that “she was a flaw of nature and should not live or exist”, and dragged her publicly through the street to an unmarked car. The woman alleges that during her detention she was held in a men’s cell, and tortured on several occasions.³³⁴

Local sources reported that in January 2021 a trans woman was expelled from her village by the mayor and other local

³²⁵ “Guinea Ecuatorial Prepara un Anteproyecto de Ley para Penalizar la Homosexualidad” [Equatorial Guinea Prepares a Draft Law to Criminalize Homosexuality], *Diario Rombe*, 24 September 2019; “ONG denuncia amenazas aos direitos LGBTI na Guiné Equatorial” [NGO Denounces Threats to LGBTI Rights in Equatorial Guinea], *DW*, 28 July 2020.

³²⁶ Somos Parte del Mundo, *Homofobia de Estado: Estado de los derechos humanos de las personas lesbianas, gais, bisexuales, transexuales, intersexuales y demás orientaciones sexoafectivas e identidades de género en Guinea Ecuatorial*, (2020), 13.

³²⁷ Information supplied to ILGA World by Somos Parte del Mundo.

³²⁸ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³²⁹ Somos Parte del Mundo, EG Justice, and Equatorial Guinean Commission of Jurists (CEJ), *Estamos solas en este mundo: Tortura, Tratos Crueles, Inhumanos y Degradantes, contra las Personas LGTBIQ+ en Guinea Ecuatorial* [We are alone in this world: Torture, cruel, inhuman and degrading treatment against LGTBIQ+ people in Equatorial Guinea] (2023), 18.

³³⁰ Somos Parte del Mundo, *Homofobia de Estado: Estado de los derechos humanos de las personas lesbianas, gais, bisexuales, transexuales, intersexuales y demás orientaciones sexoafectivas e identidades de género en Guinea Ecuatorial*, (2020), 15-16.

³³¹ *Id.*, 13.

³³² Somos Parte del Mundo, EG Justice, and Equatorial Guinean Commission of Jurists (CEJ), *Estamos solas en este mundo: Tortura, Tratos Crueles, Inhumanos y Degradantes, contra las Personas LGTBIQ+ en Guinea Ecuatorial* [We are alone in this world: Torture, cruel, inhuman and degrading treatment against LGTBIQ+ people in Equatorial Guinea] (2023), 20.

³³³ *Id.*, 9.

³³⁴ *Id.*, 13.

authorities, and forced to move to a marginal neighbourhood in Malabo. She stated that she had been imprisoned 10 times, with the first time being when she was ten years old, and that her community had long called her by pejorative nicknames such as “*waiso-boyé*”.³³⁵

In **August 2021** an article in the Brazilian *Jornal A Tarde* noted a case of an “anonymous member of the [LGBTQI+] community” whose mother got the police to arrest them for “being a homosexual”. The individual and their partner were allegedly held by police for two weeks, and were only released after they paid the authorities 40,000 CFA francs (approximately USD 72).³³⁶

In **May 2022** police officers beat and detained a lesbian activist along with several other people who were with her. The victims were forcibly taken to the “Guantánamo” branch of the Ministry of Security, where officers told the them that they would not be released unless the group undressed and engaged in sexual acts with each other.³³⁷

A **2023** report launched by local human rights groups noted that law enforcement officials broke into the house of a transgender man at an **undisclosed date**, stole all his possessions, and deprived him of his liberty. The victim stated that during the attack, the officers told him that they were doing this “in the name of the law”.³³⁸



Eritrea

Criminalising Provisions

The first Penal Code (1957), which was inherited from Ethiopian rule, contained a “sexual deviations” chapter under which Article 600 established that sexual acts, or any other “indecent act”, with a person of the same sex was punishable with 10 days to three years in prison. The new Penal Code (2015) aggravates the penalties for consensual same-sex sexual acts. Under Article 310(1), entitled “homosexual acts”, such acts may result in a prison sentence “of not less than 5 years and not more than 7 years”.³³⁹

Enforcement Overview

Due to its authoritarian regime under Isaias Afwerki, history of arbitrarily detaining dissidents and human rights defenders in brutal conditions, and relative isolation, Eritrea

has often been called “the North Korea of Africa” by international media.³⁴⁰ This unflattering moniker may not be entirely accurate, as the country has shown signs of slowly opening up, but it does demonstrate the difficulty in accessing verifiable data on criminal enforcement.

Nevertheless, ILGA World has identified two cases of possible criminal enforcement against people of diverse sexual orientation between 2002 and the time of publication - as well as two examples of deportation from the country on the same grounds. It must be noted that none are from after the adoption of the 2015 Penal Code.

Examples of Enforcement

It has been alleged that in **2002** five gay men in detention were displayed on a national television broadcast alongside a piece on “the dangers of homosexuality”.³⁴¹

The following year, **2003**, six gay men were arrested by military police in the capital, Asmara, before being transferred to a location said to house thousands of political prisoners in dire conditions.³⁴²

On **8 October 2004** three “Western” employees working at a luxury hotel in Asmara were expelled from Eritrea over “a question of immorality”. According to an unnamed source “one of them at least was homosexual and did not try to hide it”.³⁴³

In **2013** an Italian teacher working in Eritrea was deported, allegedly for being gay, and is allegedly not the only non-national to be deported on such grounds.³⁴⁴



Ethiopia

Criminalising Provisions

In Ethiopia’s Penal Code (2004) same-sex sexual activity is grounds for imprisonment under Article 629, with Article 630 noting that the sentence should be not less than one year. “Making a profession” of such acts aggravates the penalty to up to 10 years. The country’s old Penal Code (1957) contained a “sexual deviations” chapter under which Article 600 established that sexual acts, or any other “indecent act”, with a person of the same sex was punishable with imprisonment of between 10 days and three years.³⁴⁵

³³⁵ *Id.*, 12.

³³⁶ “Organizações denunciam violência contra mulheres na Guiné Equatorial” [Organisations denounce violence against women in Equatorial Guinea], *Jornal A Tarde*, 16 August 2021.

³³⁷ Somos Parte del Mundo, EG Justice, and Equatorial Guinean Commission of Jurists (CEJ), *Estamos solos en este mundo: Tortura, Tratos Crueles, Inhumanos y Degradantes, contra las Personas LGTBIQ+ en Guinea Ecuatorial* [We are alone in this world: Torture, cruel, inhuman and degrading treatment against LGTBIQ+ people in Equatorial Guinea] (2023), 22.

³³⁸ *Id.*, 21.

³³⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Eritrea* (accessed: 21 June 2023).

³⁴⁰ “What peace will mean for Eritrea – Africa’s ‘North Korea’”, *The Conversation*, 19 July 2018; “Why Eritrea is called Africa’s North Korea”, *The Economist*, 14 August 2018; “Pyongyang unlike Asmara: Eritrea’s distaste for ‘North Korea’ label”, *Africa News*, 10 October 2018; “Dissenters tortured in ‘North Korea of Africa’”, *The Times*, 12 June 2021.

³⁴¹ “Eritrea: Asmara Military Police arrested 6 gay men in October 11/03”, *Global Gayz*, 1 January 2009.

³⁴² *Ibid.*

³⁴³ “Eritrea expels three hotel employees for ‘immorality’”, *Sudan Tribune*, 9 October 2004 (accessed: 10 May 2023).

³⁴⁴ Human Rights Campaign & Human Rights First, *Report: The state of human rights for LGBT people in Africa* (2014), 8-9.

³⁴⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ethiopia* (accessed: 12 June 2023).

Enforcement Overview

Between 2008 and 2019 several instances of Christian churches of various denominations have been documented as calling for harsher penalties for consensual same-sex sexual acts (CSSSA), though in 2014 a government spokesperson indicated this would not happen as “[CSSSA is] already a crime and there is a penalty for it. The government thinks the current laws are enough”.³⁴⁶ It seems that this stance against expanding criminalisation, as well as an historical lack of clear cases of criminal enforcement, has given the country which hosts the African Union headquarters, a reputation of being “relatively safe” for people with diverse sexual orientations, gender identities or gender expressions. This can be seen in the attempts by German authorities to deport a trans woman back to Ethiopia in July 2021 on the grounds that she “passes” as a woman and is thus safe, despite her account of brutal abuses in prison.³⁴⁷

ILGA World has engaged with numerous activists and organisations working in Ethiopia for the creation of this report, all of whom deny the “safe country” narrative and have urged caution in publicising details of cases given the extreme risk it puts people at. As such, cases summarised below without a clear citation can be assumed to have come from one of these groups.

One group which provided data to ILGA World provided an additional explanatory note on the relative dearth of known enforcement cases, stating that:

No court files can be accessed even by researchers who have legal documents that allow them to get hold of court files. Most of the incidents mentioned here are recorded from friends/allies, members of the community, people who have been to prison for other crimes and [a] few from the individuals who have been victims.

Most people from the LGBTQ+ community do not disclose such incidents [...] for fear of stigmatisation and discrimination from their own community since the community sees them as threats that they might expose the rest because they have already been ousted by the police.

Mob justice is common in Ethiopia especially in the capital city, Addis Ababa. There are hundreds more horrific stories over the years of LGBTQ+ people being attacked and beaten by a mob on the streets for presumably looking “gay” “flamboyant” or “tomboy”.

All incidents have never been reported to the police because there is no justice for LGBTQ+ people.

Despite this complex situation, ILGA World has identified up to nine examples of criminal enforcement between 2014 and 2023, plus an additional case from an unknown date, bringing the total to at least nine. As explained above, this extremely low number reflects but a small portion of the total number of cases, most of which go unreported or undocumented.

Note: After the cutoff date of this report (30 June 2023), several activists informed ILGA

World of an unprecedented surge in violence and incitement to violence in Ethiopia since July 2023, forcing many groups to temporarily suspend operations. Local organisations such as House of Guramayle issued statements to the international press identifying the State’s own complicity in the attacks.³⁴⁸

Examples of Enforcement

Four men in the capital city of Addis Ababa had their home raided by police at an **undisclosed date** when neighbours accused them of being gay. Police did not have a warrant for the raid. Further details of the case have been withheld.

In **2014** a young gay man was reportedly arrested for his sexual orientation in Addis Ababa. Denied a lawyer or any visitors, the victim is alleged to have been raped and beaten by other inmates in prison. To date no trial is known to have taken place and activists are unaware of the young man’s whereabouts.

In **October 2016** a gay man in Addis Ababa was arrested and held for three months on accusations of having sex with a minor. According to local activists contacted by ILGA World, gay men are often profiled and targeted on suspicion of being paedophiles, and as no evidence for such behaviour could be provided for this case, a court eventually acquitted the man in question.

In **January 2020** another gay man was arrested on suspicion of paedophilia and held for a month, but ultimately released given there was no evidence for the accusation.

In **January 2020** in Adama two men were arrested for “looking gay” and held for three days. While in detention they were allegedly beaten by the other inmates.

In Addis Ababa in **January 2021** two men were detained by police for six days for “looking gay”. After they were released, police outed them to their families, prompting one to commit suicide.

Other activists have indicated to ILGA World that in **February 2021** police “violated” and arrested a queer individual prompting them to go into hiding and seek asylum.

Another individual was similarly targeted and arrested in **May 2021**, and subsequently has also gone into hiding and begun the process of seeking asylum.

In **July 2021** it was reported that a trans woman—originally from Qatar but currently an Ethiopian citizen—was on the cusp of deportation from Germany back to Ethiopia, despite claims of criminal enforcement against her. It is unclear when she was detained, but she has claimed that someone saw her male identity in her passport and took photographs of it to blackmail her, then report her to authorities even after she paid to keep things quiet. She was incarcerated for around a year in a men’s prison after being stripped and photographed, and allegedly subjected to physical and sexual violence from both staff and other inmates. Her lawyer, it is claimed, would regularly be taunted and accused of “homosexuality” when visiting his client, and seems thus to have cut ties with her while she was imprisoned to avoid a formal accusation of

³⁴⁶ “Ethiopia: Church declares war on homosexuals”, *Queer.de*, 8 September 2019.

³⁴⁷ “BAMF will arabische trans Frau nach Äthiopien abschieben” [BAMF wants to deport Arab trans woman to Ethiopia], *Queer.de*, 31 July 2021; “Jamila Bleibt: Don’t Let Germany Deport a Trans Woman to Ethiopia”, *The Left Berlin*, 19 September 2021.

³⁴⁸ If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

homosexuality and jail time himself. German officials have reportedly claimed that because the woman “passes” (in other words, “does not look transgender”) she does not face danger in her home country, and further leans on a lack of explicit criminalisation of diverse gender identities and expressions as justification for deportation. This of course does not take into account the widespread conflation of trans women with MSM (men who have sex with men) and their resultant targeting by State and non-State actors under provisions criminalising consensual same-sex sexual acts.³⁴⁹



Enforcement Overview

Prior to and following its independence from France in 1960, Gabon did not criminalise consensual same-sex sexual acts between adults. However, in July 2019 Gabon adopted a new Penal Code (2019) which criminalised “sexual relations between persons of the same sex” with up to six months’ imprisonment and a fine, under Article 402(5). Less than a year later, the country’s parliament approved Law No. 6 (2020) that introduced changes to the Penal Code and decriminalised same-sex consensual acts between adults in private once more.³⁵⁰ Despite Gabon formally decriminalising consensual same-sex sexual activity, ILGA World has noted five reported incidents demonstrating that authorities have used criminal provisions to target individuals on the basis of their real or perceived sexual orientation before, during and after the presence of explicit criminalising provisions. Because of the country’s apparent *de facto* criminalisation, then, it has been retained in this report.

In early 2014, the prosecutor of the Republic of Gabon, Sidonie Flore Ouwé, provided a legalistic explanation regarding the arrest and subsequent liberation of six people who were detained the previous year for holding an alleged same-sex union. She stated that:

“[In this case] there was no ‘customary marriage’ and, therefore, there had been no infraction against good mores (*outrage aux bonnes mœurs*). If there had been a customary marriage, as our customs require, we might have the right to sue. [...] It is up to the government or Parliament to make a definite pronouncement on homosexuality. And maybe make it an offence, so we can get on with it! [...] On the other hand, if the marriage had taken place, these people would have broken the law, in particular insulting morality”.³⁵¹

Given that Gabon formally criminalised homosexuality in 2019, it might be argued that this case and the public prosecutor’s statements contributed, at least in part, to the adoption of the law.

Negative social attitudes remain common in Gabon. On 18 July 2021, a representative of one of Gabon’s opposition parties presented the results of a petition signed by 300,000 people opposing the recent re-decriminalisation of same-sex sexual activity. If the number of respondents is to be believed as accurate, it means at least 13% of the country’s population participated in the poll in opposition to decriminalisation. The petition seems to carry no legal weight, but does make Gabon a country of continued high concern, despite recent positive legislative reforms.³⁵²

Note: After the cutoff date of this report (30 June 2023), in August 2023 a military coup saw the deposition of President Ali Bongo. Gabon’s State institutions were temporarily dissolved, and borders were closed. It is not clear what effect the change in leadership may have for persons of diverse-SOGIE in the country.

Examples of Enforcement

In late **December 2013**, six people were allegedly arrested and interrogated by local authorities after having participated in a “customary same-sex union” in the capital city, Libreville. One of the participants reportedly claimed on social media that there was no wedding ceremony and that it was simply a party, but that a local journalist had deliberately sensationalised events in order to boost his own career. It was reported by *Radio France International* that the six detainees were freed “after a night in pre-trial detention”. The prosecutor of the Republic of Gabon issued an explanation for their release in **2014**, essentially arguing that as there was no wedding, social mores had not been breached and so no prosecution could take place, and that the government would need to criminalise homosexuality for the party’s guests to be charged. It is possible that this statement and the case contributed to the pressure to criminalise in **2019**.³⁵³

On **24 October 2014** two men, one Senegalese and the other a citizen of Gabon, were arrested by the judicial police after being caught and held by passersby at the Léon Mba beach, Libreville. The crowd alleged that the two men were engaged in sexual acts and ordered the couple not to move until the police arrived.³⁵⁴ The outcome of this arrest could not be determined at the time of publication.

On **15 November 2018** an individual was arrested and charged with “indecent assault” for “immodestly exposing his strong homosexual inclinations”. As far as could be determined at the time of publication, the assigned-male-at-birth individual was arrested for walking through the streets of their town in women’s stockings. They appear to have been released sometime thereafter.³⁵⁵

³⁴⁹ “BAMF will arabische trans Frau nach Äthiopien abschieben” [BAMF wants to deport Arab trans woman to Ethiopia], *Queer.de*, 31 July 2021; “Jamila Bleibt: Don’t Let Germany Deport a Trans Woman to Ethiopia”, *The Left Berlin*, 19 September 2021.

³⁵⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Gabon* (accessed: 12 September 2023).

³⁵¹ “Gabon: la question homosexuelle en débat” [Gabon: the homosexual question under debate], *RFI*, 12 January 2014.

³⁵² “Gabon: 300 000 personnes contre la dépénalisation de l’homosexualité” [Gabon: 300,000 people against the decriminalization of homosexuality], *Gabon Media Time*, 27 July 2021.

³⁵³ “Gabon: la question homosexuelle en débat” [Gabon: the homosexual question under debate], *RFI*, 12 January 2014; “Gay marriage at PK 8: the details of an anonymous via the net”, *Libreville.com*, 14 January 2014; Office Français de Protection des Réfugiés et Apatrides, *Gabon: Les minorités sexuelles et de genre* (2018), 14.

³⁵⁴ “Gabon: Two homosexuals caught having sex on the beach”, *Koaci.com*, 2014.

³⁵⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

In December 2019, after the passage of Gabon's criminalising legislation, a West African human rights defender told media he knew of "two men in Gabon who have already been arrested under the law and had to bribe the police to be let go".³⁵⁶ Further details of this incident are not known, but the fact that the detainees attained freedom in this way highlights the possibility that enforcement of the law was more widespread than official data or reporting could indicate.

An article claimed on 10 November 2020, mere months after the formal decriminalisation of consensual same-sex sexual activity in Gabon,³⁵⁷ that two women were arrested for participating in a customary marriage ceremony. Gabon has no law banning or permitting same-sex marriages, but after a furore in the media the two women were summoned to make account of their actions to the office of the Prosecutor for the province of Ogooué-Ivindo. The older of the two women claimed that she had wanted to act as an official father to her partner's children, as their father had passed away.³⁵⁸



Criminalising Provisions

Gambia has criminalised same-sex sexual activity since the implementation of the colonial Criminal Code (1934), instituting prison sentences of up to 14 years for anyone with "carnal knowledge of any person against the order of nature". Part 4(c) of the Criminal Code (Amendment) Act (2005) clarified the meaning of "carnal knowledge against the order of nature" to include anal and oral sex, the use of "any object or thing" to "simulate sex", and "committing any other homosexual act with the person". Moreover, Article 147(2) of the 2005 version of the Criminal Code limits women to five-year sentences for "gross indecency". The law was expanded again with the Criminal Code (Amendment) Act (2014). Part 4 of the Act introduces the category of "aggravated homosexuality", laying out factors such as the spread of HIV and being a "serial offender" as grounds for life-imprisonment.³⁵⁹

Diverse gender expressions have been explicitly criminalised since 2013 by means of amendment to the Criminal Code, stipulating a fine or five years in jail to "any male person who dresses or is attired in the fashion of a woman in a public place". Setting aside the erasure of trans and gender-diverse persons in the law's wording, and considering the legislation in the light of its apparent

intended purpose, Gambia remains one of a minority of countries to explicitly target diverse gender expressions as opposed to the conflation of sexual orientation and gender identity leading to police targeting through anti-sodomy laws.³⁶⁰

Enforcement Overview

Despite being the smallest sovereign State on the African mainland, there is an outsized body of evidence for the brutal targeting of people of diverse SOGIE by local authorities. As such ILGA World has identified 10 examples of enforcement between 2012 and 2023—though several of those cases took place in the context of widespread "hunts" by authorities, and so the number of individual cases is undoubtedly higher.

While several of these examples predate the adoption of the Criminal Code (Amendment) Act (2014), the new legislation, which aggravated existing punishments, only served to worsen the dire conditions of Gambians with diverse sexual orientations, gender identities and expressions. In 2015 the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions reported that "the approval of the amendment was followed by rounds of arrests, prosecutions and attacks, and humiliation and even torture of persons, because of their presumed sexual orientation".³⁶¹

Under the authoritarian presidency of Yahya Jammeh, "dissidents" such as human rights defenders and queer individuals were all regular targets of the paramilitary "Jungler" forces and the National Intelligence Agency - the latter of which reportedly compiled a list of 200 "homosexuals" to be arrested.³⁶² In 2008 the BBC and other outlets reported that Jammeh had promised "stricter laws than Iran" on homosexuality and said he would "cut off the head" of any gay person found in the country. The Department of Foreign Affairs issued a statement denying that the President had made any such statements, but did not deny that he had in the same speech called for law enforcement to "arrest any person who is gay," close down any motel "harbouring gays," and expel "suspected gays" from their homes. In 2013 he said that "allowing homosexuality means allowing satanic rights" and that "you will regret why you are born" if caught engaging in same-sex acts in Gambia. In 2015 he called for the throats of gay persons to be slit.³⁶³

Though Jammeh went into exile in 2017, no change in the *status quo* seems to have happened for LGBTI+ Gambians. Activists have criticised Jammeh's successor, Adama Barrow, for not making his stance on the issue clear enough, and while several members of the new government have spoken out in favour of decriminalisation

³⁵⁶ "Gabon criminalized homosexuality & two men have already been arrested", *LGBTQ Nation*, 13 December 2019.

³⁵⁷ The case taking place after decriminalisation led this report's author to retain Gabon in this edition of the publication, where other countries which have decriminalised since the first edition have been removed. It is important to note that the absence of formal legislation does not necessarily equate to the absence of State-persecution, and Gabon remains a clear example of this.

³⁵⁸ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³⁵⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Gambia* (accessed: 22 September 2023).

³⁶⁰ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 34.

³⁶¹ Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture and Killings* (2015), 53; *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns. Addendum Mission to the Gambia, A/HRC/29/37/Add.2*, 11 May 2015, para. 79.

³⁶² "Lesbians flee to Senegal as Gambia cracks down on homosexuality", *Reuters*, 21 November 2014; Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture and Killings* (2015).

³⁶³ "Gambia gay death threat condemned", *BBC*, 23 May 2008; "Letter to the Gambian President Regarding Reported Statements that Fuel Homophobia", *Human Rights Watch*, 11 June 2008; "Gambia's president threatens to slit the throats of gay men", *Washington Post*, 12 May 2015.

and non-discrimination, no steps have been taken to repeal the draconian legislation.³⁶⁴ Further, in 2020 the government was reported to have issued a formal statement indicating that "the decriminalisation of homosexuality is not on the agenda in The Gambia".³⁶⁵

It was also reported in the months leading up to the December 2021 national elections that President Barrow's ruling party had entered into a coalition agreement with Jammeh's party, with some expressing concern that he may be granted amnesty and be permitted to return to Gambia.³⁶⁶

In 2019 as part of Gambia's Universal Periodic Review (UPR), Croatia issued the recommendation that Gambia "[d]ecriminalize same-sex relationships between consenting adults and take measures to protect lesbian, gay, bisexual, transgender and intersex persons from arbitrary arrests and violence."³⁶⁷ The recommendation was rejected.

In 2020 the Gambian government reiterated that it had no intention of amending the law, following rumours that it would decriminalise homosexuality in exchange for foreign aid. These rumours were reportedly based, at least in part, to a series of social media posts made by the European Union's Delegation to Gambia on 17 May of that year.³⁶⁸

Examples of Enforcement

On **30 May 2008** two Spanish tourists were reportedly arrested after "propositioning" two taxi drivers. The taxi drivers are said to have feigned interest in the tourists so as to lure them to a rendezvous point where the police could apprehend them. The men were released after five days in custody and immediately left the country, following interventions from the Embassy of Spain.³⁶⁹

On **6 April 2012**, 20 individuals were arrested for an "attempt to commit unnatural offences" on the basis that 18 of the respondents—cited in reports as "homosexual men" though possibly trans women, cross-dressers or simply performers—were dressed in women's clothing while dancing for tourists. A report by Human Dignity Trust indicates that it was likely solely due to their manner of dress (their gender expression) that authorities concluded that an "indecent act" was about to take place. The group was held for about a month before being released on bail. In **August** of that year the prosecution withdrew its charges on the basis that there was not enough evidence for the case.³⁷⁰ Diverse gender expressions were only explicitly criminalised the following year with the passage of the Criminal Code (Amendment) Act of 2013.³⁷¹

Police in Banjul, Gambia's capital, told media on **10 April 2012** that 15 men "suspected of homosexuality" had been arrested at a bar in a "popular tourist area". 14 of the men were Gambians, while one was Senegalese. Police said they had received a tip-off about a group of people "publicly displaying or promoting homosexual activities". Due to the incident being reported so shortly after the example outlined above, it may be that these two entries in fact represent the same case, though core details of the reporting do differ.³⁷²

In **October 2013** the *Associated Press* published the testimony of a 21-year-old gay man who had fled Gambia after he and 17 others were arrested by undercover members of the National Intelligence Agency (NIA) at a "poolside birthday party". The 18 individuals were beaten and abused by the NIA during several months of custody, and their "very public trial" was said to have destroyed their reputations in the country, forcing many to flee even after they were eventually acquitted. The man claimed that as they were being escorted from the court at the end of the trial a member of the public shouted: "You think you're free, but you're not. This is just the beginning. When the law can't do anything, we can do something".³⁷³ Given that the number of arrested persons, and their eventual acquittal, mirrors the case outlined above, it is possible that these two entries represent the same incident, though available information, albeit only fragmentary, suggests otherwise.

This and other legal amendments adopted in **2014** and outlined in the country summary above brought a wave of arrests and targeting, according to reports by Human Rights Watch and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.³⁷⁴ Human Rights Watch interviewed five women and six men who had to flee the country in **2014** after repeated arrests and threats in the wake of the legal reform, which they called a "witch hunt".³⁷⁵ It has been alleged that at the time of this "hunt", the NIA kept a list of at least 200 suspected LGBT+ individuals to be arrested.³⁷⁶

One lesbian woman who was interviewed was arrested and held at the NIA twice in **2014**, where she was beaten until she confessed the names of others, who were then also targeted by authorities.³⁷⁷

In **September 2014** four lesbian women were arrested by members of the NIA and held for questioning in Serekunda. They were threatened with medical tests—authorities claiming that a doctor would "put a tube in [their] vaginas" to test if they were lesbians. Two of the women were released but the two who presented in a more masculine,

³⁶⁴ European Asylum Support Office, *EASO Country of Origin Information Report: The Gambia Country Focus* (2017), 560-562.

³⁶⁵ "La dépénalisation de l'homosexualité n'est pas à l'ordre du jour en Gambie" [Decriminalization of homosexuality is not on the agenda in The Gambia], *Emedia.sn*, 24 June 2020; "Banjul dément vouloir décriminaliser l'homosexualité après une vive polémique en Gambie" [Banjul denies wanting to decriminalize homosexuality after heated controversy in Gambia], *Le Monde*, 24 June 2020.

³⁶⁶ "Gambia Election 2021: Jammeh's victims worried about ruling party alliance", *RFI*, 19 September 2021.

³⁶⁷ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Gambia*, A/HRC/43/6, para. 128.12.

³⁶⁸ "Gambia denies plans to relax homosexuality laws", *Africa News*, 24 June 2020.

³⁶⁹ "Two Spanish men arrested for alleged gay crimes in Gambia", *Pride Source*, 12 June 2008.

³⁷⁰ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 21-22; ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 34.

³⁷¹ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 34.

³⁷² "Gambia cops arrest 15 'gay' men", *News24*, 10 April 2012.

³⁷³ "Gambia gays face discrimination in exile", *AP*, 2 October 2013.

³⁷⁴ OHCHR, *Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions, Christof Heyns. Addendum Mission to the Gambia*, A/HRC/29/37/Add.2, 11 May 2015, para. 79.

³⁷⁵ Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture and Killings* (2015), 53.

³⁷⁶ "Lesbians flee to Senegal as Gambia cracks down on homosexuality", *Reuters*, 21 November 2014.

³⁷⁷ Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture and Killings* (2015), 53-54.

gender non-conforming manner were held until they paid a bribe of more than 10,000 Dalasi (approximately USD 312).³⁷⁸

It was also reported by multiple sources, including Amnesty International and the former Press Secretary of President Yahya Jammeh (who fled the country the previous year after being arrested for publishing news “with intent to tarnish the image of the president”) that in **November 2014** three young men were apprehended at a night club for allegedly being gay and held for six days in the NIA’s offices. The incident allegedly scared at least five other gay men and a group of lesbians into fleeing the country. Later reports by the same sources, however, indicate that the three men were held until **24 December**, rather than for just six days. They were then reportedly arraigned by the Banjul Magistrate’s Court on one count of “homosexuality”, though the charge was later withdrawn by the court and replaced with multiple charges of “unnatural offences and conspiracy”. The trio spent several months in Banjul’s Mile 2 Maximum Security Prison before being acquitted on **30 July 2015**.³⁷⁹ One of the three people arrested had also been detained previously in the **2012** case and fled the country after being acquitted in this second case. Several elements of this individual’s reported testimony conflict with those of the above reports, namely the dates and timelines of incarceration. Initial reports also state three people were arrested together in a club, though the person’s testimony claims they were in a taxi heading home from dinner with a friend. The accused alleged severe torture from NIA forces until having to be transferred to a hospital in **April 2015** due to the severity of the injuries.³⁸⁰

On **9 November 2015**, a man was allegedly detained by NIA officials and held for eight days, enduring regular beatings while in their custody before being moved to the Mile 2 Maximum Security Prison for nine months while he and another man were being tried for alleged same-sex sexual activity. Both were acquitted due to lack of evidence.³⁸¹

President Jammeh’s former Press Secretary also reported in **November 2014** that Gambian “secret police” were travelling door to door with a teenage boy so that he could identify homosexuals, which had resulted in two businessmen and three women also being arrested, though no local news outlets reported on such incidents. In total, it was alleged that 16 people were arrested in **November 2014**, after a draconian new law prescribing up to life imprisonment for repeated convictions had been adopted the previous month. The measure was decried by UNHCR representatives.³⁸²

A Senegalese national accused of being gay was arrested in **June 2020**. Initially he was reported for stealing a cell phone from the complainant, though later it was alleged

that the two had engaged in same-sex sexual activity, which then became the focus of the courts. The trial saw several postponements over the following year, before the accused was finally sentenced to seven years’ imprisonment and a fine in **April 2021**.³⁸³



Criminalising Provisions

Section 104(1)(b) of the Penal Code (1960), as amended in 2003, establishes that whoever has “unnatural carnal knowledge” of any person of 16 years or over with his consent is guilty of a misdemeanour. As per Article 296(4) of the Criminal Procedural Code, it carries a maximum penalty of three years’ imprisonment. Additionally, Section 278 criminalises acts of “gross Indecency” in public imposing the same penalty. Section 99 further provides that “unnatural carnal knowledge” shall be deemed complete “upon proof of the least degree of penetration”.³⁸⁴

Enforcement Overview

Regardless of the extent to which criminalising provisions have been actively implemented, authorities in Ghana have frequently relied on political rhetoric about enforcing these criminalising provisions, mainly for political clout, to crack down on local communities and as a means to deter any SOGIESC-related advocacy effort in the country.

For instance, in 2006, the government officially banned “a lesbian and gay conference” that was allegedly going to take place in Accra, and the Ministry of the Interior was instructed to locate and arrest the conference’s local organisers. Even though the conference was later reported to have been a fabrication, public outrage sparked an intense national debate that brought the issue of homosexuality to the forefront of the national agenda.³⁸⁵ The government’s virulent reaction to this “attempt to organise a local conference” was well received by the local clergy, religious groups and the general public and was regarded as “a step in the right direction”.³⁸⁶

A few years later, in 2011, the Ghanaian Director of Public Prosecutions stressed that persons caught engaging in homosexual activities could be liable for prosecution. Responding to calls for the country to enact laws to ban homosexuality in an interview in Accra, she stated the Criminal Code made the act a criminal offence, hence,

³⁷⁸ *Id.*, 55.

³⁷⁹ “Report: Gambian arrests, detention, search for gays”, *Erasing 76 Crimes*, 13 November 2014; “Gambia must stop wave of homophobic arrests and torture”, *Amnesty International*, 18 November 2014; “Gambia acquits 3 men of aggravated homosexuality”, *Erasing 76 Crimes*, 1 August 2015. Another entry that contains personal names or images has been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³⁸⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³⁸¹ Human Rights Watch, *State of Fear: Arbitrary Arrests, Torture and Killings* (2015), 54.

³⁸² “Report: Total of Gambia’s anti-gay arrests reaches 8”, *Erasing 76 Crimes*, 15 November 2014; “Report: Gambian arrests of LGBTI now total 16”, *Erasing 76 Crimes*, 30 November 2014; “UNHCHR alarmed at LGBT arrests, detentions in Gambia”, *Erasing 76 Crimes*, 20 November 2014.

³⁸³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³⁸⁴ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ghana* (accessed: 25 September 2023).

³⁸⁵ Mark S. Luckie, “Ghana: Somewhere over the rainbow”, *UC Berkeley Graduate School of Journalism* (2007); Refugee Review Tribunal (Australia), *Research Response Number: GHA33179 - Ghana* (9 April 2008), 2.

³⁸⁶ CIVICUS: A. Darkwa, N. Amponsah, and E. Gyampoh, *Civil Society in a Changing Ghana: An Assessment of the Current State of Civil Society in Ghana* (2006), 53.

persons engaged in homosexuality “fall foul of the law”.³⁸⁷

That same year, in reaction to inflammatory media reports indicating that 8,000 gay men lived in the Western Region and “most of them were infected with HIV/AIDS” [sic], Regional Minister Paul Evans Aidoo incited people through the media, including “landlords and tenants”, to come forward and report those suspected of being homosexual—who would be promptly “taken to court”. Ghana’s Bureau of National Investigations was also instructed to track down and arrest anyone suspected of being a homosexual.³⁸⁸ “All efforts are being made to get rid of these people in the society,” stated Aidoo.³⁸⁹ In the same vein, the Christian Council of Ghana issued a strongly worded message against “the practice of homosexuality” urging Ghanaians “not to vote for any politician who believes in the rights of homosexuals”.³⁹⁰ As noted by the Coalition Against Homophobia in Ghana (CAHG), in these discussions, religious, political, and traditional leaders, as well as media pundits portrayed homosexuality as a threat to national security, as pathological, as un-African, and/or as ungodly. CAHG also decried the fact that reports were being published “virtually every day” on front pages of newspapers, promoting fear and hatred against homosexuality.³⁹¹

In 2018 the UN Special Rapporteur on extreme poverty wrote in his report on his mission to Ghana that while same-sex sexual activity is criminalised, officials claimed there was no problem “in practice” as the law was rarely enforced. Many officials informed the Special Rapporteur that there was no prohibition on same-sex couples, but added that any sexual contact between them would violate the law. The Special Rapporteur responded that “[w]hile the Government might argue that it is not responsible for acts of discrimination by private persons, the reality is that the law sets the overall framework and strongly influences attitudes”.³⁹²

This is reflected in reports which indicate that extrajudicial attacks by those “taking the law into their own hands” are not uncommon in Ghana. On 25 January 2021 it was reported by *Modern Ghana*, a local media outlet, that several vigilante groups exist to explicitly “hunt” LGBT+ individuals through an informal initiative called “Operation Make Ghana Hell For Homosexuals”.³⁹³ The media itself often contributes to these “hunts” and moral panics, with ILGA World noting multiple local websites regularly fanning the flames of homophobia through inflammatory reporting, or actively using their platforms to identify LGBT+ persons wanted by the police, or publishing articles seemingly aimed at pressuring politicians into taking action.

Director of Amnesty International Ghana, Robert Akoto Amofo, has stated in a 2020 interview that the Penal

Code has rarely been “enforced in the court of law”, adding that “[r]ather, it is used as a tool for persecution of the LGBTIQ community by police and individuals across the country to abuse people and take advantage of them”.³⁹⁴ The specific ways in which negative social attitudes and extrajudicial violence in Ghana intertwine with legislation, politics and police activity undoubtedly complicates any clear-cut explanations of the local situation.

With an apparent spike in targeting of LGBT+ groups and persons in Ghana in 2021, it appears that calls for stricter criminalisation policies to be adopted have also increased, both within society and government. On 8 March, in the aftermath of a raid on an LGBTIQ advocacy NGO in Accra, six members of Parliament allegedly “hinted of jointly sponsoring a bi-partisan Private Members Bill [...] to proscribe and criminalise the advocacy and practice of homosexuality in the country.”³⁹⁵ In June 2021 ILGA World was made aware of a formal letter from the Speaker of Parliament stating that “urgent actions are being taken to pass a law to eventually nib the activities of these groups in the bud”.

These “urgent actions” would later materialise as the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill (2021), submitted for consideration to Ghana’s Parliament. The bill would increase the jail-time for consensual same-sex sexual activity to 10 years as well as ban same-sex marriage; it would also criminalise diverse gender identities and expressions and prohibit medical practitioners from offering gender-affirming medical care; it would offer incentives to families to have their intersex infants “normalised” through risky and unnecessary genital surgeries; and it would prohibit public support, advocacy or organising for SOGIESC human rights in Ghana.³⁹⁶

This bill, if passed, would be one of the most restrictive pieces of anti-LGBTIQ+ legislation adopted anywhere in recent years, and as such prompted the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, along with multiple other UN Special Procedures signatories, to pen a 25-page letter of concern in August 2021 urging the government to withdraw the proposed legislation.³⁹⁷

In November 2021 the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs opened public hearings on the bill, with many civil society actors speaking out against the bill, though it also received widespread support from the public and religious bodies.³⁹⁸ Notably, a lawyer by the name of Moses Foh-Amoaning working for the Government-allied “National Coalition for Proper Human Sexual Rights and Family Values” NGO, told Parliament that gay men should be given the chance to voluntarily undergo so-called “conversion therapies”, with

³⁸⁷ “Gays can be prosecuted”, *Ghana Web*, 7 June 2011.

³⁸⁸ “A letter from Ghana: ‘Homos’ and Hysteria: reporting the gay debate in Africa”, *African Arguments*, 7 September 2011; “Paul Evans Aidoo’s Ghana gay spy call ‘promotes hatred’”, *BBC News*, 22 July 2011; “Minister orders arrest of all homosexuals”, *Modern Ghana*, 19 July 2011; “Ghana Cracks Down On Gays”, *Star Observer*, 21 July 2011; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 22; Human Rights Advocacy Centre (HRAC), *Submission for the Universal Periodic Review of Ghana* (January 2008), 5.

³⁸⁹ “Ghana Moves to Arrest Homosexuals”, *CSS ETH Zürich*, 27 July 2011.

³⁹⁰ “Minister orders arrest of all homosexuals”, *Modern Ghana*, 19 July 2011.

³⁹¹ “Press Release on Homosexuality in Ghana”, *Coalition Against Homophobia in Ghana (CAHG)*, 3 August 2011 [Archived in OutRight Action International’s website]

³⁹² *Report of the Special Rapporteur on extreme poverty and human rights on his mission to Ghana*, A/HRC/38/33/Add.2 (2018), 9-10.

³⁹³ “Vigilante group hunt for homosexuals in parts of Accra”, *Modern Ghana*, 26 January 2021.

³⁹⁴ Asylos and ARC Foundation, *Ghana: State treatment of LGBTIQ+ persons* (2021), 24.

³⁹⁵ “Ghana: Drop Charges Against LGBT Rights Defenders”, *All Africa*, 19 June 2021.

³⁹⁶ “Anti-LGBTIQ+ Bill referred to Parliament’s Legal & Constitutional Affairs Committee”, *Ghana Web*, 4 August 2021; “Explainer: what makes Ghana’s anti-gay bill so extreme?”, *The Guardian*, 3 August 2022.

³⁹⁷ OHCHR, OL GHA 3/2021 (2021).

³⁹⁸ “Supporters and opponents face off over Ghana’s anti-LGBT law”, *Reuters*, 12 November 2021; “Presby Church advocates tougher punishment for LGBTIQ+ promoters”, *Modern Ghana*, 11 March 2022; “LGBTIQ+ Bill: Rightful Ghana group meeting with committee to be held in-camera”, *Ghana Web*, 18 March 2022.

those who refuse treatment for their “psychological problems” needing to be jailed. It is likely no coincidence that Foh-Amoaning’s organisation regularly practises attempted conversions, and has long advocated for the right to set up its an “Holistic Sexual Therapy Unit” at the Korle Bu Teaching Hospital in Accra.³⁹⁹ More extreme voices have also been prominent in the debate, with the Chief Imam of the Kumasi Central Mosque claiming that if the Bill was passed there would be an “uprising” because it did not go far enough, and that gay people should be executed rather than merely imprisoned.⁴⁰⁰

In June 2022 Freddie Blay, the Chairman of Ghana’s ruling New Patriotic Party (NPP), weighed in on the matter urging people to “leave gays alone”, in a rare demonstration that political and legal antagonism toward persons of diverse SOGIE is not universal. This came in response to a series of Pride-themed billboards in Accra, reading “Love, Tolerance, and Acceptance”, being vandalised at the behest of some MPs. Blay added: “I don’t subscribe to gayism [sic] as a choice because I’m not attracted by that, but I don’t want to go into people’s bedrooms”.⁴⁰¹

On 31 March 2023 the Committee on Constitutional, Legal and Parliamentary Affairs submitted its report of the bill to Parliament, paving the way for formal debates and an eventual vote. This came after the Ghanaian Attorney General voiced concerns about issues such as violations of the right to privacy, requiring a redrafting of the bill. However, the process was not significantly delayed by the Attorney General’s concerns, and a “consensus” reached between himself and the committee appears to have left most of the original bill intact.⁴⁰² People who campaign for the rights of LGBTQ people could also face up to 10 years in prison.⁴⁰³

In June 2023 Bagbin instructed Parliament to move the Bill on to its second reading despite the fact that at least two pending court cases—one in the High Court and another in the Supreme Court—were challenging the constitutionality of the Bill and the Parliamentary processes surrounding it.⁴⁰⁴

Examples of Enforcement

A report prepared by the Research Directorate, Immigration and Refugee Board of Canada in 2006 identified several examples of enforcement of criminalising provisions, including the case of a pastor whose trial for having engaged in anal sex with an 18-year-old student took place in late 2005, and a lesbian woman who was arrested in Accra for “luring an 18-year-old girl into lesbianism” and was charged with “practicing unnatural sex with the victim”.⁴⁰⁵

On 4 September 2006, the Ghana Police Service disrupted an event in Koforidua—in the Eastern region of Ghana—where gays and lesbians had reportedly gathered. Additionally, two media sources reported that the Ghanaian government banned a gay and lesbian conference that was scheduled to take place in September 2006 in Ghana.

In November 2007, a British and a Ghanaian national were charged with “unnatural carnal knowledge” and possession of “obscene” pictures. Reports indicate that the British national was arrested at Kotoka International Airport when a security check found a CD with pictures of him having sexual intercourse with the 19-year-old Ghanaian. They both pleaded guilty to “unnatural carnal knowledge” before the Accra Circuit Court and were given the option of a six-month jail term or a fine of more or less 575 cedis (around USD 400), which was paid for both by the British National. Furthermore, the Deputy Director of the Criminal Investigations Department of the Ghana Police Service explained to the local media that in order to ensure that the British national would not return to the country, the police sought a deportation order from the Court, which was eventually granted.⁴⁰⁶

A gay man from the Western Region claimed to have been charged in 2010 with “unnatural carnal knowledge”, with the trial extending for at least two years before the court dismissed his case. The man fled to the Eastern Region to start a new life.⁴⁰⁷

A year later, the gay man from the Western Region was arrested and beaten by Eastern Region police. He claimed to have gone to the police to report a theft, but the thief outed him as gay, and as a result the police held him for about a week.⁴⁰⁸

It was reported to Human Rights Watch that in 2013 the Chief of Tamale, the capital of the Northern region, called for the youths of the city to take action against gay people in the city. This led to at least one known individual being brought before the Chief and a jeering crowd, before being transferred to a local police station. His uncle bailed him out and he immediately relocated to Accra, Ghana’s capital, but even there seems to have opted to remain “underground”.⁴⁰⁹

In December 2014 a lesbian woman and her partner in Kumasi were arrested and held at Suame Police Station for three days after her partner’s mother brought police to her home. They were never formally charged and were released after they paid 200 Cedis (about USD 45).⁴¹⁰

In June 2016 three young women at a football training camp in Kumasi were arrested in front of a crowd of over 100 people after police received a tip-off accusing them of

³⁹⁹ “Hundreds of gay people to be ‘treated for homosexuality’ at camp in Ghana”, *Pink News*, 21 August 2018; “LGBT+ Ghanaians should be hunted down and forced into conversion therapy, bigot tells MPs”, *Pink News*, 7 December 2021.

⁴⁰⁰ OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana*, *Outright Action International*, August 2022, 36.

⁴⁰¹ “Key politician in Ghana defends LGBTQ citizens: ‘Leave gays alone’”, *Erasing 76 Crimes*, 26 June 2022.

⁴⁰² “Ghana’s legal chief signals support for anti-LGBTIQ bill in blow for equality”, *Open Democracy*, 18 November 2022; “Anti-LGBT bill to be laid before Parliament by March ending after AG’s blessings”, *Ghana MMA*, 26 February 2023.

⁴⁰³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ghana* (accessed: 25 September 2023).

⁴⁰⁴ “Parliament hit with new anti-gay suit”, *Modern Ghana*, 20 June 2023; “Speaker directs for Anti-LGBT Bill to be laid for second reading next week”, *Joy FM*, 25 June 2023.

⁴⁰⁵ Immigration and Refugee Board of Canada, *Ghana: Treatment of homosexuals by society and authorities and availability of state protection; names and activities of groups or associations promoting homosexual rights* (2006).

⁴⁰⁶ “British Man on Trial for Sodomy in Ghana”, *The Advocate*, 7 November 2007; “British sodomite to be deported”, *Modern Ghana*, 15 November 2011.

⁴⁰⁷ OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana*, *Outright Action International*, August 2022, 22.

⁴⁰⁸ *Ibid.*

⁴⁰⁹ Human Rights Watch, “No Choice but to Deny Who I Am”: *Violence and Discrimination against LGBT people in Ghana* (2018), 32.

⁴¹⁰ *Id.*, 31.

being lesbians. Onlookers followed the police van to the station, where the women were insulted and mocked before being released after a few hours. Though they denied being lesbians and were not charged with any crime, the camp organiser expelled the trio, who were subsequently left destitute as they were disowned by their families for “bringing shame” to their households.⁴¹¹

A lesbian woman from Cape Coast reported to Human Rights Watch that in **July 2016** her father disowned her and reported her to police when he discovered her sexual orientation. She was arrested, but her grandmother managed to post bail. She was never formally charged but instructed to report to the police station daily.⁴¹²

In **August 2016** a man identified as a baker hosted a large birthday party for himself in Tanokrom and baked an elaborate cake for his guests. Believing the cake to be evidence of a gay wedding, a gang disrupted the party, beating guests and stealing their valuables. The host reported the incident to the Takoradi Market Circle Police Station nearby, but once there was arrested instead and pressed to disclose the identities of all guests. He was released after paying a bribe of 300 Cedis (approximately USD 68). Police later arrested 15 men for attending the alleged gay wedding, though all were released without charge.⁴¹³

In **December 2016** a young man in Cape Coast faced harassment in the street from a stranger because he was perceived to be gay, leading to a physical altercation. The following morning the stranger brought police to his home, and he was arrested and taken to Bakaano Police Station. Police threatened to charge him for “sleeping with other boys”, but he was released later after a local government official intervened on his behalf.⁴¹⁴

In **March 2017** two young men booked into a hotel room in Accra. Suspicious hotel staff spied on them and posted pictures of them having intercourse to social media. The pair were arrested by the Kaneshie police. Local media attempted to frame the story as one of a paedophilic sexual predator, though the younger of the two men was over the age of 18 at the time of the incident.⁴¹⁵ The same article reporting on this case also notes separately that Accra’s main international airport bore a sign the **previous year** urging “sexual deviants” arriving in Ghana to turn around.

In **February 2018**, two gay students were arrested for allegedly engaging in anal sex at a hostel at the Takoradi Technical University (TTU). The couple was reportedly caught in the act by other students and reported to the police. Upon being arrested by elements of the Takoradi Police force, the students were “referred to a hospital for medical examination and further investigations”.⁴¹⁶

In **September 2020**, local media indicated that 11 lesbian women were arrested in the city of Aflao, in the Volta region, after a video of two of them reportedly engaging in sexual acts became known.⁴¹⁷

On **31 January 2021** a local organisation, LGBT+ Rights Ghana, formally opened its new office and community space in the capital of Accra. The opening was attended by a number of diplomats from the European Union. News of the event seems to have caused widespread debate and even threats of violence against the activists. These tensions culminated in a police raid on the property on **24 February**, after the landlord reported the group to the authorities. The acting Minister for Gender, Children, and Social Protection stated at the time that “the issue of the criminality of LGBT is non-negotiable and our cultural practices also frown on it”.⁴¹⁸

On **16 March 2021** it was reported by the *Togo Times* that Ghanaian police had arrested a “gay disguised as a woman”, though this article was later taken down and further details on the incident could not be verified at the time of publication of this report.⁴¹⁹

On **30 March 2021** it was reported that 22 people in the city of Obomeng had been arrested after a local Chief reported them for conducting a “lesbian wedding ceremony”. Police found no evidence of the alleged wedding, with participants claiming it had been a birthday party, but authorities stated they would be held anyway to “answer in court for an alleged violation of the Covid-19 rules”. One civil society organisation, the African Equality Centre, stated in response to the incident that the preceding months had seen an “unprecedented abundance of homophobia from religious, political and media representatives”.⁴²⁰

On **20 May 2021**, 21 activists were arrested by members of the Volta Regional Police Command at the Ghana Nurses and Midwifery Hotel in Ho and charged with unlawful assembly, though police representatives noted that they would be further investigating the “agenda by these people to propagate the LGBTQ behaviour”.⁴²¹ Ironically, the meeting had been primarily aimed at capacity-building for paralegals on dealing with police and State victimisation, though police claimed that they had acted upon intelligence that the conference was actually to “entice and lure the youth to engage in same-sex sexual activities”, a suspicion the government seems to believe is affirmed by the fact that at least one of the hotel rooms was occupied by two guests of the same sex, and because SOGIESC educational books and pamphlets were found at the venue. On **11 June** the accused were granted bail after 22 days in detention and multiple denials of bail on account that they had come to the conference from across Ghana,

⁴¹¹ *Id.*, 30-31.

⁴¹² *Id.*, 31.

⁴¹³ *Id.*, 31-32.

⁴¹⁴ *Id.*, 32.

⁴¹⁵ “Two men outed on social media and arrested for gay sex in Ghana”, *Mamba Online*, 22 March 2017.

⁴¹⁶ “2 Arrested for Sodomy”, *Graphic Online*, 2 February 2018.

⁴¹⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁴¹⁸ “Ghana security forces shut down LGBTQ office: Rights group”, *Aljazeera*, 24 February 2021; “Security Forces in Ghana Target New LGBT Rights Group Centre”, *Okay Africa*, 26 February 2021; “Ghana: Police raid LGBT+ center; activists call for boycott”, *Rights Africa*, 28 February 2021; “Pan Africa ILGA statement on the raid of LGBT+ Rights Ghana offices”, *Pan Africa ILGA*, 4 March 2021; “Policia invade ONG LGBT em Gana a pedido de religiosos” [Police raid LGBT NGO in Ghana at religious request], *Põe na roda*, 4 March 2021.

⁴¹⁹ “Ghana: La police arrête un gay déguisé en femme. Photo” [Ghana Police arrest gay disguised as a woman. Photo], *Togo Times*, 16 March 2021.

⁴²⁰ “Ghana: 22 queere Personen wegen Teilnahme an “lesbischer Hochzeit” festgenommen” [Ghana: 22 queer people arrested for attending “lesbian weddings”], *Queer*, 30 March 2021.

⁴²¹ “21 Homosexuals & Lesbians Promoting Their Rights Remanded For Unlawful Assembly In Ho”, *Peace FM Online*, 23 May 2021; “21 Ghanezen opgepakt tijdens LGBT+-evenement” [21 Ghanaians arrested during LGBT+ event], *OUT TV*, 28 May 2021; *JAL GHA 2/2021*, 2 June 2021.

and police would struggle to track them all down for further investigation.⁴²² On **5 August** the case against the group was finally dropped, with the court ruling that there was not enough evidence to prove they had gathered unlawfully.⁴²³ At least one activist within the arrested party is known to be a close affiliate and ally of Pan Africa ILGA and ILGA World. The incident was decried by multiple UN Special Procedures in a formal letter to Ghanaian officials in **July**, which may have contributed to the widespread international pressure for the “Ho 21” to be released.⁴²⁴ However, in its statement to the UNHRC, dated **13 August 2021**, the Permanent Mission of Ghana to Geneva asserted that the alleged nefarious intent of the gathering precluded this case from being one of arbitrary detention, and claimed that as a signatory to a number of UN treaties it indeed did respect the rights of SOGIESC persons.⁴²⁵ On **14 June 2022**, a little over a year after the arrests were made, two lawsuits were filed at the Ghanaian High Court by a coalition of civil society organisations on behalf of the activists, against the Inspector General of Police and the Attorney General. One lawsuit, on behalf of three detained activists, sought redress for unlawful arbitrary detention, discrimination, and a violation of the right to free assembly. The other lawsuit was brought on behalf of an intersex woman who was detained in a separate cell, with police allegedly encouraging other inmates to sexually assault her to “prove” that she was a woman. At the time of publication of this report neither case has been decided.⁴²⁶

On **28 May 2021** a video went viral allegedly showing a popular online “influencer” engaging in consensual same-sex sexual activity, prompting him to go into hiding and deactivate his social media accounts. It is alleged that he is wanted by police.⁴²⁷

A Ghanaian activist reported that in **June 2021** their organisation had paid a bribe for the release of a gay man who had been held for five days by police. The man was reportedly stripped, photographed and beaten while in detention, and had to be taken to hospital because of his injuries. Thereafter, the intervening organisation relocated him to a secret location so he would not be found by the community members who first reported him to the police.⁴²⁸

In **October 2021** in Accra, Ghana’s capital, a 29-year-old nonbinary person was attacked by neighbourhood residents and taken to the police for being “gay”. At least two other people were arrested by police as a result of the mob’s reports in this time. While in detention, police allegedly allowed members of the public to come in and

photograph the detainees. Officers demanded bribes for detainees to be released, under the guise of “bail”, but refused to accept money from an activist who appeared too “effeminate”, or from NGOs which would require formal receipts. Detainees had to contact their relatives and out themselves in order to get money, then, with the nonbinary individual’s family having to sell some of their clothes to afford the illicit bail demands.⁴²⁹

On **14 October 2021** two gay men in the Central Region were arrested after the owner of the restaurant where they worked called the police. The pair got into a knife fight due to a dispute about their allegedly sexual relationship, and without regard for who instigated the violence, authorities took both into custody—seemingly because of their sexual orientation.⁴³⁰

On **19 October 2021** reports from local news outlets indicated that two men in the city of Tamale were detained when a fight between them, as a result of an apparent romantic break-up, became violent and members of the public were alerted to the commotion. This incident and resulting arrests would come to be known as the case of the “Tamale Five”. The two men were interrogated, and in the process named two other gay men though it is unclear if they were also arrested. The first couple were fined 1,200 cedis (approximately USD 195) and a ram each by a local Chief before he handed them over to the police to be formally charged and tried. Under Ghanaian law, local Chiefs have some judicial authority over specific chieftaincy issues, land disputes, and some minor offences. The Chief justified his decision on the basis that the men had “disrespected his land for practising LGBTQ+”,⁴³¹ Police also arrested a hotel cleaner after he confirmed that he knew the first pair. The cleaner reported being detained with three other people who had been paraded and beaten. While in detention, he reported that the other cellmates bullied him and forced him to pay “protection” fees. He reported being slapped and having his life threatened. A fifth person, a woman, was also arrested on **19 October**. Police stormed her shop, alleging that she was “the leader of the gays and lesbians in the community”. The woman was released on the same day after her father intervened and explained that she was married with three young children, and pregnant. Her father paid the bribe of at least 1,200 Ghana cedis (approximately USD 195). A transgender activist attempting to release the victims reported that she was almost arrested as well when she arrived at the police station.⁴³² The Tamale Five were eventually charged with “unnatural carnal knowledge”. The five reportedly appeared in court on several occasions

⁴²² “Ho: Alleged LGBTQI activists case adjourned to June 8”, *Modern Ghana*, 5 June 2021; “Court Grants Bail to the 21 LGBTQI People Incarcerated In Ghana.”, *Kuchu Times*, 14 June 2021; “A Collective Statement Release on the “Ho 21” - Pan Africa ILGA”, *Pan Africa ILGA*, 16 June 2021; Permanent Mission of Ghana in Geneva, *SC/GE/UN.7* (2021), 1-3.

⁴²³ “Ghana court drops case against 21 LGBT+ activists”, *Devdiscourse*, 6 August 2021; OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana. Outright Action International*, August 2022, 12-18.

⁴²⁴ OHCHR, *AL GHA 2/2021* (2021).

⁴²⁵ Permanent Mission of Ghana in Geneva, *SC/GE/UN.7* (2021), 5-7.

⁴²⁶ “Ghana | LGBTQI+ groups sue govt over discrimination and arrests”, *Mamba Online*, 22 June 2022; “LGBTQ+ Ghanaians fight back against arbitrary arrests and bigotry: ‘We want justice’”, *Pink News*, 23 July 2022; OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana. Outright Action International*, August 2022, 12-16.

⁴²⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁴²⁸ OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana. Outright Action International*, August 2022, 22.

⁴²⁹ *Id.*, 22-23.

⁴³⁰ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁴³¹ US Office of Justice Programs, *Crime and Punishment in the Republic of Ghana: A Country Profile* (2009); “Tamale: 4 suspected gays fined GH¢1,200 each”, *Pulse Ghana*, 20 October 2021.

⁴³² OutRight Action International, *We Deserve Protection” Anti-LGBTIQ Legislation and Violence in Ghana. Outright Action International*, August 2022, 23-25.

before the charges were finally dropped on **21 February 2022** due to a lack of evidence against them. As a result of the trials and resulting stigma against the accused, several were disowned by their relatives or faced harassment in public. The hotel cleaner lost his job, and the woman reported not only losing the support of her family and customers, but also her unborn child. She has blamed the miscarriage on the stress of the ordeal.⁴³³

The Head Pastor of a Church in the Central Region was arrested on **27 March 2022**, apparently by means of vigilante entrapment though details remain unclear. The Pastor had approached a 25-year-old man for sex, and the pair seemingly arranged to meet at a building under construction nearby. The man in question claims to have then arranged for two of his friends to walk in on them so that the trio could apprehend the Pastor in the act. They handed the Pastor over to police, who later confirmed to media that he would be arraigned at the Ksoa District Court.⁴³⁴

Police in Accra reportedly arrested 29 men in the early hours of **26 June 2022**, after being called to the scene of a robbery. A group of thieves entered a house in the city, and when the men present called the police, the thieves told the officers that it was a "gay party". Authorities allegedly asked the men for a bribe, but it could not be paid, and so they were taken into custody at Gbawe North police station in an unoccupied women's cell. The thieves were not arrested. Later that day several lawyers and activists attempted to post bail for the group but were only successful in freeing one - a man who had been severely injured in the arrest and could not walk. On Monday **27 June** after more than 24 hours in custody the rest of the group was released on bail, having been charged with "unlawful assembly". A 30th individual, a transgender woman, was en route to the party and tried to leave the area when she saw the police, but was arrested as well. She was asked to pay a bribe of 2,000 cedis (approximately USD 240) but did not have the money and so was taken to Gbawe Lafa station. One officer allegedly told her that she was being separated from the others "so [she] can feel safe". Later she was transferred to the rest of the group and released on bail as well. Police attempted to "out" her to her family and asked her mother "what do you want to do about it?", but the family already knew of her identity. Local activists have reported that several of the 29 arrested men were subsequently disowned by their families, however.⁴³⁵

In **March 2023**, a video surfaced on the internet, revealing a pastor in Somanya propositioning a sexual encounter with another man, culminating in an arrangement to meet at a remote location. When the pastor arrived at the agreed spot, he was confronted by the young man and two accomplices, who subjected him to assault and demanded a sum of money that he was unable to provide.

Subsequently, the Eastern Regional Police intervened, assuming control of the investigation, which ultimately led to the arrest of both the pastor and the other individual involved. Both individuals were subsequently released on bail pending further legal proceedings.⁴³⁶



Criminalising Provisions

Article 274 of the Penal Code (2016) criminalises "indecent acts" or "act against nature" committed with an individual of the same sex and imposes a penalty of six months to three years in prison and a fine. Moreover, Article 275 defines "a public outrage of modesty" as "any intentional act committed in public and capable of offending the modesty or morality of those who involuntarily witness it" and, as per Article 276 such acts are punished with three months to two years of imprisonment and a fine. When the act is committed by a group of individuals, the penalties may be doubled.⁴³⁷

Enforcement Overview

ILGA World has identified around 15 examples of criminal enforcement in Guinea between 2013 and the time of publication, though details remain scarce for a significant number of these cases. A dearth of information on precise dates, the identities of the accused, periods of incarceration, police procedures and judicial activities, all serve to obscure the picture of the local situation.

Criminalising same-sex relationships in Guinea has far-reaching consequences beyond the constant fear of arrest. These laws foster an environment where discrimination, harassment, and intimidation of LGBTQI+ individuals are normalised in society. Persons of diverse SOGIE may be subjected to extortion by police officers or members of the security services, under threat of being outed to their families and communities, which can in turn lead to violence, societal exclusion, loss of work, or loss of access to medical care.⁴³⁸ To this end, in April 2021 a local LGBTQI+ association stated that it had identified and dealt with 66 complaints of gender-based violence against persons of diverse SOGIE, including 12 cases of arrest, 20 cases of stigmatisation and discrimination, 26 cases of physical violence and eight cases of family rejection.⁴³⁹

In August 2012 the Guinean government restructured the police service's "Office for Protection of Women, Children, and Morals" (OPROGEM), incorporating a unit to

⁴³³ "Ghana drops charges against 5 who were beaten and then arrested", *Erasing 76 Crimes*, 22 February 2022; OutRight Action International, *We Deserve Protection* "Anti-LGBTIQ Legislation and Violence in Ghana. Outright Action International, August 2022, 12-28.

⁴³⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴³⁵ "Ghana police arrest LGBTI+ party-goers, not the robbers who attacked them", *Erasing 76 Crimes*, 30 June 2022; "Ghana | LGBTI+ people beaten, robbed and arrested at party", *Mamba Online*, 1 July 2022; "LGBTQ+ Ghanaians fight back against arbitrary arrests and bigotry: 'We want justice'", *Pink News*, 23 July 2022.

⁴³⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴³⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Guinea* (accessed: 12 September 2023).

⁴³⁸ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 7; Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons (CEDOCA), *Rapport COI Focus: GUINEE. L'homosexualité* (2014), 7-10.

⁴³⁹ Information supplied to ILGA World by Sheba Akpokli.

investigate violations of “public morals”, including same-sex sexual conduct, into the office.⁴⁴⁰ Homosexuality was stated to be deemed a breach of public morals, with the Deputy Director of OPROGEM confirming in 2013 that suspects investigated by the office would be sent to the courts.⁴⁴¹

In early September 2021 after an armed coup unseated the government, military leadership announced the dissolution of the Constitution and several government agencies, as well as the temporary closing of borders.⁴⁴² It is not clear what impact this has had on SOGIESC human rights or communities in Guinea, though the nature of the current Guinean regime and the political turmoil of the country make it unlikely that the situation has changed for the better.

Examples of Enforcement

According to an interview with the head of Afrique Arc-en-Ciel Conakry, in **early 2010** three young gay men were arrested by police after leaving a nightclub. They were detained at Matoto police station and had to pay for their release with the assistance of a lawyer.⁴⁴³

According to Lawyers Without Borders (ASF) Guinea, in **2013** there was at least one prosecution based on criminalising provisions in the Penal Code. It involved an “indecent act” committed by a young fisherman. The case was brought before the Fourth Cabinet of the First Instance Court in Mafanco, Conakry.⁴⁴⁴ Further details of the case are not known.

In **June 2013**, a media outlet reported that a young gay man was set upon by a mob in the suburbs of Conakry, the capital of Guinea. He was saved from the attack by a friend who intervened and prevented him from being lynched. The young man was then handed over to the local authorities, with a government official declaring that he would solve the problem and “eradicate the scourge of homosexuality”, which was “alien to local tradition”. Further details of the fate of the victim remain unknown.⁴⁴⁵

In **2013**, as reported by the US Department of State, authorities in Guinea arrested several “cross-dressing men” in local nightclubs without proper justification, using public nuisance charges as a basis.⁴⁴⁶ No further details are known.

In **August 2013** more than thirty men who have sex with men (MSM) were arrested by the judicial police at a bar,

reportedly after a complaint from a local chief. All of the arrested individuals were later released in exchange for money before legal proceedings against them could begin. Despite being released, many of the detainees faced rejection from their families and subsequently left Guinea when their sexual orientation was discovered.⁴⁴⁷

In **August 2013** a group of more than 30 people were arrested by the police for “homosexuality and cross-dressing”. During the arrest, their phones and jewellery were confiscated. Following protests by representatives of the local community, the group was eventually released.⁴⁴⁸

In **January 2014** several gay performers participating in a wedding ceremony in Conakry’s Matoto district were arrested. They were released from the local police station after each paying a “fine”.⁴⁴⁹

Several arrests for alleged “homosexuality” and for “promoting homosexuality” have been reported in **2015** and **2016** in the country, especially in the Conakry area, with Amnesty International stating that at least three people were arrested on suspicions around their sexual orientation in **2015**.⁴⁵⁰

Two men were arrested on **22 April 2015** in Conakry and sentenced to three months’ imprisonment the following month by the Mafanco Court.⁴⁵¹

On **30 October 2015** Conakry’s Gbessia International Airport security police found two men allegedly having sex close to the airport, and while one of the men fled, the other was detained and handed over to the Gendarmerie.⁴⁵² It appears that the arrested man offered the name of the other upon interrogation. He had, according to a local news article long been the target of religious figures in his community for “spreading homosexuality”, and when the Gendarmerie located him, they searched his room and cellphone for compromising materials, “manhandled him, tied him up and tore all his clothes”, before arresting him.⁴⁵³

In **2016** it was reported in a local media outlet that several SOGI activists had been arrested while at the beach, though no other details could be identified at the time of publication.⁴⁵⁴

In **June 2016** a video circulated on social media of the Lambandji District Police in Conakry seeming to arrest what news outlets called a “man wearing a red robe” - possibly a trans woman or differently identifying person of feminine gender expression. The article published on the matter could not confirm the details of the arrest but

⁴⁴⁰ United States Department of State, *Country Reports on Human Rights Practices for 2012: Guinea* (2012).

⁴⁴¹ Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons (CEODOCA), *Rapport COI Focus: GUINEE. L'homosexualité* (2014), 6.

⁴⁴² “Elite Guinea army unit says it has toppled president”, *Reuters*, 6 September 2021; “Guinea Junta Agrees Return to Civilian Rule in 2 Years”, *AfP*, 22 October 2022; “Guinea: four dead in clashes with security forces on the eve of coup anniversary”, *Africa News*,

⁴⁴³ Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons (CEODOCA), *Rapport COI Focus: Guinea. L'homosexualité* (2014), 5.

⁴⁴⁴ *Id.*, 6.

⁴⁴⁵ “Guinée: Un homosexuel arrêté puis violemment bastonné à Kountia”, *All Africa*, 13 July 2013.

⁴⁴⁶ Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons (CEODOCA), *Rapport COI Focus: Guinea. L'homosexualité* (2014), 8; United States Department of State, *Country Reports on Human Rights Practices for 2012: Guinea* (2012).

⁴⁴⁷ *Id.*, 7-8.

⁴⁴⁸ *Id.*, 9

⁴⁴⁹ *Ibid.*

⁴⁵⁰ Amnesty International, *Rapport 2015/2016: La Situation des Droits de l'homme dans le Monde* (2016), 209.

⁴⁵¹ *Ibid.*

⁴⁵² “Un homosexuel mis aux arrêts à Conakry”, *Vision Guinea*, 30 October 2015.

⁴⁵³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁵⁴ “Guinée : des jeunes militants pour la cause des homosexuels arrêtés sur une plage à Conakry”, *Afrinews*, 9 October 2016.

speculated that the victim was likely detained for "homosexuality".⁴⁵⁵ It is one of many recorded cases in several criminalising countries where diverse gender identities and expressions are conflated with sexual orientation, and where trans and gender-diverse individuals are targeted on the assumption of their participation in same-sex sexual activity.

On **7 October 2016**, two people were reportedly arrested by police after being assaulted by an angry mob of youths. Their attackers claimed that their actions were prompted by the t-shirts worn by the victims, which had "Collectif pour la défense des homosexuels" (Collective for the defence of homosexuals) written on them.⁴⁵⁶

In **November 2018** it was reported in a local news outlet that an individual suspected of "promoting homosexuality" had been arrested in Koloma, though no further details are known.⁴⁵⁷



Kenya

Criminalising Provisions

The Penal Code (1930), as amended by Criminal Law (Amendment) Act (2003), prescribes under Section 162 a prison sentence of up to 14 years for consensual "carnal knowledge of any person against the order of nature". Attempted acts "against the order of nature" are criminalised under Section 163 with imprisonment for seven years. Section 165 also prescribes a five-year sentence for men found guilty of "gross indecency".⁴⁵⁸

Trans and gender-diverse persons have also been targeted under Section 382 of the Penal Code, which states that "any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour".⁴⁵⁹

Enforcement Overview

Between 2009 and 2023 ILGA World identified around 18 apparent examples of targeting from the State.

Despite these numbers Kenya claimed in 2015 during the second United Nations UPR cycle that "on the rights of LGBT, not a single individual could confirm the application of the criminal law on the basis of his/her sexual orientation".⁴⁶⁰ Though this has proven demonstrably

untrue, the real numbers are often obscured by the fact that many in Kenya are not charged under provisions against same-sex sexual activity, but are often instead charged with "drunkenness, loitering, solicitation, impersonation or prostitution" - or not charged at all and rather blackmailed and extorted by police.⁴⁶¹

In 2015, a Human Rights Watch report documented several cases of arrest, often occurring due to complaints from neighbours or on the initiative of law enforcement officials seeking bribes. In most cases, detainees are released within a matter of days.⁴⁶² Most victims interviewed by Human Rights Watch said they chose to not report crimes to the police, believing that police would at best turn a blind eye or at worst arrest them instead.⁴⁶³ Furthermore, a 2016 study by the Coalition of African Lesbians (CAL) and the Gay and Lesbian Coalition of Kenya (GALCK) interviewed 18 women who provided testimonies of arbitrary arrests, as well as a pattern of overnight detentions in police cells only to be released without charges the following morning. Victims reported that they had to pay exorbitant bribes to be released and avoid going to court.⁴⁶⁴

Kenya is notably one of the few countries in the region to take in any openly-LGBTQ+ asylum seekers—primarily in the Kakuma Refugee Camp—though homophobic violence at the hands of other camp inhabitants is not uncommon. Protection or redress from such violence is rare, with some reports indicating that police or other officials are themselves responsible violence, as well as the detention of those refugees who seek to make complaints or access UN structures.⁴⁶⁵ As will be outlined below, however, a recently introduced bill may change this, and put refugees and asylum seekers of diverse SOGIE at risk of expulsion.

Negative social attitudes in Kenya extend beyond sexual orientation to encompass gender identity and expression. Hostile political climates, lack of family acceptance, and cultural marginalisation all contribute to anti-transgender and intersex stigma. This systematic discrimination results in the denial of opportunities, exclusion from society, and outright violence. Due then to issues of increased homelessness, family rejection, or the need to work in the underground economy, trans and gender-diverse people have higher levels of interaction with police. In some instances, they may face harassment and arrest simply for being out in public as transgender.⁴⁶⁶ A 2022 survey by the National Transgender Advocacy Network of Kenya (NTAN) found that 43% of those who interacted with the police reported disrespectful treatment, with 31% being arrested and incarcerated. Around 61% of transgender and intersex people serving jail terms also reported harassment by other inmates. Physical assault or attacks (23%), sexual assault

⁴⁵⁵ "Guinée: Un homosexuel tabassé puis menotté par la police", *Net Afrique*, 28 June 2016.

⁴⁵⁶ "Guinée : des jeunes militants pour la cause des homosexuels arrêtés sur une plage à Conakry", *Afrinews*, 9 October 2016.

⁴⁵⁷ "Société: Arrestation d'un présumé promoteur de l'homosexualité à Koloma", *Mosaïqueguinée*, 24 November 2018.

⁴⁵⁸ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Kenya* (accessed: 14 September 2023).

⁴⁵⁹ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 36.

⁴⁶⁰ Report of the Working Group on the Universal Periodic Review: Kenya, A/HRC/29/10, 26 March 2015, para. 83.

⁴⁶¹ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 22.

⁴⁶² Human Rights Watch, *The Issue is Violence Attacks on LGBT People on Kenya's Coast* (2015), 17.

⁴⁶³ *Id.*, 19.

⁴⁶⁴ Coalition of African Lesbians (CAL) and Gay and Lesbian Coalition of Kenya (GALCK), *Research on The Lived Experiences of Lesbian, Bisexual and Queer Women in Kenya* (2016), 25.

⁴⁶⁵ OHCHR, AL KEN 9/2018 (2018), 2-3; "Report details anti-LGBTQ discrimination, violence in Kenya refugee camp", *Washington Blade*, 20 October 2021.

⁴⁶⁶ The National Transgender Advocacy Network of Kenya (NTAN), *Transform : A report of the national transgender discrimination survey in Kenya* (2022), 2.

(11%), and denial of hormonal treatment (5%) were also reported, which has had a detrimental impact on their physical, mental, and emotional wellbeing.⁴⁶⁷

The above context of criminal enforcement and targeting largely takes place against the backdrop of virulently homophobic political rhetoric or outright State censorship. In November 2010, Raila Odinga, then Kenya's Prime Minister, called for the mass arrests and jailing of persons found engaging in homosexuality and "lesbianism".⁴⁶⁸ Almost a decade later such political actions had clearly not ended, as in May 2019 the Deputy County Commissioner in Kiambu (a county in the vicinity of Nairobi) announced that authorities were "investigating claims of an increase in homosexuals" and vowed to arrest and prosecute those involved. It is unclear if any such arrests or prosecutions followed.⁴⁶⁹

Further, 2021 saw a documentary entitled *I Am Samuel* banned for its depictions of gay relationships in Kenya, while the first Kenyan film to screen at the Cannes Film Festival, *Rafiki*, was also famously banned and the Director threatened with arrest by the Kenya Film Classification Board (KFCB).⁴⁷⁰ Only one filmmaker to date seems to have actually been arrested after creating LGBT-positive content, back in 2014, however.⁴⁷¹

In a September 2022 interview with CNN, newly elected Kenyan President William Ruto told the international news outlet that "LGBTQ+ is not a big issue for the people of Kenya". He also praised former President Kenyatta's view that "homosexuality is not agreeable". Ruto's statements garnered support from many Kenyans who believe homosexuality goes against "traditional African values", while human rights defenders in the country have expressed concerns that Ruto's new administration will simply perpetuate discriminatory policies and attitudes towards them.⁴⁷² Indeed, since his election, President Ruto seems to have maintained the State's anti-LGBTQ+ stance, in an effort to maintain support from the country's large religious community. Members of the Africa Queer Youth Initiative (AQYI), told ILGA World that:

With the religious affirmation of the homophobic remarks by President Ruto, there has been an increase of numbers of LGBTQ+ persons of faith who have been intentionally outed in church. All this is attributed to the political discipleship witnessed in the current regime whose intention is criminalising authentic Queer expression.⁴⁷³

In January 2023, the Supreme Court of Kenya upheld the right of the National Gay and Lesbian Human Rights Commission (NGLHRC) to be formally registered as an NGO after a decade of opposition and appeals from the State.⁴⁷⁴ President Ruto directed the country's Attorney-General to file a petition opposing the Supreme Court ruling,⁴⁷⁵ but an almost immediate social and legislative backlash grew out of the events in question as well. At least four MPs publicly decried the existence of homosexuality in the wake of the gay man's murder,⁴⁷⁶ and in March the National Assembly passed a resolution to enforce an immediate ban on the "public discussion, reporting and distribution" of matters relating to SOGIESC issues.⁴⁷⁷ A few days later, in April 2023, MP Peter Kaluma submitted a so-called "family protection" bill to the National Assembly. If passed, the bill would ban SOGIESC advocacy and organising, comprehensive sexuality-education at all schooling levels, and gender-affirming medical care for trans persons. It would reportedly also expand the existing 14-year penalty for same-sex acts to "life imprisonment or death". Even publicly identifying as a member of the LGBTQI+ community or wearing Pride colours could be penalised under the law, while asylum-seekers and refugees of diverse-SOGIE could face expulsion from the country.⁴⁷⁸

Since the introduction of this bill, several local LGBTQ+ Kenyans have claimed that the threats and harassment they face has increased, with some fearing for their lives. One young university student claimed that his classmates were openly "praying for the bill to be passed, saying they can't wait to pounce on us and beat the spirit of homosexuality out of us". These trends are a clear indicator of how the vilification and marginalisation of sexual and gender diversity from the halls of government can have dire consequences for communities on the ground, even if a law has not come into effect or been directly enforced. The silencing effect it has on marginalised groups, and impunity it bestows upon their aggressors, is often enough.

Examples of Enforcement

According to the 2007 IGLRHC (now OutRight Action International) annual report, a transgender woman from Burundi was driven into exile in Kenya due to "extreme verbal and physical attacks", but Kenyan authorities arrested, mistreated and publicly humiliated her, before forcibly repatriating her to Burundi. Upon her return, she

⁴⁶⁷ *Id.*, 7.

⁴⁶⁸ Kenya Human Rights Commission et al., *The Human Rights Situation, Case Law, and Research on Protections on Grounds of Sexual Orientation, Gender Identity, and Expression in the Republic of Kenya* (2017), 11.

⁴⁶⁹ "Homosexuals in Juja Put on Notice Following Public Uproar", *Mwakilishi*, 15 April 2019.

⁴⁷⁰ "Director of Kenyan lesbian love story 'Rafiki' fears arrest", *Mamba Online*, 15 May 2018; "Kenya Bans 'Blasphemous' Gay Doccie *I Am Samuel*", *All Africa*, 23 September 2021.

⁴⁷¹ "Powerful Kenyan LGBT film screens in Jozi and CT", *Mamba Online*, 22 October 2015.

⁴⁷² "President-Elect William Ruto Labels LGBTQ+ Rights Not Big Issue: We Expect to Be Respected", *Tuko*, 8 September 2022.

⁴⁷³ Information supplied to ILGA World by the Africa Queer Youth Initiative.

⁴⁷⁴ "Court victory for LGBTQI+ community in Kenya", *Mamba Online*, 24 February 2023; "Kenya: Supreme Court upholds LGBTQI+ NGO registration", *Mamba Online*, 12 September 2023.

⁴⁷⁵ "President Ruto directs Attorney-General to file petition challenging Supreme Court ruling on LGBTQ right", *The Standard*, 19 March 2023; "AG to file for review of court ruling on LGBTQ - Ruto", *Kenya Moja*, 19 March 2023.

⁴⁷⁶ "Mbunge Oscar Sudi akosoa mapenzi ya jinsia moja" [MP Oscar Sudi criticized homosexuality], *Radio Jambo*, 9 January 2023.

⁴⁷⁷ "MPs back motion against gays, lesbians", *The Star*, 16 March 2023; "Kenyan MPs approve resolution to ban public discussions of LGBTQ issues", *Washington Blade*, 27 March 2023.

⁴⁷⁸ "Peter Kaluma Proposes Bill to Criminalise Promotion of LGBTQ in Kenya", *Tuko*, 24 February 2023; "Details of MP Kaluma's Anti LGBTQ Bill", *Nairobi News*, 13 March 2023; "How an LGBTQ court ruling sent Kenya into a moral panic", *Aljazeera*, 15 March 2023; "MP Kaluma submits anti LGBTQ bill to Parliament", *Kenya Broadcasting Corporation*, 8 April 2023; "Homa Bay MP Peter Kaluma Submits Bill To Parliament Seeking To Criminalize LGBTQ", *Digital Citizen*, 8 April 2023; "Kenya, nuova legge omofoba contro i rifugiati LGBTQIA+" [Kenya, new homophobic law against LGBTQIA+ refugees], *Gay.it*, 28 April 2023.

again faced heavy persecution and was forced to flee to South Africa.⁴⁷⁹

A trans activist reported in an online op-ed that in 2009 she had laid charges of theft with police, but when the suspect who they arrested informed them that she “wasn’t a woman, but a man”, they released him and told her that they were going to arrest her on charges of “female impersonation”. After a heated exchange in which the activist pointed out that she never claimed to be any gender in particular and that being transgender is distinct from impersonation, a confused duo of police officers left her untouched.⁴⁸⁰ Not all were so fortunate.

In July 2010 a trans woman was arrested in Thika District for an unrelated offence, and kept in a women’s cell until police realised she was not a cisgender woman at which point she was severely beaten for “causing the confusion” and moved to a men’s cell, and thereafter to isolation. Three weeks later she was released by a court on a personal bond.⁴⁸¹

In 2012 a trans woman in Nyamasaria, Kisumu, was arrested when her employer outed her to police. It appears she was charged with impersonation and held for an unknown period in Kondiaga men’s prison before the efforts of local activists secured her release.⁴⁸²

In November 2014 a male sex worker in Mombasa was arrested by County Government Law Enforcement officials, who operate as a separate entity from the police. They drove around for more than three hours, allegedly taking turns to rape him, before arriving at the police station. In court he was charged with “nuisance and loitering”.⁴⁸³

On 15 October 2014 Kenyan authorities arrested the producer of *Stories of our Lives*, a documentary telling the stories of five queer Kenyans. The arrest came the month after the crew publicly identified themselves at the film’s premiere in Canada, having previously remained anonymous for fear of persecution. Authorities claimed the arrest was due to the fact that the filmmakers failed to obtain a license to shoot the film, and the case was later dropped.⁴⁸⁴

On 14 February 2015 a trans woman obtained identity documents from the Office of the Registrar of Persons in Eldoret West, and was subsequently charged with fraud and “impersonating a woman” by police, who kept her in isolation and subjected her to “medical tests” to determine her gender. She denied the charges against her and was released on bail of 40,000 Kenyan Shillings (approximately USD 370), pending trial. The trial seems to have continued on and off for some time, with the prosecution referring to her by her “deadname”, which the defence argued was a

form of psychological torture. In October 2020 it was reported that the Chief Magistrate of Eldoret West instructed the prosecution to refer to the accused by her chosen name moving forward “for the interest of prosecuting this case as fast as possible”. The trial was set to resume on 12 January 2021.⁴⁸⁵

In February 2015, word of photographs and videos featuring child pornography spread across the coastal towns of Diani and Ukunda, sparking uproar and a “hunt” by members of the public for anyone perceived to be gay, regardless of whether or not they were involved in the inciting incident. Police arrested at least two men believed to be gay, searching their homes without a warrant, charging them with “unnatural offenses” and trying to coerce a confession without any evidence of their involvement in the case. Police demanded a bribe of 100,000 Kenyan Shillings (about USD 1,000) and when the men refused to pay they threatened to drop them back on the street for the mob to attack them. The men were eventually made by the Kwale District Court to undergo forced anal exams.⁴⁸⁶ One positive development that can be traced to this case was that it led the Kenyan Medical Association to condemn forced anal exams in 2017, and in March 2018 the Kenyan Court of Appeals ruled that such practices were unlawful.⁴⁸⁷

In early March 2015 the trans woman from Nyamasaria incarcerated in 2012 for “impersonation” was detained by police again in Usenge, where she had just started work as a barmaid. A patron became suspicious of her appearance and alerted the authorities, who stripped her and took photos of her. She was charged again for impersonation, but it is unclear how long she may have been held. The Bondo Deputy County Commissioner told media at the time that cases of trans women being arrested for “impersonation” were “very common in the area”.⁴⁸⁸

In 2015 a gay man meeting with fellow LGBTI activists in a restaurant was abruptly arrested by police who labelled them “evil”. During the arrest, one officer struck the man with his gun. Subsequently, at a detention centre, a police officer sexually assaulted and verbally harassed the victim because of his sexual orientation. The officer rationalised these actions, saying, “this is what you wanted”. Fearing more abuse and potential outing to his family, the victim ultimately fled Kenya.⁴⁸⁹

On 9 May 2017, a group of 18 asylum seekers residing at the Kakuma Refugee Camp sought to engage with the office of the United Nations High Commissioner for Refugees (UNHCR) regarding issues of violence and protection in the camp. Police rounded them up and detained them overnight at Kileleshwa station. The next day five of the group were relocated to Pangan police

⁴⁷⁹ IGLHRC, *Annual Report 2007* (2008), 7.

⁴⁸⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁸¹ *Ibid.*

⁴⁸² “Kenya: Transgender Woman Arrested On Impersonation in Usenge, Siaya, Kenya”, *Kuchu Times*, 13 March 2015; ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 37.

⁴⁸³ Human Rights Watch, *The Issue is Violence Attacks on LGBT People on Kenya’s Coast* (2015), 33.

⁴⁸⁴ “Powerful Kenyan LGBT film screens in Jozi and CT”, *Mamba Online*, 22 October 2015.

⁴⁸⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁸⁶ National Gay and Lesbian Human Rights Commission (NGLHRC), *Annual Report 2016* (2017), 19; Human Rights Watch, *The Issue is Violence Attacks on LGBT People on Kenya’s Coast* (2015), 19-23.

⁴⁸⁷ “Kenya Appeal Court Moves to End Forced Examinations of Men Suspected of Being Gay”, *National Gay and Lesbian Human Rights Commission*, 22 March 2018.

⁴⁸⁸ “Kenya: Transgender Woman Arrested On Impersonation in Usenge, Siaya, Kenya”, *Kuchu Times*, 13 March 2015.

⁴⁸⁹ The Advocates for Human Rights, The Eagles for Life, Oasis Research, and University of Minnesota Law School Human Rights Litigation and International Advocacy Clinic, *Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Rights of LGBTI Persons, 73rd Session of the Committee against Torture* (2022), 9.

station while the rest were taken at gunpoint to the Refugee Affairs Secretariat, being beaten during the transfer process. Eventually the 18 were returned to the Kakuma facility, without their belongings, but when they complained again of their dire conditions the following week police re-arrested them. They were held for three days without food or water, and when they refused to sign confessions of an unclear nature and provide their fingerprints, they were beaten. One of the group reportedly was beaten so severely that she fainted. At some point thereafter they were taken to Kakuma Court and sentenced to fines of 12,000 Kenyan Shillings each (approximately USD 115). Unable to pay, 17 of the group were sent to Lodwar Prison for 30 days where staff allegedly threatened to kill them if they didn't have sex with each other in front of them. The group was later returned to Kakuma, with no change in conditions there.⁴⁹⁰

An unconfirmed report surfaced in **March 2018** in which two young men in western Kenya were reported by their neighbours to the police for their sexual orientation. However, the two were not arrested, allegedly on the condition they report to a mental health counsellor at Kisii University, who believed he could dissuade them from continuing their "lifestyle".⁴⁹¹

A group of human rights defenders interviewed a man in **January 2019** who claimed to have been attacked by a police officer, simply for walking in the street with his same-sex partner. The victim said "he gave me a slap I will never forget".⁴⁹²

It was reported in a local media outlet in **September 2019** that three men were arrested by police in Kajiado County. Two men had apparently travelled from Mombasa to engage in sex work with the third, but when he refused to pay, they reported him to the police. Police arrested all three and took them to hospital for a "medical examination" (likely anal exams, despite the practice already being ruled unlawful). According to the article the trio were set to be tried in a local court, though no further details could be verified.⁴⁹³

In **August 2020**, a further two men suspected of being gay were assaulted by their neighbours before being arrested by police, with sources indicating that the pair would be sent to court at a later date.⁴⁹⁴

According to the Centre for Minority Rights and Strategic Litigation (CMRSL), two men charged in **2021** with committing an "unnatural offence" per Section 162 (c) of the Penal Code went to trial on **24 October 2022**. The trial was postponed to **19 January 2023**, though. According to CMRSL social media statements, the Office of the Director of Public Prosecutions (ODPP) withdrew charges against the two men around **13 September 2023**.⁴⁹⁵

The CMRSL also indicated that two trans women were tried from **3 October to 7 November 2022** for "indecent practices between males", per Section 165 of the Penal Code.⁴⁹⁶

In **November 2022**, law enforcement officials in Migori County arrested an individual who appears to be a trans woman, although they were reported in the media as a "crossdresser" and a "female impersonator". The incident occurred when the individual in question was passing by the Awendo police station and was stopped by a female officer. According to a police statement, the officer found their appearance to be "suspiciously masculine". After some questioning from the officer, the victim was asked to undress and present their National Identification Card. After it was found that their ID had a male gender-marker and name, the victim was arrested. Local residents congregated at the police station, suspecting without evidence that the arrested individual might have been linked to recent serial killings in the area. The crowd demanded that the authorities hand the suspect over to them to be lynched, with their calls soon escalating to the point where riot officers were forced to disperse them. The detainee was subsequently removed from the station and transported to the Migori County Criminal Investigation Officer's office for further processing. The Sub-County police commander told the press that the authorities would seek to "determine why the man has been dressed as a woman. We want him checked out to see if he is truly transgender, as he claims".⁴⁹⁷



Criminalising Provisions

Section 14.74 of the Penal Code (1978) lists "voluntary sodomy" as a "first degree misdemeanour". This may result in a prison sentence of up to one year, or a fine.⁴⁹⁸

Enforcement Overview

ILGA World has identified at least 12 examples of criminal enforcement between 2010 and 2023 in Liberia.

Though Liberian officials have been open to some level of engagement with international human rights bodies on SOGIESC issues, recent criminal enforcement as well as negative societal attitudes remain not only pressing issues, but ones which may become aggravated through one of several attempts at regressive legal reform.⁴⁹⁹

⁴⁹⁰ OHCHR, *AL KEN 9/2018* (2018), 2-3.

⁴⁹¹ "Gay couple arrested in Kenya, then released", *Erasing 76 Crimes*, 15 March 2018.

⁴⁹² The Advocates for Human Rights, The Eagles for Life, Oasis Research, and University of Minnesota Law School Human Rights Litigation and International Advocacy Clinic, *Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Rights of LGBTI Persons, 73rd Session of the Committee against Torture* (2022), 9.

⁴⁹³ "3 Kenyan Men Arrested for Engaging in Gay-Sex", *Mwakilishi*, 30 September 2019.

⁴⁹⁴ "Kenya Police Arrest Two Suspected Kenyan Gay Lovers", *Mwakilishi*, 21 August 2020.

⁴⁹⁵ "Court Update – Msa Mcso. No. E088 of 2021 – R vs DM & Anor", CMRSL, 26 October 2022; CMRSL, *Facebook Update*, 13 September 2023 (accessed: 14 September 2023).

⁴⁹⁶ "CMRSL/LT/04/2022: Litigation Update", CMRSL, 7 October 2022.

⁴⁹⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁴⁹⁸ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Liberia* (retrieved: 31 June 2023).

⁴⁹⁹ UNDP & OHCHR, *Sexual Orientation, Gender Identity and Rights (SOGIR) in Africa: Liberia Country Report* (2020), 9-10; 25-26.

In 2012, a bill that would have amended the Domestic Relations Law (1973) to criminalise the celebration of same-sex marriages as a second-degree felony was approved by the Senate but failed to be enacted.⁵⁰⁰ More recently, in March 2020, a proposal to aggravate the penalties for “voluntary sodomy” (by making it a second-degree felony) was included in a set of proposed amendments aimed primarily at “involuntary sodomy”.⁵⁰¹ At the time of publication, the result of this proposal could not be confirmed.

The National Movement Against Same Sex Marriage in Liberia (NAMASSEM), comprised of several Christian, Muslim, and traditionalist anti-gay rights campaigners, has urged the government to “wage war against homosexuality and lesbianism, to arrest and prosecute anyone caught in the act of homosexuality and to expose and arrest gays and lesbians operating underground”.⁵⁰²

Though Liberia does not expressly prohibit diverse gender expressions, the criminalisation of consensual same-sex sexual acts has been used to subject transgender and gender-diverse people to harassment, extortion, arbitrary search, arrest, and detention.⁵⁰³

Examples of Enforcement

In 2010, four transgender women were arrested at a space where local activists had been doing community outreach work. A local had asked them to dance for him, but when they rebuffed him, he called the police. They were placed in a men’s prison cell among male inmates, with guards allegedly instructing the other inmates to rape the trans women because “they wanted to be females”. One of the group alleges that she contracted HIV as a result of this incident.⁵⁰⁴

It has been reported that at least one man has been detained without trial from 2010 to 2013 after he was “outed” as gay in the media. Local organisations have indicated that such prolonged detentions are commonplace.⁵⁰⁵

A man interviewed by Human Rights Watch in 2012 provided an illustrative case of police complicity in the perpetration of hate crimes in Liberia. He claimed that a neighbourhood gang attacked him and a friend of his, beating them up and breaking everything in their shop. The police were called and eventually arrested the gang members, but when they told the officers that he and his friend were gay, the police immediately released the perpetrators without charge and arrested the victims

instead. The two men were released without charge after being kept in a police cell for six hours.⁵⁰⁶

On 12 April 2013 police conducted raids in low-income communities in Logan Town, arresting, insulting and beating five suspected gay men and demanding bribes in exchange for their release.⁵⁰⁷

In early 2016 a man reported a case of assault to police, but was allegedly detained instead as the assailant claimed that the man he attacked was gay.⁵⁰⁸

In September 2016 a gay man lodged a complaint with police that he had been receiving death threats, though the case was thrown out, allegedly on the grounds that the victim “was a homosexual man and homosexuality is against the law”. He was thus detained overnight by police instead.⁵⁰⁹

It was also reported that in September 2016 a group of trans women were assaulted by members of the Drugs Enforcement Agency (DEA), who stole their possessions and demanded bribes in exchange for their release. DEA officials allegedly said the trans women were the ones who were “spoiling” the country.⁵¹⁰

In October 2016 a man was arrested in his home in the capital city of Monrovia, charged with “voluntary sodomy” and later transferred to Kakata Central Prison where he was held until at least April 2017, though further details could not be verified. That same month another reportedly queer individual was also allegedly detained in Monrovia Central Prison.⁵¹¹

Also in October 2016, a man went to the Kru Town police station to report a stolen cell phone. Later, the suspected thief who had been detained by police alleged that the complainant was gay, leading to his arrest as well. The complainant was transferred to another police station and held for three days before being released on bail under the condition that he report daily to police thereafter.⁵¹²

Sometime in late 2017 a transgender sex worker was allegedly reported to police by a client who did not realise she was trans. She was sent to prison, reportedly without trial. While authorities have stated she was later released, inmates at the prison who were interviewed claim she died there and that staff had covered it up. Authorities have refused to provide any details to human rights defenders investigating the matter.⁵¹³

In November 2017 a gay man who had been suffering intimate partner violence at the hands of his partner reported the issue to the police in Zone 3. Police did not

⁵⁰⁰ “Senate Passes ‘No Same Sex Marriage’ Bill”, *Daily Observer*, 21 July 2012.

⁵⁰¹ “Sodomy Should Not Be Bailable”, *New Republic Liberia*, 19 March 2020.

⁵⁰² Human Rights Watch, “*It’s Nature, Not a Crime: Discriminatory Laws and LGBT People in Liberia*” (2013), 31.

⁵⁰³ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 36.

⁵⁰⁴ Stop AIDS in Liberia et al., *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Liberia* (2018), 6; ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 40.

⁵⁰⁵ Stop AIDS in Liberia et al., *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Liberia* (2017), 3.

⁵⁰⁶ Human Rights Watch, “*It’s Nature, Not a Crime: Discriminatory Laws and LGBT People in Liberia*” (2013), 40.

⁵⁰⁷ Stop AIDS in Liberia et al., *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Liberia* (2017), 4.

⁵⁰⁸ *Ibid.*

⁵⁰⁹ *Ibid.*

⁵¹⁰ *Id.*, 5.

⁵¹¹ Stop AIDS in Liberia et al., *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Liberia* (2017), 3; UNDP & OHCHR, *Sexual Orientation, Gender Identity and Rights (SOGIR) in Africa: Liberia Country Report* (2020), 24-25.

⁵¹² Stop AIDS in Liberia et al., *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Liberia* (2017), 3-4.

⁵¹³ *Id.*, 4.

investigate the violence from the partner, but rather detained the complainant and began investigating him for “sodomy”. He was freed without having to pay a bribe through the interventions of a lawyer.⁵¹⁴

On the evening of **24 August 2022** a reporter for *journalRAGE*, an online news outlet focusing on SOGIESC issues in Liberia, had his home in Sinkor pelted with rocks by local community members who also threatened to burn the house down. The **following day** the journalist and his editor approached the police to lay a complaint, and one of the attackers was arrested and interrogated. It is claimed that after police discovered that the journalist was “always associated with gay issues”, they opened an investigation into him as well. The attacker at this point is said to have amended his confession to accuse the journalist of “sodomising” him, and was released. Police instructed the attacker to return to the station to testify against the journalist, though he never came back, and instead is claimed to have incited aggression against the journalist in the local community on the grounds that he now had police support. The journalist was released on **31 August** through the intervention of several human rights lawyers and activists at LIPRIDE, though not before police attempted to solicit a bribe in exchange for letting him go.⁵¹⁵



Libya

Criminalising Provisions

Article 407(4) of the Penal Code (1953), as amended in 1976, states that consensual “illicit sex” carries a potential punishment of up to five years in prison. Further, Article 408(4) states that whoever “disgraces the honour” of a person with their consent shall be punished along with their partner with an unstated period of detention.⁵¹⁶

It must be noted, however, that the situation in Libya has remained in flux since the first Libyan Civil War in 2011, and second in 2014. The details of how legislation or *de facto* rules are implemented by various factions on the ground remain largely opaque to date.

Enforcement Overview

Given the relative political instability of Libya’s territory in the decade since the “Arab Spring” revolution which saw the overthrow of the authoritarian regime and subsequent civil war, the status of SOGIESC communities on the ground can shift rapidly depending on the regional authority under which they may find themselves. The situation has also meant the delineation between vigilantism and government-enforcement of the law is

often unclear. In this vein, in 2017 the United States Department of State found that militias often policed communities to enforce compliance with militia commanders’ own understanding of what constitutes acceptable “Islamic behaviour”, harassing and threatening with impunity any individuals believed to have LGBTI identities and their families.⁵¹⁷ This includes the execution of people accused of engaging in consensual same-sex sexual acts.

In 2019, human rights activists informed Human Rights Watch that armed groups had continued to detain people because of their sexual orientation.⁵¹⁸ For its part, Amnesty International reported in 2021 that Al-Radaa Forces—affiliated with the Ministry of Internal Affairs—continued to detain men for their perceived SOGIE, and tortured or otherwise mistreated them.⁵¹⁹

In October 2021, a report by the UN Independent Fact-Finding Mission on Libya indicated that sexual violence is used by State agents or members of militias as a subjugation or humiliation tool to silence those perceived to challenge social norms or acceptable gender roles. The report goes on to explain that “a certain idea of sexual and gender ‘normality’ also appears to drive violence directed against people who identify themselves with a different sexual orientation or gender identity.”⁵²⁰

A March 2022 article by *The New Arab* reported that these militias and State security forces do not only target those who are publicly visible or “out”, but also activists who advocate for progressive social reform in any way. The Internal Security Agency, under the nominal authority of the internationally recognised Government of National Accord (GNA), has reportedly arrested young activists regularly and forced them to confess on video to “promoting atheism, blasphemy, and feminist ideas”. One organisation that is said to be the target of disproportionate threats and violence is the Tanweer Movement, known for advocating for women’s and SOGIESC rights.⁵²¹

In late May 2023, the General Authority for Endowments and Islamic Affairs, under the GNA in Libya, launched the “Guardians of Virtue” programme, aiming to “spread values, and fortify society against moral deviation”. This move has been decryed by activists, who have expressed concern that it could be used as a means for Islamist groups to dominate citizens’ fundamental rights. In particular, the rights of religious minorities and SOGIESC communities.⁵²² One group of Libyan activists, the Kun Organisation, has claimed that the project “aims to legitimise and structure the ongoing campaign [of targeting] debuted by the Internal Security Agency (ISA) in March 2021, and to be the governmental body to actively pursuit LGBTIQ+ individuals”.⁵²³

The GNA only maintains control over the city of Tripoli and some surrounding regions as of the time of writing. Though, the Libyan National Army (LNA) government,

⁵¹⁴ *Ibid.*

⁵¹⁵ “Letter to the World: Absence of Justice for LGBT People in Liberia”, *Frontpage Africa*, 8 September 2022.

⁵¹⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Libya* (retrieved: 14 September 2023).

⁵¹⁷ United States Department of State, *Libya 2017 Human Rights Report* (2018), 28.

⁵¹⁸ Human Rights Watch, *World Report 2019: Events of 2018* (2019), 362.

⁵¹⁹ Amnesty International, *International Report 2020/2021 - Libya* (2021), 231.

⁵²⁰ *Report of the Independent Fact-Finding Mission on Libya*, A/HRC/48/83, 1 October 2021, para. 61.

⁵²¹ “Libya is jailing progressive youths on charges of ‘atheism’”, *The New Arab*, 30 March 2022.

⁵²² “حراس الفضيلة “برنامج حكومي ليبي يثير المخاوف” [“Guardians of Virtue” is a Libyan Government Programme that Raises Concerns], *al-Araby*, 13 June 2023.

⁵²³ *Information supplied to ILGA World by the Kun Organisation.*

which is based on Tobruk and controls much of the rest of the country, appears to maintain similar policies.

Examples of Enforcement

In **2008** a young man was imprisoned on charges of sodomy by the pre-revolution government (likely under Article 407(4) of the Penal Code). He was subsequently imprisoned for three years. It would go on to be reported that the young man was executed by unknown assailants—possibly ISIL militants—by being thrown from the side of a mountain in **July 2014**.⁵²⁴

In **December 2010**, elements of the police force in the capital city, Tripoli, arrested two people allegedly involved in “indecent acts” inside a cab. The police reportedly stated that one of the detainees was a man “dressed like a girl” and was wearing makeup. The other person alleged that he had been tricked into thinking he was interacting with a (cis) woman. Both of them confessed to having engaged in “indecent acts” in the car.⁵²⁵

According to the Kun Organisation, in **2010** the French authorities heard an asylum case in which a young woman had fled Libya “after being jailed, raped and then returned to her family for a forced marriage”. Her arrest is said to have come as a result of her making an online statement in which she came out as gay.⁵²⁶

On **22 November 2012** a group of 12 men having a party in the Ain Zara suburb of Tripoli were captured by members of the Nawasi Brigade’s so-called “Private Deterrent Force”, which posted their images on social media, mocking them (by describing them as “third sex”) and claiming that they would be mutilated and executed.⁵²⁷ A Libyan media outlet indicated that a senior member of the militia denied any possibility of execution but stated that, instead, the detainees would be handed over to the Ministry of Justice.⁵²⁸ The same media outlet later explained that the arrest had taken place because the brigade had spotted “one of the men dressed as a woman” and raided the building.⁵²⁹ While in detention, all detainees had their heads shaved and received marks on their backs and legs. It is unclear if detainees were effectively liberated, because while some sources indicate they were freed a week after being arrested,⁵³⁰ a **2015** report states that the liberation was later denied and none of the detainees have been heard from since.⁵³¹

After a local group affiliated with the Islamic State in Iraq and the Levant (ISIL/ISIS) overthrew the government of the

city of Derna, several cases of disappearances and killings of suspected gay men were documented. Though many could not be verified as being tied to the *de facto* “government” of Derna, **July 2014** saw the young man initially imprisoned in **2008** executed by being thrown from a nearby mountain.⁵³²

In **December 2014** two men were also detained in Derna, in the East of the country, and sentenced to death by a Sharia court. Islamic Police allegedly found them together in a car and they were thus held for five months in an unknown location. On **30 April 2015** the pair—as well as a third man also accused of homosexuality whose story’s details are unknown—were brought to the Sahaba Mosque where they were blindfolded and shot in the backs of their heads.⁵³³

The **March 2022 Report of the Independent Fact-Finding Mission on Libya** by the UN Human Rights Council also made mention of two men who were found in a car and detained after having their cellphones searched for incriminating evidence. At least one of the men was held in Mitiga Prison, near Tripoli, though further details of their fate could not be identified at the time of publication.⁵³⁴

Six persons assigned male at birth, though possibly trans women, were arrested in the city of Misrata in **March 2022**, according to the Kun Organisation. At the time of publication their fates and whereabouts were not known.⁵³⁵

In **May 2022**, in the town of Zliten, 18 people were arrested for wearing women’s clothing and makeup inside a private dwelling, according to the Kun Organisation. At the time of publication their fates and whereabouts were not known.⁵³⁶

On **27 January 2023**, it was reported that the General Directorate for Combating Counter Activities and Criminal Acts arrested a group of men who allegedly participated in consensual same-sex acts. There were eight individuals arrested, of which six were Libyan nationals. The remaining two were Moroccan and Tunisian. Authorities indicated they remained in search of the rest of the group’s “criminal network”.⁵³⁷

The General Directorate for Combating Counter Activities and Criminal Acts also arrested a gay man in Tripoli, according to a news article from **25 March 2023**. Authorities set up an ambush for him and made him confess to having sex with 25 individuals before referring him to the Public Prosecutor. It appears that the man’s HIV

⁵²⁴ “Op-Ed: Islamic State’s war on gays”, *Los Angeles Times*, 8 June 2015.

⁵²⁵ “In Libya, two men arrested for indecent acts”, *Gay Middle East*, 3 January 2011 (archived by *LGBT Asylum News*).

⁵²⁶ “Is It ‘Really’ Illegal to be Gay in Libya?”, *Kun Organisation* (accessed: 30 June 2023).

⁵²⁷ “Twelve men to be executed by Libyan militia for allegedly being gay”, *Gay Star News*, 25 November 2012; “Extremists threaten mutilation and death for seized ‘homosexuals’”, *Libya Herald*, 26 November 2012.

⁵²⁸ “Nawasi brigade pledges to hand arrested ‘homosexuals’ over to Ministry of Justice”, *Libya Herald*, 27 November 2012.

⁵²⁹ “Transvestite alerted Nawasi brigade to gay birthday party in Ain Zara”, *Libya Herald*, 29 November 2012.

⁵³⁰ “Nawasi brigade releases 12 gay men one week after arrest”, *Libya Herald*, 29 November 2012.

⁵³¹ “Three men executed by IS for homosexuality in Libya”, *Malta Today*, 1 May 2015

⁵³² “Op-Ed: Islamic State’s war on gays”, *Los Angeles Times*, 8 June 2015.

⁵³³ “Three men accused of homosexuality executed by IS in Derna”, *Libya Herald*, 1 May 2015; “Three men executed by IS for homosexuality in Libya”, *Malta Today*, 1 May 2015; “Op-Ed: Islamic State’s war on gays”, *Los Angeles Times*, 8 June 2015; “Less than human”, *Development and Cooperation*, 22 June 2015.

⁵³⁴ UNHRC, *Report of the Independent Fact-Finding Mission on Libya*, A/HRC/49/4, 23 March 2022, para. 42.

⁵³⁵ Information supplied to ILGA World by the Kun Organisation.

⁵³⁶ Information supplied to ILGA World by the Kun Organisation.

⁵³⁷ “مكافحة الأنشطة المضادة تضبط مجموعة من الرجال اعتادوا ممارسة ‘الزناط’” [Anti-counterfeit activities arrest a group of men who used to practice “sodomy”], *Akhbar Libya* 24, 27 January 2023.

status was used as an aggravating factor in the case.⁵³⁸

In 2023 the Kun Organisation published the testimony of a young gay man who had been targeted by authorities in Misrata the **previous summer**. He and some of his friends were socialising at the coast when armed men approached them to interrogate them, accusing them of being gay. They threatened to take them to local militia groups with a history of forced disappearances if they did not cooperate, but when one of the young men stood up to them and asserted that they had done nothing wrong, the armed men threatened to shoot them, and proceeded to beat them. They were released when an older male relative of the group arrived to intervene, after a three-hour ordeal.⁵³⁹



Malawi

Criminalising Provisions

Section 153 of the Penal Code (2015) states that anyone who has had “carnal knowledge of any person against the order of nature” is guilty of a felony and is liable to be imprisoned for up to 14 years. Additionally, Section 156 criminalises “indecent practices between males”, whether in public or private, imposing a penalty of imprisonment for five years and/or corporal punishment.⁵⁴⁰

In December 2010, the Parliament passed a bill amending the Penal Code (effective January 2011) which introduced Section 137A to criminalise “indecent practices between females”, imposing a penalty of imprisonment of five years.⁵⁴¹

With regard to the criminalisation of gender expression, Section 180 of the Penal Code, on “idle and disorderly person[s]” establishes that “every male person who wears the hair of his head in such a fashion as, when he is standing upright, the main line of the bottom of the mass of hair (other than hair growing on his face or on the nape of his neck) lies below an imaginary line drawn horizontally around his head at the level of the mouth, shall be deemed idle and disorderly persons” and shall be liable for the first offence to a fine and to imprisonment of up to three months. A subsequent offence can be punished with imprisonment for six months.⁵⁴²

Enforcement Overview

In 2009 and 2010, Malawi’s police, courts and media demonstrated a fervent zeal for the enforcement of

criminalising legislation with the high-profile arrest of a trans woman called Tiwonge Chimbalanga and her husband-to-be, for holding a traditional engagement ceremony—and the subsequent harassment of the human rights organisation called the Centre for the Development of People (CEDEP) for publicly defending the couple. As explained below, this most high profile of many known cases was decried internationally and condemned by the UN Special Rapporteurs on the situation of human rights defenders and on torture and other cruel, inhuman or degrading treatment or punishment.

After the global backlash surrounding this case, the President of Malawi pardoned the couple on “humanitarian grounds” and his successor vowed to decriminalise consensual same-sex sexual activity. No government action to do so has thus far succeeded.

However, in November 2012 it was reported that the then-Minister of Justice, Ralph Kasambara, had issued a moratorium on criminal enforcement to provide Parliament time to formally repeal the legislation.⁵⁴³ A few days later, media outlets indicated that the government had backtracked on its decision after “churches and powerful conservative lobby groups fiercely criticised the move”. Minister Kasambara reportedly indicated that “he never urged for the policy to be suspended and that laws carrying up to 14 years in prison for committing homosexual acts were still being enforced”.⁵⁴⁴ According to Human Rights Watch, the ensuing lack of clarity and divergent opinions regarding the legality of a moratorium on arrests and prosecutions for consensual same-sex acts further exacerbated the challenges faced by local communities and seemed to have encouraged private individuals to attack LGBT people with impunity.⁵⁴⁵

In 2015 the new Minister of Justice, Samuel Tembenu, reportedly reinstated the moratorium when he ordered the release of two men charged with having sex “against the order of nature”,⁵⁴⁶ though several examples of criminal enforcement in violation of said moratorium have been noted from this period.⁵⁴⁷

In February 2016, the High Court in Mzuzu allowed an application by several religious leaders to quash Minister Tembenu’s decision on the basis that it was an “abdication of his constitutional duty”, effectively allowing the police to arrest and prosecute people for consensual same-sex sexual acts again.⁵⁴⁸ In the years since, a significant surge in known Examples of Enforcement was documented.

In January 2016 the speaker of the opposition People’s Party, Kenneth Msonda (who would soon after join the ranks of the ruling Democratic Progressive Party), wrote that the “best way to deal with [homosexuals] is to kill them”, as those imprisoned are released on bail. A case of

⁵³⁸ “الخليفة 2.. تفاصيل صادمة عقب مراهمة وضبط شاب مصاب بمرض نقص المناعة في طرابلس (فيديو)”, Libya Akhbar, 25 March 2023. [Cell 2.. Shocking details after the raid and arrest of a young man with HIV in Tripoli (video)].

⁵³⁹ “He pulled a gun and ordered us to go down on our knees so he can “enforce God’s will on us”... law or homophobia?”, Kun Organisation (accessed: 9 June 2023).

⁵⁴⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malawi* (accessed: 7 September 2023).

⁵⁴¹ *Ibid.*

⁵⁴² ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 43.

⁵⁴³ “Suspension of anti-homosexuality laws in Malawi a historic step forward”, *Amnesty International*, 5 November 2012; “Malawi suspends anti-gay laws as MPs debate repeal”, *The Guardian*, 5 November 2012.

⁵⁴⁴ “Malawi: Churches force U-turn on gay rights”, *The Independent*, 9 November 2012.

⁵⁴⁵ Human Rights Watch, “Let Posterity Judge”: *Violence and Discrimination against LGBT people in Malawi* (2018), 1-3.

⁵⁴⁶ “Malawi ‘suspends’ anti-homosexual laws”, *BBC News*, 21 December 2015; Human Rights Watch, “Let Posterity Judge”: *Violence and Discrimination against LGBT people in Malawi* (2018), 1-3.

⁵⁴⁷ “Malawi government defying moratorium on gays—CEDEP, CHRR”, *The Times*, 14 December 2015.

⁵⁴⁸ “Malawi court rejects moratorium on gays: Police can arrest homosexuals”, *Nyasa Times*, 10 February 2016; *An additional entry has been redacted for the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

incitement to break the law was filed against him by the Malawi Law Society and several civil society groups. The Director of Public Prosecutions dismissed the case against him, though it was reinstated and referred back to the High Court by Malawi's Chief Justice. In court in January 2017 Msonda stated: "I stand by what I said - homosexuals have no rights in Malawi". By 2021 Msonda, who retained his position within the Democratic Progressive Party, was hired as the Public Relations Officer for the conservative Christian NGO, Freedom of Worship Association of Malawi (FOWAM).⁵⁴⁹

The Catholic Church has been a vocal opponent of governmental measures aiming to put an end to enforcement of criminalising laws. In March 2016, in reaction to the enforcement moratorium, the Episcopal Conference of Malawi, the highest body of Catholic Bishops in the country, issued an inflammatory pastoral letter opposing the measure in the following terms:

We agree with those who have faulted the Government for putting a moratorium on laws governing homosexual acts. This means that those guilty of homosexual acts or unions cannot be prosecuted. The Government has bowed down to pressure from donor communities, international bodies and local human rights campaigners. As Pastors, we find this path very unfortunate. It is an act of betrayal on the part of those in power to sell our country to foreign practices and tendencies contrary to the will of God because of money.⁵⁵⁰

Catholic Bishops were joined by Muslim Sheikhs in their opposition to any measure condoning homosexuality. In fact, in 2014 the Muslim Association of Malawi (MAM) called for those who engage in homosexual acts "to be handed [the] death penalty as a way of making sure that the issue is curbed".⁵⁵¹

A group of activists affiliated with the Nyasa Rainbow Alliance reportedly held a Pride event in the capital, Lilongwe, in June 2022—with several of them wearing masks to hide their identities—in which they marched to the City Council headquarters seeking to hand over a petition against healthcare discrimination and arbitrary arrests of LGBT people in the country. Members of the City Council directed them to deliver the document to the Parliament instead, though no representative there seemed willing to receive the group. The petition was finally handed over to the Malawi Human Rights Council and it remains unclear whether any government official has read it.⁵⁵²

At the time of publication the results of a case in Malawi's Constitutional Court were pending, which aimed to clarify the constitutionality of Sections 153 and 156 of the Penal Code. This came after a trans woman was found guilty of committing an "unnatural offence" under Section 153(c), and "obtaining by false pretence" under Section 316 in December 2021, and was sentenced to eight and six years' imprisonment respectively. Her trial and subsequent imprisonment has been condemned by local civil society groups as prejudicial against her.⁵⁵³ The Constitutional Court case, if successful, could pave the way for decriminalisation in Malawi, but has faced staunch opposition and protests from conservative and religious groups across the country, many of whom have falsely claimed that the case would legalise same-sex marriage. According to organisations such as the Nyasa Rainbow Alliance, the furor around this case has resulted in a rise in not only police harassment against suspected LGBT+ persons, but also in homophobic and transphobic violence from the public.⁵⁵⁴

The trial is further complicated by being consolidated with a case brought by a foreign national found guilty under Sections 153, 154 and 156 of "unnatural offences" that include the sexual abuse of minors. In Malawi presently, the provisions legislating against both sexual violence and consensual same-sex sexual acts are one and the same, likely contributing to the widespread conflation of homosexuality and rape.⁵⁵⁵

In all, ILGA World has compiled at least 19 examples of enforcement between 2009 and 2023 below—though the real number is undoubtedly higher.

Examples of Enforcement

In one of Southern Africa's most high-profile cases, a transgender woman by the name of Tiwonge Chimbalanga,⁵⁵⁶ seen by local media and authorities as a "gay man", was arrested on **29 December 2009** by Blantyre Police for participating in a traditional engagement ceremony with her would-be husband. Initially housed in Chichiri Prison pending trial, with the prosecution pushing for the pair to be subjected to anal examinations, they were sentenced to 14 years' hard labour as punishment for "gross public indecency and unnatural offenses" by Judge Nyakwawa Usiwa-Usiwa. The judge demonstrated clearly in his ruling some of the vitriol which can be directed at trans and gender-diverse persons by State actors, saying: "I will give you a scarring sentence so that the public be protected from people like you, so that we are not tempted

⁵⁴⁹ "Malawi court to review Msonda's 'kill gays' case", *Nyasa Times*, 19 July 2016; "Malawi Chief Justice referees 'kill gays' case back to High Court", *Nyasa Times*, 9 August 2016; "Msonda's 'kill gays' case back in Malawi High Court", *Nyasa Times*, 16 January 2017; "Malawi: Ken Msonda Hired As Pro for a Religious Association", *All Africa*, 28 June 2021.

⁵⁵⁰ "Full text of the Pastoral Letter of Episcopal Conference of Malawi", *Nyasa Times*, 13 March 2016.

⁵⁵¹ "Malawi's Muslim Body Calls for Death Penalty for Homosexuals", *Malawi Muslims Official Website*, 13 February 2014.

⁵⁵² "LGBTQ claims Lilongwe City Council snubbed petition", *The Nation*, 13 June 2022.

⁵⁵³ Mangochi Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021; "Rights grouping wants Malawi to repeal anti-homosexuality laws", *Malawi24*, 4 January 2022; "Criminalization same-sex relationships by consensual partners attracting homophobic violence and arbitrary arrests", *Nyasa Times*, 8 August 2022; "Same sex law on trial", *The Nation*, 4 April 2023; "Nyasa Rainbow Alliance calls for repulsion of archaic same-sex laws", *Centre for Solutions Journalism*, 5 June 2023; "Expert Witness Testifies in Same-Sex Case", *Malawi Institute of Journalism*, 7 June 2023.

⁵⁵⁴ "Criminalization same-sex relationships by consensual partners attracting homophobic violence and arbitrary arrests", *Nyasa Times*, 8 August 2022; "Nyasa Rainbow Alliance calls for repulsion of archaic same-sex laws", *Centre for Solutions Journalism*, 5 June 2023.

⁵⁵⁵ "Same sex law on trial", *The Nation*, 4 April 2023; "Expert Witness Testifies in Same-Sex Case", *Malawi Institute of Journalism*, 7 June 2023. *Additional Information supplied to ILGA World by the Nyasa Rainbow Alliance.*

⁵⁵⁶ While it is standard practice for this report to redact the names of criminalised persons for their safety, the prolific reporting by both international media and human rights defenders has mooted this. An exception has thus been made to allow readers a clearer understanding of the incident.

to emulate this horrendous example". International outcry and efforts by activists secured their release and pardon, with Chimalanga eventually being resettled in South Africa as an asylum seeker.⁵⁵⁷

On **13 January 2010**, the Special Rapporteur on the situation of human rights defenders sent an Urgent Appeal to the Government of Malawi concerning a situation regarding the Centre for the Development of People (CEDEP), an NGO which advocates for LGBTI+ persons and those living with HIV. The Special Rapporteur was informed the week prior that police allegedly raided the premises of CEDEP and arrested an HIV activist working there. Police alleged that he had been arrested for possession of pornographic material, but it seems that these materials were in fact educational flyers on HIV. It was alleged that the raid on the CEDEP offices was an act of intimidation, as the organisation had been defending the rights of Tiwonge Chimalanga during her high-profile arrest in **2009**. The Special Rapporteur expressed concern at the possibility that the raid on CEDEP and subsequent arrest of an activist could have related to the group's work in defence of human rights.⁵⁵⁸

In **February 2010**, a 21-year-old man was arrested as he was hanging posters proclaiming that "gay rights are human rights" in protest of the imprisonment and prosecution of Tiwonge Chimalanga and her fiancé. A police spokesperson confirmed the arrest to local media and indicated that the activist has been charged with "conduct likely to cause breach of peace".⁵⁵⁹

In **October 2010** a trans man and his girlfriend were arrested in the capital city of Lilongwe. The girlfriend's mother, who disapproved of the relationship, allegedly arranged for the arrest. The couple were not formally charged but spent the night in a police cell before fleeing Lilongwe for a month for fear of further targeting.⁵⁶⁰

On **20 March 2012**, three members of CEDEP specialising in HIV education were arrested for organising a workshop at the University of Malawi's College of Medicine. They were held for a week without being charged.⁵⁶¹

Around midnight on **12 November 2013** a gay man's home in Blantyre was invaded by armed police after he was reported by a neighbour. He and his family were awoken and police sexually assaulted him by groping his genitals before detaining him at Chilomoni sub-station overnight. He was held for two nights without being charged, and then released. The victim has claimed that one officer would blackmail him and threaten him with arrest for several months thereafter in order to extract bribes from him—which only stopped when the officer happened to be transferred to another station.⁵⁶² Though this case

occurred during the government's moratorium on criminal enforcement, it has not been considered to represent the end of the moratorium as no formal charges were issued.

In **June 2015** a transmasculine human rights activist in Lilongwe was arrested when police suspected, based on his gender expression, that he was a lesbian. The activist was arrested at a police station while trying to pay bail for a friend who had also been detained, but was released a few hours later, seemingly after police realised that the activist was related to a local politician.⁵⁶³ Though this case occurred during the government's moratorium on criminal enforcement, it has not been considered the end of the moratorium as no formal charges were issued.

On **9 December 2015** two men in Lilongwe were arrested for purportedly having sex, when people identifying themselves as "community policing members" became suspicious of two men staying in the same house overnight and stormed the property. They were charged and released on bail after being taken to Kamuzu hospital for "assessment". It was reported that this case was the first instance of enforcement of criminalising laws since the moratorium was instituted in **2012**, though the government dropped charges against the men due to pressure from civil society groups and international donors.⁵⁶⁴

On **2 January 2016** it was reported that a newspaper article in the country's *Malawi News* profiled several gay human rights defenders. It is claimed that while in the process of writing the article, the journalist as well as several gay interviewees were arrested by police, with the journalist's notes and equipment being confiscated. They were released after a senior officer intervened, but it is said that at least one person who was interviewed was detained by police again after the article was published, and thereafter went into hiding.⁵⁶⁵

On **4 December 2016** two men in Lilongwe were arrested for allegedly engaging in a "sex act" in a car, when police arrived to investigate them for apparent loitering. One of the pair had been arrested almost exactly a year prior for staying at another man's house overnight. The men initially pleaded not guilty, but reportedly confessed when the prosecution team announced that it had witnesses prepared. The judge at the Magistrate's Court fined each man 50,000 Kwacha (approximately USD 70 each at the time) for their "unacceptable behaviour".⁵⁶⁶

In **May 2017** two trans men and the cisgender girlfriend of one of them were stopped by police in an alley and harassed for being "lesbians". Police reportedly severely beat them until their soccer coach walked by and managed to intervene. The police only agreed to let them go if they exited the alley by shuffling on their knees with their hands

⁵⁵⁷ "Amnesty urges release of detained gay Malawi couple", *Reuters*, 6 January 2010; UNHRC, *Report of the Special Rapporteur on the situation of human rights defenders*, Margaret Sekaggya, A/HRC/16/44/Add.1 (2011), para. 1492; *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez, A/HRC/16/52/Add.1 (2011), 276 para. 131; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 26; "Love in exile: one woman's journey from Malawi to South Africa", *The Guardian*, 27 November 2014; Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 21-22; Southern Africa Litigation Centre & Nyasa Rainbow Alliance, *We get traumatised in different ways: Key issues related to sexual orientation, gender identity, and expression identified by a community consultation in Malawi* (2020), 9.

⁵⁵⁸ UNHRC, *Report of the Special Rapporteur on the situation of human rights defenders*, Margaret Sekaggya, A/HRC/16/44/Add.1 (2011), paras. 1489-1492.

⁵⁵⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁶⁰ Human Rights Watch, "Let Posterity Judge": *Violence and Discrimination against LGBT people in Malawi* (2018), 17.

⁵⁶¹ *Id.*, 18-19.

⁵⁶² *Id.*, 17-18.

⁵⁶³ *Id.*, 17.

⁵⁶⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁶⁵ "Gay Malawian appeals for justice; now he's in hiding", *Erasing 76 Crimes*, 2 January 2016.

⁵⁶⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

above their heads. One of the trans men was too afraid to press charges against the officers and so the matter was never investigated further.⁵⁶⁷

In **July 2017** two women were detained in Blantyre as police presumed them to be lesbians based on their looks. They were held for several hours but then released without charge.⁵⁶⁸

Also in **July 2017**, a trans woman was arrested at the Area 25 Kanengo Police station after being reported by a man for impersonation of a female “prostitute”. While in detention, she had her clothes stripped off “to determine her identity”. Police officers also took pictures of her and posted them on social media. She was eventually charged with soliciting for immoral purposes, under section 180(e) of the Penal Code.⁵⁶⁹

In **December 2017** the same transmasculine activist who had been detained for several hours in **2015** was detained again when he tried to open a case relating to a burglary. Police refused to open a case for him and instead threatened to charge him under the country’s anti-homosexuality legislation, but he was released when he paid a bribe of 50,000 Malawian Kwacha (approximately USD 69).⁵⁷⁰

A trans woman was also targeted in **2017**. After she was attacked by a mob, police detained her on suspicion of being gay and allowed her assailants to go free. She was held without charge in Maula Prison for more than a month. Police also coerced the name of another trans woman out of her, but when the second trans woman could not be found they arrested her father instead. When the second trans woman went to the police station to find her father, they beat her for more than an hour to force a confession that she was gay. They told her to return the next day for her father but when she arrived she was detained for five hours without charge until her mother paid a bribe of 7,000 Malawian Kwacha (approximately USD 7).⁵⁷¹

In **2018** a young man in Mzuzu, a northern town, was arrested. He was charged with “gross indecency” despite no evidence of his having participated in any same-sex sexual activity coming to light.⁵⁷²

In **July 2019** police arrested the head of CEDEP and a prominent Anglican priest known for being a vocal advocate for human rights. Local news outlets and government sources do not indicate the arrest was related to SOGIE advocacy, but official accounts do not align

either. There appears to have been some form of financial dispute with UNAIDS which had been funding local human rights work, though UNAIDS decried the arrest and stated that the issue had been resolved. Government officials took the agreement of the activists to repay UNAIDS as an admission of wrongdoing. They were, nevertheless, released after three days.⁵⁷³ Both were arrested again in **March 2020** in an apparent campaign to crack down on human rights defenders and political dissidents, but were released on bail four days later per a court’s ruling.⁵⁷⁴

In **November 2020**, a young gay man was dismissed from the Malawi Defence Force after being falsely accused of taking advantage of a drunk man. The case was reported to the police and later referred to the Zomba Magistrate Court. The gay man was arrested, charged under Section 153 of the Penal Code for carnal knowledge against the order of nature and spent two weeks in a police cell until he was later discharged from his duties.⁵⁷⁵

A joint **2021** report by a local organisation describes the case of a trans man who was arrested by Chisampo police for “impersonating to be a man” after he sought medical assistance at a local hospital. He had first been chased away from the hospital upon producing an ID that did not match his gender expression. One nurse at the hospital appeared to be sympathetic at first, but called security staff after he was unable to pay a bribe.⁵⁷⁶

On **20 October 2021** a trans woman and sex worker by the name of Jana Gonani,⁵⁷⁷ was arrested in Mangochi, after being reported to the police by two male clients who claimed to not be aware that she was transgender. Police subjected Gonani to a forced genital exam and psychiatric evaluation. On **23 December** the Mangochi Magistrate Court sentenced her to eight years’ imprisonment for committing an “unnatural offence” under Section 153(c) of the Penal Code, but not her two male clients. She was sentenced to another six years for “obtaining by false pretences”, as the court inferred that her gender expression was being used as a means to deceive and defraud her clientele. As a first time “offender”, Gonani would reportedly have been eligible for a suspended sentence, but the court refused the defence’s request for leniency on the basis that a worse offender was “yet to be born”, and that she deserved “a hefty punishment” as her actions “carry with them a sense of shock against the morals of a Malawian society”. The Court also claimed to have the duty of protecting “men like the victims in this case”, “sex workers who do their work properly”, and “society at large”. By **2023** Gonani’s case had been referred

⁵⁶⁷ Human Rights Watch, “Let Posterity Judge”: Violence and Discrimination against LGBT people in Malawi (2018), 16.

⁵⁶⁸ *Id.*, 18.

⁵⁶⁹ Nyasa Rainbow Alliance (NRA) et al., *Malawi Civil Society Report on LGBTI Rights to be submitted for the adoption of the List of Issues Prior to Reporting at the 131st session of the Human Rights Committee* (March 2021), 9. An additional entry has been redacted for the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁷⁰ Human Rights Watch, “Let Posterity Judge”: Violence and Discrimination against LGBT people in Malawi (2018), 19.

⁵⁷¹ *Id.*, 16-17.

⁵⁷² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁷³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁷⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁷⁵ Nyasa Rainbow Alliance (NRA) et al., *Malawi Civil Society Report on LGBTI Rights to be submitted for the adoption of the List of Issues Prior to Reporting at the 131st session of the Human Rights Committee* (March 2021), 9.

⁵⁷⁶ *Id.*, 15.

⁵⁷⁷ While it is standard practice for this report to redact the names of criminalised persons for their safety, the prolific reporting by both international media and human rights defenders has mooted this. An exception has thus been made to allow readers a clearer understanding of the incident.

to the Constitutional to determine the constitutionality of Articles 153 and 156 of the Penal Code.⁵⁷⁸



Enforcement Overview

Mali has no formal provisions criminalising diverse sexual orientations or gender identities and expressions, though ILGA World has identified several examples of apparent State-backed targeting of persons on the basis of their sexual orientations.

Outside of the law, widespread negative social attitudes have resulted in violence, discrimination and incitement against SOGIE Malians. Threats and assaults from mobs, as well as the formation of so-called "decency leagues" publicly protesting against the false belief that certain local doctors "inject homosexuality" into children, have been noted.⁵⁷⁹

In 2012 and 2013, an insurgent separatist group took over parts of the North of the country. Several factions allied to the separatists notably subscribed to a strict local interpretation of Sharia law, and publicly affiliated themselves with al-Qaeda, meaning that while no incidents of de facto criminal enforcement by these groups were identified, it is not beyond reason to assume the likelihood of such events. In the years since, forces allied to the central government have largely pushed back the separatist efforts, though certain extremist militant and tribal authorities continue to hold sway in parts of Mali, making tracking the situation difficult.⁵⁸⁰

In August 2020 the central government was removed by military coup, with another coup replacing the transitional government a mere nine months later, in May 2021.⁵⁸¹ The new government appointed Mahamadou Kassogu e as Justice Minister in June 2021, who in August 2022 sought to formally criminalise consensual same-sex acts.⁵⁸² During a national workshop for the validation of a draft new penal code, Kassogu e, described homosexuality as a "relationship against nature" and indicated that it would soon be prohibited. The Minister said "our justice does not accept this practice of homosexuality but there were no sanctions. This workshop made it possible to take resolutions to sanction homosexuality in Mali".⁵⁸³

Examples of Enforcement

A local media outlet claimed on **13 November 2021** that six lesbian women were arrested in Mali's capital, Bamako, reportedly for "attacks on good morals". This came as a result of a formal complaint laid with police by the mother of one of the women on **29 October**. The mother claimed that her daughter had been "recruited" by an international LGBT organisation—though no evidence could be verified as to whether the young woman was affiliated with a rights group or if this is simply an example of misinformation and anxiety around SOGIE advocacy as a presumed "foreign" influence. The young woman had moved away and gained employment in another part of the city so as to escape her mother two months previously, but was apprehended by a police search party through the use of telecommunications data. Upon interrogation, the young woman revealed the names and locations of five other women, who were also arrested.⁵⁸⁴

Additionally, on **16 August 2022** military officials in the town of Segue were informed that a female corporal in the town barracks had been engaging in "lesbian acts" with other women stationed there. Details of the same-sex sexual acts and the result of the pending intervention against those involved remain unclear.⁵⁸⁵



Criminalising Provisions

Consensual same-sex sexual acts are criminalised under the Sharia-based Criminal Code (1983) as "indecent acts" or "act against nature" with a person of the same sex. Per Article 308 of the Code, men are liable to be punished with death by public stoning. Women are subject to a correctional sentence of three months to two years' imprisonment and a fine, per Article 306.⁵⁸⁶

While the death penalty remains part of the country's legislation, Mauritanian officials have stated at the United Nations that a *de facto* moratorium on executions has been in place since 1987.⁵⁸⁷

Enforcement Overview

ILGA World has identified at least three distinct examples

⁵⁷⁸ Mangochi Magistrate Court, *State of Malawi v Jana Gonani (Criminal Case 547 of 2021)*, 23 December 2021; "Man in Malawi jailed 8 years for having sex with men", *Malawi24*, 24 December 2021; "Rights grouping wants Malawi to repeal anti-homosexuality laws", *Malawi24*, 4 January 2022; "Same sex law on trial", *The Nation*, 4 April 2023; "Nyasa Rainbow Alliance calls for repulsion of archaic same-sex laws", *Centre for Solutions Journalism*, 5 June 2023; "Expert Witness Testifies in Same-Sex Case", *Malawi Institute of Journalism*, 7 June 2023. Additional Information supplied to ILGA World by the Nyasa Rainbow Alliance.

⁵⁷⁹ "French couple welcome LGBT activist from Mali", *UNHCR*, 11 June 2018; "Hunted for my sexuality: How social media is fuelling homophobic attacks in Mali", *The Telegraph*, 22 August 2019; "In Mali, fears that doctors 'inject homosexuality'", *Erasing 76 Crimes*, 30 September 2021.

⁵⁸⁰ Human Rights Watch, *Mali Conflict and Aftermath Compendium of Human Rights Watch Reporting 2012-2017* (2017), 2-17.

⁵⁸¹ "What next for Mali after second coup within a year?", *Aljazeera*, 29 May 2021.

⁵⁸² "Faites connaissance avec les nouveaux membres du gouvernement" [Meet the new members of the government], *L'Essor*, 16 June 2021; "Justice minister in Mali plans to make homosexuality a crime", *Erasing 76 Crimes*, 23 August 2022.

⁵⁸³ "Mali : vers la p enalisation de l'homosexualit e ?" [Mali: towards the criminalization of homosexuality?], *TV 5 Monde*, 18 October 2022; "L'Observatoire   propos de l'avant-projet de la nouvelle constitution : «La s eparation des pouvoirs, Entre l'ex ecutif et le judiciaire, n'a pas  t  r esolue...»" [The Observatory on the draft of the new constitution: "The separation of powers, between the executive and the judiciary, has not been resolved..."], *Bamada*, 26 October 2022.

⁵⁸⁴ "Pratiques perverses, atteintes aux bonnes m eurs ... la police interpelle six lesbiennes maliennes membres d'un r seau international d'homosexuelles" [Perverse practices, attacks on good morals... the police arrest six Malian lesbians who are members of an international network of homosexuals], *Bamada.net*, 13 November 2021.

⁵⁸⁵ "Pratique homosexuelle au centre d'instruction de S gou : La hi erarchie alert e sur le cas d'un" [Homosexual practice at the S gou Instruction Center: the hierarchy alerted to the case of a "group of lesbians"], *Bamada*, 30 August 2022.

⁵⁸⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Mauritania* (accessed: 30 June 2023).

⁵⁸⁷ UNHRC, *Consideration of reports submitted by States parties under article 40 of the Covenant Initial reports of States parties: Mauritania*, CCPR/C/MRT/11 (2019), 5.

of criminal enforcement between 2008 and 2023—though a fourth potential case outlined in the Examples of Enforcement section below could not be verified to a degree warranting its inclusion in the tally.

Across the board, researchers attempting to delve into the lived realities of persons with diverse sexual orientations and gender identities and expressions in Mauritania have struggled to make significant inroads. This may or may not be a result of State suppression of reporting and human rights advocacy, but at the very least social stigma and community backlash has been identified as a reason why many queer Mauritians have not come forward. The dearth of information is such that it is not clear whether the provisions against consensual same-sex sexual acts apply only to Muslims (as they do in other predominantly Muslim States such as Malaysia), or to all within the country.⁵⁸⁸

It is also believed that the decentralised nature of Mauritania's historically nomadic and tribal society, and subsequent likelihood that traditional court rulings and executions do not get formally published, makes identifying most cases near impossible.⁵⁸⁹

In its concluding observations in the second periodic report on Mauritania, the UN Human Rights Committee said that the government "should repeal article 308 of the Criminal Code in order to decriminalize sexual relations between consenting adults of the same sex and release anyone currently detained under this article".⁵⁹⁰ No evident steps have been taken by Mauritanian authorities on this matter, nor in formally repealing the death penalty which remains on the books despite a 1987 moratorium.

In 2023 ILGA World was informed by the Nouakchott Solidarité Association that Mauritanian society remains deeply conservative, with persons of diverse SOGIE subjected to discrimination and insults, such as *gordjiguen* (roughly: "tomboy" or "man-woman"). Access to HIV healthcare and education is all but non-existent, and young persons—particularly those assigned female at birth or appearing gender-nonconforming—are regularly targeted by police. Police night patrols in the capital, Nouakchott, are claimed to round up such individuals without charging them with any crime, holding them until the next morning to ensure an apparent arrest quota is met unless they can pay a bribe to ensure their immediate release. In addition to LGBTQ+ persons, black Africans and migrants find themselves disproportionately targeted by these tactics.⁵⁹¹

Examples of Enforcement

On **2 June 2008** a gay man who owned a shoe-shining store in Mauritania's second-largest city, Nouadhibou, was seen by another shopkeeper kissing his boyfriend goodbye

after the pair met up briefly and subsequently reported them to the police. He was arrested and taken to the city's central police station and held until **15 July 2008**. He was then released, being given three days to renounce his sexual orientation under local Sharia tradition or face punishment. The man instead fled the country, with his uncle securing him passage on a ship, and successfully was granted asylum in Belgium in the years following the incident. It is unknown what occurred to the man's boyfriend.⁵⁹²

Sometime in **November 2011**, thirteen or fourteen men suspected of being gay were arrested and sent to the police station of Tavragh Zeina, in Nouakchott, where they were stripped naked and insulted. Some of them were blindfolded and were beaten with electric cables while their hands and feet were tied behind their backs.⁵⁹³ They were held at Dar Naïm prison for an unclear number of weeks before it was reported on **12 December 2011** by the local *L'Authentique* news outlet that they were granted conditional release. No further details could be identified regarding this case.⁵⁹⁴

In **January 2020**, 10 men were arrested for allegedly conducting a "same-sex marriage ceremony". Police later determined that the gathering was not a wedding and rather a birthday party, but stated that participants had confessed to being "homosexuals" and accused them of "imitating women". On **4 March 2020** the Nouakchott Court of Appeal confirmed that eight of the men had been sentenced to two years in prison but reduced this to six months on condition that the suspended sentence be reinstated should any in the group "reoffend" within five years.⁵⁹⁵

On **21 February** and **21 March 2021** it was reported that the identities of eight men and women arrested in connection with an alleged same-sex marriage ceremony were revealed.⁵⁹⁶ As these articles seem to have been taken down since publication, it is unknown if the eight persons referred to here are the same eight who had been convicted for the incident above.



Criminalising Provisions

"Lewd or unnatural acts", can result in a prison sentence of six months to three years and/or a fine under Article 489 of the Penal Code (1963). Additionally, Article 483 criminalises acts of "public indecency", with imprisonment

⁵⁸⁸ Immigration and Refugee Board of Canada, *Mauritania: Treatment of sexual minorities by society and the authorities, including laws, state protection and support services (2009-March 2013)*, (2013).

⁵⁸⁹ "Sexuality and Gender Law Clinic Secures Asylum for Gay Mauritanian Refugee", *Columbia Law School*, 25 October 2011.

⁵⁹⁰ UNHRC, *Consideration of reports submitted by States parties under article 40 of the Covenant Initial reports of States parties: Mauritania*, CCPR/C/MRT/11 (2019), 3.

⁵⁹¹ Information supplied to ILGA World by the Nouakchott Solidarité Association.

⁵⁹² Conseil du Contentieux des Etrangers (Belgique), *Arrêt No. 27-599, No. 27-599* (2009).

⁵⁹³ Amnesty International, *Mauritania: Submission to the UN Committee against Torture* (2013), 8.

⁵⁹⁴ Amnesty International, *Rapport 2012: La Situation de Droits Humains dans le Monde* (2012), 2018; Immigration and Refugee Board of Canada, *Mauritania: Treatment of sexual minorities by society and the authorities, including laws, state protection and support services (2009-March 2013)*, (2013).

⁵⁹⁵ "Ten men have been thrown behind bars to await 'judgement' for a secret gay wedding in African country of Mauritania", *Pink News*, 31 January 2020; "Mauritania: Prison Terms for Men Celebrating Birthday", *Human Rights Watch*, 4 March 2020.

⁵⁹⁶ "هويات وتفصيل الأشخاص المتورطين في حفل زواج المثليين بنواكشوط"، [Nouakchott / Identity of 8 bisexual men and a woman arrested in connection with same-sex marriage ceremony in Nouakchott], *Taqadoui*, 21 February 2021; "هويات وتفصيل الأشخاص المتورطين في حفل زواج المثليين بنواكشوط"، [Identities and details of the people involved in the gay marriage ceremony in Nouakchott], *Taqadoui*, 21 March 2021.

of one month to two years and a fine.⁵⁹⁷ However, this law is notably broad, lacking specificity regarding age, the nature of sexual activities or behaviours, and the consent of the persons involved.⁵⁹⁸

Additionally, Articles 490, which criminalises sexual intercourse between men and women outside of marriage, and 491, which criminalises adultery, can also be used to target those engaged in same-sex acts.⁵⁹⁹

Enforcement Overview

Between 2007 and the time of publication, ILGA World compiled at least 28 examples of apparent criminal enforcement. True numbers are undoubtedly higher, as even official statistics issued by Moroccan authorities far exceed this.

According to Human Dignity Trust, more than 5,000 individuals may have been arrested for alleged homosexuality since the country gained independence from Spain in 1956, with “81 trials for homosexuality in 2011”; between four and 10 in 2015; and at least 20 in 2016. However, the same reports indicate the real tally is likely much higher.⁶⁰⁰

Other sources indicate that in 2015, between February and July alone, at least 25 people had been arrested,⁶⁰¹ and in 2018 Morocco’s Public Prosecutor published a set of official records which indicated a striking number—170 individuals—had been charged with “homosexuality” in that year,⁶⁰² in 147 separate cases.⁶⁰³ The report also notes that the previous year saw 197 trials on the same basis.⁶⁰⁴ The year 2019 saw 168 registered cases, with 283 trials documented by the State.⁶⁰⁵ In 2020, the Public Prosecutor reported 141 registered cases and 188 trials.⁶⁰⁶ Lastly, in 2021, there were 212 registered cases and 287 trials.⁶⁰⁷

A legal expert contracted by the Danish Immigration Service claimed, however, that the official 2018 statistics (and therefore possibly each year’s statistics) are likely under-reported, and that cases for that year number around 800.⁶⁰⁸

The vast majority of such cases are simply never reported on in such a way as to be accessible to the public—or to the research team at ILGA World. Human Rights Watch has also reported in 2018 that Moroccan authorities are widely

known to intimidate LGBTI activists by contacting their families and asking them questions that may end up “outing” them, leading to risks of violence from local communities. This may be at least one reason for the disparity between the official numbers and the individual stories known to the public.⁶⁰⁹

Another likely reason for the statistical disparity between official numbers and verifiable proceedings against “homosexuals” is that, while there is a demonstrable pattern of anti-LGBT+ targeting by Moroccan authorities, the law and the subsequent reporting from the Public Prosecutor do not take into account whether an individual was arrested and prosecuted for consensual or non-consensual sex acts. The vagueness of the law in whom can be charged with “sexual deviance” means that the statistics at hand remain almost impossible to accurately interpret.

To expand on the aforementioned ambiguity of the legislation in question, while the law does not explicitly criminalise diverse gender expressions per se, the Dynamique Trans organisation is cited by the Danish Immigration Services in 2019 as saying that “the Penal Code can also be used to accuse people who dress in ways which are deemed inappropriate of disturbing public order” per Article 483 of the Code.⁶¹⁰ This broad provision, disproportionately enforced against trans, gender-diverse and non-heteronormative persons is also widely used to target sex workers regardless of their SOGIE status, according to information supplied by local activists to ILGA World.

Between 2019 and 2020, Association Akaliyat conducted a study on the needs of LGBT+ people in Morocco, and found that of 400 participants, 29% had been arrested before. Half of these arrests were on suspicion of “homosexuality”, with many of the rest being related to having a feminine gender expression in public, or engaging in self-defence against a homophobic attack. The study noted that transgender and non-binary people were twice as likely to be arrested than other groups, and that 63% of arrested individuals faced abusive behaviour, such as physical and psychological violence, intimidation, and harassment from police. Trans women and cisgender lesbian women faced the highest rates of such abuse while in custody, at 75% and 77.5% respectively.⁶¹¹

Reportedly, some of the most common ways in which

⁵⁹⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Morocco* (accessed: 11 June 2023).

⁵⁹⁸ Mustafa Maimoun, *قراءة نقدية في الفصل 489 من القانون الجنائي*, [A critical reading of Chapter 489 of the Moroccan Criminal Code relating to the criminalisation of homosexuality], *Revue Almanara pour des études juridiques et administratives* (2023).

⁵⁹⁹ *Ibid.*

⁶⁰⁰ “Morocco tally: 81 trials for homosexuality in 1 year”, *Erasing 76 Crimes*, 6 June 2013; Human Dignity Trust, *Country Profile: Morocco* (2019).

⁶⁰¹ “Bad news: Kyrgyzstan, Morocco, Egypt, Nigeria, more”, *Erasing 76 Crimes*, 16 July 2015.

⁶⁰² *While most English translations accessed by ILGA World have referred to “homosexuality”, other translations have appeared as “unnatural acts”, “intercourse with a person of the same sex”, and “crimes that offend the family order and general morals” - depending on the source of translation.*

⁶⁰³ Office of the Public Prosecutor, *السياسة الجنائية ومسيرة النيابة العامة حول تنفيذ السياسة الجنائية* [Report of the Director of Public Prosecutions on the implementation of criminal policy and the conduct of the Public Prosecution] (2018).

⁶⁰⁴ Office of the Public Prosecutor, *السياسة الجنائية ومسيرة النيابة العامة* [Report of the Director of Public Prosecutions on the implementation of criminal policy and the conduct of the Public Prosecution] (2017); Legal Agenda, *السياسة الجنائية ومسيرة النيابة العامة حول تنفيذ السياسة الجنائية* [Report of the Chief Public Prosecutor on the implementation of the criminal policy and functioning of the Public Prosecution for the year 2018] (2018) 261; “Au Maroc, 3 000 personnes poursuivies pour adultère et 170 pour homosexualité en 2018” [In Morocco, 3,000 people prosecuted for adultery and 170 for homosexuality in 2018], *Le Desk*, 26 June 2019; The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, version 2.0* (2019), 44.

⁶⁰⁵ Office of the Public Prosecutor, *السياسة الجنائية ومسيرة النيابة العامة حول تنفيذ السياسة الجنائية* [Report of the Director of Public Prosecutions on the implementation of criminal policy and the conduct of the Public Prosecution] (2019).

⁶⁰⁶ Office of the Public Prosecutor, *السياسة الجنائية ومسيرة النيابة العامة حول تنفيذ السياسة الجنائية* [Report of the Director of Public Prosecutions on the implementation of criminal policy and the conduct of the Public Prosecution] (2020).

⁶⁰⁷ Office of the Public Prosecutor, *السياسة الجنائية ومسيرة النيابة العامة حول تنفيذ السياسة الجنائية* [Report of the Director of Public Prosecutions on the implementation of criminal policy and the conduct of the Public Prosecution] (2021).

⁶⁰⁸ The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, v.2.0* (2019), 44.

⁶⁰⁹ Human Rights Watch, *Audacity in Adversity. LGBT Activism in the Middle East and North Africa* (2018), 22.

⁶¹⁰ The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, v.2.0* (2019).

⁶¹¹ Association Akaliyat, *Etude des besoins de la population de diversités sexuelle et genre au Maroc* (2020).

police identify persons to arrest are reports from relatives or neighbours, or random stops and searches of persons who officers consider to have a suspicious gender expression. Police are also said to maintain a network of informants, and monitor the online activities of suspects in order to gather evidence against them, local activists have informed ILGA World.

Concerningly, the standard of evidence in judicial proceedings for those charged under Article 489 of the Penal Code appears virtually non-existent. Article 286 of the Criminal Procedure Code states: "Crimes may be proven by any means of evidence, except in cases where the law provides otherwise". Thus, judges are free to rule according to their "deep conviction". Judges are not obligated, then, to rely on specific forms of evidence in determine whether someone is guilty of "lewd or unnatural acts" as they would be for cases of "public indecency", "corruption", and "marital infidelity".⁶¹²

The UN Human Rights Committee stated in its sixth periodic report on Morocco in 2016 that it "is concerned at the criminalization of homosexuality, the fact that it is punishable by a term of imprisonment of up to 3 years and the arrests that have been made on that basis". Therefore, the Committee urged Morocco to take steps to "free anyone who is in detention solely for having had consensual sexual relations with a member of the same sex".⁶¹³

In 2017, during Morocco's Universal Periodic Review, Uruguay made the recommendation that the government should "[d]ecriminalize consensual homosexual relations and release those who have been detained for that reason".⁶¹⁴ The recommendation was rejected, with Morocco justifying its position as follows:

The Kingdom of Morocco has taken note of the following recommendations which have been partially rejected. [...] Guaranteeing equality among all citizens regardless of their sexual orientation and identity, decriminalisation of homosexual relations [...] article 1 of the Constitution highlights the special framework established by the unifying components of the Moroccan nation, namely the moderate Muslim religion, multidimensional national unity, the constitutional monarchy and democratic choice. [...] Accordingly, the Kingdom does not accept these recommendations since they conflict with the above-mentioned unifying components, namely decriminalisation of consensual extramarital relations and homosexual relations [...] This position is fully consistent with the Kingdom's position on relevant international treaties, since it expressed its reservations regarding provisions concerning the aforementioned items which it does not support.

Examples of Enforcement

In **2007** a man who was suspected of being in a gay marriage was assaulted and stoned by an angry mob. Having survived the ordeal, he was arrested by police and imprisoned, though further details could not be verified at the time of publication.⁶¹⁵

In **December 2007** six men were arrested for an alleged "gay wedding" or "gay party" in the town of Ksar el-Kbir, after a video of their private celebrations was shared online. The men were charged under Article 489 for "practicing homosexuality", though one lawyer argued that they were targeted for being gay, as the video evidence did not show any same-sex acts taking place. One man was sentenced to 10 months' imprisonment on the combined charges of "homosexual acts" and "illegal sale of alcohol", while the others each received between four- and six-months' imprisonment.⁶¹⁶

On **2 May 2013**, two men in the town of Temara were arrested when police found them together in a car. Authorities allege they were having sex in the car and that one had paid the other to do so, though both seem to deny the charge. Nevertheless, on **20 May** a local court sentenced them to four months in prison.⁶¹⁷

On **9 May 2013** it was reported that three men alleged to be gay were arrested in the town of Souq al-Arbaa and sentenced to three years' imprisonment and a fine of 1,000 dirhams (about USD 110 at the time) each.⁶¹⁸

According to Human Rights Watch, in **June 2014** an appeals court in Morocco upheld the convictions of four men who had been convicted of "homosexual acts". The men were part of a group of six who had been arrested in **April** in the town of Fquih Ben Salah, and seemingly sentenced to between two and a half to four years' imprisonment. As further punishment, the four convicted men—and possibly the two who evaded jail-time, were legally banished from Béni Mellal-Khénifra where the alleged incident took place.⁶¹⁹

One case which did garner a significant international profile was that of a gay man from the United Kingdom who was on a sightseeing tour with his 20-year-old Moroccan partner before being arrested on **18 September 2014** by police. He and his partner were tried on **2 October** and sentenced to four months' imprisonment for "homosexual acts". Petitions and pressure from his family and the British government led to the release of the man that same week, upon which he was sent back to the United Kingdom—though the fate of his Moroccan lover was not clear.⁶²⁰

Two men accused of participating in consensual same-sex sexual activity with one another were arrested on **13 December 2014** and swiftly sentenced to three years' imprisonment plus a fine at the al-Hoceima Court of First

⁶¹² Mustafa Maimoun, *مراجعة نقدية في الفصل 489 من القانون الجنائي* [A critical reading of Chapter 489 of the Moroccan Criminal Code relating to the criminalisation of homosexuality], *Revue Almanara pour des études juridiques et administratives* (2023).

⁶¹³ Human Rights Committee, *Concluding observations on the sixth periodic report of Morocco*, CCPR/C/MAR/CO/6, 1 December 2016, para. 12.

⁶¹⁴ *Report of the Working Group on the Universal Periodic Review* Morocco*, A/HRC/36/6 (2017), para. 144.70.

⁶¹⁵ "Morocco tally: 81 trials for homosexuality in 1 year", *Erasing 76 Crimes*, 6 June 2013.

⁶¹⁶ "Morocco: Homosexuality Convictions Upheld" *Human Rights Watch* (archived by Refworld), 8 July 2014; The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, version 2.0* (2019), 18.

⁶¹⁷ "2 more Moroccans imprisoned for homosexual acts", *Erasing 76 Crimes*, 21 May 2013.

⁶¹⁸ "3 years in Morocco prison for LGBTs: 2 sentenced, 2 on trial", *Erasing 76 Crimes*, 11 May 2013.

⁶¹⁹ "Morocco: Homosexuality Convictions Upheld" *Human Rights Watch* (archived by Refworld), 8 July 2014.

⁶²⁰ "Morocco releases British tourist jailed for 'homosexual acts'" *The Guardian*, 7 October 2014.

Instance. Police claimed in the trial that the accused had confessed, though both men deny this. No witnesses were permitted to testify. On **30 December** the al-Hoceima Appeals Court upheld the verdict against the men, but reduced the punishment of one of the men to six months in prison, and reduced the jail time of the other to one year. The man who was given the longer sentence had apparently attempted to bribe police.⁶²¹

On **3 June 2015** two men taking photos at the famous Hassan minaret in Rabat were arrested. Some sources claim that they were standing too close together—an act which led authorities to assume that they were gay—though others have claimed that they were arrested for kissing in public. A police report alleged that the men confessed to engaging in same-sex sexual activity, though the defence claimed that this should not be admissible in court as the confession was obtained under duress. Police seem to have beaten the pair, as was concluded by their lawyers from the photographs shared by police to the national media for publication. On **19 June** the men were found guilty of committing “an affront to public decency” and an “unnatural act with a person of the same sex”, and were sentenced to four months in jail and a fine of 500 dirhams (around USD 50).⁶²²

On **3 February 2016** it was reported by *Morocco World News* that two men were sentenced to 18 months' imprisonment in the town of Tiznit. One of the men had laid a complaint against the other when the two had a falling out and it escalated to threats of violence, but when police determined that they were in a relationship, both were detained. The initial complainant is said to have admitted to having had multiple same-sex relationships in the town, but retracted the statement in court.⁶²³

On **9 March 2016**, two men believed by locals in the town of Béni Mellal were violently assaulted and stripped down by an angry mob. The attackers were arrested by police, but so too were the victims. The two men spent 26 days in pretrial detention, and when the case went to trial they were fined 500 dirhams (USD 55) and sentenced to four months' imprisonment on probation, in accordance with Article 489 of the Moroccan Penal Code. Two journalists attempting to investigate the attack in the neighbourhood were reportedly also arrested shortly after the incident.⁶²⁴

On **27 May 2016** it was reported by *Morocco World News* that an alleged gay couple had been arrested in the town of Guelmim when the local gendarmes found them engaging in “homosexual acts” in a car. It is unclear when precisely the pair were arrested as the public prosecutor ordered a full investigation before any prosecution could take place,

and on **26 May** a Court in Guelmim sentenced the two men to six months' imprisonment.⁶²⁵

In **November 2016** two teenage girls, aged 16 and 17, were photographed kissing by a passer-by in Marrakesh, who sent the pictures to their families. Consequently, a family member reported them, leading to their detention by police and a court charging them with “sexual deviance”. The pair were eventually released after a lengthy legal battle and the advocacy efforts of local human rights organisations. Some media reporting claimed that this was the first case of same-sex acts between women to be formally prosecuted.⁶²⁶

Apparently, not long after the above incident, sometime in the summer months of **2016**, two men were also arrested in the coastal city of Agadir.

The details of the Agadir case are not clear, as it is mentioned only in passing by *Morocco World News* in a **February 2017** article about yet another arrest - noting that two men in the city of Tangier had been arrested after a video of the pair engaging in consensual same-sex sexual activity went viral online. The accused were sentenced by the Tangier Primary Court to six months in prison, and a fine of 1,000 dirhams (USD 110) each.⁶²⁷

On **31 December 2018** police in Marrakesh arrested a “man wearing feminine clothes” after arriving at the scene of a minor traffic accident. They placed the suspect in handcuffs and removed them from the scene while an angry mob jeered, after seeing that the individual's gender expression did not match their identity documents.⁶²⁸

On **9 January 2021**, local media reported that two men were arrested after they were allegedly caught “red-handed” having sex in a truck. Arrests were carried out by a patrol of the Royal Gendarmerie in Chtouka Ait Baha, in the suburbs of Agadir. Both men were placed under guardianship measures and brought before the local public prosecution office.⁶²⁹

It was also reported later that month, on **25 January 2021**, that the Tangiers Public Prosecutor's Office opened an investigation to determine the circumstances of the spread of a “pornographic video” documenting scenes of sexual intercourse between two men. The video was apparently recorded on a cell phone which was later sold, and the new owner seems to have been the one to release the footage to the public. The person who released the footage appears to be under investigation for distributing illicit material, but it is unclear if the men in the video itself faced prosecution.⁶³⁰

⁶²¹ “Morocco report: 2 imprisoned on homosexuality charges”, *Erasing 76 Crimes*, 4 March 2015.

⁶²² “On trial for being LGBT in Morocco (2) and Malaysia (9)”, *Erasing 76 Crimes*, 21 June 2015; “LGBTI news 2: Iran, Morocco, ISIS, Kenya, Gambia, Uganda”, *Erasing 76 Crimes*, 29 June 2015.

⁶²³ “Two Moroccan Homosexuals Sentenced to 18 Months in Prison”, *Morocco World News*, 3 February 2016.

⁶²⁴ “Prison for victim of Morocco attack, not for attackers”, *Erasing 76 crimes*, 4 April 2016; The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, version 2.0* (2019), 27.

⁶²⁵ “Gay Couple Arrested in Southern Morocco”, *Morocco World News*, 31 May 2016; The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, version 2.0* (2019), 17.

⁶²⁶ “Moroccan teenage girls face prison over 'lesbian kiss'”, *The Independent*, 3 November 2016; “Lesbienne et marocaine, je revendique mon droit à la vie privée” [Lesbian and Moroccan, I claim my right to privacy], *L'Express*, 3 November 2016; “المغرب... سراح مؤقت لقاصرتين اتهمتا بالمثلية الجنسية”, *Alhurra News*, 3 November 2016.

⁶²⁷ “Two Men Arrested in Tangier for 'Engaging in Homosexual Acts'”, *Morocco World News*, 27 February 2017; “Two men jailed in Morocco after friend leaked their 'sex tape'”, *Gay Star News*, 28 February 2017.

⁶²⁸ The Danish Immigration Service (Ministry of Immigration and Integration), *Country of Origin (COI) Report - Morocco: Situation of LGBT persons, v.2.0* (2019), 17.

⁶²⁹ “التشذوذ الجنسي يجز شخصين إلى الاعتقال ضواحي أكادير” [Homosexuality drags two people into detention on the outskirts of Agadir], *Kech24*, 9 January 2021.

⁶³⁰ “استفزاز أمني في طنجة بسبب انتشار شريط فيديو يوثق لممارسة جنسية مثلية بين رجلين” [A security alert in Tangiers due to the spread of a video tape documenting the practice of homosexuality between two men], *Kachaf*, 25 January 2021; “بيع هاتف والاطلاع على محتواه يؤدي لاقضاح أمر مثليين بطنجة” [Selling a phone and seeing its contents lead to the exposure of gay people in Tangiers], *Kachaf*, 25 January 2021

Sources indicate that in late **February 2021**, the General Morals Squad of the Judicial Police in Malbata, Tangiers, arrested five people aged 24 to 31,⁶³¹ as a result of active surveillance and intelligence carried out by a research brigade and the prosecutor's office on an apartment where "corruption" and "abnormal sex" was believed to be taking place.⁶³² While judicial prosecution under Article 489 of the Criminal Code was formally initiated against the five of them, four were released awaiting proceedings, though one was placed in preventive detention and charged with "preparing a den for prostitution", apparently because he had spoken openly about his homosexuality and his relationship with another man while being interrogated.⁶³³ Another local source indicated that the owner of the apartment was also wanted for prosecution.⁶³⁴

In late **May 2021**, in the town of Shammia, two men were arrested by the Judicial Centre of the Royal Gendarmerie for alleged homosexuality, after the authorities received a tip-off that the pair were "making strange movements" in their car.⁶³⁵

It was reported on **7 November 2021** that two men in the city of Fez were arrested "in a case related to the practice of homosexuality". One of the men reported the theft of his cell phone to police, but upon being apprehended the suspect told police that the two men had engaged in same-sex acts together, apparently showing them a video of the incident. It is alleged that there was no theft to begin with and that the two men had fallen out over money. Both the alleged thief and the initial complainant were taken into custody. The pair were charged with "homosexuality and insulting the judicial police" and "homosexuality and theft" respectively, and an initial trial date of **27 December** was set by the Fez Court of First Instance. Local media outlets began reporting in December that the man who claimed to have had his phone stolen was a member of the RNI political party, which had been elected to govern Morocco two months prior. Reporting in **July 2022** indicated that he had been released on 5,000 dirhams (approx. 550 USD) and eight months later received a four-month suspended sentence and a fine of 1,000 dirhams (approx. 100 USD). The other man was reportedly issued with the same sentence.⁶³⁶

On **22 May 2022**, a group of Royal Gendarmerie officers on routine patrol reportedly entered a café in El-Haouz Province to investigate "suspicious movements", where they caught four men "in the act of practicing homosexuality". Three of the men were arrested on the

scene, with the fourth fleeing and later being located in a nearby house, alongside a small stash of cannabis and cannabis-derivatives. The men were interrogated at a local police station before being presented to the Public Prosecutor's office.⁶³⁷

It was reported that on **1 September 2022** the Court of First Instance in Immentanot sentenced "two persons who practiced homosexuality" in Sidi Mokhtar to five months in prison and a fine of 500 dirhams (a little under USD 50) each. Further details could not be ascertained at the time of publication.⁶³⁸

In **January 2023** two men in the city of Driouch were arrested for engaging in same-sex sexual activity in a private dwelling, after the Royal Gendarmerie received complaints from the neighbourhood's residents. One of the men managed to escape the raid by fleeing over the roofs of neighbouring buildings, but turned himself in the next day. Both men were sent to Silwan Prison on charges of homosexuality by the Public Prosecutor at the Driouch Court of First Instance.⁶³⁹

Around **26 March 2023** the local advocacy group, Association AKALIYAT announced that two men suspected of being gay were arrested in the city of Oulad Taima. No further details of the case were known at the time of publication.⁶⁴⁰

On **30 April 2023**, on instructions from the Public Prosecutor, the Royal Gendarmerie raided a villa in the Nouasir region, on the outskirts of Casablanca, after complaints from the neighbouring residents regarding a "suspicious" party and heavy noise from a loudspeaker. Local media reported that the party was composed of "lesbians and homosexuals", "men dressing like women", and "perverts". Between 80 and 100 people were reportedly arrested during the raid, with various items such as motorcycles, alcohol, narcotics and money being seized from the party attendees and organisers. All of the detainees were released, except for the organisers and the owner of the villa. On **2 May 2023** they were presented before the Prosecutor of the Criminal Court of Ain Sebaa in Casablanca, and were ordered to be remanded in Akasha prison on charges of "incitement to corruption", "serving alcoholic beverages", "organizing an unauthorised event", and "disturbing the residents with loud music".⁶⁴¹

Note: After the cutoff date of this report (30 June 2023), further cases of enforcement were

⁶³¹ Reports are not completely clear as to the gender identity of detainees.

⁶³² "بطنجة مثليين 5 سقوط" [The arrest of 5 gay men in Tangiers], *Assabah*, 27 February 2021.

⁶³³ "بطنجة الجنائي القانون من 489 للمادة وفقا مثليين خمسة متابعه، والاضطراب المداهمة بعد" [After the raid and seizure, five homosexuals were pursued according to Article 489 of the Tangiers Criminal Code], *Aabbir*, 27 February 2021; "الدعارة شقة في مثليين 5 يعقل طنجة أمن" [Tangiers security arrested 5 homosexuals in a flat for prostitution], *Al Ayam* 24, 22 February 2021.

⁶³⁴ "بطنجة دعارة شقة في جنسيا مثليات 5 اعتقل" [5 homosexuals arrested in a prostitution apartment in Tangiers], *Nejma-TV*, 22 February 2021.

⁶³⁵ "الاشماعية بالشذوذ متهمين إيقاف" [Arrest of accused of homosexuality], *Assabah*, 2 June 2021.

⁶³⁶ "ملف الشذوذ الجنسي" لمسؤول جماعي تجمعي بتاونات: المحكمة تؤجل الجلسة" [The "Homosexuality File of a Collective Official in Tounate...The Court Postpones the Session], *Maghress*, 6 December 2021; "سرقة هاتف مستشار جماعي يفضح تورطه في علاقة شاذة - أخبارنا" [Theft of a group counselor's phone exposes his involvement in a gay relationship], *Akhbarana*, 8 November 2021; "السورسي" لنائب رئيس جماعة تجمعي بتاونات بتهمة الشذوذ الجنسي" [The "Al-Sourssi" to the vice-president of the Tatauni group on charges of homosexuality], *Al Jarida* 24, 6 July 2022; "الشذوذ وإهانة الضابطه القضائية يقود مستشارا جماعيا إلى السجن" [Homosexuality And Insulting The Judicial Police Lead A Collective Counsellor To Prison], *Agadir* 24, 8 July 2022; "الحبس وغرامة مالية لنائب رئيس الجماعة بعد ما مارس الجنس على شاذ" [Imprisonment and a fine for the vice-president of the group after he had sex with a homosexual], *Azilal* 24, 9 July 2022.

⁶³⁷ "ضبط 4 شبان مثليين بممارسة الشذوذ الجنسي داخل مقهى بستي فاذمة" [Four young men caught in the act of practicing homosexuality were arrested inside Basti Fadma Café], *kafapress.ma*, 25 May 2022.

⁶³⁸ "ابتدائية امتناوت تدين شخصين متورطين في الشذوذ الجنسي خمسة أشهر نافذة" [Amantanout Primary School convicts two persons involved in homosexuality for five months], *Marrakech Alaan*, 3 September 2022.

⁶³⁹ "الشذوذ الجنسي يقود شبانين للسجن بالدريوخ" [Homosexuality leads two young men to prison in Al-Dariush], *Morocco News Ambassador*, 25 January 2023.

⁶⁴⁰ "الشذوذ الجنسي في رمضان يقود إلى توقيف شخصين بأولاد تائمة - سفي" [Homosexuality during Ramadan leads to the arrest of two persons in Taima-Safi's children], *Morocco News Ambassador*, 27 March 2023.

⁶⁴¹ "توقيف أزيد من 80 مثليا خلال مداومة فيلا مثبوهة، والتحقيق يفجر فضائح بالجملة" [More than 80 homosexuals were arrested during a raid on a suspicious villa, and the investigation sparked mass scandals], *Agadir* 24, 30 April 2023; "توقيف صاحب فيلا بسبب إقامة سهرة لأشخاص مثليين" [The arrest of a villa owner for hosting an insane evening for homosexuals], *Assafir* 24, 3 May 2023.

documented by local civil society organisations and tracked by ILGA World through online media monitoring. These instances will be included in the next edition of this report.⁶⁴²



Enforcement Overview

Although the Penal Code (2003) of Niger does not specifically criminalise same-sex sexual activity, it does impose criminal penalties for acts which “offend public decency” under Articles 275 and 276. Persons charged under these ambiguous provisions can be prosecuted and face imprisonment ranging from three months to three years, along with a fine.⁶⁴³ Many LGBTQ+ individuals in Niger find themselves compelled to conceal their true identities, entering into marriages and forming families while maintaining extramarital relationships in secrecy due to societal pressures. Violence and threats of violence, online harassment, and discrimination appear common, and some asylum seekers of diverse SOGIE fleeing to Niger to evade persecution in criminalising countries have alleged that Nigerien authorities refuse to process their applications because of their sexual orientation, gender identity or gender expression.⁶⁴⁴

In February 2022 the Ministry of Justice established a committee to draft a new criminal code that would criminalise same-sex sexual activity, and in October 2022 MP Nana Djoubou Haruna reportedly introduced a bill to this effect. This came only weeks after a court in Maradi acquitted two young lesbian women on charges of indecent exposure. The bill sparked a public debate in Niger, with concerns that homosexuality will spread and undermine “traditional values”.⁶⁴⁵ In December 2022, a group of Nigerien parliamentarians backed MP Haruna’s proposal, though it remains unclear at the time of publication whether the issue will be formally discussed and debated in Parliament.⁶⁴⁶

In January 2023, President Mohamed Bazoum made remarks on a public radio station regarding the revision of Niger’s Penal Code in support of criminalisation. He reportedly announced plans to establish a committee of experts to review the current Penal Code, and emphasised the need for a specific section on homosexuality. The President highlighted that acts such as expressing love for someone of the same sex or public displays of affection would be considered “deviant” and subject to punishment. Additionally, the revised Penal Code could criminalise same-sex marriage, with penalties ranging from 10 years’

imprisonment to life imprisonment, or even theoretically the death penalty.⁶⁴⁷

Note: After the cutoff date of this report (30 June 2023), President Bazoum was overthrown by a military coup in July 2023, with government offices taken over by the armed forces, a curfew enforced, and the activities of all political parties suspended. At the time of publication, it remains unclear what impact this will have on the now-toppled government’s moves toward criminalisation of same-sex acts.

Examples of Enforcement

In **January 2013**, two men were arrested by security forces after being found naked together in an isolated parked car. Authorities briefly jailed the two and convicted them of “public indecency”. Ultimately authorities levied a small fine, and the men served no further jail time.⁶⁴⁸

Sometime in **late 2022** a court in Maradi reportedly acquitted two young lesbian women on charges of indecent exposure. Since homosexuality was not previously considered a crime in Niger, they could not be convicted solely based on their sexual orientation. However, they were sentenced to two years in prison after being found guilty of sharing explicit videos on social media, which allegedly depicted a lesbian act.⁶⁴⁹



Criminalising Provisions

Nigerian criminal law is built of an array of diverse legal frameworks. State-level, federal, and customary or religious law play varying roles in the criminalisation of consensual same-sex sexual acts.

At the federal level, the Criminal Code Act (2004) contains provisions criminalising consensual same-sex sexual acts (framed as “carnal knowledge of any person against the order of nature”) imposing a penalty of imprisonment for 14 years, as per Section 241. Moreover, Section 217 of this Code also punishes acts of “gross indecency” among men, whether in public or private, with imprisonment for three years. Most of the Southern states use the provisions of this Code as their state law, including those aspects that deal with consensual same-sex sexual acts. Across the North of the country, however, the Penal Code (Northern States) Federal Provisions Act (1959)

⁶⁴² If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

⁶⁴³ ILGA World, *SOGIESC Database: Criminalisation of consensual same-sex sexual acts - Niger* (retrieved: 26 May 2023).

⁶⁴⁴ U.S. Department of State, *2013 Country Reports on Human Rights Practices - Niger* (2013); Immigration and Refugee Board of Canada, *Niger: The situation of sexual minorities, including legislation; treatment of sexual minorities by society and the authorities; protection provided to sexual minorities who are victims of violence (2015-September 2017)*, NER105974.FE (17 September 2017); “Benjamin, homosexuel bloqué au Niger : ‘Ici, c’est dangereux pour les gens comme nous’” [Benjamin, homosexual stranded in Niger: “Here, it’s dangerous for people like us”], *InfoMigrants*, 16 March 2023; “Out in the World: Lesbian from Niger finds her voice in US political campaigns”, *Bay Area Reporter*, 23 March 2023.

⁶⁴⁵ “Niger lawmakers want gay relationships criminalised”, *My Joy Online*, 9 December 2022; “Le Niger s’apprête à criminaliser l’homosexualité, prévoyant jusque la peine capitale pour le « mariage gay »” [Niger prepares to criminalize homosexuality, including capital punishment for “gay marriage”], *ADHEOS*, 24 January 2023.

⁶⁴⁶ “Niger parliamentary group backs petition to criminalize same-sex relationships”, *MSN*, 9 December 2022.

⁶⁴⁷ “Niger: le Niger s’apprête à pénaliser l’homosexualité et à rendre le « mariage gay » passible de la peine de mort” [Niger: Niger to penalize homosexuality and make “gay marriage” punishable by death], *Erasing 76 Crimes en Français*, 22 January 2022.

⁶⁴⁸ U.S. Department of State, *2013 Country Reports on Human Rights Practices - Niger* (2013).

⁶⁴⁹ “Niger lawmakers want gay relationships criminalised”, *My Joy Online*, 9 December 2022.

(usually referred to as the “Penal Code”) applies as both federal and state law in the states that succeeded the colonial Northern Region. Section 284 of the Penal Code criminalises consensual same-sex sexual acts (“unnatural offences”) with imprisonment for up to 14 years and a fine.⁶⁵⁰

The Same-Sex Marriage (Prohibition) Act (2013, effective 2014) additionally outlines numerous restrictions. Same-sex marriage is outlawed, per the Act’s title, as is the registration and operation of “gay clubs, societies and organisations”. Sections 4 and 5 impose a penalty of 10 years’ imprisonment to anyone who “directly or indirectly makes public show of same sex amorous relationship”.⁶⁵¹

At the local level, 12 Northern states (Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara) have adopted Sharia Penal Codes which, to varying degrees and contexts, prescribe the death penalty for same-sex sexual activity. Numerous reports of religious courts in these states sentencing people to flogging have also been documented.⁶⁵²

Under the Sharia Penal Codes of various Northern states diverse gender expressions are explicitly criminalised. For instance, in Kano, a person who “being a male gender who acts, behaves or dresses in a manner which imitates the behavioural attitude of women shall be guilty of an offence”. Furthermore, in Bauchi, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe, and Zamfara, “any female person who dresses or is attired in the fashion of a man in a public place” is a vagabond.⁶⁵³

Enforcement Overview

While legislation in Nigeria criminalises consensual same-sex sexual activity nationwide, the possibility of execution from the Sharia Courts of 12 states in the northern parts of the country makes for an especially dire circumstance for local SOGIE communities. That said, it appears that death sentences have been carried out only rarely.

The processes and outcomes of these courts remain hard to access. Indeed, at a sodomy trial in January 2014 in the state of Bauchi’s Tudun Alkali Upper Sharia Court, an angry mob reportedly stormed the premises demanding that the accused be sentenced to death. The riot, during which the defendants were pelted with stones, had to be broken up with teargas by the police. Since then, according to a local source, “the sodomy trials have been going on in secret in another location and the trial dates are never made public”.⁶⁵⁴

Often, the line between extrajudicial violence and effective, official criminal enforcement is blurred. On 3 November 2014, several online Nigerian news sites

reported claims by a vigilante leader in the north of the country, alleging that his group had “arrested” 25 homosexuals over the previous year and turned them over to authorities for prosecution under Sharia law. Because of the limited nature of news coverage in that area, it is unlikely that his claims will be either verified or disproved.⁶⁵⁵ Further complicating matters is the fact that ILGA World is aware of several instances in which the accused will condemn each other as sexual offenders in an effort to exonerate themselves, precluding some cases from inclusion in this report.

In 2006, the UN Special Rapporteur on Extrajudicial Executions issued a report indicating that the imposition of the death sentence for a private sexual practice is clearly incompatible with Nigeria’s international obligations.⁶⁵⁶ The publication of this report was followed by one of the rare occasions in which a UN Member State has vigorously defended the imposition of the death penalty for consensual same-sex sexual acts. Indeed, the Nigerian delegation before the Human Rights Council replied by “expressing disagreement with the Special Rapporteur regarding the death penalty by stoning provided for by Sharia for ‘unnatural sexual acts’”. The delegation argued that “these are not extrajudicial killings and should not be mentioned in the report” and that:

“[T]he notion that executions for homosexuality offenses are excessive punishment is a matter of judgment and not objective. What some may regard as a disproportionate punishment for such serious crimes and such heinous conduct, may be viewed by others as an appropriate and just punishment”.

In January 2014, Amnesty International reported that Nigerian police had arrested 10 people suspected of being gay in four southern states in Nigeria. Human rights defenders also told Amnesty International that police in northern Bauchi state had arrested 38 suspected gay people and drawn up a list of at least 167 more candidates targeted for arrest. It was suggested that these arrests appeared to have been spurred on after the Same-Sex Marriage (Prohibition) Act came into force.⁶⁵⁷ Police entrapment of gay men appears to be a common tactic, with officers arresting people suspected to be gay, using their phone contacts to arrange meetings and subsequently arrest them as well.⁶⁵⁸ As such, access to justice for victims of violence or homophobic targeting remains elusive. An illustration of this fact made international headlines in 2022 when authorities in Nasarawa state urged gay victims of social media entrapment or blackmailing to come forward, but refused to guarantee amnesty for their “crimes” if they did.⁶⁵⁹ Another clear example came from Delta state the same year, when a transgender sex worker raised the alarm with police after two men threatened to

⁶⁵⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Nigeria* (accessed: 25 September 2023).

⁶⁵¹ *Ibid.*

⁶⁵² *Ibid.*

⁶⁵³ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 113.

⁶⁵⁴ “Nigeria: Trial of men accused of being gay suspended due to ‘mob justice’ fears”, *Pink News*, 29 January 2014; “Nigeria gay trial suspects bailed”, *The Guardian*, 28 March 2014.

⁶⁵⁵ “New anti-gay bill in Uganda; 25 reported arrests in Nigeria”, *Erasing 76 Crimes*, 7 November 2014.

⁶⁵⁶ *Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, Mr. Philip Alston. Addendum: Mission to Nigeria, E/CN.4/2006/53/Add.4*, 7 January 2006, para. 37.

⁶⁵⁷ “Nigeria Islamic court tries gay suspects in Bauchi”, *BBC News*, 15 January 2014; “Nigeria: Halt homophobic witch-hunt under oppressive new law”, *Amnesty International*, 15 January 2014; “Group: Nigeria arrests gay ‘suspects’ under new law banning homosexuality”, *CNN*, 16 January 2014.

⁶⁵⁸ PEN American Center, *Silenced voices, threatened lives: The impact of Nigeria’s anti-LGBTI law on freedom of expression* (2015).

⁶⁵⁹ “No Nigeria amnesty guarantees for gay dating app victims”, *BBC*, 3 August 2022.

rape her, resulting in her own arrest instead.⁶⁶⁰

In its third cycle of the Universal Periodic Review, in 2018, Nigeria received two specific recommendations regarding the enforcement of criminalising laws. One of them, issued by Iceland, urged the government to release all individuals held in detention because of their real or perceived sexual orientation or gender identity.⁶⁶¹ The other one, issued by Germany, recommended the repeal of the Same-Sex Marriage (Prohibition) Act (SSMPA) and urged the government to ensure that nobody is punished because of their sexual orientation, and release all individuals held in detention because of homosexuality.⁶⁶² Both recommendations were rejected by Nigeria without further explanation.⁶⁶³

In 2019, the UN Human Rights Committee expressed concern about the multiple criminalising laws in force in Nigeria and about reports indicating that, since the adoption of the SSMPA, the number of arrests and the detentions of young people based on their actual or perceived sexual orientation and gender identity had increased.⁶⁶⁴

This issue was also identified in a 2020 study by the Greenwich Social Work Review. It suggested that since the enactment of the SSMPA, violence against LGBTIQ+ Nigerians had risen by 214%, with the police being among the main perpetrators.⁶⁶⁵ Additionally, the Nigeria Security and Civil Defence Corps (NSCDC) in Jigawa state claimed that between January and July 2020 it had arrested more than 60 people on a range of charges including sodomy—though it is not known how many of those detained were specifically targeted for consensual same-sex sexual acts.⁶⁶⁶ Kano state officials similarly told media in December 2022 that they had dispersed 86 illegal gatherings that year, which included several “same-sex weddings”, as part of a year-long campaign against “immoral” behaviour.⁶⁶⁷

In April 2022 it was widely reported that a lawmaker had submitted to the federal House of Representatives a “Bill for an Act to Amend Same Sex Marriage (Prohibition) act 2023 to Prohibit Crossdressing and Other Related Matters”. The bill would punish anyone engaged in “the practice of wearing clothes usually worn by a person of the opposite sex” with imprisonment of up to six months, and a fine of 500,000 Naira (approximately USD 1,125).⁶⁶⁸ The bill was withdrawn in December 2022 prior to its second Parliamentary reading on procedural grounds, however.⁶⁶⁹

In all, then, between 2002 and 2023 ILGA World has

identified and compiled over 80 individual examples of criminal enforcement and State-targeting, many of which involve several victims, though as evidenced from the reporting above the true number of incidents is certainly much higher. A small number of cases have been deliberately excluded from this report due to their sensitive nature, at the request of local activists and lawyers working on them.

Examples of Enforcement

In **February 2002** a man from the city of Gusau in Zamfara state was sentenced to one year in prison and 100 lashes for allegedly committing sodomy with another man. Further details are unclear.⁶⁷⁰

In **2005** the UN special rapporteur on extrajudicial, summary, or arbitrary executions met with inmates on death row in Kano state, with one among them being a 50-year-old man sentenced to death by stoning for “sodomy”. A neighbour had tipped off the local Hisbah (religious police). The man had no legal defence and failed to lodge an appeal within an allotted window—though the UN special rapporteur intervened to allow him to submit an appeal which went under review. His fate is unclear but as of at least **2008** it appears he had not been executed.⁶⁷¹

In **December 2005** the Katsina Sharia Court acquitted two men who had apparently been sentenced to death for same-sex sexual activity, though the men had spent about six months in prison by that time. The acquittal came as a result of a lack of witnesses, but the judge still instructed the men “to be of firm character and desist from any form of immorality.”⁶⁷²

In **June 2007**, the governor of Bauchi state approved three sentences of death by stoning, including one for sodomy, that his predecessor had refused to ratify, following a religious enforcement agency in the state calling for him to take action.⁶⁷³

In **August 2007**, 18 individuals aged 18 to 21 were arrested at a hotel in Bauchi on allegations of “homosexual conduct”. The group were identified as young men, but as one of the accusations was that they were all wearing women’s clothing for a “gay marriage ceremony” it is unclear what their personal gender identities may or may not have been. They were tried in a local Sharia court, but conflicting reports exist about the outcome of this incident. Some media outlets reported that all detainees were eventually released on bail, whereas others reported that

⁶⁶⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁶⁶¹ *Report of the Working Group on the Universal Periodic Review: Nigeria*, A/HRC/40/7, para. 148.81.

⁶⁶² *Id.*, para. 148.80.

⁶⁶³ *Report of the Working Group on the Universal Periodic Review: Nigeria. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/40/7/Add.1, 8 February 2019, 4.

⁶⁶⁴ Human Rights Committee, *Concluding observations on Nigeria in the absence of its second periodic report*, CCPR/C/NGA/CO/2, 29 August 2019, para. 18.

⁶⁶⁵ Sulaimon Abiodun Olawale Giwa et al., “Police violence targeting LGBTIQ+ people in Nigeria: Advancing solutions for a 21st century challenge”, *Greenwich Social Work Review* 1, No 1 (2020), 36-49.

⁶⁶⁶ “NSCDC secures conviction of 67 suspects for theft, sodomy, trespass, others in Jigawa”, *Daily Nigerian*, 16 July 2020.

⁶⁶⁷ “Kano Hisbah begins enforcement of ban on men and women from swimming in same pool; lesbianism, gay activities, prostitution in hotels and guesthouses”, *Linda Ikeji’s Blog*, 28 January 2022; “Nigeria: Islamic police target ‘same-sex weddings’, hair styles and mannequins”, *Erasing 76 Crimes*, 29 December 2022.

⁶⁶⁸ “Nigeria: Reps Consider 6-Month Jail Term for Crossdressers” *All Africa*, 5 April 2022; “Bill aims to jail people for cross-dressing in Nigeria”, *Mamba Online*, 21 April 2022; “Repeal Same Sex Marriage Prohibition Act, group tells National Assembly”, *The Authority*, 2 May 2022; “LGBTQ+ Nigerians oppose a proposed bill on crossdressing, say the issue is being used as an election distraction”, *Xtra Magazine*, 13 October 2022.

⁶⁶⁹ “House Steps Down Same Sex Prohibition Bill”, *NNN*, 16 December 2022; “2022 in worldwide LGBT rights progress - Part 3: Africa and Oceania”, *Erasing 76 Crimes*, 5 January 2023.

⁶⁷⁰ Immigration and Refugee Board of Canada, *Nigeria: Situation of homosexuals and their treatment under sharia law (June 2002-July 2004)*, NGA42748.E (2004).

⁶⁷¹ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism* (2008), 60-61.

⁶⁷² *Id.*, 61.

⁶⁷³ “Nigerian Gays Charged with Sodomy, Could Face Death Penalty”, *VOA News*, 27 October 2009.

13 of them—all presumed to be Muslim—remained in detention awaiting a further hearing on **13 September** of that year.⁶⁷⁴

A gay man indicated to the German Federal Office for Migration and Refugees that he was arrested by Nigerian authorities in **March 2009**. He claimed that a member of his village saw him and his partner being intimate through a window and summoned the rest of the village to capture the pair. Local police intervened to prevent the two men from being killed, arresting them in order to assuage the mob. The man said he then spent two days in custody before being transferred to a conventional prison, where he faced harassment from fellow inmates once they learned of his sexual orientation. Eventually, he escaped from prison with the assistance of a stranger who also facilitated his departure from Nigeria. His partner's fate is not known.⁶⁷⁵

In **January 2014** three men were allegedly caught by members of the public while engaging in same-sex sexual acts in Ekwe Autonomous Community in Imo state. They were stripped naked, bound with rope, and paraded through the streets before being severely beaten by the public. They were taken to the home of the traditional leader of the community to have a "cleansing ceremony" performed on them, though one of the men died of his injuries while there. The other two were handed over to police for prosecution, though no further details could be ascertained.⁶⁷⁶

On **16 January 2014** a 20-year-old man was found guilty of sodomy by a Bauchi Sharia Court. He was whipped in public and forced to pay a fine. Reportedly, the judge said that the accused was spared from death by stoning as the incident had occurred seven years prior to the trial (when he was a minor) and "because he had shown great remorse".⁶⁷⁷

It was reported in **January 2014** that 11 Muslim men and one Christian were arrested in Bauchi by Islamic Police on allegations of homosexuality. After being forced to sign confessions (which some of the accused later recanted), the accused Muslims would reportedly go on to be tried in a Sharia Court while the Christian would be tried under a federally recognised secular court. Though the fates of the accused are not all entirely clear, several were granted bail, with a Sharia Court clerk noting that they were precluded from receiving the death penalty as none had been caught in the act of having sex. Four were publicly whipped and fined after being beaten into confessing their guilt on **6 March 2014**. It has been alleged that the men faced torture while in custody. The Chairman of Bauchi's Sharia Commission denied the claims of torture, but did note that community members had helped to "fish out" the accused and would be on the hunt for more homosexuals in the state.⁶⁷⁸

Two days before the Same-Sex Marriage Prohibition Act (SSMPA) was passed in **January 2014**, a young man and his friend were arrested in Ibadan state when the friend's mother lured them to a police station. The pair were stripped, beaten, and made to stand naked for photographs in an area of the station that was open to the public. They were held for three days before being released, and it seems no further police action was taken regarding this case as one of the accused was re-arrested in **May 2015** at a birthday party.⁶⁷⁹

In the capital city of Abuja, in **January 2014**, shortly after the SSMPA was passed, police raided an HIV services and treatment centre. The police arrested 12 of the 24 people attending a meeting there. They spent three weeks in police custody, where they were beaten almost daily and barely given any food or water. They were arrested without being formally charged with any offence, and finally released after they paid a 100,000 Naira bribe (approximately USD 318). One victim reported that the police would regularly say, "since you are gay, you must pay. How much do you have in your account? Gay men are so rich".⁶⁸⁰

In early **2014** a 25-year-old gay man visited a man whom he met online in Ado Ekiti, southwest Nigeria. When he arrived at the man's house, a man he believed to be a police investigator was also present. Soon after the young man got there the investigator left and returned with two other men, who beat the pair up and forced them to draw money from a nearby ATM before taking them to the police station. The men who had brought the pair to the police station handed the accused's phones to the police, who then searched the phones for incriminating evidence. According to one of the accused, the police slapped them and beat them with a "koboko" (a whip made of cowhide or horse tail) all over their bodies while shouting "tell us the truth! Why are you doing this?" After three days in detention and each paying a bribe of 15,000 Naira (approximately USD 48) to the Divisional Police Officer in charge of the police station, they were released.⁶⁸¹

It was reported that 14 young men were assaulted by a homophobic mob of about 50 men in Gishiri neighbourhood, Abuja, in **February 2014**. At least four men were dragged from their homes and beaten with nail-studded clubs and whips. The *New York Times* indicated that several Nigerian activists and a witness said the mob was shouting that they were "cleansing the community".⁶⁸² The victims were forcibly taken to a police station where officers arrested them and allegedly kicked, punched and yelled pejoratives at them. An employee of the International Centre on Advocacy for the Right to Health, stated that he later drove to the police station and met with a senior officer who ordered at least four of the men to be released as there was no evidence that they were gay and they had not been caught engaging in any sexual

⁶⁷⁴ "Changes in the Law in the Sharia States Aimed at Suppressing Social Vices" in Philip Ostien (ed.), *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook*, Vol. III (2007), 54; "18 Nigerian gays face death", *News24*, 9 August 2007; "Nigeria's anti-gay witch-hunt", *The Guardian*, 29 August 2007; "Wave of repression on so-called 'amoral' behaviour", *The New Humanitarian*, 12 September 2007.

⁶⁷⁵ Information supplied to ILGA World by LSVD.

⁶⁷⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁶⁷⁷ "Nigeria gay trial suspects bailed", *The Guardian*, 28 March 2014.

⁶⁷⁸ "Nigeria Islamic court tries gay suspects in Bauchi", *BBC News*, 15 January 2014; "Nigeria's anti-gay laws: Homosexuals rounded up and beaten, rights groups claim", *The Independent*, 15 January 2014; "Nigeria court flogs four men for homosexuality", *France 24*, 7 March 2014; "Nigeria gay trial suspects bailed", *The Guardian*, 28 March 2014.

⁶⁷⁹ Human Rights Watch, "Tell Me Where I Can Be Safe": *The Impact of Nigeria's Same Sex Marriage (Prohibition) Act* (2016), 34-35.

⁶⁸⁰ *Id.*, 38-39.

⁶⁸¹ *Id.*, 37.

⁶⁸² "Mob Attacks More Than a Dozen Gay Men in Nigeria's Capital", *The New York Times*, 15 February 2014.

activity.⁶⁸³ After the attack, graffiti reading "Homosexuals, pack and leave" was written on the homes of the victims.⁶⁸⁴

Some time on or before **1 April 2014** two men in Bauchi accused of engaging in consensual same-sex sexual acts and belonging to "a homosexual club" were acquitted due to a lack of evidence. According to a local court clerk, the men were acquitted because nobody had witnessed them committing sodomy. The men were reportedly arrested after a raid by local residents, where one of the men was found "wearing shorts".⁶⁸⁵

In **June 2014**, an Upper Sharia Court in Bauchi arraigned four suspects who had been arrested the previous month for engaging in consensual same-sex sexual acts. One suspect pleaded "not guilty" to all charges against him, whereas the other three admitted to the accusations but pleaded for mercy from the court. They were due to stand trial at the **end of that month** though their fates are not known.⁶⁸⁶

Also in **June 2014**, police in the state of Kaduna arrested 14 members of an HIV awareness raising NGO who were hosting an educational session for gay men and MSM. The Kaduna state security outfit, code-named "Operation Yaki", confiscated their condoms and lubricants as evidence and charged them with "same-sex practices". The leader of the NGO claims that he was not personally harmed during his 24-hour detention period, but others were flogged, and one 15-year-old boy was severely tortured because "his case was special" in the eyes of the officers. All were released after paying bribes.

On **1 September 2014** a young gay man in Lagos went home from a party with another man he presumed to be gay, only to be beaten by the man and others until a passer-by intervened. The gay man was arrested by police, but bailed out by his father (who disowned him later because of his sexual orientation). The young man claims that he has been arbitrarily stopped by police at least three more times, paying a bribe on two of those occasions to be allowed to walk free.⁶⁸⁷

On **3 November 2014**, several online Nigerian news sites reported claims by a vigilante leader in the north of the country, alleging that his group had "arrested" 25 homosexuals over the previous year and turned them over to authorities for prosecution under Sharia law. Because of the nature of news coverage in that area, it is unlikely that his claims will be either verified or disproved.⁶⁸⁸

In **December 2014** three men in Ibadan state were arrested on suspicion of being gay for staying together in the same apartment. Two had come to visit the third who lived in the apartment, at which point a neighbour commented that they couldn't all be in the apartment together as the Same-Sex Marriage Prohibition Act had been passed. Soon after, they were arrested and taken to a police station, stripped,

and held for four days without being charged. They were released when they paid a bribe of 20,000 Naira (approximately USD 64).

A gay man in Lagos was stopped by police in the streets of Lagos in **February 2015**. The police went through his phone and found pornographic videos and nude photos of men. He was taken to the police station where he managed to call a friend (a peer educator interviewed later by Human Rights Watch) to bail him out. The police printed out everything that the accused had on his phone and asked for a bribe of 200,000 Naira (about USD 635) to have him released, but the peer educator negotiated this down to 50,000 Naira (about USD 160).⁶⁸⁹

On **16 April 2015** six gay men in Ibadan returned from church to the home of one of the group, only to find a police van waiting for them. At the police station they were stripped naked, beaten, and photographed. They were held for seven days until the father of one of the accused paid 200,000 Naira (approximately USD 635) each to secure their release. One of the detainees alleged that on the last day of their incarceration police put them into an open-top Jeep and drove them around the city to show them off to the community at large.⁶⁹⁰

In **May 2015**, 21 young men attending a birthday party in Ibadan were arrested, but not formally charged. Police stormed the party with machine guns and tied the detainees together with their own clothes before marching them through the street to a van, cramming all of them inside. They told Human Rights Watch that at the police station officers beat several of them, including with rifle butts and wooden planks. They were held in police cells for four days wearing only their underwear and eventually released after paying bribes ranging from 10,000 to 25,000 Naira each (about USD 32-64).⁶⁹¹

A cleaner at a government office said that police in Ibadan arrested him in **June 2015** on his way home from work. He was taken to Ijokodo Police Station where they proceeded to slap, choke, and punch him, forcing him to unlock his phone so that they could inspect his pictures. They beat him further when they saw pictures of him with his partner. He was detained for three days, and released only after his brother paid police a 45,000 Naira bribe (around USD 142).⁶⁹²

On **19 August 2015** two men were sentenced by a Magistrate in the Minna Court of Niger State. They received six months of imprisonment each for their involvement in an alleged "unnatural act of gross indecency" under Articles 95 and 285 of the Penal Code (Northern States). The prosecuting police officer stated that one man was observed engaging in intimate behaviour with another, and they were in the process of committing the act deemed "against the order of nature" before being apprehended.⁶⁹³

⁶⁸³ "Anti-gay violence hits Nigerian capital", *Aljazeera*, 15 February 2014.

⁶⁸⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁶⁸⁵ "Nigeria Islamic court acquits men of gay sex charge", *BBC News*, 1 April 2014.

⁶⁸⁶ "Bauchi Sharia court arraigns four gay suspects", *Vanguard*, 12 June 2014.

⁶⁸⁷ Human Rights Watch, "Tell Me Where I Can Be Safe": *The Impact of Nigeria's Same Sex Marriage (Prohibition) Act* (2016), 30, 40.

⁶⁸⁸ "New anti-gay bill in Uganda; 25 reported arrests in Nigeria", *Erasing 76 Crimes*, 7 November 2014.

⁶⁸⁹ Human Rights Watch, "Tell Me Where I Can Be Safe": *The Impact of Nigeria's Same Sex Marriage (Prohibition) Act* (2016), 36.

⁶⁹⁰ *Id.*, 35.

⁶⁹¹ *Id.*, 35, 37.

⁶⁹² *Id.*, 38.

⁶⁹³ "Nigerien Bags 6 Months Imprisonment For Homosexual Act", *Daily Trust*, 19 August 2015.

A 22-year-old gay man from Lagos said police arrested him at home in **August 2015** after a group of men who had previously gang-raped him reported him to the police for being gay. Police reportedly beat him with belts and guns, and inserted a stick into his anus. He was later able to contact his parents, who paid a 78,000 Naira (approximately USD 250) bribe to get him released.⁶⁹⁴

On **24 October 2015** two men in Imo state were accused of being in a relationship with each other by a waitress at the hotel they were visiting. This resulted in the gathering of an angry mob and the burning down of a local business owned by one of the men—a United Kingdom resident. Local media outlets reported that the pair were being hunted by police, and published their names and faces to assist in the search. As a result, the local resident also lost his job, with his boss publicly denouncing him in the media. The United Kingdom resident likely managed to leave the country without incident, while the local man attained a Visa to travel to Italy, where he was left destitute. After an extended period on the streets, he travelled to Sweden to seek asylum. It was reported in **2022** that the Swedish Migration Court rejected his asylum application, claiming that he did not sufficiently prove he would be in danger if deported back to Nigeria.⁶⁹⁵

It was reported that police disrupted a “gay wedding” in early **February 2016**. A couple and others involved in the ceremony were arrested at a hotel in the Jiwa Community of Abuja. It is unclear whether they were charged but it was reported that the authorities were taking the victims to court.⁶⁹⁶

On **9 May 2016** five “suspected homosexuals” were arrested in a raid by “anti-vice” investigators in Benin City. A sixth individual was apprehended on **11 May** while trying to flee the city.⁶⁹⁷

In **June 2016** police arrested a young man while he was walking with a friend around Festac Town in Lagos. Police officers stopped them for interrogation. They then took the young man’s phone, went through its contents, and accused him of homosexuality. He was detained for five days before they asked him to pay the sum of 105,000 Naira (about USD 375) or face homosexuality charges. The young man was unable to pay so he agreed to face the charges. It was reported that the charges were filed but later dropped after the officers collected a smaller amount of money from the young man.⁶⁹⁸

On **31 July 2016** the Edo state police raided a hotel in Benin City, arresting 16 individuals for “gay practice at a birthday party”. The authorities received a tip-off that members of the party belonged to a “gay club”. Two partygoers fled before being apprehended and were declared wanted.⁶⁹⁹

Police raided a wedding celebration in late **August 2016**, in the north-west region of Nigeria. News outlets reported that police had heard rumours of a trans woman attending the wedding, which led the authorities to believe that a “gay wedding” was taking place, though the marriage proceedings turned out to be entirely legal. Police also wrongfully arrested two men at the celebration and later dropped the charges.⁷⁰⁰

In **December 2016** Nigerian police arrested two men accused of same-sex intimacy. Bail was set close to about 200,000 Naira each (about USD 635). The men spent five months in prison before their lawyer told the judge that the video confession from them was obtained under duress. It is reported that the men were beaten by police and barely given any food or water. The judge later dropped the charges against them.⁷⁰¹

Around **February 2017** a gay bar in the town of Badagry was raided and five men were arrested. It is reported that a member of the public lodged a complaint to the police before they arrested the owner, two staff members, and another two suspects at the bar. They were released after being questioned but another arrest warrant for the men was issued when they failed to appear in court. Potentially facing 10 years in prison, it is unclear whether the men were found by authorities.⁷⁰²

In **April 2017**, 53 students aged 20 to 30 were organising a social gathering in the city of Zaria, Kaduna state, when they were arrested and charged with “conspiracy, illegal assembly, and membership in an anti-social group”. Police officers arrived before the event could start, probably after being called by an employee of the establishment. Upon being brought before the Zaria Court of Justice, they all pleaded “not guilty”, saying that they were organising a birthday party, not a “gay wedding”. They were all released on bail and the judge postponed the trial until **8 May**.⁷⁰³ It is unclear what the outcome of the case was.

On **2 July 2017** a man was arrested at a hotel bar in Asaba on accusations that he was gay. It was reported that another man had booked a hotel room and asked to meet up there. The man was arrested at the hotel upon his arrival, with the entire meet-up apparently being a case of entrapment. The man who had arranged the meet-up told police that the accused had been sending him unsolicited pictures and that he was gay. The accuser demanded that he pay him 48,000 Naira (about USD 152) as reimbursement for the booked hotel room, or 500,000 Naira (about USD 1,588) if any third party apart from his parents got involved. The parents of the victim pleaded with police to lower the bail amount, which they did, and he was later released.⁷⁰⁴

On **30 July 2017**, 60 men and 12 minors were arrested at

⁶⁹⁴ *Id.*, 37.

⁶⁹⁵ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁶⁹⁶ *Ibid.*

⁶⁹⁷ *Ibid.*

⁶⁹⁸ “Nigerian police extort money from man they claim is gay”, *Erasing 26 Crimes*, 25 June 2016.

⁶⁹⁹ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁷⁰⁰ *Ibid.*

⁷⁰¹ *Ibid.*

⁷⁰² “Nigerian man charged with running a gay bar – faces 10 years in jail”, *Mamba Online*, 13 March 2017.

⁷⁰³ “53 arrested in Nigeria for celebrating gay wedding: Police”, *AP News*, 19 April 2017; “53 arrests in Nigeria for alleged same-sex wedding”, *Erasing 76 Crimes*, 20 April 2017; “Nigeria : arrestation de 53 homosexuels accusés d’organiser un ‘mariage gay’” [Nigeria: arrest of 53 homosexuals accused of organizing a ‘gay marriage’], *Tetu*, 25 April 2017.

⁷⁰⁴ “Nigeria: Police nab suspected gay man. Fine: \$111”, *Erasing 76 Crimes*, 10 July 2017; “Nigeria: Police nabs man in Asaba on accounts of homosexuality”, *No Strings NG*, 11 July 2017.

an HIV awareness-raising event near Lagos. 30 (including the minors) were later released but the 42 that remained faced charges for their alleged homosexuality. Further details are unclear, but a local news outlet reported that police were seeking 500,000 Naira (approximately USD 1,375) from each detainee as bail.⁷⁰⁵

In **August 2017** a 26-year-old man was arrested at a party that police thought was a “gay wedding”. The man was reported to have spent nine months in prison without a trial. He only went to court once, where he was charged with homosexuality. He was unable to afford a lawyer or pay bail. The other people at the party were also arrested, but they were released after each of them paid a bribe of 150,000 Naira (around USD 415). The man claimed that he was not gay and that it was not a “gay wedding”. It is unclear if he was able to find a lawyer or get his charges dropped.⁷⁰⁶

In early **September 2017**, 70 minors were arrested by the Islamic religious police in northern Nigeria’s Kano state following accusations that they were planning to organise a gay party. The fates of the accused are unclear, but officials stated that they would be arraigned before the appropriate courts in their various jurisdictions.⁷⁰⁷

A lesbian woman was arrested outside her home in Lagos in late **September 2017**. It was reported that the woman was caught by her ex-husband in bed with another woman, who fled the scene. The victim went on to explain that she always knew she was lesbian and that she was forced into marriage by her father. She later divorced her husband, but he continued to harass her after the divorce was settled. He then reported her to the police, and she was detained for four days before she was able to pay her bail of 62,000 Naira (approximately USD 172).⁷⁰⁸

In **November 2017** police arrested the President of an all-male group at the University of Ado Ekiti. This came after two men there were arrested and charged with homosexuality in **May 2016**. The men told the police, after they had confessed about their relationship with each other, that they were part of an exclusive men’s group at the university through which they met men who gave them money in exchange for sex. This evidence sparked an investigation into the group in question, and the President of the group was forced to give details on other members. This led to members going into hiding, but it is unclear if police were able to find them or what charges the President of the group faced.⁷⁰⁹

In **January 2018** traditional chiefs reportedly joined police raids seeking to arrest suspected gay men in the area of Egor. Police were aiming to find two alleged “leaders of a gang of sodomites” who were arrested in **February 2016**, but who jumped bail and thus remained on the wanted list.

Officials stated that if the two men were re-arrested it would scare homosexuals and make them change. It is unclear if they were ever found.⁷¹⁰

On **26 April 2018** two Nigerian men in Imo State were stripped naked, beaten, and paraded on the street after being accused of consensual same-sex sexual acts. Another victim managed to escape while the angry mob surrounded them. Reports revealed that the two victims were later arrested by police and needed legal support.⁷¹¹

Edo state police told media on **15 May 2018** that five individuals were arrested after authorities received “credible information that some men were engaged in an orgy of same sex activities in a location in Benin City”. Four others escaped and were subsequently declared wanted, with police calling on the public to turn them in.⁷¹²

In **June 2018**, 100 young people were arrested at an alleged same-sex wedding in Asaba. The arrestees denied claims that they were either gay or lesbian and that they were in fact attending a birthday celebration. A statement released by the Interfaith Diversity Network of West Africa (IDONWA) revealed that the network paid for the release of some of the arrested persons and that their families were also made to pay substantial sums of money to police for bail.⁷¹³

A manager of the City Global Hotel in Abia phoned the police with allegations that two men had been seen kissing in the hotel bar, according to a Nigerian news outlet in **mid-August 2018**. He then went to their room—which he said was meant for two people—and allegedly discovered six men being intimate. The men were arrested, though they denied claims that they had engaged in sexual acts with each other and that they were gay. One man stated that they had wanted to book a room for the six of them for a birthday party, but the hotel had run out of rooms so they made alternative plans. Further details about their case could not be identified at the time of publication.⁷¹⁴

In **August 2018**, 57 people were arrested on homosexuality charges in a hotel in Lagos. Witnesses and partygoers stated that they came to the hotel to attend a wedding and a birthday party. Police raided the hotel, arresting only the men present and declaring them homosexuals. Police claimed that the gathering was a “gay initiation ceremony”, though attendees denied this, saying it was just a birthday party. The men were later released on bail.⁷¹⁵ 47 were set to stand trial in **2019**, though the case was delayed multiple times until a judge at the Federal High Court in Lagos struck the case out of the roll in **October 2020** due to a “lack of diligent prosecution”—though the case being “struck out” as opposed to entirely dismissed means the accused can be arraigned again on the same charge in

⁷⁰⁵ “Nigerian activists: Don’t assume 42 arrested men are gay”, *Erasing 76 Crimes*, 3 August 2017; “42 Nigerians granted bail, face homosexuality charges”, *Erasing 76 Crimes*, 4 August 2017; “Police arrest 42 homosexuals in Lagos hotel”, *Sunday Punch*, 30 July 2017.

⁷⁰⁶ “Nigeria: Man facing homosexuality charges languishes in prison”, *Erasing 76 Crimes*, 10 May 2018.

⁷⁰⁷ “Report: Muslim police arrest 70 Nigerian youths for ‘gay’ party”, *Erasing 76 Crimes*, 2 September 2017.

⁷⁰⁸ “Nigeria: Ex-husband triggered raid, arrest for lesbian sex”, *Erasing 76 Crimes*, 20 September 2017.

⁷⁰⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷¹⁰ *Ibid.*

⁷¹¹ “Nigeria: 2 men stripped, paraded for alleged sex”, *Erasing 76 Crimes*, 26 April 2018.

⁷¹² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷¹³ “Nigeria: 100+ youths face homosexuality charges in court”, *Erasing 76 Crimes*, 2 July 2018; “Nigeria: Police arrest over 100 alleged gay and lesbians”, *No Strings NG*, 11 June 2018.

⁷¹⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷¹⁵ *Ibid.*

future.⁷¹⁶

In late **December 2018**, 11 women were arrested and accused of planning a “lesbian wedding” in Kano state. Islamic Police were tipped off by a member of the public before immediately apprehending the women. The accused denied the claims, saying they were members of a dance club and were merely planning a party. It is unclear whether the women were granted bail or if they were charged.⁷¹⁷

In **January 2019** in Enugu state, two gay men “caught in the act” were dragged from a house by an angry mob, beaten, and almost burned alive. One of the pair managed to flee and went into hiding. He is wanted by the police. It is not clear what happened to the other, who is the son of a retired soldier. The young man’s military father has urged police to “fish out” the missing man, as “they have been practising the devilish act for some time”.⁷¹⁸

On **22 February 2019** two women in the Ajeromi-Ifelodun area of Lagos state were “caught in the act of lesbianism” by police. One fled the scene while another was detained. The detained woman was released on bail, but has reportedly been in and out of the police station several times since, as police refused to drop the case but also claimed they could not issue charges until both women were present. Police declared the missing woman wanted, and the family of the other appears to have been publicly calling for her capture and asking local media to assist in the matter. The father of the detained woman reportedly said:

My daughter cannot continue to suffer alone while the evil lady who lured her into this abominable act will be somewhere enjoying herself [...] it has become necessary for us to come to the media again as our daughter has been going through this all alone and they are about to be charged to court.⁷¹⁹

In **April 2019** it was reported that a young “cross-dresser” at a nightclub in Abuja was found to not be a cis woman, and so “apprehended” by security officials and forced to strip down in public so that everyone could see her body. It is not clear if the original source’s reference to “security officials” is indicative of police action taking place, or if it is referring to the club’s security staff. No further legal actions against the victim are known.⁷²⁰

In **November 2019** Nigerian police arrested two women rumoured to be in a relationship in the city of Edo. Media outlets pointed out that police further declared a “war” on lesbians in the city.⁷²¹

A group of university students were arrested on charges of homosexuality in Kano in **December 2019**. According to reports, 15 people—described as being men, though some appear to have been trans or gender-diverse based on their gender expressions—were arrested by the Hisbah (religious police) at an alleged “gay party”. The Hisbah Board Deputy Commander-General confirmed the arrest and further declared to the media: “We arrested and transferred the errant students to our correctional centre at our headquarters in Sharada. While at our correctional centre, they will be re-oriented and, at the close of the day, they will desist from their waywardness and turn a new leaf”. It is unclear whether the accused were later released or further charged.⁷²²

In **March 2020**, police arrested a suspected “cross-dresser” in Sokoto state. Police stated that the suspect was allegedly defrauding unsuspecting men into sex. It is unclear whether the suspect was charged or released.⁷²³

It was alleged in **May 2020** that police in Benin city had arrested at least 20 suspected gay men in a series of incidents propagating out from a single arbitrary search. It is claimed that an “effeminate” man was stopped by officers who searched his phone for incriminating evidence, and then went after contacts saved on the device. Those who they targeted were also forced to disclose the identities of yet more gay individuals in the region and were beaten if they refused or denied being homosexual. Often, in addition to bribes, such disclosures were made in exchange for being released from custody.⁷²⁴

In **May 2020** it was also alleged that several lesbian women were arrested in Lagos after police found their contact details on one of the women’s phones. Using these details, officers entrapped the women, luring them to locations where they could be arrested one-by-one.⁷²⁵

In **July 2020** it was reported that a young gay man was waiting for a friend at a bar when he suddenly found himself surrounded by police. They hit him hard in the face and loaded him into a van, taking him to an abandoned building where his friend had clearly already been beaten to the point where he outed the young man to police. After beating the young man further, he agreed to be escorted to an ATM to pay a bribe and avoid jail time. The police also stole his phone.⁷²⁶

A young graphic designer was stopped by police while on his way home in late **July 2020**. Police questioned the man about his piercings and tattoo and stated that he “looked like a gay”. Police threatened to arrest the man on charges of homosexuality before he transferred 100,000 Naira (approximately USD 260) into the bank accounts of the officers.⁷²⁷

⁷¹⁶ “Lagos homosexuality trial suffers more delays”, *Vanguard*, 3 March 2020; “Nigerian judge throws out homosexuality case against 47 men”, *Aljazeera*, 27 October 2020.

⁷¹⁷ “Nigeria: 11 women arrested over ‘lesbian wedding’”, *Mamba Online*, 21 December 2018.

⁷¹⁸ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁷¹⁹ *Ibid.*

⁷²⁰ *Ibid.*

⁷²¹ “Nigerian Police Declares ‘War’ On Lesbians, Arrest Two in Edo”, *Daily Time TV*, 10 November 2019.

⁷²² “Hisbah storms Kano gay party, nabs 15”, *Punch*, 6 January 2020; *Another entry has been redacted for the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁷²³ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁷²⁴ “The Gay Community In Benin Is Getting Victimized By The Police During A Period When We Should All Be More Concerned With Saving Humanity”, *Kito Diaries*, 13 May 2020.

⁷²⁵ *Ibid.*

⁷²⁶ “I’ve been beaten up, spat on and abducted by the police, all for being gay in Nigeria”, *Metro*, 14 July 2020.

⁷²⁷ “Nigerian Police Are Extorting People Who ‘Look Gay’”, *Vice*, 20 August 2020.

On **25 July 2020** a young man in Edo state's Benin City was arraigned by police for allegedly participating in same-sex sexual acts. On **3 August** he was made to sign an affidavit renouncing his homosexuality lest he face formal charges. The signed document read: "I hereby with this affidavit confirm the above fact that I am no longer involved in a homosexual act, that I have given my life to Christ, hence this affidavit".⁷²⁸

Two lesbian women from Port Harcourt were charged on **25 July 2020** for engaging in "unlawful relationships". No further details of this incident are known.⁷²⁹

On **27 July 2020** a young man was stopped by police while on his way home from a routine HIV test in Lagos. The police questioned him for hours about his sexual orientation and searched his phone for explicit content. They accused him of having drugs, but they were revealed to be lube sachets provided by the testing site. The police later released him, allegedly when they realised that the young man did not have enough money to make extorting him worth their while.⁷³⁰

On **2 September 2020** two gay men were arrested by the Hisbah Corps in the northern state of Jigawa after being reported by the community. The pair had agreed to meet up online, allegedly with one paying the other for sex, but when payment could not be made their argument alerted locals. They were taken to a police station to be charged, though no information thereafter could be verified.⁷³¹

A Nigerian actor alleged that he was arrested and beaten in **January 2021** after coming out as gay. He retracted his coming out in **April** of that year, apparently as a result of this experience. This all according to a public statement he made on social media in **2022**, which was soon deleted as public calls for his re-arrest mounted.⁷³²

It was reported on **5 March 2021** that two men in Ondo state were handed over to the Civil Defence Corps to have allegations of the pair having sex in public investigated—though later media reporting would walk back this claim and say that the men were "making out" in public.⁷³³ Both men claimed that they were seduced by the other and are not gay.⁷³⁴

On **7 March 2021** in Anambra state, police claimed to have arrested an undisclosed number of gay men who were having a party at a local hotel, taking them to the police command's "anti-cult office" for processing.⁷³⁵ In **June 2021**, Nigeria's National Human Rights Commission claimed that it had intervened when "around 90 young men" were arbitrarily arrested in Anambra and charged

with "cultism and being gay", which can be presumed to be the same case.⁷³⁶ In the same report, the Commission noted a case from Yobe state—where the death penalty remains legal—where a family narrowly escaped lynching from their community due to allegations that their son was gay.

In early **May 2021** three young men in Benue state—two of whom are of unknown age while the third was identified in the press as being 18 years old—were arrested by local community members while allegedly having sex and handed over to police for prosecution. Their pictures were repeatedly published on social media, with local news outlets using these images to expose them publicly.⁷³⁷

In **July 2021** five minors were arrested by Kano Islamic Police for allegedly being gay. The details surrounding the case are unclear, but the Islamic Police reported that the minors were arrested after the community complained about the suspects performing "homosexual acts" in their hideout in Kumbotso, a local government area in Kano state.⁷³⁸

On **11 July 2021** the Kano state Hisbah arrested five men accused of engaging in consensual same-sex sexual activity. Authorities confirmed that all men were above the age of consent but used the incident as an opportunity to publicly call on young people in the state to not engage in such "unwholesome practices" by publicly parading the accused in the streets. The five accused were scheduled to be charged in court. It is unclear whether they were to be sentenced under Kano's Sharia law framework, which permits the death penalty.⁷³⁹

On **25 August 2021** in Zariagi Community, Kogi state, a vigilante group apprehended a "cross-dresser" who claimed to be a dancer, and handed the suspect over to the military. Military officials said they now had control of the situation and would investigate whether any crime had been committed. The Senior Special Assistant on New Media to Kogi state Governor publicly accused the suspect of being "disguised for criminality" and added that "we don't tolerate anything that has the semblance of criminality in any part of Kogi".⁷⁴⁰

On **12 November 2021** it was reported that two women in Lagos were "caught in the act" together and attacked by an angry mob. One of the women succumbed to her injuries and died before reaching a hospital, according to a local news article. The other woman, accused of being bisexual by community members, was handed over to police, with her relatives alleging that she was "arrested for lesbianism". The woman managed to escape police custody and at the

⁷²⁸ "Gay Nigerian forced to sign affidavit renouncing homosexuality", *Rights Africa*, 22 September 2020.

⁷²⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷³⁰ "Nigerian Police Are Extorting People Who 'Look Gay'", *Vice*, 20 August 2020.

⁷³¹ "Hisbah arrests 2 in Jigawa over alleged homosexual act", *Pulse Nigeria*, 2 September 2020; "Homosexuality: Two Men have been arrested over alleged homosexual act.", *Opera News (Nigeria)*, 4 September 2020.

⁷³² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷³³ *Ibid.*

⁷³⁴ *Ibid.*

⁷³⁵ "Gay party raided by police in Anambra", *Within Nigeria*, 9 March 2021.

⁷³⁶ "Family Escapes Lynching Over Son's 'Sodomy' – NHRC – The Whistler Nigeria", *The Whistler NG*, 11 June 2021.

⁷³⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷³⁸ "Islamic Police Arrest 5 Nigerian Men Accused Of Homosexuality", *Opera News*, 13 July 2021.

⁷³⁹ "Hisbah parades five alleged gay men in Kano", *Wuzup Nigeria*, 12 July 2021; "Nigeria: Kano State Sharia police arrest five men accused of engaging in homosexuality", *Naija On Point*, 17 July 2021.

⁷⁴⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

time of publication her whereabouts were not known.⁷⁴¹

On **30 May 2022** a man alleged to be a police officer was identified by community members in Bayelsa state as a gay pornographic actor. This resulted in the man being violently flogged and beaten by an angry mob. It is said that he was paraded nearly naked to the police station by his attackers, with homophobic slurs being shouted at him along the way. Some reporting indicated that bail was set by the police at 10,000,000 Naira (around USD 25,000). It was also reported by local activist groups that police had gone through the contacts stored on the man's phone in order to lure and entrap more gay men. In **early July** it appeared that the man had been freed and was active on social media again, though the circumstances of his release remain unclear.⁷⁴²

In **May 2022** an individual who was described in media reports as a "crossdresser" was arrested in the Gboko Community of Benue state. The arrest occurred after the person was reported to the authorities by a man who had spent the night with the individual at a local club, with the man intending to have sex with them prior to realising their gender identity. In an attempt to avoid capture, the individual in question tried to flee the club but was apprehended by other club-goers and subsequently reported to the local authorities.⁷⁴³

In **June 2022** a transgender sex worker was arrested in Delta state, after being threatened with rape by two men and alerting the police. She was held for several days before being charged with "carnal knowledge against the order of nature", whereafter she was released on bail with the assistance of local LGBTI advocacy organisations.⁷⁴⁴

Sometime around **mid-2022**, two women were arrested in after being "caught making love" by staff at a Benin City hotel. At least one of the women spent six months in custody before being released pending trial. In **January 2023** it was reported that both women had fled, rather than face the prospect of trial and imprisonment, and were wanted by the police. One of the women's parents told media they had disowned her because of her "detestable and despicable act".⁷⁴⁵

On **20 August 2022** two men in Kano state were arrested, and on **30 September** were found guilty of "conspiring to have anal sex" with one another by the Chief Magistrate's Court. It appears they were forced into a confession by the police. The judge sentenced them to five years in prison, and a fine of 5,000 Naira (approximately USD 12) each.⁷⁴⁶

On **5 November 2022** police in Benin City raided a party, said to be held as a reunion for a local "gay club", arresting six individuals. A seventh was declared wanted.⁷⁴⁷

It was reported on **20 December 2022** that the Kano state Hisbah arrested 19 people—"15 males and four females"—for participating in an alleged same-sex marriage. Authorities received an anonymous tip-off and arrived before any ceremony could begin, but the alleged same-sex couple managed to flee the scene. The organiser of the event was interrogated in an attempt to track them down, though at the time of initial reporting none of those arrested had been charged. Officials told the media that those detained would be "encouraged" to change their behaviour through "counselling" before any charges would be filed.⁷⁴⁸

In **January 2023** it was reported that a 28-year-old transgender man was ambushed and attacked by three young men after they discovered his gender identity. A week after the attack he had to flee his rural community to avoid being handed over to the police by a "community youth leader".⁷⁴⁹

It was reported in **May 2023** that two transgender women in Port Harcourt were arrested at the hair salon they worked at. They were charged for "homosexuality" and held without access to a lawyer, pending trial.⁷⁵⁰

Note: After the cutoff date of this report (30 June 2023), further cases of enforcement were documented by local civil society organisations and tracked by ILGA World through online media monitoring. These instances will be included in the next edition of this report.⁷⁵¹



Enforcement Overview

Despite there being no criminalising provisions against consensual same-sex sexual activity, Article 143 of the Penal Code (2018) does punish "any person who publicly outrages modesty" with six months to two years' imprisonment, but does not give an explicit definition on what may constitute a breach of the law. Attempts were made to formally criminalise same-sex acts in 2009 and 2010, though these proposals were never passed into law.⁷⁵²

Nevertheless, reports on Rwanda often indicate discrimination and prejudice from against persons and activists of diverse SOGIE, extending to arbitrary and

⁷⁴¹ *Ibid.*

⁷⁴² *Ibid.*

⁷⁴³ *Ibid.*

⁷⁴⁴ *Ibid.*

⁷⁴⁵ *Ibid.*

⁷⁴⁶ *Ibid.*

⁷⁴⁷ *Ibid.*

⁷⁴⁸ "Nigeria: Islamic police target 'same-sex weddings', hair styles and mannequins", *Erasing 76 Crimes*, 29 December 2022; Another source that contains personal names or images and has been redacted to protect the safety of those involved. If you require access to this additional source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷⁴⁹ "Trans man escapes violent attack, seeks help from Qtalk", *Erasing 76 Crimes*, 15 January 2023.

⁷⁵⁰ "Help us free 13 imprisoned LGBTQ victims of homophobia", *Erasing 76 Crimes*, 8 May 2023.

⁷⁵¹ If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

⁷⁵² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Rwanda* (accessed: 20 June 2023).

sometimes inhumane detentions, from entities such as the Rwanda Investigation Bureau (RIB), National Public Prosecution Authority (NPPA), and Rwanda National Police (RNP).⁷⁵³ At least one local organisation, My Rights Alliance, has claimed that this is in part due to ignorance from the authorities, who often believe homosexuality is in fact against the law. A 2015 report by the Health Development Initiative (HDI) indicated that such arrests are common enough that many gay Rwandans “now consider it normal to be abused by the police”. The HDI reportedly continued to document cases of illegal arrests and detentions by the police and the District Administration Security Support Organ (DASSO) into 2019.⁷⁵⁴

In a 2016 report by the East African Sexual Health and Rights Initiative (UHA), particular attention was given to the arbitrary detention of LGBTQ+ individuals at the Gikondo Transit Centre, commonly known as “Kwa Kabuga”, an unofficial place of detention in a suburb of the capital. Human Rights Watch revealed that the detainees, who are often poor and vulnerable, are arrested during police raids or by the Inkeragutabara and incarcerated without legal basis, enduring unsanitary conditions and frequent ill-treatment. These detentions seem to be aimed at forcibly changing their perceived “immoral” behaviour.⁷⁵⁵

In 2021 as part of Rwanda’s Universal Periodic Review, France issued the recommendation that authorities “[g]uarantee the protection of lesbian, gay, bisexual, transgender and intersex people against violence, harassment and arbitrary arrests”, while Germany recommended that they “[e]nsure that members of marginalized groups—including persons with disabilities, children living in the streets and also lesbian, gay, bisexual, transgender and intersex individuals—do not become subject to arbitrary detention or ill-treatment by the security forces”.⁷⁵⁶ The Rwandan delegation did not accept any of these recommendations.

Further, Rwandan authorities have been found to regularly violate the rights of refugees and asylum seekers based on their sexual orientations, gender identities or expressions. In December 2022 the legal counsel for the United Nations High Commissioner for Refugees (UNHCR), Lawrence Bottinick, provided a witness statement which claimed the Rwanda Directorate General of Immigration and Emigration (DGIE) “may discriminate against asylum claimants who are lesbian, gay, bisexual, trans-sexual or inter-sex”. Bottinick added that the UNHCR was aware of two cases where this had occurred. Such a stance is corroborated by multiple LGBTQ+ individuals who themselves fled Rwanda, who have claimed that asylum seekers in Rwanda would not be safe, despite the country’s progressive reputation on paper.⁷⁵⁷

As such ILGA World notes 11 probable examples of *de facto* targeting between 2007 and the present, though the true number is likely higher.

Examples of Enforcement

Sometime in 2007, a human rights activist was arbitrarily arrested in Gikondo by two plainclothes police officers. They accused him of homosexuality and of attending international conferences to spread negative news about Rwanda. He was never formally charged, was denied access to a lawyer and not permitted to contact anyone. He was only released when other local activists became aware of his location and approached the police to inquire. Upon his release it was found that he had been severely beaten. He fled to Uganda shortly thereafter.⁷⁵⁸

Also in 2007, a group of activists from the Horizon Community Association were detained after a local Archbishop declared homosexuality to be “moral genocide”. A group of women travelling to attend a conference by the Coalition of African Lesbians (CAL) were also detained.⁷⁵⁹

Another activist from Gikondo was similarly arrested some time in or prior to 2007. Detained without being charged or given access to a lawyer, he was released after a few days. His name and pictures were disseminated to local media, resulting in threats and stigma even after his release.⁷⁶⁰

In or around 2007 a Congolese man in Kigali was gang-raped, but was arrested by police for “homosexuality” when he went to report the incident. He was released a week later, but the rape was never investigated.⁷⁶¹

In November 2014, a transgender woman told *France24* that she had been arrested by the police after leaving a discotheque in Kigali. She was illegally detained for a week at Kwa Kabuga without being informed of the reason for her arrest. She claimed that she experienced physical abuse by the police and humiliation in front of other detainees, as they forcibly cut off her long hair.⁷⁶²

On 25 December 2018 a trans woman was reportedly detained by police and accused of vagrancy and the illegal sale of drugs, despite her offering them her work permit showing that she was employed nearby. She was taken to Gikondo Transit Centre, a rehabilitation facility for those exhibiting “deviant acts or behaviours.” She was stripped down and assaulted by personnel and other inmates, with some inmates allegedly raping her on three separate occasions. Intermittently she was placed in an unhygienic solitary confinement cell as part of the Center’s efforts to masculinise her.⁷⁶³

⁷⁵³ Information supplied to ILGA World by an anonymous transgender activist.

⁷⁵⁴ Health Development Initiative, *Can Anybody Hear Us? Exploring the realities of being lesbian, gay or bisexual in Rwanda* (2015), 17; Cedoca (Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons), *Rapport COI Focus: Rwanda. L’homosexualité* (2019), 9-10.

⁷⁵⁵ Cedoca (Documentation and Research Department of the Belgium Commissioner General for Refugees and Stateless Persons), *Rapport COI Focus: Rwanda. L’homosexualité* (2019), 10; Human Rights Watch, *Submission by Human Rights Watch to the Committee on the Rights of the Child on Rwanda* (2019).

⁷⁵⁶ UNHRC, *Report of the Working Group on the Universal Periodic Review: Rwanda*, A/HRC/47/14 (2021), paras. 136.18, 136.24.

⁷⁵⁷ “Gay Rwandan man who found safety in the UK warns LGBTQ+ asylum seekers will be ‘seen as criminals’”, *Pink News*, 19 October 2022; “Fresh Concerns About Risk to LGBTQ+ and Middle Eastern Migrant People in Rwanda”, *Byline Times*, 20 January 2023; “Gay Rwandan woman says government can’t protect LGBTQ+ refugees: ‘They won’t be safe’”, *Pink News*, 19 April 2023.

⁷⁵⁸ “Rwanda: Situation Update - The Treatment of LGBT Individuals in Rwandan Law and Society”, IGLHRC (now OutRight Action International), 20 November 2007.

⁷⁵⁹ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 22.

⁷⁶⁰ “Rwanda: Situation Update - The Treatment of LGBT Individuals in Rwandan Law and Society”, IGLHRC (now OutRight Action International), 20 November 2007.

⁷⁶¹ *Ibid.*

⁷⁶² “Rwanda - Enfermé une semaine par la police car homosexuel” [Rwanda - Locked up for a week by the police because he is homosexual], *France24*, 15 November 2014.

⁷⁶³ “Rwanda’s Transgender Community Face Violent Detentions For Being Trans”, *Vice*, 20 November 2020.

Another trans woman was also reportedly held at the Gikondo Transit Centre in 2018, where she endured daily beatings for six months. She has claimed that she was told by staff there: “We are going to keep you here until you change, you will remain here until we see that you are no longer a girl as you are saying.”⁷⁶⁴

In March 2020 another trans woman was allegedly arrested by the military police, who tortured her and forced her to strip naked in public. She was taken to Gikondo Transit Centre where she was beaten by the police, who told her the beatings would continue until she accepted that she was a man. She was eventually released through the interventions of a local activist.⁷⁶⁵

In 2021 during Rwanda’s Covid-19 pandemic lockdown, a transgender woman was taken from her place of residence by the Rwanda Investigation Bureau (RIB) on charges of violating Covid-19 prevention guidelines. Local activists have claimed that these charges were fabricated, and that after being transferred between multiple RIB stations, the charges against the woman were amended to “selling drugs”. During her time in detention, she was denied access to a lawyer, with authorities claiming that this restriction was also due to Covid-19 prevention guidelines.⁷⁶⁶

According to Human Rights Watch, in the weeks leading up to the June 2021 Commonwealth Heads of Government Meeting (CHOGM), Rwandan authorities rounded up “a dozen gay and transgender people, sex workers, street children” and held them at Kwa Kabuga without formally charging them. Nine trans and gay individuals interviewed by Human Rights Watch claimed that security officials accused them of “not representing Rwandan values.” They said that other detainees beat them because of their clothes and identity.⁷⁶⁷



Criminalising Provisions

Article 319 of the Penal Code (1966) prescribes a penalty of imprisonment from one to five years and/or a fine for anyone who commits an “act against nature” with persons of the same gender.⁷⁶⁸

Enforcement Overview

As of 2010, Senegalese activists had informed Human Rights Watch about the high number of arrests that went unreported and remained unknown to the media or to civil

society organisations. In effect, testimonies compiled by Human Rights Watch show how local LGBT people “have good reason to fear that the police will arrest and abuse them instead of protecting them”.⁷⁶⁹ Human Rights Watch and its Senegalese partner organisations identified 38 cases between 2011 and 2016 in which police arrested people based on their perceived sexual orientation, and charged them with “unnatural acts” under article 319 of the Criminal Code.⁷⁷⁰

As such, the number of individual cases identified by ILGA World in this report, almost 30, does not come even close to being a comprehensive view of the statistics.

During its Universal Periodic Review in 2018, the United States of America issued the recommendation that Senegal “[d]ecriminalise consensual same-sex sexual relations between adults” and “end the arbitrary arrest of individuals suspected of consensual same-sex activity”. Canada echoed this by recommending that the country put an end to the arbitrary arrests and detention of LGBT persons.⁷⁷¹

Most notably, the Senegalese delegation rejected these recommendations claiming that “homosexuality was not prohibited or punishable by law and, as a result, nobody was detained on that basis”. However, the delegation appeared to contradict itself within the same statement by adding that “unnatural acts committed in public were criminalized. Senegal was not ready to legalize homosexuality”.⁷⁷²

In 2019, the UN Human Rights Committee expressed concern in its fourth periodic report on Senegal regarding allegations of arbitrary arrests, violations of the right to privacy, harassment, and violence by law enforcement officials.⁷⁷³ The Committee thus recommended that the State issue clear instructions to law enforcement officials to stop any violence or arbitrary arrest against persons on the basis of their real or perceived sexual orientation or gender identity.⁷⁷⁴

Further, the UN Committee Against Torture took note that, according to Senegalese delegates, “homosexuality is not explicitly prosecuted”, though it further expressed concern at “consistent reports of several violent arrests motivated by people’s perceived sexual orientation, followed by prosecution for ‘unnatural’ acts”.⁷⁷⁵

Despite this international pressure, the decriminalisation of consensual same-sex sexual activity in Senegal remains a fraught social topic, with ILGA World noting several cases of homophobic mob violence in the country. As a result, it is also a politically charged issue, often used by politicians to gain popularity or undermine the reputations of their opponents. In early March 2016, in the context of discussions around Constitutional reform, the President of Senegal, Macky Sall, was unequivocal that the law penalising same-sex sexual relations would never be

⁷⁶⁴ Ibid.

⁷⁶⁵ Information supplied to ILGA World by an anonymous transgender activist.

⁷⁶⁶ Ibid.

⁷⁶⁷ “Rwanda: Round Ups-Linked to Commonwealth Meeting”, Human Rights Watch, 27 September 2021.

⁷⁶⁸ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Senegal* (accessed: 30 June 2023).

⁷⁶⁹ Human Rights Watch, *Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal* (2010), 6, 37.

⁷⁷⁰ Human Rights Watch, *Submission to the Committee on Economic, Social and Cultural Rights on Senegal - 64th pre-sessional* (2019), 7.

⁷⁷¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Senegal*, A/HRC/40/5, 24 December 2018, para. 103.

⁷⁷² Ibid.

⁷⁷³ Human Rights Committee, *Concluding observations on the fifth periodic report of Senegal*, CCPR/C/SEN/CO/5, 11 December 2019, para. 14.

⁷⁷⁴ Id., para. 15(c).

⁷⁷⁵ Committee against Torture, *Concluding observations on the fourth periodic report of Senegal*, CAT/C/SEN/CO/4, 30 January 2019, para. 35.

repealed under his tenure.⁷⁷⁶ Further, in the lead-up to the 2019 Presidential elections, the government seemingly acted to build a defence against potential accusations of being “pro-homosexual” by leading a “hunt” for sexual minorities in order to deny the accusations and win re-election.⁷⁷⁷

A local advocacy group, Arc-en-Ciel Senegal, has indicated that the “hunt” had been taking place in the country for some time and increased considerably in scale around 2018.⁷⁷⁸ In the years since, that “hunt” seems not to have abated, with ILGA World noting reports of at least 36 suspected gay men arrested in 2020 alone.⁷⁷⁹ Further, according to *France24's Les Observateurs*, at least 150 persons presumed to be gay men were assaulted or threatened by the public between 23 May and 11 June 2021, with police often siding with the vigilantes instead of the victims.⁷⁸⁰

One of the few cases in which police are known to have intervened in an instance of such mob violence came in May 2022, when a crowd beat an American national accused of being gay and paraded him through the streets of Dakar. Some members of the group chanted that the individual should be put to death. Authorities arrested three suspects in this case, but the fact that the attack took place so openly in public demonstrates the impunity with which anti-LGBT groups believe they can act, especially where more vulnerable Senegalese locals are involved.⁷⁸¹ More often than not police seem unwilling to intervene, as in the 2015 case of a man who had been facing ongoing death threats and physical harassment due to his sexual orientation. When he attempted to report the abuse to the authorities, the local police commissioner refused to accept his case, saying “we do not defend homosexuals”.⁷⁸²

In December 2021 a group of lawmakers submitted a bill “instituting the criminalisation of lesbian, gay, bisexual and transgender - LGBT+”. The bill sought to amend Article 319 to aggravate punishments from five to 10 years in prison, and explicitly prohibit homosexuality as an identity, along with “transsexuality” and “intersexuality”. The bill defined bestiality, paedophilia and necrophilia as stemming from the “LGBT+” community and defined “intersexuality” as being “adept at any type of orgy imaginable”. The bill was dropped around a month later by the committee tasked with deciding whether to send it to parliament, however, on the basis that existing criminalising legislation was sufficient.⁷⁸³ This sparked some backlash from conservative

lawmakers and religious leaders, prompting President Macky Sall to reaffirm that as long as he remains President of Senegal, “homosexuality will never be decriminalised”.⁷⁸⁴

It was thus reported that on 20 April 2023, 64 lawmakers submitted a new bill to aggravate the criminalisation of same-sex sexual activity.⁷⁸⁵

The National Assembly rejected this new bill almost immediately on the same grounds as previously, though this has prompted further backlash from some lawmakers and religious leaders who, news reports claim, believe the Council has exceeded its mandate and should be “seized”.⁷⁸⁶

Examples of Enforcement

In **2004** a young gay man was arrested on suspicion of engaging in same-sex sexual activity with another man, though he never learned what charges were laid against him in his police file, as he was illiterate. He was held for two months at Dieuppeul Police Station where he was regularly severely beaten. In order to get him to confess to being gay, police allegedly threatened to rape his mother with a baton, and stuck needles beneath his fingernails.⁷⁸⁷

On **7 October 2005** the young man was arrested again, along with another man who he had a sexual relationship with, when neighbourhood youths called police on the pair. Five plainclothes officers arrested them, severely beating them in the process. At Guédiawaye Police Station the young man confessed to being gay in order to prevent further beatings from the investigator. He was taken to pre-trial detention on **8 October**, and on **27 October** was found guilty of same-sex conduct and transferred to Rebeuss Prison for a six-month sentence. In prison he was regularly beaten and sexually assaulted by other inmates, until one day he injured a cellmate in self-defence, which led to him being transferred to Cap Manuel Prison, and a further six months being added to his sentence. For reasons never explained to the young man he was eventually granted a Presidential pardon.⁷⁸⁸

In **June 2006** a man living with HIV and his friend were arbitrarily arrested by police when they spotted a bank cheque the man dropped and demanded a bribe. Neither the man nor his friend would pay and so they were taken to a local station where the arresting officers told the inspector that the man’s antiretroviral medication was

⁷⁷⁶ “Macky Sall: ‘jamais, sous mon magistère, l’homosexualité ne sera légalisée sur le sol sénégalais’” [Macky Sall: “never, under my authority, homosexuality will be legalized on Senegalese soil”], *Senego*, 1 March 2016.

⁷⁷⁷ “4 anti-gay arrests in Senegal as 2019 election approaches”, *Erasing 76 Crimes*, 24 September 2018.

⁷⁷⁸ Arc-en-Ciel Facebook Page, 18 September 2018.

⁷⁷⁹ “Senegal: Activists seek funds to rescue 10 men arrested by religious police”, *RightsAfrica*, 24 September 2020; “Senegal: Prison for 7 men arrested at supposed ‘gay wedding’”, *RightsAfrica*, 8 November 2020.

⁷⁸⁰ “Sénégal : psychose pour les homosexuels après une série d’agressions et d’appels à la haine” [Senegal: psychosis for homosexuals after a series of attacks and calls to hatred], *Les Observateurs*, 13 June 2021.

⁷⁸¹ ““Laissez-nous le tuer avant que la police n’arrive”: une possible agression collective homophobe au Sénégal en pleine tempête Idrissa Gueye (vidéo)” [“Let us kill him before the police arrive”: a possible homophobic collective aggression in Senegal in the midst of a storm Idrissa Gueye (video)], *L-FRII*, 20 May 2022; “Senegalese Police Investigates Homophobic Mob Attack”, *Voice of Nigeria*, 21 May 2022; “Agression d’un présumé homosexuel aux HLM : Trois personnes arrêtées” [Assault of an alleged homosexual at HLM: Three people arrested], *Dakar Poste*, 24 May 2022; “Anti-gay mob of 100 people beat American man bloody & parade him through the streets”, *LGBTQ Nation*, 31 May 2022.

⁷⁸² Human Rights Watch, *Submission to the Committee on Economic, Social and Cultural Rights on Senegal - 64th pre-sessional* (2019), 7.

⁷⁸³ “Sénégal : le Parlement repousse un texte de loi visant à doubler les peines de prison pour les homosexuels” [Senegal: Parliament rejects a law aiming to double prison sentences for homosexuals], *FranceInfo*, 29 December 2021; “Senegal | Good news as parliament rejects anti-LGBTIQ bill”, *Mamba Online*, 4 January 2022.

⁷⁸⁴ “Macky Sall : «L’homosexualité ne sera jamais dépénalisée au Sénégal, tant que...»” [Macky Sall: “Homosexuality will never be decriminalised in Senegal, as long as...”], *SeneWeb*, 27 January 2022.

⁷⁸⁵ “Criminalisation des LGBT: La nouvelle proposition déposée ce jeudi...” [Criminalization of LGBT: The new proposal tabled this Thursday...], *Senego*, 21 April 2023.

⁷⁸⁶ “La nouvelle proposition de loi rejetée par le bureau de l’Assemblée...” [The new bill rejected by the office of the Assembly...], *Senego*, 29 April 2023. “Senegal’s Parliament rejects bill to increase penalties for homosexuality”, *Erasing 76 Crimes*, 6 May 2023.

⁷⁸⁷ Human Rights Watch, *Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal* (2010), 38.

⁷⁸⁸ *Id.*, 38-39.

muscle-relaxant used by gay men ahead of anal intercourse, and that they caught him and his friend as they were about to have sex. They were held for two days without food or water and subjected to beatings at the hands of police. Eventually the man managed to bribe an officer into allowing him to phone a lawyer. Shortly thereafter they were taken to a pre-trial detention centre where they had to sleep with other inmates who controlled access to the showers, limiting their ability to wash themselves. When it came time for their trial, the arresting officer failed to arrive at least six times, and one day they were simply informed by police that they had been found guilty and sentenced to six months' imprisonment. They appealed and their sentence was reduced to three months, meaning they were released only a few days later, as they had already spent the requisite time in pre-trial detention.⁷⁸⁹

In **August 2006** a 23-year-old Senegalese man was arrested and charged with "crimes against the order of nature" when he reported to the police that he was being blackmailed by a man with whom he'd had a casual sexual encounter. Police themselves are often complicit in extortion schemes, or unsympathetic if the crime is brought to their attention, sometimes choosing to prosecute the victim rather than the extortionist.⁷⁹⁰

In **February 2008**, several people were arrested after a monthly tabloid magazine published more than 20 photos from a party that had taken place in **2006**. The magazine claimed the people in the photos were "homosexuals engaged in a gay marriage ceremony" and since many of them could be clearly identified, arrests soon followed. Police reportedly used extreme violence, abuse, and derogatory language against suspects during the arrests, with one account reported by Human Rights Watch including officers yelling: "You want to destroy the country. We are going to kill you, get out of here, we are going to kill you all, motherfucker gay". According to activists that spoke to Human Rights Watch, at least nine men fled the country and others went into hiding within Senegal as a consequence of this crackdown.⁷⁹¹ In a letter to the Senegalese Minister of Justice, IGLHRC and Pan Africa ILGA demanded the immediate and unconditional release of up to 20 gay men believed to have been arrested.⁷⁹² Even though those who were arrested were subsequently released, the public outcry, fuelled by religious rallies, sermons, and sensationalist media coverage, led to numerous further threats and attacks over the following months.⁷⁹³

On **24 May 2008** a mob stormed a birthday party organised by a gay man in Dakar. The police, unable or unwilling to control the violent mob, arrested the organiser

of the event and around eight of his friends, believing that they had organised a "gay wedding". A group of Imams reportedly showed up at the police station and told the commissioner that if the party organiser went back to the neighbourhood, he would be killed by a local mob, and they would not act to prevent the murder. One gay man who appears to have been arrested at the same party stated that police provided photographs and the names of the accused to local media, which outed the entire group to the public.⁷⁹⁴

In **December 2008**, acting on an anonymous tip, police officers arrested nine Senegalese activists who worked on HIV issues at the home of a prominent activist, later citing condoms and lubricants as "evidence". In **January 2009**, the nine men received the harshest sentence for "acts against nature" (five years in prison) and an additional three years for "criminal conspiracy". However, in **April 2009**, the Dakar Court of Appeal overturned the sentence, citing due process violations given that law enforcement officials did not have a search warrant at the time of the arrests, nor did they catch the men "in the act". All nine activists were freed, but they went into hiding because of death threats from religious leaders and the general population. Dakar newspaper *L'Observateur* quoted a local youth leader as saying "the homosexuals will not escape lynching. They will be fish food".⁷⁹⁵

The UN Working Group on Arbitrary Detention received information that on **19 June 2009** officers of the National Police arrested four men in the town of Darou Mouhty, in the Louga region, on allegations of committing "unnatural sexual acts".⁷⁹⁶ Police officers allegedly forced these men to reveal the names of other "homosexuals". Religious authorities led by one Serigne Khoudoss Mbacké, who reportedly spoke on behalf of the Caliph of Darou Mousty, urged authorities to "enforce the law with all its rigour".⁷⁹⁷ Around **10 August** two of the men were convicted, despite the fact that the only evidence was a report issued by a neighbour. One man received a two-year prison sentence and the other a five-year sentence.⁷⁹⁸

In **February 2013**, the president of Sourire de Femme, an organisation that advocates for the rights of lesbian women in Senegal, was arrested and detained in Casamance under Article 319 of the Penal Code.⁷⁹⁹

On **11 November 2013** five women, part of the Sourire de Femme, were detained by elements of the Dakar Central Police Station in a nightclub in Grand-Yoff, Dakar, where they were celebrating a friend's birthday. Local newspapers reported that the five women were caught engaging in "unnatural acts" after which other patrons alerted the police.⁸⁰⁰ By **21 November**, four of the five women were

⁷⁸⁹ *Id.*, 39-40.

⁷⁹⁰ IGLHRC, *Off the Map: How HIV/AIDS programming is failing same-sex practicing people in Africa* (2007), 19.

⁷⁹¹ Human Rights Watch, *Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal* (2010), 16.

⁷⁹² "Senegal: arrests of gay men; lgbt groups express outrage and concern", *OutRight Action International*, 4 February 2008.

⁷⁹³ Human Rights Watch, *Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal* (2010), 5.

⁷⁹⁴ *Id.*, 40-41.

⁷⁹⁵ "Gays under threat in Senegal", *Agence France-Presse*, 25 April 2009; Human Rights Watch, *Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal* (2010), 5.

⁷⁹⁶ *Report of the Working Group on Arbitrary Detention Chairperson-Rapporteur: El Hadji Malick Sow Mission to Senegal*, A/HRC/13/30/Add.3, 23 March 2010, para. 72.

⁷⁹⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷⁹⁸ "Sénégal: libérer des hommes arrêtés à Darou Mousty pour l'homosexualité" [Senegal: release men arrested in Darou Mousty for homosexuality], *OutRight Action International*, 20 August 2009.

⁷⁹⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸⁰⁰ "Sénégal : arrestation de cinq femmes homosexuelles" [Senegal: arrest of five homosexual women], *Le Nouvel Afrik*, 12 November 2013.

set free because of insufficient evidence. One girl who was under-age at the time of her arrest was tried separately.⁸⁰¹

In **February 2014** a judge in Senegal sentenced a gay couple to six months' jail-time. They were arrested at their home after neighbours had tipped off the police.⁸⁰²

Human Rights Watch reported that 10 women were arrested in Dakar in **January 2015**, accused of "being lesbians" as they visited a sick friend at a hospital.⁸⁰³

In **May 2015** a man was stabbed and beaten in what appeared to be a homophobic attack. However, instead of apprehending the attacker, the police officers who intervened detained the victim and allegedly denied him access to medical treatment.⁸⁰⁴

In **July 2015** seven male drummers and dancers were apprehended during a wedding ceremony held at a private residence in Ziguinchor. Their arrest came as a result of a wedding guest alerting the police to the presence of individuals they believed to be "homosexuals" at the event.⁸⁰⁵

On **21 July 2015**, police raided an apartment and arrested seven men in the Guédiawaye suburb of Dakar. Police reportedly did not have a warrant but were tipped off by the mother of one of the group. Police reported that two men were found sleeping in a "compromising position" while the other five men were found naked and sleeping in the bathroom. They also claimed that the group were in possession of drugs and that they had "incriminating messages and images" on their cell phones. Only condoms and lubricants could be provided as "evidence" by the prosecution, however, and so the court acquitted the men of any drug charges. Despite the fact that (in the words of the defence lawyer) "there was neither material evidence nor testimony to corroborate the claims" of consensual same-sex sexual acts, the seven were found guilty on **21 August** and sentenced to six months' imprisonment and an additional 18-month suspended sentence.⁸⁰⁶

On **24 December 2015**—Christmas Eve—11 people in the town of Kaolack were arrested for hosting a suspected "gay wedding". They had to cover their faces while being taken to court for fear of reprisals, as community members burned tyres to display their anger at the group. They were, however, acquitted due to a lack of evidence.⁸⁰⁷

In **2018** a man was sentenced to six months in prison after a video of him having sex with another man went viral online. The woman who filmed the pair without their knowledge, and then shared the video, was also sentenced to two years (three months effective) for "distribution of immoral content".⁸⁰⁸

Leading up to the **2019** presidential elections in Senegal, it appeared that the government was building a defence against potential accusations of being "pro-homosexual", leading a hunt for sexual minorities. Two women and two men were detained in Dakar, for "acts against the order of nature". According to reports, videos portraying the couples having sex had begun circulating in their neighbourhood before being detained.⁸⁰⁹

On **20 September 2020** the Safiyatoul Amal religious militia in Touba, which operates through a network of informants, arrested 10 men suspected of being gay. As part of a grand opening ceremony for the militia's new headquarters, the men were publicly displayed alongside several other criminalised people and prohibited objects, such as sex workers, people practising indigenous religions, radios, lingerie, tobacco and footballs. Six of the men were released after they agreed to confess their homosexuality to their families in front of the authorities, while three more were freed when local human rights defenders gathered funds to pay their fines. The last man was held as activists ran out of funds and it is not known whether he was prosecuted.⁸¹⁰

On **16 October 2020** a group of 20 to 25 people were arrested in the Keur Gorgui region of Dakar at an alleged "gay wedding". 13 of them were released, after they had been stripped naked and tortured into confessing their alleged homosexuality, though they refused to confess. Of the seven accused remaining, two were sentenced to six months in prison while the others were sentenced to between four and three months. Four minors also caught at the supposed wedding remained detained, with judgement on their case deferred.⁸¹¹

Also around **mid-October 2020**, two young men in Corniche, Dakar, were "caught in the act" by Rebeuss police who were on patrol in the area. One of them managed to flee but the fate of the other is unknown.⁸¹²

A young man in the city of Touba was attacked and almost set on fire by a mob suspecting him of being gay in

⁸⁰¹ "Senegalese women accused of lesbian acts freed by judge", *Gay Star News*, 21 November 2013; "Senegal: Quash Conviction of 7 for 'Acts Against Nature'", Human Rights Watch, 28 August 2015.

⁸⁰² "Senegal prison sentence for gay couple; how rare?", *Erasing 76 Crimes*, 3 February 2014.

⁸⁰³ Human Rights Watch, *Submission to the Committee on Economic, Social and Cultural Rights on Senegal - 64th pre-sessional (2019)*, 7.

⁸⁰⁴ *Ibid.*

⁸⁰⁵ *Ibid.*

⁸⁰⁶ "No 'anti-homosexuality' law? Jail for 7 for gay sex", *Erasing 76 Crimes*, 23 August 2015; "Senegal: Quash Conviction of 7 for 'Acts Against Nature'", *Human Rights Watch*, 28 August 2015; "Chasse aux homosexuels au Sénégal: assez!" [Hunting homosexuals in Senegal: enough!], *Huff Post France*, 21 August 2015.

⁸⁰⁷ "Senegal: 11 suspected homosexuals released for lack of evidence", *Africa News*, 30 December 2015.

⁸⁰⁸ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸⁰⁹ "4 anti-gay arrests in Senegal as 2019 election approaches", *Erasing 76 Crimes*, 24 September 2018.

⁸¹⁰ "Senegal: Activists seek funds to rescue 10 men arrested by religious police", *Rights Africa*, 24 September 2020.

⁸¹¹ "Senegal: Prison for 7 men arrested at supposed 'gay wedding'", *Rights Africa*, 8 November 2020; "13 Senegal arrestees were tortured before being released", *Erasing 76 Crimes*, 12 November 2020.

⁸¹² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

December 2020. Police intervened and prevented harm from coming to the man, only for him to be detained at a local barracks and charged with committing “acts against nature”. On **21 January 2021**, the Touba City Court upheld the police accusation—adding breach of Covid-19 pandemic restrictions to the charges—and sentenced the accused to six months in prison. The young man opted not to appeal the ruling, reportedly to avoid his name being publicised by local media, which could result in further backlash and violence against him.⁸¹³

According to *France24’s Les Observateurs*, at least 150 persons presumed to be gay men were assaulted or threatened by the public between **23 May** and **11 June 2021**. Though most of those individual cases are not known to ILGA World, one individual was said in the report to have attracted a mob for wearing clothing that displayed his legs, but police intervened to prevent violence before arresting him themselves anyway. At the time of publication, it was unclear if he was still in detention.⁸¹⁴

On **25 June 2021**, two dancers performing at a concert for a local singer were sentenced to one year in prison for kissing each other on stage. After a month in detention the pair were released.⁸¹⁵

It was reported on **14 December 2021** that around two weeks prior, a gay man had been sentenced to five years in prison in Kaolack. This information was included in a statement by a group called Collectif Free du Sénégal, speaking out against a bill which sought to double the prison sentence for same-sex sexual acts. Further information about this particular incident is unknown.⁸¹⁶

In **April 2022**, 12 people were arrested in a police raid for engaging in “unnatural acts”, with at least five taken to court on **11 May**. Police indicated that they found several used condoms during the raid, which were subsequently used as evidence against the group. One individual was given the maximum sentence of five years while two others were given two and a half years each. The rest appear to have been released.⁸¹⁷

Note: After the cutoff date of this report (30 June 2023), further cases of enforcement were documented by local civil society organisations and tracked by ILGA World through online media monitoring. These instances will be included in the next edition of this report.⁸¹⁸

Sierra Leone

Criminalising Provisions

The British colonial Offences Against the Person Act (1861) remains in force in Sierra Leone. Under Section 61 of this legislation, any man found guilty of “buggery” is liable to imprisonment of 10 years to life.⁸¹⁹

Enforcement Overview

In total ILGA World has identified up to six individual examples of criminal enforcement. None of these cases appear to have led to prosecutions, or even formal charges, demonstrating the arbitrary manner in which legislation is enforced, which can still be used to target or otherwise degrade the lives and wellbeing of people with diverse sexual orientations or gender identities or expressions.

When a review of the Sierra Leone Constitution was initiated in 2013, President Koroma reportedly spoke of his wishes to create a more “tolerant culture”. However, SOGIESC organisations later claimed that they were excluded from the review process.⁸²⁰

Examples of Enforcement

Sometime in or prior to **2014**, as documented in a shadow report submitted to the UN Human Rights Council, a young boy was reported to police by his uncle for being gay. The boy was arrested and held in unhygienic conditions without food or water for 24 hours. He was never charged or given the chance to provide a statement. When he asked why he was being held, one officer told him it was because he was “polluting the community”.⁸²¹

The same **2014** report also indicated that an individual identified as a “man [...] dressed as a woman” was arrested in the capital of Freetown and held for a week without charge.⁸²²

In **May 2016**, police shut down an “LGBT event” in Aberdeen and arrested 18 participants, holding them in custody overnight.⁸²³

⁸¹³ “Senegal: gay salvato dalla folla, ma condannato a 6 mesi di carcere | Il Grande Colibri” [Senegal: gay rescued from the crowd, but sentenced to 6 months in prison | The Great Hummingbird], *Il Grande Colibri*, 5 February 2021; Another source that contains personal names or images and has been redacted to protect the safety of those involved. If you require access to this additional source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸¹⁴ “Sénégal : psychose pour les homosexuels après une série d'agressions et d'appels à la haine” [Senegal: psychosis for homosexuals after a series of attacks and calls to hatred], *Les Observateurs*, 13 June 2021.

⁸¹⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸¹⁶ “Communiqué de Presse du Collectif Free du Senegal : « Stop au projet de surcriminalisation de l'homosexualité au Senegal »” [Press release of the Collective Free du Senegal: “Stop the plan to overcriminalise homosexuality in Senegal”], *Erasing 76 Crimes*, 14 December 2021.

⁸¹⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸¹⁸ If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

⁸¹⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Sierra Leone* (accessed: 4 September 2023).

⁸²⁰ Human Dignity Trust, *Country Profile: Sierra Leone* (2021).

⁸²¹ African Men for Sexual Health and Rights Network et al., *Breaking the Silence on Human Rights Violations in Sierra Leone under the International Covenant on Civil and Political Rights: A Shadow Report on Discrimination and Violence Based on Sexual Orientation and Gender Identity* (2014), 18.

⁸²² *Ibid.*

⁸²³ Human Dignity Trust, *Country Profile: Sierra Leone* (2021).

On **30 March 2017** police in Waterloo arrested four participants attending a workshop on HIV, accusing them of “promoting gay activities in the community”. They were “humiliated and denounced” by police, but ultimately released the following day.⁸²⁴

In **June 2017** “authorities” expelled two girls from their school for kissing in public. It is not clear if this is a case of legal enforcement and what status within government structures, if any, these “authorities” held.⁸²⁵

In **2019**, two men were reported to the police by their family members after being caught having sex in their house. The couple was able to escape and managed to leave the country before they were arrested. As of the time of publication, their location is uncertain.⁸²⁶

Somalia

Criminalising Provisions

Article 409 of the Penal Code (1964) stipulates that whoever has intercourse with a person of the same sex is liable to be imprisoned for up to three years. However, the Provisional Constitution of Somalia (2012) affirmed the primacy of Sharia law and as such the possibility exists for Sharia courts to sentence individuals found guilty of same-sex sexual activity to death.⁸²⁷

Enforcement Overview

At the time of writing, various regions within Somalia are not under the effective control of the central government. The breakaway/autonomous jurisdictions of Somaliland and Puntland may apply localised provisions, while the extremist insurgent group, Al-Shabaab, enforces a strict interpretation of Sharia law, severely endangering the livelihoods of people with diverse gender expressions, identities or sexual orientations in areas under its control. Those found guilty of engaging in consensual same-sex sexual acts can be executed and are often imprisoned under inhumane conditions.⁸²⁸

Given the local conflict and constant shift in who holds authority in any given region at any given time—as well as the difficulty posed in distinguishing government-led enforcement from extrajudicial violence—it remains

difficult to provide an accurate and up-to-date account of the local context. Despite this, ILGA World has identified at least seven examples of apparent criminal enforcement.

Examples of Enforcement

BBC News reported that in **February 2001** two women were sentenced to death in the autonomous region of Puntland for being in a same-sex relationship with one another. Authorities have denied this claim, stating that the women’s case never made it before the courts, though the implication is that they were at the very least detained by police.⁸²⁹

A gay activist from Somalia who had previously fled the country was informed, it seems around **2004**, that groups of armed men in Burao, the second-largest city in the jurisdiction of Somaliland, were patrolling the streets and rounding up gay men. It is unclear to what degree these groups were sanctioned by local authorities, though they seem to have been acting to enforce the law. They reportedly said “queer men will go to jail and be tried by Islamic law”. It is further alleged that a man not known to be gay was sentenced to 100 lashes as his unmarried status made him a suspect.⁸³⁰

In **2013** an 18-year-old man was reportedly tried by an Al-Shabaab judge in southern Somalia and found guilty of “sodomy”. He was buried up to his waist so that he could not flee and stoned to death by community members as punishment. Details are unclear as the incident was first reported to international media by a local SOGIESC community group which has since become defunct. The group initially shared graphic images of a similar execution which occurred **some years prior** to illustrate the alleged 2013 case, though no details of that first incident could be found.⁸³¹

In **January 2016** it was reported that a women’s-rights activist had been outed as a lesbian and subsequently sentenced to death. She is said to have fled the country hours before her execution was due to take place.⁸³²

It was reported in **January 2017** that a 15-year-old boy and 20-year-old man were executed in public in the town of Buale for “immoral and reprehensible sexual acts”, though the nature of these acts and the exact connection the older man had to the teenager were not outlined in media reports.⁸³³

In **November 2018** *Radio Andalus*—run by Al-Shabaab—issued an unverifiable report that a young man in Hiiraan Province was executed by the insurgent group on charges

⁸²⁴ *Ibid.*

⁸²⁵ *Ibid.*

⁸²⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸²⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Somalia* (accessed: 30 June 2023).

⁸²⁸ Benjamin Christman, *Report on the Treatment of Gay Persons in Somalia*, Law Centre NI (2016), 6; Report: Somalia too risky for LGBT people”, *Erasing 76 Crimes*, 16 February 2016; ILGA World: Lucas Ramón Mendos, *State-Sponsored Homophobia: Global Legislation Overview Update* (2019), 75.

⁸²⁹ “Somali ‘lesbian sentences’ denied”, BBC News, 23 February 2001; “Report: Somalia too risky for LGBT people”, *Erasing 76 Crimes*, 16 February 2016.

⁸³⁰ “Gay Life in Somaliland and Somalia”, *Global Gayz* (accessed 12 October 2021).

⁸³¹ “Gay Teen Allegedly Stoned to Death In Somalia For Sodomy”, *Huffington Post*, 21 March 2013.

⁸³² “Young Somali activist sentenced to death for being a lesbian”, *The Independent*, 31 January 2016.

⁸³³ “15 and 20-year-old youths executed in Somalia for homosexuality”, *Mamba Online*, 11 January 2017.

of homosexuality. The report claimed that men suspected of homosexuality have been punished by rape in addition to the death penalty.⁸³⁴



South Sudan

Criminalising Provisions

Article 248 of the Penal Code (2008) prohibits “carnal intercourse against the order of nature” and prescribes a sentence of imprisonment of up to 10 years and/or a fine. The provision explains that “penetration is sufficient to constitute the carnal intercourse”. This legislation predates the country’s 2011 independence, and prior to its implementation same-sex sexual activity was criminalised under existing laws in Sudan.⁸³⁵

There is also criminalisation of diverse gender expressions under Article 379, which states:

(1) The term “vagabond” means—[...] (e) any male person who dresses or is attired in the fashion of a woman in a public place.

(2) Whoever is convicted as a vagabond shall be sentenced to imprisonment for a term not exceeding three months or with a fine or with both”.⁸³⁶

Enforcement Overview

A relatively new country which has dealt with significant internal instability since its independence from Sudan in 2011, South Sudan may not have had the time to accrue the number of criminalisation cases of its neighbours, though it is likely that a lack of reporting and data has had a muting effect on research into this topic. ILGA World has thus been able to identify only three examples of criminal enforcement. Nevertheless, according to the United States Department of State:

LGBTQI+ persons reported security forces routinely harassed and sometimes arrested, detained, tortured, and beat them. Because of actively hostile government rhetoric and actions, most openly LGBTQI+ citizens have fled the country.⁸³⁷

Prior to independence, South Sudan’s President stated that “[homosexuality] is not in our character [...] it is not there and if anybody wants to import it [...] it will always be condemned by everybody”.⁸³⁸

In September 2017 the Labour, Public Service and Human Resource Development Minister reportedly stated that: “the government would order security forces to arrest LGBTI persons and detain them until they procreate”.⁸³⁹

An Amnesty International researcher said in 2017 that “[n]o one can be openly homosexual in South Sudan. Given the lawlessness, it’s the kind of place where you could easily end up dead because of your actual or perceived sexuality”.⁸⁴⁰

Examples of Enforcement

An activist working at Access for All (AfA) alleged that four of her colleagues and two healthcare outreach workers were arrested in 2017 and held for three months before being released.⁸⁴¹

The same activist claimed that on 6 December 2017 a police raid forced the AfA offices to close, with authorities confiscating everything there from furniture to batteries. The organisation now seems largely defunct, with most staff having fled to neighbouring countries for fear of further targeting and even death at the hands of security forces.⁸⁴²

A 2022 country report on South Sudan by the United States Department of State claimed to have identified “at least one extrajudicial killing by security forces” against an individual of diverse sexual orientation or gender identity.⁸⁴³ No further details could be ascertained at the time of this report’s publication.



Sudan

Criminalising Provisions

Section 148(1) of the Penal Code (1991) prohibits “sodomy”, defined as “[a]ny man who inserts his penis or its equivalent into a woman’s or a man’s anus or permitted another man to insert his penis or its equivalent in his anus”. Until 2020, Section 148(2) punished sodomy with flogging (one hundred lashes) and up to five years imprisonment. If the offender was convicted for a third time, the legally prescribed penalty was capital punishment or life imprisonment. With the enactment of Law No. 12 (2020) several subsections of Article 148 were amended to remove execution and flogging as punishments for sodomy. However, persons found guilty for a second time are still liable to imprisonment of up to seven years and to life imprisonment upon a third conviction.⁸⁴⁴

Furthermore, Section 151 punishes acts of “gross indecency” and Section 152 punishes acts of sexual nature

⁸³⁴ EASO, *Somalia Targeted profiles Country of Origin Information Report* (2021), 105.

⁸³⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - South Sudan* (accessed: 5 September 2023).

⁸³⁶ Human Dignity Trust, *Country Profile: South Sudan* (2021).

⁸³⁷ United States Department of State, *2022 Country Reports on Human Rights Practices: South Sudan* (2022), 40.

⁸³⁸ *Ibid.*

⁸³⁹ *Ibid.*

⁸⁴⁰ “South Sudan says it will consider stop using child soldiers as long as it can still kill gay people”, *Gay Star News*, 31 March 2017.

⁸⁴¹ “LGBT Activist Flees South Sudan Amid Threats from National Security Operatives”, *The Tower Post*, 23 April 2018.

⁸⁴² *Ibid.*

⁸⁴³ United States Department of State, *2022 Country Reports on Human Rights Practices: South Sudan* (2022), 40.

⁸⁴⁴ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Sudan* (accessed: 4 September 2023).

"that cause discomfort to public sentiment or public modesty" with imprisonment of up to six months and/or a fine.⁸⁴⁵

Enforcement Overview

Though Sudan continued to criminalise persons of diverse gender expressions, gender identities and sexual orientations, the government that ousted President Omar al-Bashir in 2019 took the notable step in 2020 of removing flogging and the death penalty as potential punishments for consensual same-sex sexual activity. However, the prison sentences for persons re-convicted of such were expanded and the Procedural Law has also been amended so that digital evidence can be used to convict people.⁸⁴⁶

In its shadow report submission in 2021 to Sudan's Universal Periodic Review, Bedayaa—an organisation operating in the SWANA (South-West Asia and North Africa) region—noted that the legal system in Sudan does not have the safeguards required for persons illegally or arbitrarily detained to access justice, and that judges have the power to assign punishments arbitrarily.⁸⁴⁷ Further, laws on gender policing and same-sex behaviour have often been used not only against SOGIE persons, but against political opponents, such as in the case of a woman journalist known to be critical of the government who was arrested and jailed for wearing trousers in 2009.⁸⁴⁸

Negative social attitudes against sexual and gender diversity also play a large role in the enforcement of criminalising procedures in Sudan as well as extrajudicial violence.⁸⁴⁹ March 2020 saw mass rioting and looting, as well as one person dead, as a result of public outrage against a presumed "gay wedding".⁸⁵⁰ Local media also appears to foment anti-LGBT sentiment, with a prominent 2013 court acquittal of a group of suspects being decried by the public, largely due to inflammatory media reporting.⁸⁵¹

The Equal Rights Trust was informed by a *pro bono* lawyer working to assist people of diverse gender expressions, gender identities and sexual orientations in Sudan that there were approximately 900 cases in 2011, but as many as 3,500 cases in 2012, and 5,000 in 2013. The lawyer further noted that the information on statistics were limited, as many simply cannot afford or access formal legal representation.⁸⁵² Bedayaa has also noted that in 2011 security forces seem to have had a list of over 700 suspected gay men for potential arrest in the capital, Khartoum, alone, though it is not known whether this is accurate or if the suspects are still being monitored under

the current government.⁸⁵³

Despite this, cases of criminal enforcement only rarely get reported, with only the largest cases seeming to attract public attention. Bedayaa further claims that as a largely tribal and family-oriented country, many cases fall outside of the scope of State enforcement and may thus also go undocumented.⁸⁵⁴

It is important to note that as of April 2023 a state of conflict emerged in Sudan between rival factions of the military government, namely the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF). As with many jurisdictions facing war, information about sexual and diversity issues in particular has become further obscured and under-reported, though both sides of the conflict have been accused of setting up numerous illegal detention centres across Khartoum. These facilities, ostensibly for holding prisoners of war, reportedly contain thousands of civilians from vulnerable demographics, such as women, migrants, and ethnic minorities, as well as human rights defenders and critics of either the SAF or RSF. It is thus highly probable that among those illegally detained are persons of diverse sexual orientations, gender identities and gender expressions, as well as activists.

Examples of Enforcement

In **April 2009** the president of an LGBTQ+ advocacy group, Freedom Sudan, and 11 others were reportedly arrested when members of the National Intelligence and Security Service (NISS) raided a private party. They were placed in solitary confinement in small cells, and subjected to violent interrogations which included beatings, sexual assault, being hung upside-down, being denied water and threatened with execution. After four weeks in detention the men were imprisoned for three and a half months pending trial. The activist's family managed to smuggle him out of prison, though, and he fled the country. Eight of the remaining 11 detainees received 100 lashes each, with the fates of the remaining three men not being known.⁸⁵⁵

In **2010**, 19 people (identified in reporting as men) were lashed 30 times and fined for allegedly cross-dressing and "behaving like women" at a private party.⁸⁵⁶ Laws on gender policing and same-sex behaviour are often used against political opponents, such as in the case of a woman journalist who was arrested and jailed for wearing trousers the previous year.⁸⁵⁷

On **13 February 2013** nine individuals, including a famous local musician, were arrested in the capital city of Khartoum during a raid by the NISS. They were lined up

⁸⁴⁵ *Ibid.*

⁸⁴⁶ Bedayaa, *Shadow report for the third Universal Periodic Review of the Republic of Sudan* (2021), 6-7.

⁸⁴⁷ *Id.*, 5-7.

⁸⁴⁸ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁸⁴⁹ Bedayaa, *Breaking News: LGBT has hit Sudan!!* (2009).

⁸⁵⁰ "Abu Hamad Statement", Bedayaa, 10 March 2020.

⁸⁵¹ Equal Rights Trust and Sudanese Organisation for Research and Development, *In Search of Confluence: Addressing Discrimination and Inequality in Sudan* (2014), 151-152.

⁸⁵² *Id.*, 152-153.

⁸⁵³ Bedayaa, *LGBT in Sudan Under Islamic Laws* (2011), 4-5.

⁸⁵⁴ *Id.*, 3.

⁸⁵⁵ UK Home Office, *Country of Origin Information Report – Sudan*, 11 September 2012, 211; Berkouwer, S., Sultan, A., and Yehia, S., *Homosexuality in Sudan and Egypt: Stories of the Struggle for Survival*, in *Harvard Kennedy School Student Journal* (2015), 9-10.

⁸⁵⁶ "Cross-dressing men flogged in Sudan for being 'womanly'", BBC News, 4 August 2010; "Quietly, Sudan's underground gay movement grows online", *The Niles*, 21 September 2011.

⁸⁵⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

and severely beaten upon arrest, as well as during their time in NISS detention. Several local media outlets stoked public outrage, saying they had gathered for a “gay wedding” when in fact it was a party, and demanded their convictions. The NISS claimed that the host of the party was wearing women’s clothing while two others were in their underwear, and put forward as evidence a women’s body scrub and face creams. As such, the group was charged with violation of sections 77 (disturbance of the peace) and 152 (indecent dress) of the Criminal Law Act of 1991. On **5 March** a court added the charge of “practising prostitution” at the request of the Attorney General’s office. On **20 August** the Court of First Instance dropped the charges against six of the accused, but kept charges of “indecent dress” against the rest as they had been wearing shorts or underwear. By **20 September** charges against the final three were also dropped, but all remain in hiding for fear of public reprisals. It is reported that a significant proportion of the local community did not accept the judgement and that calls for the execution of the accused continued in the months following the case. As of **October 2014**, at least four have sought asylum in other countries.⁸⁵⁸ In the years since this incident, the NISS has been rebranded the General Intelligence Service (GIS), as the NISS has been linked to multiple human rights violations under President al-Bashir.

In **2016** police in Khartoum arrested a man on suspicion of being gay because he was wearing pink socks. He was held in custody for three days and raped with a stick while being detained, before eventually being released and hospitalised through the interventions of his lawyer.⁸⁵⁹

In **September 2017** Public Order Police reportedly arrested a blogger on charges of “apostasy” for publishing an article online in which she claimed: “Nothing is wrong with being a lesbian”.⁸⁶⁰

According to a US Department of State report on Sudan, an individual identified as male was arrested on **24 October 2017** on charges of “indecentcy” for wearing women’s clothing and makeup. The Public Order Court sentenced the accused to 40 lashes and a fine of 5,000 Sudanese Pounds (approximately USD 625), with the punishment being carried out the same day.⁸⁶¹

In the lead-up to the **2019** Sudanese revolution, the NISS arrested a bisexual woman as part of a crackdown on protestors, activists and dissidents, though the woman in question is said to have had no history of activism. She was taken to a detention facility in Khartoum where NISS officials searched her phone for compromising material and evidence of “homosexuality”. They threatened to rape her and subject her to invasive and pseudo-scientific “virginity tests”.⁸⁶²

In **July 2020**, the same month as the repeal of lashing and the death penalty as a punishment for same-sex sexual

activity, it was reported that two men were sentenced to 40 lashes and a fine of 40,000 Sudanese Pounds (approximately USD 72). If unable to pay the fine, they would be sentenced to two months’ imprisonment instead.⁸⁶³

In its shadow report for Sudan’s UN UPR third cycle in **2021**, Bedayaa reported that a young man and his partner were arrested while strolling in the street near the International University of Africa, Khartoum. Police claimed they were patrolling the area after receiving reports of men having sex with one another. They were detained, had their phones searched for incriminating content, and one of the pair seems to have been sexually harassed. Both were released after one hour without charge.⁸⁶⁴



Criminalising Provisions

Historically, “carnal knowledge against the order of nature” was punished under Section 154 of the Penal Code of Tanzania (formerly, Penal Code of Tanganyika) (1930) with imprisonment for up to 14 years. Attempts to commit such acts were punished with seven years in prison under Section 155. Additionally, Section 157 prescribed five years in prison for acts of “gross indecency” among males.⁸⁶⁵

In 1998, Section 16 of the Sexual Offences Special Provisions Act (1998) amended Section 154 of the Code to aggravate the penalty for “carnal knowledge against the order of nature”, raising it to “imprisonment for life and in any case to imprisonment for a term of not less than 30 years”. The penalty for attempts to commit such acts were also set to a minimum of 20 years in prison. Furthermore, Section 12 of the law inserted Section 138A into the Penal Code to criminalise acts of “gross indecency” using gender neutral language, and thus making the provision applicable to women as well, imposing a penalty of up to five years in prison and a fine. This is reflected in the current version of the Penal Code (2022).⁸⁶⁶

The autonomous region of Zanzibar has the power to legislate its own criminal law. Under Section 150 of the Penal Decree (2004) “carnal knowledge against the order of nature” is punished with 14 years in prison, and attempts to commit “unnatural offences” are punished with up to seven years in prison under Section 151. Furthermore, “acts of lesbianism” are explicitly criminalised under Section 153. This provision punishes “any woman who commits an act of lesbianism with another woman whether taking an active or passive role” with up to five years in prison and a

⁸⁵⁸ “Police in Sudan arrest and beat nine gay men”, *Gay Star News*, 23 February 2013; Equal Rights Trust and Sudanese Organisation for Research and Development, *In Search of Confluence: Addressing Discrimination and Inequality in Sudan* (2014), 151-152.

⁸⁵⁹ Christopher Alexander and Mai Sato, *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty* (2021), 48.

⁸⁶⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸⁶¹ United States Department of State, *2017 Country Reports on Human Rights Practices: Sudan* (2017), 46.

⁸⁶² Bedayaa, *Shadow report for the third Universal Periodic Review of the Republic of Sudan* (2021), 7-8.

⁸⁶³ “تنفيذ عقوبة جلد لشابين مثليين ضبطا أثناء ممارسة الفاحشة في الجزيرة” [Two gay youths caught while practicing obscenity on the island flogging carried out], *Alrakoba*, 28 July 2020.

⁸⁶⁴ Bedayaa, *Shadow report for the third Universal Periodic Review of the Republic of Sudan* (2021), 9.

⁸⁶⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Tanzania* (accessed: 12 June 2023).

⁸⁶⁶ *Ibid.*

fine. Under Section 154, acts of "gross indecency", in public or private, are criminalised both for men and women and punished with up to five years in prison and a fine.⁸⁶⁷

Enforcement Overview

Negative social attitudes regarding SOGIE issues in Tanzania mean that community violence and discrimination is common, even from law enforcement. Often, individuals will be targeted through unrelated provisions, such as laws against sex work, or will simply be harassed by law enforcement outside of the scope of the law. In a 2013 Human Rights Watch report, a transgender woman and sex worker in Dar es Salaam said she had been arrested for sex work more than 10 times. She was sexually assaulted by the police on at least one of these occasions.⁸⁶⁸

Several other organisations have also documented high levels of police brutality and discrimination, which routinely includes arresting people without charge, physical violence and verbal abuse.⁸⁶⁹ In a 2015 East African Sexual Health and Rights Initiative report, a transgender woman in Dar es Salaam claimed that "because of how we identify and how we express ourselves, [society and police] take our money, solicit bribes both monetary and sexual, strip us naked, beat us, chase after us in public, and remove our wigs. For trans men, they strip them and oftentimes rape them, especially because of the androgynous look they usually have".⁸⁷⁰

In October 2018 the commissioner for Dar es Salaam, Paul Makonda, announced a crackdown on "homosexuals" and urged communities to report them to authorities.⁸⁷¹ He announced that he had compiled a team of 17 individuals comprising police officers, doctors, members of the Film Board and others who would assess the persons outed to them, through measures such as forced anal examinations. Makonda also suggested a new system of surveillance for police to identify potential homosexuals online and in public, with the possibility of compiling a list of "known persons". So severe were these plans that not only was there pushback from lawyers and activists, but the central government also publicly distanced itself from the plan. It said in a statement that the government of Tanzania wished to clarify that those were the Regional Commissioner for Dar es Salaam's personal views and not the position of the government.⁸⁷²

Nevertheless, the central government has demonstrably contributed to an environment which would enable the likes of Makonda. This is done through the enforcement of provisions criminalising "carnal knowledge against the order of nature", as well as the explicit targeting of activists. In June 2017, then-President John Magafuli was

quoted as saying that NGOs brought drugs and homosexual practices "that even cows disapprove of", while the Minister of the Interior said:

I would like to remind and warn all organisations and institutions that campaign and pretend to protect homosexual interests [...] we are going to arrest whoever is involved and charge them in courts of law".

At that time the government had gone so far as to shut down several HIV and sexual health clinics due to their presumed association with MSM, and even ban sexual lubricant from the country.⁸⁷³ 2017 also saw the Deputy Health Minister, Dr Hamis Kigwangalla, threaten to publish the names of "suspected homosexuals in the country" and the names of those who "advertised homosexual activities online".⁸⁷⁴ And in September 2019 while in Zanzibar, Deputy Home Affairs Minister Hamad Masauni called for the arrest of anyone "promoting" homosexuality.⁸⁷⁵

As a result of statements such as those made above, those involved in service delivery, reproductive or sexual health, or SOGIESC-related advocacy, have increasingly been targeted by national, regional and local authorities. This has had a deleterious effect on the capacity of local LGBT organisations, especially those working on HIV prevention and awareness raising. The crime of "promotion of homosexuality" does not exist in Tanzania but authorities (and the media) have resorted to this expression to arrest activists and dismantle organisations operating in the country.⁸⁷⁶

Historically, some activists have considered Tanzania to be among the quieter criminalising countries, but in August 2018 and again in May 2019 a group of 38 human rights advocacy groups wrote an urgent open letter to all member and observer States of the UN Human Rights Council expressing concern at the "warning signs of a mounting human rights crisis".⁸⁷⁷

Much of the increased crackdown against people of diverse sexual orientations, gender identities and gender expressions, as well as against healthcare and broader human rights and political activism, has been attributed to the government of former President John Magafuli, who took office in 2015 and died in March 2021.⁸⁷⁸ However, despite hopes from civil society organisations that his successor, Samia Suluhu Hassan, would be a more moderate ruler,⁸⁷⁹ there is as yet no evidence that she has taken any formal action to mitigate the ongoing targeting and violence of diverse individuals and communities. In fact, in September 2022 the government seemed to signal a continuation of its stance, with Information Minister Nape Nnauye warning the public and social media sites

⁸⁶⁷ *Ibid.*

⁸⁶⁸ Human Rights Watch, *"Treat Us Like Human Beings": Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania* (2018).

⁸⁶⁹ Tanzania Key Populations and Sexual Minorities Working Group, *Joint Stakeholder Submission to the UN Universal Periodic Review for 25th session* (2016), 8.

⁸⁷⁰ UHAI EASHR, *Landscape analysis of the human rights of Sex Workers & LGBTI communities in Tanzania 2015–2016* (2015), 19–44.

⁸⁷¹ "Dar es Salaam regional commissioner launches anti-gay clampdown", *The East African*, 30 October 2018; "Tanzania: Anti-gay crackdown in Dar es Salaam", BBC, 31 October 2018; "Tanzania plans anti-gay police state, not without opposition", *Erasing 76 Crimes*, 1 November 2018.

⁸⁷² "Tanzania: men arrested for 'gay marriage' face anal examinations", *The Guardian*, 8 November 2018.

⁸⁷³ "Tanzania threatens to arrest all gay rights activists", *Erasing 76 Crimes*, 27 June 2017.

⁸⁷⁴ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

⁸⁷⁵ Human Rights Watch, *"If We Don't Get Services, We Will Die": Tanzania's Anti-LGBT Crackdown and the Right to Health* (2020), 22.

⁸⁷⁶ See, among others: Human Rights Watch, *"If We Don't Get Services, We Will Die": Tanzania's Anti-LGBT Crackdown and the Right to Health* (2020).

⁸⁷⁷ ILGA World et al., *Open letter to States on preventative engagement with, and action on, Tanzania at the Human Rights Council's 41st session* (2019).

⁸⁷⁸ "Repressive laws in Tanzania stifle the work of NGOs", *Devex*, 28 October 2019.

⁸⁷⁹ "Hope for change in Tanzania after death of homophobic president", *Erasing 76 Crimes*, 21 March 2021.

that those who disseminate “online messages and short videos promoting same-sex relationships” would be investigated and arrested.⁸⁸⁰ In April 2023 the Minister told the National Assembly that more than 3,360 social media accounts and websites had been shut down by the government with the charge of “promoting homosexuality”.⁸⁸¹

2023 broadly seems to have seen a redoubling of efforts by State representatives to aggravate the criminalisation of LGBTQ+ persons. In March of that year it was reported that Mary Chatanda, head of the women’s wing of the CCM ruling party in Tanzania, called for the “castration” of homosexual men and asked for more severe punishments against same-sex sexual acts to be adopted.⁸⁸² The same month, Tanzanian Vice-President Philip Mpango was reported by local media as stating that there had been an “erosion of values” and referred to same-sex marriage as something that “does not even exist for animals”.⁸⁸³

One activist informed ILGA World that in 2023:

The political context in Tanzania has become even more hostile compared to previous year for LGBTIQ+ [people] and sex workers. Six gay [men] and trans women have been sentenced into 30 years in prison after being forced into anal testing as per Sections 154 to 159 of the Penal Code of the United Republic of Tanzania. In previous years, that is from 2016-2019, we witnessed political and religious leaders giving out hate speech towards the LGBTIQ+ community, but it has never happened that community members would be sentenced 30 years into prison.⁸⁸⁴

By April 2023 a growing crackdown against people of diverse SOGIE and organisations culminated a parliamentary motion by MP Abubakar Damian Asenga calling on the government to “take immediate action” in expanding legislation against same-sex sexual acts. Asenga claimed that Section 154 of the Penal Code was “ineffective” as it prohibited “carnal knowledge against the order of nature”, but not “homosexuality” per se. He argued that the existing law was difficult to enforce as it often required the infringing of citizen’s right to privacy, and cited draconian new legislation from Uganda as an example of a “better approach”, as it would criminalise hotels and other venues where “homosexuality” occurs, and prohibit “propaganda on homosexuality”.⁸⁸⁵ Taking these sentiments further, MP Ahmed Katani called for the death of anybody “confirmed to have engaged in homosexual acts”, and reportedly went so far as to propose a bill requiring all members of Parliament to undergo

examinations to identify those who engage in same-sex acts.⁸⁸⁶

April also saw a convening organised by religious leaders from several Tanzanian churches and organisations under the theme “A Tanzania without homosexuality is possible.” Among the attendees was former Minister of Constitutional Affairs and Justice, MP Harrison Mwakymbe, who delivered a statement claiming that an inquiry commission he had set up had found that at least 29 organisations were involved in “promoting homosexuality” in the country. Promptly reacting to this statement, the Chairperson of the National Council of Non-Governmental Organisations, which regulates the registration and activities of NGOs, held an emergency executive committee meeting to launch an official investigation against those 29 organisations.⁸⁸⁷ Since then, multiple civil society organisations working in SOGIESC advocacy, human rights and HIV health provision, have faced closure and de-registration.⁸⁸⁸

In all, between 2009 and the time of publication, ILGA World identified at least 24 examples of criminal enforcement, though given the above information, the real tally is likely much higher.

Examples of Enforcement

In 2009, a transgender man in Dar es Salaam was arrested after being reported to the police for being a lesbian and having a “bad attitude” by the manager at the bar where he worked. At the police station he was sexually assaulted by the police. They made him take off his clothes and touched his breasts and genitals. They beat him with a belt and forced him to wear women’s clothing and clean the police station. He was detained for six days before being released.⁸⁸⁹

On 19 May 2009 a newspaper reporter and three police officers went after two men suspected of engaging in consensual same-sex sexual activity. They followed the couple from the street to their private hotel room, invaded the room, and began taking photographs of the men, who were subsequently arrested and taken to the police station. In the following days, those photographs appeared on the cover of *Ijumaa* newspaper featuring the headline: “Caught Live!” and a related article included derogatory and discriminatory language.⁸⁹⁰

On 19 June 2009 two well-known activists were arrested and arraigned on charges of debauchery. The two detainees were charged alongside seven women arrested on the presumption that they were sex workers. The judge

⁸⁸⁰ “Tanzania warns of crackdown on pro-LGBT messages on social media”, *Erasing 76 Crimes*, 13 September 2022.

⁸⁸¹ “Authorities freezes social media accounts for LGBT supporters”, *Daily News*, 17 April 2023.

⁸⁸² “El ala femenina del partido del Gobierno tanzano propone castrar a los homosexuales” [The women’s wing of the Tanzanian government party proposes castrating homosexuals], *Europa Press*, 20 March 2023.

⁸⁸³ “Ndoa za jinsia moja zamuibua Makamu wa Rais, atoa tamko ‘hata wanyama hawafanyi” [Same-sex marriage raises the issue of the Vice President, he makes a statement ‘even animals don’t do it’], *Millard Ayo*, 25 March 2023.

⁸⁸⁴ Information supplied to ILGA World by the African Queer Youth Initiative.

⁸⁸⁵ “Mbunge acharuka wimbi la ushoga ‘Samia, Mpango, Majaliwa mtaulizwa” [Member of Parliament will jump the wave of homosexuality ‘Samia, Program, Majaliwa will be questioned’], *Tanzania Web*, 11 April 2023.

⁸⁸⁶ “Tanzanie : des députés veulent la peine de mort pour les homosexuels - Mayotte la 1ère” [Tanzania: MPs want the death penalty for homosexuals], *Guadeloupe 1*, 15 April 2023; “MPs call for tough on same-sex relations”, *The Citizen*, 12 April 2023; “Wabunge kupimwa ili kuanika wale wanaojihusisha na mapenzi ya jinsia moja, LGBTQ” [Members of Parliament to be tested to identify those who are involved in homosexuality, LGBTQ], *Radio Jambo*, 14 April 2023.

⁸⁸⁷ “NGOs 29 zilizotajwa kujihusisha na ushoga kikaangoni” [29 NGOs mentioned to be involved in homosexuality in the region], *Tanzania Web*, 5 April 2023.

⁸⁸⁸ Information supplied to ILGA World by the African Queer Youth Initiative.

⁸⁸⁹ Human Rights Watch, “Treat Us Like Human Beings”: Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania (2018).

⁸⁹⁰ Center for Human Rights Promotion, IGLHRC, Global Rights, *The Violations of the Rights of Lesbian, Gay, Bisexual, Transgender Persons in The United Republic of Tanzania: A Shadow Report* (2009), 6.

mocked the two accused's gender expressions, taunting them for their clothing and voices. He denied them bail but they were later released.⁸⁹¹

On **29 September 2009**, 39 gay and lesbian activists who were having a meeting in Dar es Salaam were arrested after police received reports of "lawlessness" in the area. They were charged with prostitution and vagrancy, and detained for over two weeks in a local jail because the magistrate denied them bail. The Magistrate allegedly called them an "eye-sore" and that they should be handled "without mercy".⁸⁹²

In **December 2010** the police arrested a gay man in Dar es Salaam and forced him at gunpoint to call five gay friends to meet at a bar. The police arrested all of them, stripped them, beat them, and detained them at the central station, where they were raped repeatedly by other detainees, while the police refused to help. They were released after a parent paid a bribe.⁸⁹³

Around **2010**, a gay man in Tandika was arrested, beaten, and detained for two days for trying to organise a seminar on health issues for MSM.⁸⁹⁴

In **June 2013**, sources reported a case in which two gay men were arrested and held in police custody because one was "walking like a woman". They were not released until the next day, after they paid a bribe.⁸⁹⁵

In **2015** a transgender man and his girlfriend were arrested in Dar es Salaam on suspicion of violating the provisions against same-sex intimacy. During their arrest, the couple was verbally harassed and assaulted by the police. The couple were detained for two days before being released.⁸⁹⁶

A **2017** report from the Southern Africa Litigation Centre (SALC) documents a case where a transgender individual was held and questioned at the Dar es Salaam airport. An Immigration Officer asked "are you a man or a woman?" The individual in question then presented their birth certificate. Dissatisfied with this, officials made them strip naked to verify their sex.⁸⁹⁷

In **February 2017** the Deputy Minister of Health sought to arrest three men, after a post on social media from one of the men's phones allegedly showing a gay sex act went viral. The minister stated that the men were advocating sodomy through social networks and needed to be prosecuted, though it is not known if they ever were.⁸⁹⁸ At least one of the accused was effectively arrested and deprived of his liberty for four days, and subjected to a forced anal examination.⁸⁹⁹

On **3 March 2017** two members of Stay Awake Network

Activities (SANA), a local NGO based in Dar es Salaam, were arrested for allegedly "promoting homosexuality" in the Southern Highland Zone. The Region's Police Commander said the two suspects "were caught red-handed in a training" at a hotel in Songea. According to the Commander, "the two had brought together a group of men and women who were trained on homosexuality and how they could have [sex] with people from their own gender". Among the elements that were taken as "evidence" was a questionnaire that attendants were required to fill out. The Commander explained that after receiving a tip-off, they "conducted investigations and prepared a trap" that enabled them to conduct the arrests.⁹⁰⁰

Around the same time in **March 2017**, between 7 and 11 men were arrested in Zanzibar for having engaged in same-sex sexual acts and were referred to the Office of the Director of Public Prosecutions (DPP) for trial. Zanzibar Regional Commissioner, Ayoub Mohammed, stated that "the work of hunting gay people is ongoing and we will make sure we arrest them to eradicate those acts that are not legally, morally or socially acceptable".⁹⁰¹

A few weeks later, acting on the orders of Deputy Health Minister Hamisi Kigwangalla, police in Dar es Salaam arrested a 19-year-old man suspected of "homosexuality" based on social media posts he made. In detention he was reportedly subjected to an anal exam.⁹⁰²

On **15 September 2017** authorities in the partially autonomous Zanzibar island region arrested around 20 individuals who had gathered to receive training on HIV education and healthcare, under apparent suspicion of homosexuality. All but two of the arrestees were released without charges. According to Pan Africa ILGA the meeting being held was focused on reproductive rights, and several offices belonging to organisations working on SOGIESC issues were also raided around this time, with documents being confiscated by officials.⁹⁰³

Also in **September 2017**, at least 12 men were reportedly arrested at a hotel in Dar es Salaam at a gathering authorities claimed was to promote same-sex relationships. Further details of the case are not known.⁹⁰⁴

The next month, on **17 October 2017**, 13 lawyers and activists, including South African legal professionals from the Institute for Strategic Litigation in Africa (ISLA), were arrested while meeting in Dar es Salaam. They were accused of promoting or participating in "carnal knowledge against the order of nature", though the group were granted bail without being charged. The meeting had been convened to conduct a workshop with a local organisation on a case to challenge the Ministry of Health's decision to

⁸⁹¹ "Tanzania: Arbitrary arrests and detentions of gay and lesbian activists", *OutRight Action International*, 30 October 2009.

⁸⁹² *Ibid.*

⁸⁹³ Canada: Immigration and Refugee Board of Canada, *Tanzania: Treatment of sexual minorities by society and government authorities; recourse and protection available to those who have been subject to ill treatment (2007 - July 2014)* (2014).

⁸⁹⁴ *Ibid.*

⁸⁹⁵ *Ibid.*

⁸⁹⁶ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

⁸⁹⁷ Southern Africa Litigation Centre, *Regional Advocacy Meeting on Developing Strategies to Challenge Police Abuse of Marginalised Persons* (2012), 13.

⁸⁹⁸ "Tanzanian official seeks 3 arrests in ongoing crackdown", *Erasing 76 Crimes*, 7 February 2017.

⁸⁹⁹ Human Rights Watch, "If We Don't Get Services, We Will Die": *Tanzania's Anti-LGBT Crackdown and the Right to Health* (2020), 17.

⁹⁰⁰ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

⁹⁰¹ "Polisi Zanzibar yanasia wanaoidawa kuwa mashoga" [Zanzibar Police arrest alleged homosexuals], *IPP Media*, 4 March 2017.

⁹⁰² "Teen posted on Instagram and the next thing he knew, a doctor was invading his body", *The East African*, 1 June 2017; Human Rights Watch, *World Report 2018: Events of 2017* (2018), 544-545.

⁹⁰³ "Tanzania: Statement on recent arrests", *Equal Eyes*, 23 September 2017.

⁹⁰⁴ Human Dignity Trust, *Country Profile: Tanzania* (accessed: 12 June 2023).

close HIV drop-in-centres and ban the distribution of lubricants in public health institutions.⁹⁰⁵ The Dar es Salaam Special Zone Police Commander, Lazaro Mambosasa, stated that they were alerted to the meeting by an anonymous tip-off. Among those placed in police custody was the manager of the hotel. In a press conference, Mambosasa explained: "We are holding the hotel manager for interrogation purposes as to why he allowed the meeting to take place inside his hotel while knowing what his potential customers were going to discuss".⁹⁰⁶ Three South African lawyers who were participants in the meeting were deported a few days later.⁹⁰⁷ In **December 2020**, ISLA brought a lawsuit on behalf of the three deported lawyers before the Dar es Salaam High Court. However, in **2021**, the Attorney General and the Minister of Home Affairs failed to appear before the court without a well-founded reason. At the time of publication, the case is still ongoing.⁹⁰⁸

It was also reported in early **December 2017** that a woman in the town of Geita had been arrested after a video went viral on social media, depicting her kissing another woman and giving her a ring at a bar.⁹⁰⁹ The woman who received the ring was reportedly arrested at a later stage, as was the man who allegedly filmed the video and another woman seen in the video.⁹¹⁰ According to Human Rights Watch, the bar owner and a man accused of circulating the video were also charged, and even though prosecutors dropped all charges in **May 2019**, police forces re-arrested the four accused on the same charges.⁹¹¹

An especially high-profile episode of government targeting came in **October 2018** when the commissioner for Dar es Salaam, Paul Makonda, announced a crackdown on "homosexuals" and urged communities to out them to authorities.⁹¹² This led, in part, to authorities in Zanzibar raiding a party at a party at Pongwe Beach, Zanzibar, on **3 November**, accusing participants of conducting a same-sex wedding on account of the fact that they found the group sitting "two by two". Around 10 people were arrested while six others fled. The detainees were reportedly subjected to invasive anal examinations. Later the same week the men were released on bail, with a regional police commissioner saying "we have so far found no evidence of unlawful acts so we are releasing all the men," but adding that they could be re-arrested if evidence of same-sex sexual activity was found. The central government did not intervene, but following widespread international pressure publicly distanced itself from the ongoing crackdown in Zanzibar

and Dar es Salaam, saying in a statement that "the government of the United Republic of Tanzania would like to clarify that these are [the Regional Commissioner for Dar es Salaam's] personal views and not the position of the government".⁹¹³

According to Human Rights Watch, in **January 2019**, at least 13 men were arrested in a small town on the basis of their perceived sexual orientation and were subjected to forced anal examinations. Even though they were all released on bail, three of them were later rearrested in Dar es Salaam and held for two weeks before being released.⁹¹⁴

In **March 2020**, seven men were reportedly arrested for same-sex sexual activity and subjected to forced anal examinations. They were sent to trial which had not concluded by the end of the year, though further information about this case could not be identified at the time of publication.⁹¹⁵

In **September 2022**, Zanzibar's Ministry of Tourism and Antiquities reportedly ordered an investigation into a video portraying a same-sex wedding proposal on the island, saying that it went "against local legislation". Further details could not be identified at the time of publication.⁹¹⁶

On **7 April 2023**, two people from Mugumu were arrested after they were reported by their landlord, who found them engaging in same-sex acts. The two accused were taken by the police to a local hospital where they were subjected to anal examinations. On **17 April** the two accused were brought in front of a court where they denied the charges against them. Their hearing was rescheduled for **June 2023**, though at the time of publication no further details could be identified.⁹¹⁷

On **13 April 2023** a man was arrested after he allegedly contacted another man telephonically, seeking to engage in same-sex acts. After his arrest he was subjected to an anal examination by medical personnel who declared that he had engaged in "unnatural sex". The accused was brought to the Kilwa District Court, where he was found guilty of having violated Sections 154 and 157 of the Penal Code and was sentenced to 30 years in prison.⁹¹⁸

In **April 2023** it was reported that another individual, assigned male at birth but of an unknown identity, had been sentenced to 30 years' imprisonment, this time for allegedly distributing content on social media showing themselves "wearing women's clothing while walking at

⁹⁰⁵ "Facing Prosecution for Challenging HIV Policies in Tanzania", *Human Rights Watch*, 20 October 2017; "Tanzania | SA lawyers sue government over homophobic arrests", *Mamba Online*, 27 July 2021.

⁹⁰⁶ "13 nabbed in Dar over suspected gay linkage", *IPP Media*, 19 October 2017.

⁹⁰⁷ "Tanzania deports 3 South Africans for promoting homosexuality" *IPP Media*, 29 October 2017.

⁹⁰⁸ "Tanzania | SA lawyers sue government over homophobic arrests", *Mamba Online*, 27 July 2021.

⁹⁰⁹ "Police arrest woman in Tanzania over video of same-sex kiss", *Reuters*, 2 December 2017.

⁹¹⁰ *This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.*

⁹¹¹ Human Rights Watch, "If We Don't Get Services, We Will Die": *Tanzania's Anti-LGBT Crackdown and the Right to Health* (2020), 17.

⁹¹² "Dar es Salaam regional commissioner launches anti-gay clampdown", *The East African*, 30 October 2018; "Tanzania: Anti-gay crackdown in Dar es Salaam", *BBC*, 31 October 2018.

⁹¹³ "Tanzania: 10 men arrested in Zanzibar for 'being gay'", *Amnesty International*, 6 November 2018; "Tanzania: men arrested for 'gay marriage' face anal examinations", *The Guardian*, 8 November 2018; "Men suspected of 'being gay' in Zanzibar released on bail - police, lawyer", *Openly*, 8 November 2018.

⁹¹⁴ Human Rights Watch, "If We Don't Get Services, We Will Die": *Tanzania's Anti-LGBT Crackdown and the Right to Health* (2020), 21.

⁹¹⁵ Human Dignity Trust, *Country Profile: Tanzania* (accessed: 12 June 2023).

⁹¹⁶ "Zanzibar investigates apparent same sex proposal at the beach", *The Citizen*, 22 September 2022.

⁹¹⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁹¹⁸ *Ibid.*

midnight". The Kyela District Court in Mbeya issued the lengthy sentence after the individual admitted "to the crime of allowing unnatural intercourse with men". The resident Magistrate declared that the severe punishment had been issued "in accordance with the law so that it will be a lesson to other people who have habits contrary to nature".⁹¹⁹



Criminalising Provisions

Article 88 (under Section 2) of the Penal Code (1980) prescribed imprisonment of one to three years and a fine of 1,000,000 to 3,000,000 francs against anyone who committed an "indecent or unnatural act" with a person of the same sex. In 2015, the Penal Code Amendment Law (2015) relocated this provision to Article 392 (Section 3: Outrages against morals).⁹²⁰

Enforcement Overview

In a submission to the UN Human Rights Committee in 2019, the Togolese government indicated that "when criminal investigation officers become aware of actions constituting the offence of an 'unnatural act', they are obliged to arrest the perpetrators and begin proceedings and, if they deem it necessary, they may place the offenders in custody for the purposes of the investigation".⁹²¹ The government added that as of 2018, "no court has ever convicted anyone for his or her sexual orientation".⁹²² In 2021 the Human Rights Committee voiced concern regarding the 2015 Penal Code, acknowledging the Togolese State's assertion of non-application, in practice, of the law, but remaining troubled by "reports of security forces subjecting individuals to harassment, attacks, ill-treatment, and arbitrary detentions based on their actual or perceived sexual orientation or gender identity".⁹²³

The claim by the Togolese State that the law is not enforced does little to remove the proverbial Sword of Damocles from over the heads of Togo's population. According to the Queer African Youth Network (QAYN) in 2015, "il ne faut pas réveiller le lion qui dort" (i.e., "do not wake the sleeping lion") is an expression often used as a veiled threat against human rights defenders who might trigger more official use of Article 88 of the Penal Code.⁹²⁴

Of course, this does not preclude criminalising provisions being used by authorities to otherwise target suspected individuals. A lack of interest from police in taking action against hate crimes, or outright re-victimisation of complainants, is reportedly also an issue.⁹²⁵

Reportedly, hate crimes and extrajudicial violence against persons of diverse SOGIE is a significant issue within Togolese society, with representatives of the African Queer Youth Initiative (AQYI) informing ILGA World that "a series of lynchings" had recently occurred across the country.⁹²⁶ One prominent example came in April 2022, where an angry mob attacked a group of LGBT beachgoers, forcing them to flee for their lives.⁹²⁷ This seems to have resulted in the ongoing harassment and disappearance of at least one gay man.⁹²⁸

In July 2020, the Conference of Bishops of Togo issued a statement by the Christian leaders in attendance lauding the government for pushing back against foreign pressure to decriminalise same-sex sexual activity and end discrimination based on sexual orientation and gender identity.⁹²⁹ However, rumours soon began to spread that the country's efforts to join the Commonwealth of Nations would require the government to decriminalise same-sex acts due to pressure from the United Kingdom. In 2022 the Minister of Communications reportedly stated that the government had no plans to do so.⁹³⁰

While verifiable data from Togo remains limited, at least 10 examples of State targeting have been identified between 2012 and the time of publication, primarily against persons of diverse gender expressions.

Examples of Enforcement

According to the United States Department of State, at least eight individuals were "arrested for same-sex sexual conduct" in 2010 and remained incarcerated as of 2011.⁹³¹ Further information about these cases could not be found at the time of publication.

In the 2012 US Department of State report on Togo, it was reported that a Ghanaian man had been arrested. The report alleges that the courts found the man guilty only of "disruption of public order" to avoid the case receiving too much attention.⁹³²

According to Afrique Arc-en-Ciel and Amnesty International, one individual, possibly two, described as "men in dresses", were arrested in September 2014 in the capital city of Lomé on their way home from a party. During their detention they were subjected to various forms of abuse, such as being forced to remove their clothes while being filmed and photographed, which would

⁹¹⁹ *Ibid.*

⁹²⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Togo* (accessed: 12 June 2023).

⁹²¹ Human Rights Committee, *Fifth periodic report submitted by Togo under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2017*, CCPR/C/TGO/5, 17 January 2019, para. 25.

⁹²² *Ibid.*

⁹²³ Human Rights Committee, *Concluding observations on the fifth periodic report of Togo*, CCPR/C/TGO/CO/5, 24 August 2021, para. 17-18.

⁹²⁴ QAYN, *Il ne faut pas réveiller le lion qui dort: Cartographie juridique de la situation des personnes LGBTQ en Afrique de l'Ouest Francophone*, July 2015, 1.

⁹²⁵ "Togo: homosexualité et justice ne collent pas" [Togo: homosexuality and justice do not match], *Africa RDV*, 29 January 2018.

⁹²⁶ Information supplied to ILGA World by the African Queer Youth Initiative.

⁹²⁷ "Lomé: Des homosexuels chassés à coups de poing de la Plage" [Lomé: Homosexuals kicked out of the beach] *Togo Breaking News*, 6 April 2022.

⁹²⁸ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁹²⁹ "Togo : Les Evêques « crucifient » l'homosexualité" [Togo: Bishops "crucify" homosexuality], *Koaci*, 24 July 2020.

⁹³⁰ "LGBT: La position du Togo ne variera pas" [LGBT: Togo's position will not vary], *Togo Breaking News*, 8 July 2022.

⁹³¹ United States Department of State, *Country Reports on Human Rights Practices for 2011: Togo* (2012), 20.

⁹³² United States Department of State, *Human Rights Report: Togo* (2012), 17.

be used to blackmail them if they did not comply with the demands of the officers. They were made to dance in front of officers and other detainees, and were denied access to legal representation. Relatives and human rights defenders were granted access to them on the third day, and they were released after five days in custody without charge.⁹³³

Also in **2014**, according to Amnesty International, police requested proof of identification from “another gay man returning home in female clothing” and escorted the individual home when they could not provide ID. Along the way, apparently thinking the person in his charge was a cisgender woman, an officer tried to grope and sexually harass them. At home, the family explained the situation which led to the individual being violently beaten by police, and threatened with arrest if the family did not pay a bribe.⁹³⁴

In **January 2018**, a media outlet by the name of *Africa RDV* reported on the lack of access to justice for people of diverse gender expressions and identities and sexual orientations in Togo and included testimonies of arrests regularly carried out by law enforcement. A local trans woman explained how two of her friends were arrested in Adidogomé, a northwest suburb of Lomé, and held in police custody for three days “for wearing women’s clothes”. On that occasion, 100,000 CFA francs (around USD 200) were requested for their release, though police eventually settled for half of that amount.⁹³⁵

The same trans woman also testified in the **2018** article that another transgender friend of hers was arrested by a police patrol. Instead of detaining her, she was taken to her home and outed to her family by forcibly presenting her in her female outfit.⁹³⁶

In **March 2018**, according to Afrique Arc-en-Ciel Togo, a transgender woman was arrested for “cross-dressing” despite no law against it existing. She was held for 48 hours at the Agoe police station.⁹³⁷

On the night of **16 November 2019** a transgender woman was arrested, with police refusing to release her unless she had sex with them. The situation escalated as an officer followed her to her home, threatening her safety. It was only the presence of the victim’s mother at home that stopped the officer from raping her.⁹³⁸

On **6 January 2021**, a young gay man was arrested by a police patrol in Anfamé, Lomé, after being accused by police of being out after dark in order to rob people. The young man was in fact fleeing from an ambush by a homophobic mob, but in explaining this to the authorities he was instead held for his sexual orientation. Police also apprehended the young man’s boyfriend, and sent both to

a local prison until a fee could be paid by Afrique Arc-en-Ciel to secure their release.⁹³⁹

On **26 May 2023** the Direction Centrale de la Police Judiciaire arrested a trans woman for “public indecency” after she published a sexually suggestive video online. On **1 June** she was sentenced to one year’s imprisonment at the Lomé Civil Prison by the Tribunal de Grande Instance de Lomé.⁹⁴⁰



Criminalising Provisions

Article 230 of the Tunisian Penal Code (1913), was drafted while Tunisia was a French protectorate, prohibits “sodomy” and prescribes a penalty of imprisonment of up to three years.⁹⁴¹

In addition, the provisions of the Penal Code relating to “indecent exposure” are regularly used to condemn or punish sexualities or identities considered non-conforming. Article 226 penalises “public indecency” and article 226 bis penalises “violation of public morals or morality by gesture or speech with up to six months’ imprisonment and a fine.”⁹⁴²

In practice, it seems that charges are often brought by the police on the basis of the physical appearance or the failure to produce documents corresponding to the gender expression of suspected LGBT persons. Article 231, which criminalises “solicitation of prostitution”, was also used to target trans persons, as was Article 125 on “contempt of a public or similar official in the performance or in connection with the performance of his or her duties”.⁹⁴³

Enforcement Overview

ILGA World notes 42 examples of criminal enforcement, police harassment, and other forms of official State-backed targeting between 2012 and 2023. These represent only a few disaggregated cases, however, with some organisations putting forward much higher numbers.

International media reporting in 2019 seemed to indicate that arrests and convictions were “sodomy” were on the rise,⁹⁴⁴ which is corroborated by the findings of local human rights groups. A local organisation called Shams reported to Reuters in 2020 that they had recorded 127

⁹³³ Afrique Arc-en-Ciel and the Sexual Rights Initiative, *Contribution conjointe pour l’EPU du Togo sur les droits sexuels et reproductifs* (2016), para. 17; Amnesty International, *Togo, Submission to The United Nations Human Rights Committee 128th Session* (2019), 17.

⁹³⁴ Amnesty International, *Togo Shadow Report to the African Commission on Human and Peoples’ Rights* (2018), 18-19.

⁹³⁵ “Togo: homosexualité et justice ne collent pas” [Togo: homosexuality and justice do not match], *Africa RDV*, 29 January 2018.

⁹³⁶ *Ibid.*

⁹³⁷ Afrique Arc-en-Ciel Togo and Synergia, *Alternative Report for consideration at the 132nd session of the UN Human Rights Committee* (2021), 10.

⁹³⁸ *Id.*, 11.

⁹³⁹ *Id.*, 10.

⁹⁴⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁹⁴¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Tunisia* (accessed: 11 June 2023).

⁹⁴² *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity: Visit to Tunisia*, A/HRC/50/27/Add.1, 11 May 2022, para. 22.

⁹⁴³ *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity: Visit to Tunisia*, A/HRC/50/27/Add.1, 11 May 2022, para. 22.

⁹⁴⁴ “Tunisia is jailing men for having gay sex and forcing them to undergo anal exams, human rights group claims”, *Independent*, 30 March 2016; “Tunisia: tra abusi e test anali, condanne per sodomia aumentate del 60%” [Tunisia: between abuse and anal tests, sentences for sodomy increased by 60%], *Gay.it*, 10 October 2019.

convictions in 2018, which represented an increase of 61% from 2017.⁹⁴⁵ That same year, an organisation called Damj reportedly provided legal assistance to LGBT people at police stations in 116 cases and responded to 185 requests for legal consultations. "These figures are five times higher than those we recorded in 2019, indicating an alarming increase in the persecution of LGBT+ people during the Covid-19 pandemic," said one member of the organisation. Damj has further claimed that between the Tunisian revolution in 2011 and February 2021, they had recorded 1,458 convictions, ranging between one month to three years in prison, based on Article 230 of the Penal Code.⁹⁴⁶ In May 2021 Shams shared that Tunisia's Ministry of Justice had released official numbers indicating that since 2011, 1,225 people had been imprisoned due to their sexual and gender identities.⁹⁴⁷

The Twensa Kifkom Project has documented the use of Articles beyond 230 in the criminalisation of persons of diverse SOGIE. For example, between October 2018 and May 2022 it has documented 21 convictions for "homosexuality" (Article 230) but has also taken on 18 cases for "offending public decency" (Article 226 bis), 13 for "insulting a public official" (Article 125), 10 for "prostitution" (Article 231), and two for "public indecency" (Article 226).⁹⁴⁸

During an interview with a Tunisian activist by Article 19, the absence of accurate statistics and the challenges in gathering data was highlighted. The activist was, however, able to estimate based on their own experiences that they had to deal with seven to 10 cases every year, and that 40 to 100 judicial proceedings against LGBTQ+ persons could take place in a single year.⁹⁴⁹

More recently, according to Damj, in May and June 2022 the Tunisian State conducted a wide-ranging security campaign against the LGBTQ+ community in public and private spaces. The intensity of this campaign increased during the last two weeks of June and was led by the Special Social Protection Unit of the Tunis Judicial Police. Damj documented 14 cases of arrest under Article 230, and more than 45 cases of arrest and trial under Articles 125, 226, and 231. Damj and the victims submitted a series of criminal and administrative complaints related to torture, mistreatment, and illegal detention, though no officers were held accountable.⁹⁵⁰

Reporting on his visit to Tunisia in 2022, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IESOGI) found that prison authorities and State officials acknowledged that "in practice" homosexual men are part of the prison population, and include trans women in this population. The IESOGI was informed that prison

authorities do not allow the distribution of condoms in prison, as this would be considered an act of "promotion of homosexuality". This practice is of particular concern given the HIV prevalence rate in Tunisia among men who have sex with men, and the fact that a report by the United Nations Population Fund indicated that 72.7% of incarcerated trans persons had sex during the period of imprisonment.⁹⁵¹ The IESOGI report further noted that:

[...] Society not only sanctions homosexual behaviour under Article 230 of the Penal Code, but all identities and expressions that can be perceived as violating the "social pact" and constituting an affront to customs and traditions. Effeminate men, masculine women, and trans women, in particular, are at high risk of being subjected to violence because of their dress, appearance, and perceived mannerisms, and are subject to increased scrutiny. Many of the people we spoke to during the visit referred to the existence of these people as "abnormal," "unsocial," and "amoral".⁹⁵²

The issue of anal examinations came to an apparent head in 2015 when a young man was sentenced to a year in prison after being made to undergo such a procedure. The young man's treatment led the National Council of Tunisian Physicians to condemn the practice of non-consensual medical examinations.⁹⁵³ On 21 September 2017, during the Universal Periodic Review at the United Nations Human Rights Council, Tunisia formally accepted a recommendation to end forced anal exams. However, Tunisia's delegation stated: "Medical examinations will be conducted based on the consent of the person and in the presence of a medical expert."⁹⁵⁴

While the practice of forced anal examinations seems, then, to have become less common, suspects are still essentially coerced into allowing themselves to be violated in the hopes of exonerating themselves. ILGA World is aware of at least one instance, in 2017, in which a suspect was held in pre-trial detention for 13 months after he refused to submit to an exam,⁹⁵⁵ and of another case in June 2020 where the Court of First Instance in el-Kef Governorate found two suspects guilty of same-sex sexual activity on the grounds that their refusal to submit for an exam was tantamount to an expression of guilt.⁹⁵⁶ In December 2021 their lawyer, who had a mandate from the Tunisia Mission of Avocats Sans Frontières (Lawyers Without Borders), brought an appeal, and while the Court of Appeal maintained the validity of the original judgement, it did reduce their sentence from two years to one. A request for cassation after the pair had served their sentence was filed, with the stated goal of invalidating

⁹⁴⁵ "Prominent Tunisian LGBT+ activist flees death threats", *Reuters*, 9 January 2020.

⁹⁴⁶ "Tunisia: Police Arrest, Use Violence Against LGBTI Activists", *Human Rights Watch*, 23 February 2021.

⁹⁴⁷ Article 19, *Digital Crime Scenes*, 2022.

⁹⁴⁸ *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity: Visit to Tunisia*, A/HRC/50/27/Add.1, 11 May 2022, para. 23.

⁹⁴⁹ Article 19, *Digital Crime Scenes*, 2022.

⁹⁵⁰ "Anti-LGBT Raids in Tunisia Create 'Queer State of Emergency'" *Erasing 76 Crimes*, 3 March 2023.

⁹⁵¹ *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity: Visit to Tunisia*, A/HRC/50/27/Add.1, 11 May 2022, para. 53.

⁹⁵² *Id.*, para. 54.

⁹⁵³ "Tunisia's LGBT activists push forward", *Al-Monitor*, 12 December 2015; Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 34-35; 37; "Tunisian court cuts off student's homosexuality sentence", *Erasing 76 Crimes*, 17 December 2015.

⁹⁵⁴ "Tunisia: Privacy Threatened by 'Homosexuality' Arrests", *Human Rights Watch Website*, 8 November 2018; "Tunisia's Assault on Gay Men's -and Everyone's- Right to Privacy", *Human Rights Watch Website*, 3 December 2018.

⁹⁵⁵ "Tunisia: Privacy Threatened by 'Homosexuality' Arrests", *Human Rights Watch Website*, 8 November 2018.

⁹⁵⁶ "Tunisia: Two-Year Sentence for Homosexuality", *Human Rights Watch*, 6 June 2020; "Tunisia: Homosexuality Convictions Upheld", *Human Rights Watch*, 5 August 2020.

Article 230 of the Penal Code by highlighting its abusive use, its unconstitutional foundations, its colonial heritage as well as the problematic connotations made between “sodomy” to homosexuality. The Court of Cassation, however, ruled against the two men and kept Article 230 intact.⁹⁵⁷

In addition, the above-mentioned 2015 case which led to the outcry against forced anal examinations also impacted the central government and nationwide discussions around the decriminalisation of same-sex sexual acts in general. In response to the public campaign by local activists calling for the young man’s release, the then-Minister of Justice reportedly stated that Tunisia should begin working toward decriminalisation. The Tunisian President denounced the statement as not being in line with government policy, and on 20 October 2015 the Minister was fired for making statements that “lacked seriousness”, though it is unclear if his call for decriminalisation was considered to be one such statement.⁹⁵⁸

Another key issue in Tunisia is the ongoing and consistent targeting of queer human rights defenders and other political activists. On March 8 2020 a queer activist and president of the Damj Association faced heightened intimidation and surveillance by the police. Individuals dressed in police uniforms were observed conducting surveillance on his apartment and other locations he frequented. Additionally, the police directly contacted many of his neighbours, colleagues, friends, and family members for questioning regarding his work and personal life. The activist had previously experienced police surveillance and various forms of harassment and threats due to his work. In November 2019, for example, unidentified individuals approached him in the streets of Tunis, threatened to kill him, and set his apartment on fire, which forced him to relocate. In July 2018, his home was raided, vandalised, and his belongings, including devices containing sensitive information about Damj were stolen. Despite filing a complaint with the police after the incident, no investigative action was taken. Other members of Damj have reportedly also been subject to such surveillance and harassment since at least February 2021, with various Damj offices being broken into and ransacked during this time as well. Such threats and attacks against the organisation have continued into 2023.⁹⁵⁹

This kind of targeting is especially well-documented during times of civil unrest, as occurred in the early months of 2021, where Human Rights Watch reported at least two known activists detained in February, and several other protestors verbally abused and threatened with sexual violence.⁹⁶⁰ In total, it was reported that more than 2,000 protestors had been arrested by authorities between 15 January and 31 March 2021, with civil society organisations in Tunisia widely condemning the

government’s heightened use of force against the country’s citizens.⁹⁶¹ LGBTQ+ activists seem to be particularly targeted even in these mass demonstrations,⁹⁶² though the nature of these events makes it difficult to verify whether these incidents constitute criminalisation of SOGIE persons, or protest.

A wide range of UN Special Procedures also drafted a letter to condemn the arbitrary arrests of activists, and the specific targeting of people based on their SOGIESC during protests.⁹⁶³ However, the trend toward repression has apparently continued unabated, with widespread protests again being put down forcefully in July 2022, which included the arrest of a prominent gay activist. This spate of protests sought to oppose a new Constitution which would give the President sweeping powers, while reportedly undermining the judiciary and civil rights protections. The government adopted the new Constitution claiming support from 94.6% of voters, though only 30.5% of eligible voters turned out for the referendum.⁹⁶⁴

Examples of Enforcement

On **20 October 2012** a trans woman in the capital, Tunis, was arrested when a police officer, who had been sexually harassing her, demanded her identity document and found out she was not cisgender. A forced anal examination did not convince examiners that any anal intercourse had occurred, and so the woman was sentenced to six months’ imprisonment for “offending public morals” instead. Her sentence was carried out in a men’s prison.⁹⁶⁵

Also in **2012**, a self-described “travesti” was arrested for sitting in a car with a man while dressed as a woman, and sentenced to six months in prison—though this was later amended to two months.⁹⁶⁶

A 25-year-old gay man claimed that he and a friend were arrested during the holy month of Ramadan in **2014** (sometime between **29 June** and **28 July**) while gathered at a known gay meeting point in Tunis. Police found pictures of the man’s friend on his cell phone in which he was naked and wearing makeup. Both were arrested and assaulted, with the friend being detained for a month before paying a bribe to secure his release.⁹⁶⁷

On **6 September 2015** the judicial police in Hammam-Sousse summoned a young disabled man for questioning as part of an investigation into the murder of another man. The young man admitted that he had previously had sex with the victim of the murder, which led to the police assaulting and detaining him. They threatened to rape him and to charge him with murder. No evidence was ever found that the accused was involved in the killing. He was made to undergo forced anal examinations before being

⁹⁵⁷ “Tunisia appeal seeks to decriminalise homosexuality”, *Africanews*, 17 December 2021; “Court Case Seeks to Legalize Homosexuality in Tunisia”, *Alturi*, 29 December 2021; *Additional Information supplied to ILGA World by Assala Mdawkhy*.

⁹⁵⁸ “Tunisia’s LGBT activists push forward”, *Al-Monitor*, 12 December 2015; Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 34-35; 37; “Tunisian court cuts off student’s homosexuality sentence”, *Erasing 76 Crimes*, 17 December 2015.

⁹⁵⁹ *Information supplied to ILGA World by the Damj Association*.

⁹⁶⁰ “Tunisia: Police Arrest, Use Violence Against LGBTI Activists”, *Human Rights Watch*, 23 February 2021.

⁹⁶¹ “La sociedad civil tunecina denuncia el aumento de los arrestos y el abuso policial” [Tunisian civil society denounces the increase in arrests and police abuse], *Infobae*, 5 April 2021.

⁹⁶² *Information supplied to ILGA World by the Damj Association*.

⁹⁶³ OHCHR, *AL TUN 4/2021* (2021), 1-3.

⁹⁶⁴ “Police arrest leading gay activist in crackdown on Tunisia rally”, *Aljazeera*, 23 July 2022; “Tunisia: Adoption of new constitution marks a setback for human rights”, *Amnesty International*, 27 July 2022; “Tunisia passes new constitution granting the president more powers”, *Africanews*, 17 August 2022.

⁹⁶⁵ Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 38.

⁹⁶⁶ *Ibid.*

⁹⁶⁷ *Id.*, 36-37.

sentenced to one year in prison. The public campaign by local activists calling for his release led the then-Minister of Justice to publicly state that Tunisia should begin working toward decriminalisation. The President denounced the statement as not being in line with government policy, and on **20 October 2015** the Minister was fired for making statements that “lacked seriousness”, though it is unclear if his call for decriminalisation was considered to be one such statement. The young man’s treatment also led the National Council of Tunisian Physicians to condemn the practice of non-consensual medical examinations. After an appeal, a court reduced the young man’s sentence to two months (served) plus a fine of 300 dinars (about USD 150).⁹⁶⁸

On **4 December 2015**, police raided the house of six university students in Kairouan without a search warrant, under the suspicion of terrorism. The house was searched and police confiscated condoms, a dress, and a pornographic video downloaded from internet onto one of the students’ laptops. The victims were later arrested in their dormitory under suspicion of being gay. Police assaulted and abused them while in detention and they were made to undergo forced anal examinations. They were sentenced to three years’ imprisonment and fines of 400 dinars each (USD 195), as well as being exiled from Kairouan for three years after the conclusion of their prison sentences. However, the sentence was reduced to one month (served) after an appeal, and their ban from the Kairouan area was lifted. The group allege sexual abuse and violence from guards and other inmates during their incarceration.⁹⁶⁹ In **2018** the Court of Cassation reportedly reversed its verdict and sent the case back for appeal, though by the time of the final hearing on **19 December 2022**, all but one of the six had fled to other countries. The Tunisian Appeals Court dropped the case against the remaining student, declaring it null and void, on **3 January 2023**. The Public Prosecutor, however, filed a request for cassation against the accused, though at the time of publication no known response from the court has been made.⁹⁷⁰

On **17 August 2016** a human rights defender at Shams was taken off of a bus in Mahdia by police. They sexually abused him with a stick and threatened to undress him in public. They refused him access to his lawyer, and instead of detaining or charging him, they drove him far out into an isolated part of the countryside, abandoning him there. On **18 August** the activist and his lawyer went to a police station in Sousse to file a complaint but were told it was outside the jurisdiction of local officers. Officers in Mahdia, however, refused as well, saying they had bigger cases to deal with. It is alleged that the activist in question has been harassed or detained by police on numerous occasions due to his prominence as a human rights defender, though

many of the details of these individual cases are not known.⁹⁷¹

On **29 August 2016** another human rights defender working at Shams was allegedly beaten up by a homophobic stranger, with a nearby police officer looking on and doing nothing. It is claimed that this activist, too, regularly faced arbitrary detention and harassment by authorities.⁹⁷²

In **November 2016** a 19-year-old trans woman was reportedly detained by police during a Halloween party for dressing as a woman. She was charged with “public indecency” when she explained that she considered herself a woman, and allegedly faced verbal abuse and torture at the police station. She was released pending her trial in **January 2017**, where she was charged with “harm to good morals and ostentatious demonstration of behaviour contrary to modesty” and sentenced to four months in prison.⁹⁷³

In **December 2016** it was also reported that a university student and his friend were arrested on the streets of Sousse on suspicion of homosexuality. Police allegedly assaulted the pair and told them they were “bringing the curse on the country”. They were forced to undergo anal examinations, which did not provide the evidence sought by authorities, though the pair were sentenced in **January 2017** to eight months’ imprisonment.⁹⁷⁴

And on **8 December 2016**, two men in Sousse were arrested for allegedly engaging in anal sex in public. Both denied this, and even the pseudo-scientific anal examinations performed on them came back “negative”, but they were sentenced to eight months’ imprisonment anyway based on the weight of the testimony from police. The judge stated that “the results of the anal tests cannot exonerate the accused of the crime, especially given that the [tests] were performed sometime after the facts.”⁹⁷⁵

In **January 2017** two people in Sousse were arrested when neighbours informed police that they suspected the two were gay. Police claimed to have found evidence on their phones that they were “sodomites” and found women’s clothing in their home. They were sentenced to two months’ imprisonment, with the investigative judge stating that they had harmed public morals “because they dressed up like women, used lipstick, and talked in a languid way.”⁹⁷⁶

On **3 March 2017** a local filmmaker went out for drinks in Tunis and was approached by a stranger. The two went to an apartment, but the stranger allegedly then tried to steal money. The commotion attracted police who arrested the filmmaker and confiscated his phone so that he could not contact his family or a lawyer. They sought to get him to sign a confession that he had participated in same-sex

⁹⁶⁸ “Tunisia’s LGBT activists push forward”, *Al-Monitor*, 12 December 2015; Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 34-35; 37; “Tunisian court cuts off student’s homosexuality sentence”, *Erasing 76 Crimes*, 17 December 2015.

⁹⁶⁹ “After anti-gay trial, tortures in Tunisian prison”, *Erasing 76 Crimes*, 10 January 2016; “6 Tunisians’ prison time reduced to time already served”, *Erasing 76 Crimes*, 4 March 2016; “LGBT rights in Tunisia: The fight will be televised”, *Heinrich Böll Stiftung*, 17 June 2016; “Six Tunisian students freed from ‘sodomy’ prison sentence after appeal”, *Amnesty International*, 5 June 2018.

⁹⁷⁰ “Criminalisation et répression de l’homosexualité, de la Tunisie au Nigeria” [Criminalization and repression of homosexuality, from Tunisia to Nigeria], *MSN Hong Kong*, 23 December 2022; “Tunisia court drops case against LGBTQ rights activist”, *Africanews*, 3 January 2023; *Additional Information supplied to ILGA World by Assala Mdawkhy*.

⁹⁷¹ OHCHR, *TUN 3/2016* (2016), 1-2.

⁹⁷² OHCHR, *TUN 3/2016* (2016), 2-3.

⁹⁷³ “The 19-year-old Tunisian has been sentenced to four months for wearing women’s clothing”, *SBS News*, January 26, 2017; Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 43.

⁹⁷⁴ “Tunisie: deux jeunes hommes poursuivis pour homosexualité à Sousse”, *L’Express*, 13 December 2016; “2 young Tunisians sentenced to 8 months for gay sex”, *Erasing 76 Crimes*, 10 March 2017.

⁹⁷⁵ “Tunisia: Privacy Threatened by ‘Homosexuality’ Arrests”, *Human Rights Watch Website*, 8 November 2018.

⁹⁷⁶ *Ibid.*

sexual activity, but he refused. He also refused to participate in an anal examination, and so was held for several weeks in Bouchoucha Detention Centre. In the hopes of being vindicated by the results of an anal exam, he later agreed to go back to the hospital. Despite being cleared by the exam, however, the judge still indicted him for “sodomy”, claiming that the time which had elapsed between the incident and the test meant it could not be used to rule out a history of same-sex sexual activity. He thus remained in pre-trial detention for 13 months before being acquitted by a court in **May 2018**.⁹⁷⁷

In **August 2017** a teenager was arrested by police, dragged from his home, and had his belongings searched on suspicion of being gay. He was subjected to forced anal examinations and released after two days without being charged. He was arrested again in **May 2018** at the request of his family and sent to a juvenile detention centre for two months, where he was subjected to so-called “conversion therapy” practices. In **September 2018** his family laid another complaint about him, leading to a further eight days’ detention in a police cell.⁹⁷⁸

In **November 2017** a gay man in Terbouba was raped by another man. He filed a rape case with police in **2018**, but when they found out that he and the attacker had previously been in a relationship they told him “you were the one who initiated this, you are an accomplice to the crime, there is no rape here—you deserve this”. They instructed him to undergo an anal examination, but on the advice of the local organisation, Shams, he refused. The judge at the First Instance Court in Manouba charged him with sodomy (and charged his attacker with sodomy and rape) and granted him pre-trial release. However, the pending trial led to him being fired from his job and the scandal of the incident resulted in violence and harassment from his own family. Sometime in **2018** he fled to France to seek asylum, with the court case continuing despite his absence. In a rare positive development, however, the Court of Cassation ruled in **October 2022** to acquit the man, citing his rights to “access justice as a victim” and “physical integrity”.⁹⁷⁹

On **5 April 2018** a gay man was arrested in the town of Monastir. He was travelling with a female friend of his, and when police requested that she go with them to the police station to do identity checks, the man’s boyfriend, who was waiting for them, texted to ask why they were late. The man took a photo of the police station to show his boyfriend why he was delayed, but a police officer confiscated his phone as a result, saying he had endangered State security. Police found photos of the man naked on his phone, as well as explicit conversations with his boyfriend, and so they arrested him, assaulted him, and forced him to sign a confession he did not read. He was allowed to walk free but was required to appear in court on **6 June**, where he retracted his forced confession, to which

the judge asked “but if you are not a sodomite, why do you dress like this? Why do you look like one of them?” He was sentenced to four months’ imprisonment with probation.⁹⁸⁰

On **8 June 2018** a man in Monastir was lured by a presumed police officer on a dating app to an apartment where several individuals trapped and raped him. He was later allowed to leave and sought medical attention, but doctors refused to assist without a police order. At the police station, officers said that they needed to determine if the victim was “used to practising sodomy” and took him to a hospital where the doctor performed an anal examination. He requested to go to the bathroom and once in the hallway fled the hospital. A few days later, on **13 June**, he fled to Belgium to seek asylum.⁹⁸¹

On **12 June 2018** police in Sidi Bouzid arrested two men when one filed a complaint that the other was refusing to leave his house. Police allegedly insulted and assaulted them, forcing them to sign a confession that they regularly engaged in same-sex sexual conduct. A judge who ordered them to remain in pre-trial detention asked, “aren’t you afraid of God’s judgement?” One of the accused reported that he spent a week in pre-trial detention where he suffered assaults, rape, and other violations at the hands of other inmates. When they appeared before the First Instance Court of Sidi Bouzid, the judge sentenced them to three months’ imprisonment, telling them: “You are harming society”. An appeals court upheld the sentence.⁹⁸²

On **16 September 2018** a trans woman was arrested by the police on charges of “indecentcy” and “insulting a public official”. The incident reportedly began with a man assaulting a friend of the victim in Tunis. Upon arriving at the scene, a police officer released all of the individuals involved except for the trans woman, who was unable to provide identification at that moment. The officer resorted to physical restraint, tugging at her bag and hair to prevent her from leaving. During this interaction, the officer discovered she was wearing a wig and identified her as “a man”. She was subsequently transported to the police station and, the following day, a Public Prosecutor ordered her detention. Prior to this, the victim had been arrested in **November 2016** and subsequently sentenced in **January 2017** to four months in prison on charges of “indecentcy”.⁹⁸³

In early **2019**, media outlets reported that a 23-year-old Tunisian man who had been raped was subjected to a judicial forced anal examination upon reporting the crime. He was eventually sentenced to six months in prison on charges of “homosexual conduct”.⁹⁸⁴

On **14 January 2020**, Damj reported that a transgender activist, along with two other transgender individuals, survived an attempted murder by security personnel just meters away from the Bab Bhar police station and the Ministry of Interior. The transgender activist was rushed to

⁹⁷⁷ *Ibid.*

⁹⁷⁸ “Tunisia’s Assault on Gay Men’s -and Everyone’s- Right to Privacy”, *Human Rights Watch Website*, 3 December 2018.

⁹⁷⁹ “Tunisia: Privacy Threatened by ‘Homosexuality’ Arrests”, *Human Rights Watch Website*, 8 November 2018; “Tunisie : L’infirmier poursuivi pour homosexualité en portant plainte pour viol en 2018, acquitté par la justice” [Tunisia: The nurse prosecuted for homosexuality by filing a complaint for rape in 2018, acquitted by justice], *Kapitalis*, 22 October 2022.

⁹⁸⁰ “Tunisia: Privacy Threatened by ‘Homosexuality’ Arrests”, *Human Rights Watch Website*, 8 November 2018.

⁹⁸¹ *Ibid.*

⁹⁸² *Ibid.*

⁹⁸³ Le Collectif Civil pour les Libertés Individuelles (CCLI), *State of Individual Liberties 2018* (2019), 10; “Après 4 jours de détention, la transgenre Hela en liberté provisoire”, *Kapitalis*, 21 September 2018.

⁹⁸⁴ “Sfax: Agressé et violé, un homo se fait arreter pour... homosexualité!” [Sfax: Assaulted and raped, a homosexual is arrested for... homosexuality!], *Kapitalis*, 30 January 2019; “Tunisia rape victim jailed for homosexuality”, *Middle East Monitor*, 12 February 2019; “Tunisian victim jailed for sodomy raises alarm on systemic homophobia” *The New Arab*, 7 March 2019.

the La Rabta Hospital due to her critical condition to receive urgent medical intervention, but the head of the Bab Bhar police station arrived as doctors and nurses were beginning the procedure to stop them, claiming they did not have the requisite “medical authorisation”. The victims thus returned to the station to file a complaint and to request medical authorisation, but this was denied. The group then travelled instead to the Monji Slim Hospital where they faced harassment and discrimination by staff. To date the group have been denied access to their medical records and no action against the officers involved has been taken.⁹⁸⁵

On **3 June 2020** police arrested two men in el-Kef when one laid an unrelated complaint against the other, and authorities looking into the case realised they were gay. The prosecutor of the el-Kef First Instance Tribunal charged the men with sodomy, and on **6 June** they were sentenced to two years’ imprisonment. On **28 July** an appeals court upheld their conviction, but reduced the sentence to one year in prison.⁹⁸⁶ On **16 December 2021**, after the men had been released from prison, their lawyer filed an appeal to overturn their “cruel sentence that violates international standards”. The Court of Cassation rejected the application in February 2022 without giving a clear reason, though the lawyer indicated in reporting from the time that the end-goal of the litigation would be to have Article 230 of the Penal Code repealed entirely.⁹⁸⁷

On **14 June 2020** police officers called for the interrogation of a 25-year-old gay activist because of his association with two lesbian activists who had fled from Libya and were staying at his home. The police gained unauthorised access to the man’s personal electronic devices and inquired about his work in support of the LGBTQ community. After one of the women was taken into custody, she was coerced into making a false claim that the man had kidnapped them. On **4 February 2021** the police conducted a raid of his residence without a warrant, arresting not only him but also his boyfriend and another gay man – a Libyan migrant – living at his home. During the raid, police officers seized items that were unrelated to the arrest, including underwear, condoms, and feminine clothing. They were detained for four days, during which police subjected them to verbal and physical assault. The men were then transferred to a detention centre, where they were held for two days. The rooms were cramped due to being over-filled with detainees, and the men were not given food or water while there. They were threatened with forced anal examinations, and were accused of being guilty of same-sex acts when they refused to undergo such exams. Although the charges of kidnapping were later dropped due to a lack of evidence, the three men were charged with “homosexuality” on the basis of photographs extracted from their social media accounts and mobile phones. The three men were released on bail pending trial, but fled Tunisia before a court date was set.⁹⁸⁸

In **July 2020** a judge handed down a prison sentence to two men suspected of being gay for their refusal to submit to an anal examination, ruling that their refusal constituted “sufficient evidence” that the “crime” of same-sex sexual activity had been committed.⁹⁸⁹

On **5 August 2020** a trans man—the founder of local advocacy group OutCast—and three other trans activists from OutCast and Damj, were stopped near the French Embassy and asked to show their IDs. When security officials at the embassy realised the mismatch between the activist’s gender expressions and their identity documents, they began to verbally abuse and beat the group. Police arrived, only to further inflict violence, and called upon bystanders to assist in harming the group, shouting “kill them, they are sodomites”. The trans man was refused service at two hospitals and told to go to a local women’s hospital, where he was also initially rejected for looking like a man before being given minimal medical assistance.⁹⁹⁰ The rest of the group were reportedly assaulted by security guards and police at one of the hospitals, which was documented on hospital surveillance camera footage, before being taken to a police station on charges of “insulting a public employee” and held until dawn the next day. The Damj Association and the activists filed complaints against security agents and the hospitals, but the court did not respond to these.⁹⁹¹

On **8 December 2020** a group of Tunisian human rights defenders and activists gathered for a peaceful protest in front of the Tunisian Parliament to protest homophobic and hateful comments made by an MP on **3 December**. According to members of Damj, one MP from the Ennahda Party attempted to run over some of the protesters with his car during the demonstration. Initially, two members of Damj were arrested and taken to a local police station, then transferred to the Bouchoucha prison. On **10 December** the Court of First Instance in Tunis ordered their conditional release.⁹⁹²

On **22 December 2020** police broke into the home of a local activist and allegedly searched for compromising material. The same day, another activist from the local SOGI advocacy organisation called Damj, was picked up by police and violently interrogated for three hours to force him to disclose information on the activities undertaken by Damj. Damj alleges that such targeting is common, with their offices in Sfax being burgled in **2019** and police constantly monitoring the place. The head of Damj noted in **February 2021** that his home had been ransacked four times since **2018**.⁹⁹³

In **January 2021** law enforcement officials shared the picture and personal details of a young lesbian woman to social media. She had previously participated in an anti-government protest. Following this, the woman reported receiving online death threats and being persistently monitored by police personnel while walking in the streets.

⁹⁸⁵ Information supplied to ILGA World by the Damj Association.

⁹⁸⁶ “Tunisia: Two-Year Sentence for Homosexuality”, *Human Rights Watch*, 6 June 2020; “Tunisia: Homosexuality Convictions Upheld”, *Human Rights Watch*, 5 August 2020.

⁹⁸⁷ “Tunisia appeal seeks to decriminalise homosexuality”, *Africanews*, 17 December 2021; “Court Case Seeks to Legalize Homosexuality in Tunisia”, *Alturi*, 29 December 2021; Additional Information supplied to ILGA World by Damj.

⁹⁸⁸ Human Rights Watch, *All This Terror Because of a Photo: Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*, (2023), 82-84, 90.

⁹⁸⁹ “تعلق «شمس» وجمعية... الكاف في سنتين لمدة جنسياً مئتين بسجن الحكم: الشرجي للفحص الخضوع رفضاً”, [They refused to undergo anal examinations: Homosexuals were sentenced to two years in prison in El Kef... and the Shams Association commented], *Turess*, 12 July 2020; “Túnez continúa torturando y encarcelando a los gays”, *TN*, 14 August 2020.

⁹⁹⁰ “Kill Them, They Are Sodomites: Police Violence Against LGBT People in Tunisia”, *Human Rights Watch*, 10 December 2020.

⁹⁹¹ Information supplied to ILGA World by the Damj Association.

⁹⁹² Information supplied to ILGA World by the Damj Association.

⁹⁹³ “Tunisia: Police Arrest, Use Violence Against LGBTI Activists”, *Human Rights Watch*, 23 February 2021.

A week later, she was apprehended and confined for two hours within a police vehicle by three officers who searched her phone, physically assaulted her, and verbally abused her. The officers pressed her on the identities and whereabouts of activists she was acquainted with, along with the time and location of their upcoming gatherings. In order to avoid continuous stalking from security forces, she eventually had to relocate to a new residence.⁹⁹⁴

On **18 January 2021** a queer activist working with Damj was arrested for raising their middle finger to the police during a peaceful protest, and charged with “assaulting a police officer” and “committing an immoral act in public”. After three days in Bouchoucha Detention Centre the activist was released pending trial.⁹⁹⁵

On **23 January 2021** an activist was detained by police after leaving a meeting, verbally abused and photographed before being released. During a later protest he was outed online with the photo police had taken and his personal details were made public, which led him to flee the country for fear of further targeting from security forces. He had previously spent three months in prison in **2018** on charges of “sodomy”.⁹⁹⁶

On **30 January 2021**, individuals claiming to be police officers uploaded to social media the photo and contact information of a 24-year-old gay man who had been previously prosecuted for consensual same-sex acts under Article 230 of Tunisia’s Penal Code. This caused a subsequent surge of verbal insults, instigations to violence, and even threats of murder from other social media users. As a result, he left the country due to concerns about potential continued harassment from security personnel.⁹⁹⁷

On **6 February 2021** a 22-year-old woman reported that a police officer had taken her photograph while she was attending a protest and subsequently uploaded it to social media. The social media post included derogatory remarks about her presumed sexual orientation because of her dyed hair and piercings. According to the woman, the officer had initially detained her and commented that her appearance was “Satanic” and labelled her a “sodomite.” The image eventually reached her family and employer, the latter of which terminated her employment on account of the image. She then reported receiving constant death threats from users online.⁹⁹⁸

On **8 February 2021** a 23-year-old queer activist was detained during the ongoing anti-government protests and taken to an undisclosed location, with no access to a lawyer. He was repeatedly beaten by an official who said “we’ll keep you here for 10 years, and your torture will be our duty”. After 10 days in an overcrowded cell in Mornaguia Prison he was given a five-month suspended sentence by the First Instance Tribunal in Tunis.⁹⁹⁹

Also on **8 February 2021**, an activist from the Integration Association was arrested, apparently for participating in

protests organised by the Association. On **17 February** he was given a five-month suspended sentence for “assaulting a public servant with severe violence”. Between his arrest and the trial, the activist was not given the opportunity to contact a lawyer or even inform his family of his whereabouts, and they reportedly had to search for him in vain at every police station in Tunis. Eventually the Tunisian Association for Human Rights was able to locate him at the Bouchoucha Detention Centre, known for its overcrowded, unsanitary conditions.¹⁰⁰⁰

On **9 February 2021** a transgender man was picked up by police after attending a press conference and severely beaten. When they also saw his ID and the difference between his legal identity and his gender expression, they further abused and ridiculed him, then took him to a local police station where other officers present were encouraged to kick and beat him too. He managed to get up and flee the scene.¹⁰⁰¹

Another activist was arrested on **27 February 2021** when she went to a police station in Tunis to lay a complaint about the threats and harassment she had faced from members of the security forces. She was arrested for “assaulting a public official”, “abuse of morals”, and “apparent drunkenness” and sentenced to six months in prison under Article 125 of the Penal Code. She was released by an Appeals Court and her sentence was reduced to a 200 dinar (USD 72) fine, after the advocacy of Damj, and widespread international outcry. Several UN Special Procedures also wrote to Tunisian officials to decry this and other arrests.¹⁰⁰²

In early **March 2021** an activist working for Damj was targeted by an unknown person, who phoned his landlord to say that if he was not evicted immediately, then both the landlord and the activist would face prosecution. It is not clear if this was a case of targeting from a State actor, or one of many cases of extrajudicial targeting and harassment this activist is said to have faced.¹⁰⁰³

On **4 March 2021** a gender-diverse artist and activist belonging to the Damj Association, was sentenced to six months in prison and a fine, following the issuance of a preliminary judgment by the Monastir Court of First Instance in Tunisia, for “insulting a public official” under Article 125 of the Penal Code. The activist had been arrested after becoming the target of a concerted anti-LGBTQ+ defamation campaign, allegedly spearheaded by police unions. On the day of her arrest she was subjected to humiliation and harassment in the streets by a security officer as a result of this campaign. Going to the nearest police station with a lawyer to file a complaint against the officer, she was confronted by eight security personnel who insulted and threatened her because of her gender identity. They refused to register her complaint, and instead detained her as she attempted to leave the police station. On **17 March**, after spending 18 days in the

⁹⁹⁴ Human Rights Watch, *All This Terror Because of a Photo: Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*, (2023), 60-61.

⁹⁹⁵ “Tunisia: Police Arrest, Use Violence Against LGBTI Activists”, *Human Rights Watch*, 23 February 2021.

⁹⁹⁶ *Ibid.*

⁹⁹⁷ Human Rights Watch, *All This Terror Because of a Photo: Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*, (2023), 60.

⁹⁹⁸ *Id.*, 61

⁹⁹⁹ “Tunisia: Police Arrest, Use Violence Against LGBTI Activists”, *Human Rights Watch*, 23 February 2021.

¹⁰⁰⁰ Information supplied to ILGA World by the Damj Association.

¹⁰⁰¹ *Ibid.*

¹⁰⁰² “Tunisia: sei mesi di carcere all’attivista Lgbtq Amdouni” [Tunisia: LGBTQ activist Amdouni six months in prison], *Agenzia ANSA*, 6 March 2021; “After international protest, Tunisian court releases LGBT rights activist”, *Erasing 76 Crimes*, 19 March 2021; “Tunisia: LGBTI activist and artist sentenced for allegedly ‘insulting police’”, *Free Muse*, 26 March 2021; OHCHR, *AL TUN 4/2021* (2021), 1-3.

¹⁰⁰³ OHCHR, *AL TUN 4/2021* (2021), 4.

Manouba Women's Prison, the Tunis Court of Appeals ordered the activist's release, but imposed another fine of 200 Tunisian dinars (approx. USD 60).¹⁰⁰⁴

On **5 June 2021** it was reported that National Security Police in Nasr District raided, with the backing of the Public Prosecutor, an apartment believed to be used for "secret prostitution and sodomy". Four individuals were allegedly "caught in the act" and arrested.¹⁰⁰⁵

According to Damj, on the night of **16 September 2021** security forces detained a queer feminist journalist and activist for several hours at a street intersection in Tunis. During the detention, she was subjected to verbal and severe physical violence. This attack was carried out under the direct supervision of a security official. The security personnel also filmed her, provoked her, confiscated her mobile phone, and prevented her from contacting her lawyer, citing a violation of curfew as their reason for holding her. The mistreatment continued when she was taken to the police station, where she was interrogated for "insulting and assaulting police officers" despite her lawyer being present to file a complaint on her behalf.¹⁰⁰⁶

On **2 October 2021**, Damj issued a statement concerning the actions of a group of police officers who arbitrarily detained and held two transgender individuals without legal justification for several hours at the Bab Bhar police station. During this detention, their phones were confiscated, and they were deprived of their right to contact a lawyer. False charges were fabricated against them following a verbal altercation regarding their gender identities. This mistreatment led one of the activists and transgender individuals, who was among those detained by the police, to attempt suicide by throwing herself from the first floor through a window, which was witnessed by the police station supervisor. He allegedly remarked that her life and death "made no difference" to him or to the State. This incident was later omitted from the hearing report. The pair were eventually transferred to the Bouchoucha detention centre where they faced harassment, violence and sexual assault from both staff and other detainees. After their trial at the Tunis Court of First Instance, the accused were sent to Mornaguia prison, where they were stripped, had their heads shaved, and placed in solitary confinement.¹⁰⁰⁷

On **21 October 2021** the head of Damj was severely beaten by two men identifying themselves as police. While being assaulted, the attackers told him "this happens to those who insult the police and make a complaint", and stole his valuables. He was not arrested or charged, and thus this incident is not included in the tally of cases in the Enforcement Overview above, though he required more than two weeks of close monitoring from doctors as a result of his injuries.¹⁰⁰⁸

Late in the evening of **11 December 2022** authorities in the city of Hammamet raided the home of four individuals, two of whom are siblings, on suspicion of the "crime" of homosexuality. While in custody the police are alleged to have physically and verbally harassed the accused. During their detention they were denied access to legal representation and were subjected to inhumane interrogations to coerce them into producing confessions. One of the group members, a transgender woman, forcibly had her hair shaved off. On **21 December** the Court of First Instance in Grombalia sentenced the trans woman to three years in prison, with another of the accused, a gay man, receiving a one-year sentence. The rest were acquitted. The pair were held in a men's prison in Mornaguia pending an appeal scheduled for **6 February 2023**. On **27 February** the Nabeul Court of Appeal sentenced the pair to six months in prison instead, and the trans woman was freed on **18 March 2023**.¹⁰⁰⁹

On **21 December 2022** the Grombalia Chamber of Criminal Affairs sentenced at least one trans woman to imprisonment at Monaguia men's prison. This came after police enacted a series of raids, arresting 16 trans women in their homes in under a week. They were subjected to assault, humiliation, and physical abuse during the arrests. When they refused to sign police interrogation reports without the presence of a lawyer, they were further physically abused.¹⁰¹⁰

On **22 December 2022** it was reported that two men in Bizerte were found in a park "practising sodomy" by local police. They were arrested, with the intent of holding them in custody until an investigation could be concluded by the Public Prosecutor's office.¹⁰¹¹

On **13 February 2023** police officers reportedly raided the home of three trans women. They were subjected to physical violence by the police, were prevented from accessing legal representation, and were forced to sign confessions without being given the opportunity to read them. Following the raid, the women were transferred to the Bouchoucha detention centre, where they endured additional abuse. This included being locked in a toilet to prevent access by local human rights organisations, and being threatened with having their hair shaved.¹⁰¹²

On the nights of **20 and 23 February 2023**, buildings in the central and northern parts of Tunis, which housed a large community of gender-diverse migrants and asylum-seekers from sub-Saharan Africa, were violently attacked by an armed vigilante. This attack allegedly followed a xenophobic and racially-charged speech delivered by the President of Tunisia against African migrants. Videos documenting the attacks show the attackers using hate speech against their victims on the basis of their perceived sexual orientations and gender identities. When security

¹⁰⁰⁴ Information supplied to ILGA World by the Damj Association.

¹⁰⁰⁵ "اللوواط لممارسة شقة مدامه تفاصيل / تبتس حالة في وجدوا" [Found in flagrante delicto / details of an apartment raid for practicing sodomy], *El Hassade*, 8 June 2021.

¹⁰⁰⁶ Information supplied to ILGA World by the Damj Association.

¹⁰⁰⁷ Information supplied to ILGA World by the Damj Association.

¹⁰⁰⁸ "Attivista LGBTQ+ tunisino brutalmente picchiato da agenti di polizia: "Hanno minacciato di uccidermi" [Tunisian LGBTQ+ activist brutally beaten by police officers: "They threatened to kill me"], *Gay.it*, 6 November 2021.

¹⁰⁰⁹ "Tunisie : Damj & Shams dénoncent la maltraitance de 4 jeunes et leur arrestation fondée sur leur orientation sexuelle" [Tunisia: Damj & Shams denounce the mistreatment of 4 young people and their arrest based on their sexual orientation], *Kapitalis*, 31 December 2022. "Anti-LGBT raids in Tunisia create 'Queer State of Emergency'", *Erasing 76 Crimes*, 3 March 2023; "Tunisia: Quash prison terms for LGBTI duo sentenced on charges of homosexuality", *Amnesty International*, 19 February 2023; "Tunisia frees trans woman serving a 6-month sentence for whom she loves", *Erasing 76 Crimes*, 27 April 2023; All Out, *HELP BRING JUSTICE TO MAYA AND OTHER LGBTQIA+ DETAINEES IN TUNISIA, 2023* (accessed 4 May 2023); *Additional Information supplied to ILGA World by Assala Mdwakhy*.

¹⁰¹⁰ Information supplied to ILGA World by the Damj Association.

¹⁰¹¹ "Bizerte: Two People Were Arrested For Practising Sodomy In The Vicinity Of The Court", *Al-Chourouk*, 22 December 2022.

¹⁰¹² "Anti-LGBT raids in Tunisia create 'Queer State of Emergency'", *Erasing 76 Crimes*, 3 March 2023.

forces eventually arrived, rather than targeting the vigilantes, they arrested 36 gender-diverse victims, mocking them for their clothing and appearance. Police allegedly destroyed or confiscated the official cards issued by the United Nations High Commissioner for Refugees (UNHCR) identifying the detainees as refugees, and this information was not included in court records.¹⁰¹³

On 1 June 2023 it was reported that a trans woman who had “just served” a three-month prison sentence at the “homosexual compartment” of Mornaguia prison was suing a prison officer, with the help of Shams, for attempted rape and ongoing sexual harassment during her incarceration. Details of the events leading up to her arrest and imprisonment are not known.¹⁰¹⁴



Uganda

Criminalising Provisions

Section 145 of the Penal Code (1950), as amended in 2000, prescribes life imprisonment for anyone who “has carnal knowledge of any person against the order of nature”. It has remained on the books in all subsequent versions of the Penal Code (2020).¹⁰¹⁵ Other areas of the Penal Code which are reported to disproportionately target sex workers, trans women, and other marginalised groups, include Sections 139 (Prohibition of prostitution), Section 148 (Indecent practices), Section 167 (Rogues and vagabonds), and Section 381 (Personation in general).¹⁰¹⁶ Those sections targeting “rogues and vagabonds”, which criminalised loitering, among other things, were declared unconstitutional and therefore void in December 2022 by the Constitutional Court of Uganda.¹⁰¹⁷

On 26 May 2023, the Anti-Homosexuality Act (2023) was signed into law. While similar to the 2013 Anti-Homosexuality Act (2013), which initially would have prescribed the death penalty for certain forms of same-sex sexual activity but was revised to prescribe life imprisonment, this new iteration included several new, more severe provisions. Section 2 of the Act criminalises any person who “performs a sexual act or allows a person of the same sex to perform a sexual act on him or her” and imposes a penalty of life imprisonment for such acts and 10 years’ imprisonment for any attempt to commit such acts.¹⁰¹⁸

Moreover, Section 3 prescribes the death penalty for “aggravated homosexuality” in cases where the individual convicted is a “serial offender” (which includes anyone with a prior conviction for engaging in same-sex sexual acts between consenting adults). Additionally, the death penalty is also mandated when “the person against whom the offense is committed contracts a terminal illness”. According to the Act’s definitions, this provision could be applied to impose capital punishment if one of the individuals involved contracts HIV as a result of the sexual act. Furthermore, the death penalty could potentially be applied when one of the adults involved is a person with a disability, or is elderly, regardless of their ability to consent. Minors face three years’ imprisonment if convicted of homosexuality under Section 4 of the law.¹⁰¹⁹

Under Section 9, landlords can be sentenced to up to seven years’ imprisonment for allowing premises to be “used for homosexuality” or to commit any other offense stipulated under the Act, which could effectively prevent LGBTQI+ individuals from accessing housing or expose them to evictions.¹⁰²⁰

Despite the absence of legal recognition of same-sex marriage in Uganda, Section 10 imposes a 10-year prison sentence for intending to marry a person of the same sex, as well as for presiding over, attending, or participating in the preparation of a same-sex wedding.¹⁰²¹

Section 14 establishes a “duty to report acts of homosexuality” to the police in broad terms, providing that “a person who knows or has a reasonable suspicion that a person has committed or intends to commit the offence of homosexuality or any other offence under this act shall report the matter to the police for appropriate action”. The law also provides whistle-blower protections for those who report under Section 14(4).¹⁰²²

Section 16 grants the court the authority to order the provision of “social services for purposes of rehabilitating the convicted person” upon conviction, which may amount to court-ordered “conversion therapy”.¹⁰²³

Finally, the law also contains provisions prohibiting the “promotion of homosexuality”, outlining a punishment of 20 years’ imprisonment for offenders.¹⁰²⁴

Enforcement Overview

Almost 65 examples of enforcement or State-backed targeting between 2005 and 2023 were identified by ILGA World. This number in all likelihood does not account for

¹⁰¹³ “Tunisie : des réfugiés LGBT subsahariens dans un foyer attaqué par la police” *France24*, 1 March 2023; Additional Information supplied to ILGA World by the Damj Association.

¹⁰¹⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁰¹⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uganda* (accessed: 12 June 2023).

¹⁰¹⁶ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 61-62.

¹⁰¹⁷ Constitutional Court of Uganda at Kampala, *Constitutional Petition No. 36 of 2018* (2022).

¹⁰¹⁸ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uganda* (accessed: 12 June 2023).

¹⁰¹⁹ *Ibid.*

¹⁰²⁰ *Ibid.*

¹⁰²¹ *Ibid.*

¹⁰²² *Ibid.*

¹⁰²³ *Ibid.*

¹⁰²⁴ *Ibid.*

the true scale of enforcement in Uganda, as the situation on the ground goes well beyond the black letter of the law. Arbitrary arrests, high levels of community violence, lack of access to economic opportunities or healthcare, and widespread discrimination all compound an already fraught situation for queer residents.¹⁰²⁵

For well over a decade and a half, local media outlets have regularly incited homophobic violence in society, or otherwise seemed to willingly cooperate with the government and law enforcement in outing, targeting or gathering evidence on individuals with diverse sexual orientations, gender identities and gender expressions.¹⁰²⁶ In September 2006, the Ugandan tabloid, *Red Pepper*, published lists of nearly 50 men and women they claimed to be homosexuals and invited readers to “send in names of these deviants so that we publish and shame them, rid our motherland of this deadly vice”. The outings sent a number of those named into hiding and generated a rash of arbitrary arrests of gay men around the country.¹⁰²⁷

In 2009 when the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to Ugandan officials, expressing concern at several instances of arbitrary detention of human rights defenders, the Special Rapporteur also indicated the deeply troubling lack of response to similar communications made on 5 August 2005, 30 November 2007, 12 August 2008 and 22 September 2008.¹⁰²⁸

Human rights defenders working on any number of issues, particularly those around the rights of SOGIESC issues, are also regularly intimidated, investigated and detained, or otherwise have their events and operations disrupted by security forces.¹⁰²⁹ In February 2023 local news outlets reported on a leaked report by the National Bureau for Non-Governmental Organisations, which revealed that the government had been closely monitoring the activities of 22 NGOs accused of being involved in the alleged “promotion of LGBTIQ activities” and the “recruitment of minors for homosexuality”. The leak revealed what activists called a “witch-hunt” by the government as part of its renewed effort to further criminalise homosexuality in the country.¹⁰³⁰ The leak occurred shortly after the Deputy Speaker of Parliament, Thomas Tayebwa, publicly directed

the Ministry of Internal Affairs to investigate the Human Rights Awareness and Promotion Forum (HRAPF) after it had engaged the Kasese Municipal Council in its efforts to approve a by-law recognising sexual and gender-diverse minorities as vulnerable populations in the context of HIV prevention.¹⁰³¹

A 2019 report by the Human Rights Awareness and Promotion Forum (HRAPF) identified Ugandan police as the single biggest violator of human rights for key populations in the country.¹⁰³² ILGA World has noted several instances of police operating outside of the law, such as torturing activists ahead of trial,¹⁰³³ or otherwise holding them without trial seemingly indefinitely.¹⁰³⁴ Under Ugandan law a suspect must be charged by a court within 48 hours of arrest, but all too often this does not occur. Police and courts also regularly engage in the debunked and invasive practice of “anal examination” to search for presumed evidence of same-sex sexual activity.¹⁰³⁵

On occasions where charges are given, provisions outside of Section 145 of the Penal Code are often used. ILGA World notes cases of trans women being charged with impersonation,¹⁰³⁶ activists being charged with trespass or terrorism,¹⁰³⁷ and large groups of queer persons being accused in recent years of violating health and safety protocols during the Covid-19 pandemic.¹⁰³⁸ It is not known whether this trend represents a concerted effort by authorities to obscure statistics and limit international backlash, but even a cursory reading of many of these individual cases make clear that they represent a form of indirect criminal enforcement.

Within the strict legislative framework, which already prescribes life imprisonment for consensual same-sex sexual activity, several attempts have been made to expand the law even further. In 2009 the Anti-Homosexuality Bill was introduced to Parliament, which prescribed the death sentence. The final version of the law in 2013 revised the punishment down to life imprisonment, and after being passed, it was annulled by the Constitutional Court seven months later on “procedural grounds”.¹⁰³⁹ Notwithstanding, Amnesty International reported a significant spike in violence during the period of the bill’s discussion and passage.¹⁰⁴⁰

¹⁰²⁵ University of Sunderland, Report Out, *Out in Uganda: The Lived Experiences of SOGIESC Ugandans* (2020), 10.

¹⁰²⁶ *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. Addendum: Summary of communications sent and replies received from governments and other actors, A/HRC/14/20/Add.1* (2010), paras. 330-334; OHCHR, AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) UGA 5/2012 (2012).

¹⁰²⁷ IGLHRC (OutRight Action International), *Off the Map: How HIV/AIDS programming is failing same-sex practicing people in Africa* (2007), 23.

¹⁰²⁸ *Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/10/12/Add.1* (2009), paras. 2611-2614.

¹⁰²⁹ *Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/10/12/Add.1* (2009), para. 2611-2614; OHCHR, AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) UGA 5/2012 (2012); “Press Release: Entebbe police raids pride: arrest activists”, *Freedom and Roam Uganda*, 4 August 2012; “Uganda:16 LGBT activists released then condemn forced anal exams”, *Erasing 76 Crimes*, 26 October 2019.

¹⁰³⁰ “Leaked report shows intent to criminalise gay activities”, *Monitor*, 12 February 2023.

¹⁰³¹ “Uganda: Tayebwa Warns Kasese Over Attempt to Pass By-Laws Recognising Homosexuality”, *All Africa*, 26 January 2023; “Govt to probe Kasese same-sex by-law”, *Monitor*, 31 January 2023.

¹⁰³² Human Rights Awareness and Promotion Forum, *Consolidated Human Rights Violations against Key Populations in Uganda* (2019).

¹⁰³³ “End of the judicial proceedings against Mr. Pepe Julian Onziema, Ms. Valentine Kalende and Mr. Usaam Mukwaya”, *OMCT World Organisation Against Torture*, 18 August 2008.

¹⁰³⁴ *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. Addendum: Summary of communications sent and replies received from governments and other actors, A/HRC/14/20/Add.1* (2010), paras. 328-330.

¹⁰³⁵ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 52-54.

¹⁰³⁶ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 36.

¹⁰³⁷ “Uganda: LGBT Arrested at International HIV/AIDS Meeting”, IGLHRC, 5 June 2008; OHCHR, UA UGA 5/2020 (2020).

¹⁰³⁸ “Uganda using coronavirus laws to target marginalised LGBT groups”, *Sky News*, 10 May 2020; “The Ugandan Government Has Unlawfully Detained 19 People under the Guise of its Covid-19 Response”, *Robert F. Kennedy Human Rights*, 15 May 2020; “Update and violations report: Arrest, detention and release of 44 LGBTIQ+ persons in Uganda on 31 May 2021 - 8 June 2021”, *Sexual Minorities Uganda (SMUG)*, 10 June 2021.

¹⁰³⁹ “Uganda court annuls anti-homosexuality law”, *BBC News*, 1 August 2014.

¹⁰⁴⁰ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 31.

In 2019, Minister of Ethics and Integrity, Simon Lokodo, reportedly declared that there were plans to reintroduce the bill that would impose the death penalty for “aggravated homosexuality”, as several MPs expressed that there was a need for such a law.¹⁰⁴¹ The plans to reinstate the bill were denied by the government,¹⁰⁴² but in May 2021 Uganda’s Parliament passed the Sexual Offences Bill of 2019. Despite the country already criminalising consensual-same sex sexual activity, the new law would place consensual same-sex sexual acts in the same category as sexual assault and rape, potentially resulting in those convicted of homosexuality being placed on sex offender lists, or receiving much more stringent punishments than before.¹⁰⁴³ It was reported shortly after the bill’s passage, though, that President Yoweri Museveni had refused to sign it into law on the grounds that there is no need for further criminalising legislation given that same-sex sexual activity is already illegal.¹⁰⁴⁴

Historically, Ugandan authorities have worked to cultivate an image of independence from Western agenda-setting, which includes an apparent aversion to international SOGIESC advocacy. According to South African journalist Mark Gevisser, a leaked memo from the US State Department revealed that President Museveni had made assurances in 2009 that the Anti-Homosexuality Bill would be shelved, but signed it in the wake of local media’s increased framing of him as an American “puppet”.¹⁰⁴⁵

In October 2022 at an annual Prayer Breakfast, Museveni gave a speech indicating that he still opposed the “promotion” of homosexuality and the “pressure” from Western countries to decriminalise, calling gay people “deviations from nature”. It seemed that Museveni tried to strike an unusual middle-ground in his speech, rather than leaning entirely into homophobic rhetoric, by saying that he knew of gay chiefs in Uganda who did “a lot of good things” and was neither praised and promoted nor killed. He added that he would never win an election again were he to kiss his wife in public, in an attempt to portray Uganda as non-discriminatory in its prohibition of public displays of affection.¹⁰⁴⁶

This is of course not an accurate reflection of the state of affairs in Uganda, given the number of arrests of individuals who were acting in private, and the following month, November 2022, the Ugandan delegation to the 61st Session of the ACP (Organisation African, Caribbean and Pacific States) “vowed to oppose plans by pro-gay nations to impose the promotion of homosexuality and abortion”.¹⁰⁴⁷

Notably and of extreme concern, 2023 saw the approval of a new and aggravated Anti-Homosexuality Act (2023) despite the what could be interpreted as subtle pushback against such efforts from the Presidency and its allies.

On 28 February 2023, MP Asuman Basalirwa was granted leave by Parliament to submit a new version of the bill that had already sought to impose the death penalty back in 2013. Basalirwa described homosexuality as a “Cancer” eating up the world and urged legislator to join him in ensuring the establishment of a law to curb it.¹⁰⁴⁸ Some days later, the draft version of the new Anti-Homosexuality Bill was referred to a parliamentary committee, kickstarting an accelerated legislative procedure to enact the new provisions into law.¹⁰⁴⁹ This renewed effort to further criminalise consensual same-sex acts took place at the backdrop of increasing homophobic rhetoric in the country. For example, in response to public concerns fuelled by homophobic rumours, Parliament ordered an investigation into the alleged “promotion of homosexuality” in schools.¹⁰⁵⁰ Some religious and government leaders have seemingly often tried to spread the false claim that LGBTQI+ people seek to “recruit and initiate children into homosexuality” to stir up homophobic and transphobic sentiment within the population.¹⁰⁵¹

On 21 March 2023, the Anti-Homosexuality Act was passed by the Ugandan Parliament, though President Museveni initially sent the bill back to be amended after concerns were raised by the Attorney General around its constitutionality. Subsequently, on 29 May 2023, the Legal and Parliamentary Affairs Committee announced that they had sent a revised version of the bill back to Parliament for a new vote. On 2 May 2023 the Ugandan Parliament passed the amended bill with a vote of 341-1 and, on 26 May 2023, the President signed it into law. The day after the enactment of the law, a group of local activists filed a petition against the Anti-Homosexuality Act (2023) before the Constitutional Court. The petition was based on both procedural issues and multiple alleged violations of the Constitution.¹⁰⁵²

Worryingly, the Speaker of Parliament, Annet Anita Among, suggested ahead of the bill’s passage that MPs who voted against the bill should be considered homosexuals, and during a discussion on whether or not the bill should be discussed in a public hearing said: “Let the public come and express their opinions – including gay people – allow them to come [...] This is the time when you will show us if you are gay or not”.¹⁰⁵³

¹⁰⁴¹ “Uganda plans bill imposing death penalty for gay sex”, *Reuters*, 10 October 2019; “Ugandan MPs press for death penalty for homosexual acts”, *The Guardian*, 15 October 2019.

¹⁰⁴² “Uganda denies plans to impose death penalty for gay sex amid global concern”, *Reuters*, 14 October 2019.

¹⁰⁴³ “Parliament of Uganda passes new anti-gay bill”, *Rights Africa*, 7 May 2021; “Convicted homosexuals to be included in Uganda sex offender registry”, *Erasing 76 Crimes*, 8 May 2021.

¹⁰⁴⁴ “Uganda | President Museveni rejects new anti-LGBTQ law”, *Mamba Online*, 18 August 2021.

¹⁰⁴⁵ M. Gevisser, *The Pink Line: Journeys Across the World’s Queer Frontiers* (Jonathan Ball Publishers, 2020), 79-80.

¹⁰⁴⁶ “Homosexuality is a Deviation from Nature – Insists President Museveni”, *ChimpReports*, 8 October 2022.

¹⁰⁴⁷ “The Ugandan Delegation At The Ongoing 61st Session of The Organization of the African Caribbean and Pacific States Vows To Oppose Plans by Gay Nations To Impose the Promotion of Homosexuality and Abortion”, *Kuchu Times*, 2 November 2022.

¹⁰⁴⁸ Information supplied to ILGA World by Liberty for Marginalized Persons Uganda.

¹⁰⁴⁹ “Premier pas législatif en Ouganda vers une nouvelle loi LGBTphobe” [First legislative step in Uganda towards a new LGBTphobe law], *Fuges*, 12 March 2023.

¹⁰⁵⁰ “Ouganda : enquête sur la promotion présumée de l’homosexualité dans les écoles” [Uganda: Investigation into alleged promotion of homosexuality in schools], VOA, 13 March 2023.

¹⁰⁵¹ “Líderes religiosos y miembros del gobierno de Uganda lanzan afirmaciones peligrosas de que los ugandeses LGBTQ+ ‘reclutan’ niños” [Religious leaders and members of the Ugandan government make dangerous claims that LGBTQ+ Ugandans ‘recruit’ children], *Cristianos gays*, 13 January 2023.

¹⁰⁵² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uganda* (accessed: 12 June 2023); Additional information supplied to ILGA World by Liberty for Marginalized Persons Uganda.

¹⁰⁵³ “Premier pas législatif en Ouganda vers une nouvelle loi LGBTphobe” [First legislative step in Uganda towards a new LGBTphobe law], *Fuges*, 12 March 2023.

During the ongoing legislative processes around the Anti-Homosexuality Act, a notably bizarre occurrence took place wherein several MPs expressed a fervent opposition towards granting tax exemptions for adult diapers intended to assist senior citizens. The lawmakers voted against approving tax exemptions on such products based on the claim that it would primarily benefit gay people, after one MP argued that “the biggest number of people that use diapers for adults are actually homosexuals. So, when you say diapers for adults, you are going to benefit, to a bigger extent, the homosexuals”.¹⁰⁵⁴

The breadth and depth of this homophobic ideology has had severe negative consequences for Ugandans of diverse SOGIE. Since the enactment of the Anti-Homosexuality Act, local civil society organisations have documented a significant surge in persecution and harassment, both by authorities and the public, much as occurred in the wake of the 2013 Act's adoption. The approval of this law has seemingly triggered a wave of arrests, threats, mob attacks, and forced evictions.¹⁰⁵⁵ To protect themselves, many have resorted to various precautionary measures, such as altering their attire and gender expressions, taking alternative routes while commuting, and carrying self-defence items like pepper spray. With the population emboldened to freely discriminate and attack LGBTI+ people, requests received by NGOs from people seeking help to secure asylum outside of Uganda have skyrocketed.¹⁰⁵⁶

Many Ugandans seeking HIV, or even general healthcare treatment, now put their health at risk by deferring medical care due to the fear that they will be discriminated against or arrested.¹⁰⁵⁷ At the same time, organisations which offered crucial HIV-related health services and legal aid have had to scale back their support in order to avoid being prosecuted themselves.¹⁰⁵⁸

While the criminalising provisions in the Ugandan Penal Code are an obvious holdover from the British colonial era,¹⁰⁵⁹ the aggravation of these penalties to this extent cannot be so easily explained away as an Imperial relic. Significant evidence exists which points to the Anti-Homosexuality Act and previous initiatives like it being directed or supported by conservative Evangelical groups based in the United States. Indeed, such lobby groups have been found to have spearheaded much of the anti-LGBTQ+ legislation in Africa, and much of the global “anti-gender” movement.¹⁰⁶⁰ This of course cannot be taken to absolve local government and politicians in their complicity. At the beginning of April 2023 at an Inter-Parliamentary Conference on Family Values and Sovereignty convened at

Entebbe, Uganda, under the theme of “Protecting African Culture and Family Values”, President Museveni encouraged Parliamentary members from 22 other African countries to “provide the lead to save the world from this degeneration and decadence which is really very dangerous for humanity”.¹⁰⁶¹ Whether this encouragement had any tangible impact or not, rising government hostility toward LGBTQI+ persons in the region has seemingly coincided with the passage of this draconian act.

Examples of Enforcement

On **6 July 2005** local government officers raided the home of the chairperson of Sexual Minorities Uganda (SMUG). Police were reported to have seized papers and arrested another lesbian activist, holding them overnight. This came after the government-owned *New Vision* newspaper urged authorities to crack down on homosexuality.¹⁰⁶²

On **4 June 2008** three activists were arrested for protesting with placards and leaflets outside a conference of HIV/AIDS healthcare officials, as the preceding month saw the Director-General of the Uganda AIDS Commission declare that healthcare funds would not be directed to MSM communities. He stated that “gays are one of the drivers of HIV in Uganda, but because of meagre resources we cannot direct our programmes at them at this time”. On **6 June 2008** the three activists were released on a bail of 500,000 Ugandan shillings (USD 310), but were charged with “criminal trespass”, under Section 302 of the Ugandan Penal Code. One of the group was re-arrested the next day and charged with “forgery”, though this would later be dropped. The case was initially set to be tried on **20 June** at the Buganda Road Court, but the prosecution's witnesses did not appear on the day. One claimed back-ache prevented attendance while the other could simply not be contacted. Over the next month the case continued sporadically, with prosecution often requesting more time for police to gather evidence. Shortly prior to the final court date, **25 July 2008**, police allegedly abducted one of the activists, taking him to an undisclosed location and severely torturing him to extract information about his activism and sex life, before releasing him onto the streets the next day. On **15 August 2008** the Director of Public Prosecutions dropped the charges of trespass against the activists, leading the judge to acquit them. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression welcomed their acquittal, but the following year would express concern that their communications to Ugandan authorities around this case and others went entirely unanswered.¹⁰⁶³

¹⁰⁵⁴ “MPs claim adult diapers are 'promoting homosexuality'”, *Mamba Online*, 8 May 2023.

¹⁰⁵⁵ Human Rights Awareness and Promotion Forum (HRAPF), *HRAPF's report on Violations against LGBT persons for the first month following the passing of the Anti-Homosexuality Bill 2023* (2023), 4-7; “Uganda's anti-gay bill sparks a surge in homophobia, media censorship and mob attacks”, *Daily Maverick*, 20 April 2023; “Uganda: Landlords start evicting LGBTQ+ people”, *MambaOnline*, 5 June 2023.

¹⁰⁵⁶ “LGBTQ Ugandans live in fear as new law looms”, *Openly*, 24 April 2023.

¹⁰⁵⁷ “Uganda's anti-gay bill sparks a surge in homophobia, media censorship and mob attacks”, *Daily Maverick*, 20 April 2023

¹⁰⁵⁸ “Ugandan anti-gay law empties out HIV clinics, cuts legal aid”, *Erasing 76 Crimes*, 15 June 2023.

¹⁰⁵⁹ “¿Por qué se castiga la homosexualidad en Uganda?” [Why is homosexuality punished in Uganda?], *Queeridico*, 21 September 2023.

¹⁰⁶⁰ “Americans' Role Seen in Uganda Anti-Gay Push”, *New York Times*, 3 January 2010; “How Uganda was seduced by anti-gay conservative evangelicals”, *The Independent*, 14 March 2014; “Exclusive: US Christian Right pours more than \$50m into Africa”, *OpenDemocracy*, 29 November 2020; Ipas, *Pulling Back the Cover: The Roots, Relationships and Rise of Family Watch International* (2023); “Exporting Prejudice: How the West promotes homophobia in Africa”, *The Africa Report*, 17 April 2023; “A global 'anti-gender' movement is coming for our democracy. Here's how we fight back”, *The Hill*, 1 May 2023; “The Unholy Relationship Between Uganda's Anti-LGBTQ+ Law and US Evangelicalism”, *The Chicago Council on Global Affairs*, 8 June 2023; “US talks sanctions against Uganda after a harsh anti-gay law – but criminalizing same-sex activities has become a political tactic globally”, *The Conversation*, 22 June 2023; “¿Por qué se castiga la homosexualidad en Uganda?” [Why is homosexuality punished in Uganda?], *Queeridico*, 21 September 2023.

¹⁰⁶¹ “Museveni asks African counterparts to reject homosexuality”, *PML Daily*, 2 April 2023.

¹⁰⁶² Human Rights Watch, *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism* (2008), 58-59.

¹⁰⁶³ “Uganda: LGBT Arrested at International HIV/AIDS Meeting”, *IGLHRC (OutRight Action International)*, 5 June 2008; “End of the judicial proceedings against Mr. Pepe Julian Onziema, Ms. Valentine Kalende and Mr. Usaam Mukwaya”, *OMCT World Organisation Against Torture*, 18 August 2008; UNHRC, *A/HRC/10/12/Add.1* (2009), para. 2612, 2615.

On **10 September 2008** two human rights defenders were arrested at the home of one of the activists in the village of Nabweru, outside the capital city of Kampala. Police confiscated "gay literature" from the home and transferred them to Nalukologolo police station. On **11 September** they were transferred to Nabweru police station, where they were subjected to extensive interrogation about their community and their work. In all, they were detained for seven days and released without being charged or brought before a court. Upon their release on **18 September**, they were ordered to present themselves at the police station again on **24 September 2008**. In **March 2009** the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to Ugandan officials, expressing concern both at this case and at Uganda's lack of response to similar communications made on **5 August 2005**, **30 November 2007**, **12 August 2008** and **22 September 2008**.¹⁰⁶⁴

In **2009** the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, together with the Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment were made aware of nine persons held in eight cases under Article 145 of the Penal Code. In the earliest example, a presumed gay man was arrested in **October 2008** in Bushenyi and charged with "carnal knowledge against the order of nature", though further details on the case could not be ascertained.¹⁰⁶⁵

A suspected gay man was detained at an **undisclosed date** at Kawuuga Prison, Mukono Municipality, then moved to Luzira Prison, Kibuye. Initially charged with "carnal knowledge against the order of nature", he was later charged with "defilement" and "aggravated defilement". The man applied for bail, though the hearing to grant bail was delayed by two months. His ultimate fate is not known, though he seems to have still been incarcerated as of **May 2010**. His is one of several unrelated cases, per the UN Special Rapporteurs, in which queer suspects were held for more than 90 days without trial in **2009** alone. Ugandan law prohibits this regular practice, with suspects needing to appear before a court within 48 hours of arrest.¹⁰⁶⁶ The rest of the reported cases are outlined below.

A suspect was held in **2009** at Butuntumula Prison, Luwero Village. Initially charged with "carnal knowledge against the order of nature", he was later charged with "defilement" and "aggravated defilement".¹⁰⁶⁷ Further details are not known.

Per the UN Special Rapporteurs' report, another **2009** case in which many of the details are not known is of a suspect apparently held for more than 90 days under charges relating to Article 145.¹⁰⁶⁸

A man arrested in **March 2009** and held in Kigo Prison, Entebbe, seems to have remained incarcerated until at least **May 2010**. He was initially charged with "carnal knowledge against the order of nature" and later with "aggravated defilement".¹⁰⁶⁹

On **8 April 2009** in Namakwekwe Village in the East of the country, two men were arrested and charged with "carnal knowledge against the order of nature". The UN Special Rapporteurs have indicated that the two men were arrested without any evidence or warrant after community members went to police with their allegations. While in detention the pair were kept in crowded cells and regularly beaten, made to undergo humiliating medical examinations, and had their photographs sent to local press, which worked to publicly denounce and shame them. Neither could afford bail, and so both were held in pretrial detention until one of the pair was released on **20 May** pending trial. The second man attained bail on **16 June**, but immediately thereafter was rushed to a local hospital with severe injuries to his head and internal organs. He went into a coma and died on **13 September 2009**, but details about the exact cause of death were never formally established.¹⁰⁷⁰

Another suspect was arrested in **May 2009** in Nakawuka Village, Wakiso District, and charged with "aggravated defilement". Further details are not known.¹⁰⁷¹

According to the Special Rapporteurs, another suspected gay man was detained from some time in **June 2009** to **13 July 2009** in Luzira Prison, Kibuye, charged with "aggravated defilement".¹⁰⁷² It seems during that time he never saw a judge.

In **February 2012** a workshop organised by Freedom and Roam Uganda (FARUG) in Entebbe was raided by police. The raid was ordered by the Minister for Ethics and Integrity, who attended the raid personally, and who proclaimed the workshop to be illegal and threatened to use police force against any attendees who did not leave immediately. The raid occurred the day after the re-tabling of the Anti-Homosexuality Bill.¹⁰⁷³

In **June 2012**, police raided and closed down a workshop on human rights monitoring in East Africa, hosted by the East and Horn of Africa Human Rights Defenders Project (EHAHRDP). Officers, which some reports describe as having been in "riot gear", surrounded the building and sealed the exits, causing workshop attendees to attempt to hide out in their hotel rooms. When organisers refused to call attendees for processing the police checked the hotel register and went room to room to round them up. Attendees were held for over three hours in the hotel, while six persons (three of which were EHAHRDP members) were detained for an hour in a police bus. It has been reported that half an hour prior to the raid several journalists arrived at the hotel and requested to attend the

¹⁰⁶⁴ Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/10/12/Add.1 (2009), paras. 2611-2614.

¹⁰⁶⁵ General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Addendum: Summary of communications sent and replies received from governments and other actors, A/HRC/14/20/Add.1, 19 May 2010, paras. 328-330.

¹⁰⁶⁶ *Ibid.*

¹⁰⁶⁷ *Id.*, para. 330.

¹⁰⁶⁸ *Ibid.*

¹⁰⁶⁹ *Ibid.*

¹⁰⁷⁰ *Id.*, para. 330-334.

¹⁰⁷¹ *Id.*, para. 330.

¹⁰⁷² *Ibid.*

¹⁰⁷³ Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 31.

workshop—with one journalist claiming that the Minister of Ethics and Integrity had told them about the event and suggested they attend in order to report on the arrest of several LGBT activists. It seems that activists thus refused the journalists entry, which was later used by police as justification for considering the workshop suspicious. EHAHRDP staff were instructed to go to the police station the next day to present their formal NGO registration documents, lest they face further police action.¹⁰⁷⁴

On **4 August 2012**, the police shut down a Pride march in Entebbe and arrested many of the participants, including staff members of FARUG as well as international participants and media representatives. Police alleged that a “gay marriage” was taking place, and that two gay men were seen kissing.¹⁰⁷⁵

It was reported in *The Guardian* on **7 September 2012** that the British producer of a satirical play about queer life in Uganda had been arrested for disobeying an instruction from the Ugandan Media Council to not stage the performance within the country. The Minister for Ethics and Integrity reportedly stated that the play was not granted clearance as it was “justifying the promotion of homosexuality in Uganda, and Uganda does not accommodate homosexual causes. We will put pressure on anyone saying that this abomination is acceptable”. In **January 2013** a Magistrate dismissed the case, but immigration authorities then detained him the following month for being “undesirable” and deported him to the United Kingdom—away from his Ugandan wife and children—before legal proceedings appealing his deportation could begin.¹⁰⁷⁶

In **October 2013** two men were arrested and charged with alleged homosexual conduct. The victims, one Ugandan and the other British, were subjected to forced penile and anal examinations and HIV testing. Police verbally and physically assaulted them for months, until the British national was deported in **January 2014** before his case came to trial. The case against the Ugandan national was withdrawn in **March 2015**.¹⁰⁷⁷

The Director of Spectrum Uganda Initiatives who also served as board-chair for SMUG, was arrested in **November 2013** for alleged same-sex sexual activity. Police reportedly took him to be tested for HIV because another man claimed that he had been infected by the Director. It is unclear what charges, precisely, were used against the accused. He had previously opened his home to homeless LGBTI+ people, and two such guests were taken in for questioning.¹⁰⁷⁸

In **November 2013** police allegedly threatened a young man with an anal examination to force him to confess to same-sex sexual activity. After the young man’s lawyer intervened the police dropped the idea of a forced

“medical” examination, though it is unclear whether any case against him continued.¹⁰⁷⁹

A trans woman was arrested for “impersonating a woman” in **2014**. She stated that once she was arrested, she was strip-searched, groped and subjected to repeated physical assaults during the four days she spent at the police station. The victim, who was HIV-positive, also alleged that she was refused access to her medication during her detention. She was later released on bail after two weeks but it is unclear whether the charges were dropped or whether the prosecution continued.¹⁰⁸⁰

In **January 2014** police arrested a trans woman and cis woman after their neighbours attempted to lynch them on suspicion of homosexuality. On police orders, a medical officer at Mayfair Clinic in Kampala subjected both of them to anal exams. They reported that police physically assaulted them before they were later released.¹⁰⁸¹

On **13 March 2014** police in Kampala arrested a human rights defender who had fled to Uganda from the Democratic Republic of the Congo, after DRC authorities severely tortured him and a colleague, and an assassination attempt was made against him. Neighbours had allegedly told police he was gay, and so Ugandan police came to his house and dragged him onto the street in his underwear, not giving him a chance to get dressed before going to the police station. They also took his passport, cell phones, laptop, CDs and all of his money from his home, and threatened him at gunpoint to provide his laptop password, which he refused. When a local computer expert opened the laptop for the police and they realised he was an SOGI activist, they beat him and charged him with sodomy. A transgender friend of his alerted local activists who raised money for a bribe, and he fled to Sweden shortly thereafter.¹⁰⁸²

A restaurant manager was subjected to an anal examination when police from Kabalagala police station detained him on homosexuality charges in **April 2014**. The medical report then claimed that the detainee was “positive” for homosexual conduct. The charges were later dropped.¹⁰⁸³

In Pader, northern Uganda, five men were arrested on suspicion of same-sex sexual conduct, of which at least two were subjected to forced anal examinations in **June 2014**. It was reported that from the examination the tests came back “normal” for the two men. The charges were later dropped.¹⁰⁸⁴

On **15 January 2015** police arrested nine young men in western Uganda. The men had attended an HIV and STI health screening at a medical outreach clinic. It was reported that an angry mob pursued them until they were arrested by police, who held them in custody for five days and subjected them to anal examinations. They were later

¹⁰⁷⁴ OHCHR, AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) UGA 5/2012 (2012); Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 31.

¹⁰⁷⁵ “Press Release: Entebbe police raids pride: arrest activists”, *Freedom and Roam Uganda*, 4 August 2012; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 32.

¹⁰⁷⁶ “British producer arrested in Uganda over play exploring gay issues”, *The Guardian*, 7 September 2012; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 31.

¹⁰⁷⁷ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 50-51.

¹⁰⁷⁸ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

¹⁰⁷⁹ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 51.

¹⁰⁸⁰ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 36.

¹⁰⁸¹ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 52.

¹⁰⁸² This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

¹⁰⁸³ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 52.

¹⁰⁸⁴ *Id.*, 53.

released, but were left with nowhere to go as they had been exposed as being gay in their hometowns.¹⁰⁸⁵

In **May 2015** police in Kampala arrested a trans woman and her partner, a cisgender man. Both were subjected to anal examinations and recall various objects being used in the invasive process. The couple were later released, and their charges were withdrawn.¹⁰⁸⁶

On **20 January 2016** a well-known businesswoman was arrested after the father of the woman that she was sleeping with tipped off the police. It was reported that the father, a Muslim cleric, had been told by neighbours that his daughter was sleeping with another woman. They were both apprehended but only the businesswoman was arrested. She was released on bail and instructed to report back to the police station the following month.¹⁰⁸⁷

On the night of **3 August 2016** police raided a Pride beauty pageant in Kampala. The event took place at a licensed bar, where police imposed a lockdown as events unfolded during the night. Over 20 people were arrested at the scene. It is reported that trans participants were beaten, caned and sexually assaulted by police. All those arrested and detained were released a few hours later.¹⁰⁸⁸

On **7 November 2018** an outspoken SOGIESC and women's rights activist was arrested for offending the Ugandan President, Yoweri Museveni, after she wrote a poem on social media stating that she wished he had never been born. The **year before**, she had been arrested for calling out the President on his anti-LGBT laws, and was released on bail after two weeks in detention. It is unclear what the results of her latest trial were.¹⁰⁸⁹

On **21 October 2019** police arrested 16 activists at a community-based organisation working on economic empowerment for SOGIE youth. The activists had called the police when an angry mob had surrounded the house they were using as an office and shelter, shouting homophobic insults and threatening to break in. But after dispersing the mob, police interrogated the 16 people inside about their gender expression, used homophobic insults, and arrested them all. The following day police searched the house, confiscated condoms, lubricant, and antiretroviral medicines, and charged the occupants with "carnal knowledge against the order of nature." It was reported that a police doctor at Nsambya Police Barracks performed forced anal examinations on the 16 detainees. Police released the activists on bail the next day and the charges were eventually dropped.¹⁰⁹⁰

On **10 November 2019** police raided an LGBT-friendly bar in Kampala and arrested 125 people. At first, the victims were told that they were being detained under Uganda's Anti-Tobacco Law for illegal use of shisha, but an officer

informed one of the detainees that the bar had been targeted to arrest homosexuals. Another detainee, an activist, said police made homophobic comments during the raid and at the police station. It is believed that at least 58 people were able to post bail or pay bribes in order to be released promptly, but up to 67 remained unable to pay and were thus charged with "common nuisance" and remanded in Luzira Prison to await trial.¹⁰⁹¹

On **29 March 2020**, 23 people were arrested at the Children of the Sun shelter in Wakiso District for allegedly gathering in public and violating the lockdown imposed amid the Covid-19 pandemic. The Mayor of Nsangi Municipality, assisted by members of the Local Defence Unit and the Uganda Peoples Defence Forces (UPDF), initiated the raid as "homosexuality cannot be tolerated", and allegedly assaulted at least two people at the shelter himself. The shelter's nurse and three visitors were released without charge, but 19—the shelter's Director, three visitors and 15 residents—were held. It is reported that detainees were beaten, bound in ropes like a chain-gang and marched barefoot through the streets to the nearest police station, with police and members of the public jeering at and mocking them. While incarcerated they were allegedly tortured, caned, denied food and medical assistance, and were given no access to legal representation. The detainees were reportedly first charged with engaging in "carnal knowledge" in violation of Section 145 of the Ugandan Penal Code, which criminalises consensual same-sex sexual activity. Those in custody were reportedly denied access to their lawyers for weeks, with police claiming it was to ensure health and safety during the Covid-19 pandemic. On **18 May** a court order was handed down for them to be released.¹⁰⁹²

On **22 December 2020** a human rights defender, well-known for his work on SOGIESC advocacy and human rights, was arrested at a Kampala restaurant by plainclothes police officers. It is not clear, however, whether this can be considered a case of anti-SOGIE criminalisation as the activist in question has been vocal on a number of social and political issues, and was claimed by police to have been arrested, along with several others, on charges of fraud for his involvement in the work of several non-SOGIESC NGOs critical of the State, which had been labelled "terrorist groups".¹⁰⁹³

On **31 May 2021** police arrested 44 individuals at the Happy Family Youth Uganda Limited Shelter in Wakiso District—ostensibly for violating Covid-19 restrictions, though reports indicate that authorities believed a gay wedding to be taking place there. In a statement by SMUG, some of those detained were released shortly after being arrested, but 39 were granted bail at various points between **31 May** and **8 June**. SMUG has claimed that,

¹⁰⁸⁵ "Rural Uganda: 9 gay youth still on the run; anyone care?", *Erasing 76 Crimes*, 1 March 2015.

¹⁰⁸⁶ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 54.

¹⁰⁸⁷ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

¹⁰⁸⁸ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

¹⁰⁸⁹ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

¹⁰⁹⁰ "Uganda: 16 LGBT activists released then condemn forced anal exams", *Erasing 76 Crimes*, 26 October 2019; "Uganda: Stop Police Harassment of LGBT People", *Human Rights Watch*, 17 November 2019; "La Policía de Uganda realiza 16 exámenes anales tras redadas contra homosexuales" [Uganda Police conduct 16 anal exams after gay raids], *Eldiario.es*, 18 November 2019.

¹⁰⁹¹ "Uganda: Bail set for 14 more people arrested in Nov. 10 raid", *Erasing 76 Crimes*, 19 November 2019; "67 Ugandans arrested in gay-friendly bar charged with 'nuisance'", *Sierra Leone Times*, 13 November 2019; "#Ram125: 67 Remanded To Luzira Prison", *Kuchu Times*, 13 November 2019; "Uganda: Stop Police Harassment of LGBT People", *Human Rights Watch*, November 17, 2019.

¹⁰⁹² OHCHR, UA UGA 2/2020 (2020); "Uganda using coronavirus laws to target marginalised LGBT groups", *Sky News*, 10 May 2020; "The Ugandan Government Has Unlawfully Detained 19 People under the Guise of its Covid-19 Response", *Robert F. Kennedy Human Rights*, 15 May 2020; HRAPF, Robert F. Kennedy Human Rights, and SMUG, *Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16, 24/7*, 15 May 2020; "Court orders release of jailed LGBT+ Ugandans after coronavirus charges dropped", *Reuters*, 18 May 2020; "Ugandan officials and judge are no-shows in court over queer youth torture case", *The Bay Area Reporter*, 2 September 2021.

¹⁰⁹³ OHCHR, UA UGA 5/2020 (2020).

despite being formally arrested for breaking Covid-19 prevention protocols, police subjected those they suspected of being gay to anal examinations, torture, physical violence and a number of other human rights violations.¹⁰⁹⁴ According to the Human Rights Awareness and Protection Forum (HRAPF), the judge was sympathetic to the plight of the accused due to previous sensitisation measures the group had taken with him.¹⁰⁹⁵ On **24 September** all charges against the accused were dropped after the HRAPF defence lawyer representing the group argued that the prosecution had plenty of time to make its case since proceedings began in **June** but had failed to do so.¹⁰⁹⁶

It was reported on **24 July 2022** that police raided an alleged “gay wedding” and arrested 44 individuals. Various items traditionally given as wedding gifts, such as fruit, were confiscated, though further details remain unclear. Some of the arrested individuals had their photographs posted online by media outlets.¹⁰⁹⁷

On **3 March 2023** two teachers suspected of being lesbians were arrested at a girls' school in Jinja City. They were accused of “gross indecency” and “promoting lesbianism” following allegations made by parents who stormed the school. After spending 60 days in custody and being denied bail three times, they were granted bail on **9 May**. One of the accused was able to post cash bail, 500,000 shillings (USD 136), while the other remained detained at Kirinya Prison. However, with the intervention of lawyers from the Women's Pro-bono Initiative, the cash bail amount was reduced from 500,000 to 200,000 shillings (USD 55), and the money was deposited for her release.¹⁰⁹⁸

On **8 March 2023**, Iganga police arrested two suspects after a night patrol, which was accompanied by journalists, caught the men having sex in a car and took them to a local police station thereafter. Further details are of the case are not known.¹⁰⁹⁹

On **18 March 2023** police in Jinja arrested six young people after a viral video of them “practicing homosexual acts” was published online. A police spokesperson told media that lubricant, HIV-medication, and other items related to the prevention of HIV-transmission were discovered in the group's dwelling, which was taken as further evidence of their membership of a “homosexual network”. While in custody, the suspects were reportedly tortured and subjected to forced anal examinations. All of the accused were denied bail by the court due to their inability to provide letters from their respective village

councils attesting to their places of residence, and as such were held for 12 days before the start of their formal prosecution. The entire group was deprived of their liberty for 12 days before being referred to the local court for formal judicial prosecution.¹¹⁰⁰

On **28 March 2023**, a 22-year-old man was detained in custody pursuant to an order from the Court in Kanungu District, in response to charges levied against the individual for the commission of an “unnatural offense”, specifically accused of engaging in sexual activity with another man at the Katojo Trading Centre. The Court considered the alleged offense as being of such gravity that it denied the defendant's request to take a plea deal and mandated a trial instead.¹¹⁰¹

Shortly after the passing of the Anti-Homosexuality Act by Parliament in **March 2023**, a local activist was forced to abandon his home due to threats of violence from both the village leadership and unknown individuals. He had previously been detained by security forces for about a month under the charges of “promoting homosexuality”. No further information regarding the activist's fate is known at present.¹¹⁰²

Also in **March 2023**, it was reported that two men in Namisindwa were attacked by an angry mob after they were found together at a lodge. They were beaten so severely that one of the men required immediate medical attention. The other man was taken into custody at Bumbu Police Post. The fates of both men could not be verified at the time of publication.¹¹⁰³

Sometime between **March and April 2023**, per an HRAPF report, a man was arrested in Lyantonde and held in custody for three days after the police received a tip-off from a journalist who claimed to have seen someone resembling him in a video depicting same-sex sexual acts.¹¹⁰⁴

Sometime between **March and April 2023**, a man was arrested and charged with “attempting to have carnal knowledge against the order of nature” under Section 145 of the Penal Code. He had refused to be blackmailed by another man he had met on a dating app and who was demanding money from him. Consequently, he was detained for seven days before being brought to court for prosecution. At time of writing, no additional details as to the outcome of the case could be verified.¹¹⁰⁵

According to an HRAPF report, in **March or April 2023** that two individuals were arrested after attempts to blackmail them on a dating app. The case did not proceed to trial,

¹⁰⁹⁴ “Update and violations report: Arrest, detention and release of 44 LGBTIQ+ persons in Uganda on 31 May 2021 - 8 June 2021”, *Sexual Minorities Uganda (SMUG)*, 10 June 2021.

¹⁰⁹⁵ “Uganda court OKs bail for 42 arrestees”, *Erasing 76 Crimes*, 5 June 2021.

¹⁰⁹⁶ “Uganda: Charges dismissed against 42 arrested at LGBTQ shelter”, *Erasing 76 Crimes*, 25 September 2021.

¹⁰⁹⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹⁰⁹⁸ *Ibid.*

¹⁰⁹⁹ Information supplied to ILGA World by Liberty for Marginalized Persons Uganda.

¹¹⁰⁰ Human Rights Awareness and Promotion Forum (HRAPF), *HRAPF's report on Violations against LGBT persons for the first month following the passing of the Anti-Homosexuality Bill 2023 (2023)*, 3; Additional Information supplied to ILGA World by Liberty for Marginalized Persons Uganda.

¹¹⁰¹ “Man remanded over homosexuality in Kanungu”, *Monitor*, 31 March 2023.

¹¹⁰² Human Rights Awareness and Promotion Forum (HRAPF), *HRAPF's report on Violations against LGBT persons for the first month following the passing of the Anti-Homosexuality Bill 2023 (2023)*, 6.

¹¹⁰³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹⁰⁴ Human Rights Awareness and Promotion Forum (HRAPF), *HRAPF's report on Violations against LGBT persons for the first month following the passing of the Anti-Homosexuality Bill 2023 (2023)*, 3.

¹¹⁰⁵ *Id.*, 3.

though no Additional details could be identified at the time of writing.¹¹⁰⁶

The HRAPF report also indicated that in **March or April 2023**, the police arrested and detained a man for four days after conducting a search at his residence prompted by accusations that he was in possession of narcotics. While no narcotics were found, the police arrested him after they found lubricants. Ultimately, the police told the victim that they had received information from his neighbours that "he was a homosexual and they just wanted proof".¹¹⁰⁷

Sometime around **March or April 2023**, according to information published by HRAPF, three women were detained in the Buikwe District and deprived of their liberty for six days with no charges raised against them. They were, however, specifically informed that "under the recently passed Anti-Homosexuality Act it was also illegal for women to have sex".¹¹⁰⁸ Ultimately, they were released without any charges.¹¹⁰⁸

On **1 April 2023** a man in Kanungu was remanded in Kanungu Government Prison over charges of engaging in "unnatural sexual acts" contrary to Section 145 of the Penal Code. The man continued to deny the charges against him, and at the time of publication the investigation against him was still ongoing.¹¹⁰⁹

In **May 2023** in Kampala, a transgender or intersex woman was arrested for entering nightclubs dressed in traditional women's attire. During the arrest, she explained that what she wore was not her choice, and that doctors had identified her as having a "feminine condition". Although she was eventually released, the police warned her against impersonating women again.¹¹¹⁰

Also in **May 2023**, police arrested a person, possibly a trans woman, in the Kapchorwa District on the grounds of "masquerading as a female athlete". The victim had arranged to meet a man and was subsequently entrapped by him and his friends. The men subjected the victim to various forms of physical abuse. No further details were disclosed in this case. The attackers forced their victim to walk in the middle of the street fully naked while members of the public gathered to jeer and throw object. The victim was subsequently detained by the authorities and held for two days before being referred to a court for prosecution. At the hearing, bail was denied on the premise of lacking sureties, as the accused's acquaintances feared potential repercussions for getting involved.¹¹¹¹

In **May 2023** police arrested a young Rwandan woman in Kisoro after pictures showing her and another woman kissing had been widely spread on social media. According to local media, she would be charged under Section 145 of

the Penal Code for "attempting to commit an unnatural offence".¹¹¹²

Note: After the cutoff date of this report (30 June 2023), numerous cases of enforcement were documented by local civil society organisations and tracked by ILGA World through online media monitoring. These instances will be included in the next edition of this report.¹¹¹³



Criminalising Provisions

Article 155 of the Penal Code (2005) establishes that any person who "has carnal knowledge of any person against the order of nature" or "permits a male person to have carnal knowledge of him or her against the order of nature" commits a felony and is liable, upon conviction, to imprisonment for a term not less than fifteen years, and may be liable to imprisonment for life. Additionally, Article 157 prohibits "indecent practices between persons of the same sex".¹¹¹⁴

Article 178(g) of the Penal Code criminalises any act of "soliciting for immoral purposes in a public place". This provision was used as a legal basis to prosecute an HIV activist in 2013, for expressing his opinion on the rights of sexual minorities and sex workers on local media platforms.¹¹¹⁵

In terms of gender expression, Article 378 may be used to target gender-diverse individuals as it prohibits "personation".¹¹¹⁶

Enforcement Overview

ILGA World notes at least 16 examples of criminal enforcement between 2013 and 2023. This likely represents just a fraction of the real number, however. In September 2022 Zambia's Home Affairs Minister, Jacob Mwiimbu, submitted a letter to the Speaker of Parliament included a breakdown of "a total of eighteen cases of sodomy countrywide" between 1 January and 20 September of that year. Of the 18 acknowledged cases, Mwiimbu claims that 15 arrests had been made, of which three were under investigation at the time and one had resulted in a prison sentence of eight years with hard labour.¹¹¹⁷ This makes Zambia one of the few countries in

¹¹⁰⁶ *Ibid.*

¹¹⁰⁷ *Id.*, 4.

¹¹⁰⁸ *Ibid.*

¹¹⁰⁹ Information supplied to ILGA World by Liberty for Marginalized Persons Uganda.

¹¹¹⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹¹¹ "Uganda Police Arrests A Man Who Masqueraded Himself As A Woman", *Sabiny Today*, 9 May 2023; Human Rights Awareness and Promotion Forum (HRAPF), *HRAPF's report on Violations against LGBT persons for the first month following the passing of the Anti-Homosexuality Bill 2023* (2023), 4.

¹¹¹² "Kisoro Police Arrest Suspected Lesbian", *ChiimpReports*, 14 May 2023.

¹¹¹³ If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

¹¹¹⁴ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 65; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Zambia* (accessed: 30 June 2023).

¹¹¹⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Zambia* (accessed: 30 June 2023).

¹¹¹⁶ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 65.

¹¹¹⁷ Mwiimbu, J., *Ministerial Statement on Lesbian, Gay, Bisexual and Transgender in Zambia* (2022), 2.

the world to have formally published any data on the enforcement of criminalising provisions.

None of the specific cases that form the dataset used by Mwiimbu could be identified by ILGA World in publicly accessible media reporting and so have not been included in the Examples of Enforcement below. Where local news outlets do document such incidents the tone is often inflammatory. Pan Africa ILGA noted this pattern as early as the year 2000, in which the accused - particularly trans and gender-diverse people - are publicly humiliated and outed by the media even if prosecution is dropped due to a lack of evidence.¹¹¹⁸ In the same vein, in 2023 the African Trans Women's Alliance shared with ILGA World that numerous trans women frequently encounter instances of brutal police force and unlawful detentions, often involving non-chargeable offenses, for which they are sometimes coerced into paying bribes for their release. This trend has been particularly pronounced during election periods and has persisted for approximately the past decade.¹¹¹⁹

High-level government officials have long maintained a public stance in favour of criminal enforcement. In 1998 the then-Vice President, Christon Tembo, told Parliament that:

If anybody promotes gay rights [...] the law will take its course. We need to protect public morality. Human rights do not operate in a vacuum.¹¹²⁰

As a consequence of this statement, the country's police force became emboldened in extorting and arresting people and a vigilante group called "Zambia Against People with Abnormal Sexual Acts" was created. Advocacy groups attempting to formally register in the country as NGOs have suffered greatly due to this rhetoric, with one former Home Affairs Minister ordering police to arrest anyone attempting to register a SOGIESC organisation, and some prominent activists being forced to flee the country after antagonistic local media outed them to the public.¹¹²¹

More recent years have not seen a softening of this rhetoric, with President Edgar Lungu, who led the country between 2015 and 2021, calling homosexuality "unbiblical" and remaining largely unwavering in his support for criminalisation. This came to a head when the former US Ambassador to Zambia, Daniel Foote, decried the sentencing of two gay men to 15 years in prison and subsequently aired the idea of cutting off aid to Zambia in 2019. The diplomatic row resulted in the US withdrawing Foote after Lungu declared him *persona non grata* in Zambia.¹¹²²

Conservative evangelical elements in Zambian society reportedly expressed concern that Lungu's successor,

Hakaide Hichilema, would bring "gay rights" to Zambia, but in 2019 during his election campaign Hichilema said "[w]e are God fearing and there is no single chance of us supporting unbiblical things".¹¹²³ The evangelical Christian contingent of Zambian society remains a powerful driving force in national politics, with former-Vice President Guy Scott saying of a 2013 case that the State didn't want to give an accused activist "a particularly hard ride", but had to be seen to take some kind of action to prevent backlash from the churches.¹¹²⁴

Concerns around accusations of pending decriminalisation continued into 2022, with the Chief Spokesperson for the government, Chushi Kasanda, speaking out in March of that year against "a deliberate campaign" to misunderstand a long-running project to amend the country's Penal Code. By May, President Hichilema himself also publicly asserted: "We have said it in opposition and now in government that we do not support gay rights".¹¹²⁵ Despite the President's assertions, religious leaders such as the Archbishop of Lusaka would go on to accuse the President of ignoring "proliferation of LGBTQ+ and other vices" and call on members of the public to take action themselves.¹¹²⁶

That year, an event known as the "Lusaka July"—a polo competition at which guests are encouraged to dress in extravagant fashions—garnered backlash from members of the public, religious groups, and politicians who claimed that alleged incidences of "cross-dressing" were an "illegal promotion of homosexuality". The organisers denied this to be the case, though Emmanuel Mwamba—Zambia's permanent representative to the African Union, former High Commissioner to South Africa and Ambassador to Ethiopia—called publicly for their arrest. He and several members of opposition political parties directed the blame at the President and government for promoting the event in an effort to boost tourism.¹¹²⁷

It was in response to this furore that Home Affairs Minister Mwiimbu submitted a letter to the Speaker of Parliament containing national statistics for criminal enforcement. The document expressly denied that the government had any knowledge or control over how guests at Lusaka July would present themselves. Mwiimbu further reaffirmed the criminal code provisions banning same-sex sexual activity, and said:

[My] ministry, under the guidance of His Excellency the President of the Republic of Zambia and Commander-in-Chief, has taken measures, and the Zambia Police Service is very active on this matter and is doing everything possible to sensitise the citizenry on the criminal aspect of these vices and the implication on the individuals involved, and the moral and traditional

¹¹¹⁸ ILGA Africa (now PAI), *ILGA Africa 2000 Report: Homosexuality in Africa* (2000).

¹¹¹⁹ Information supplied to ILGA World by the African Trans Women's Alliance.

¹¹²⁰ "You will be arrested, gay lobbyists warned", *Times of Zambia*, 23 September 1998.

¹¹²¹ Global Rights Partners for Justice and IGLHRC, OHCHR *Shadow Report: The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in ZAMBIA* (2007), 4-5; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 22.

¹¹²² "US ambassador 'shocked' by Zambian president's anti-gay comments", *Sky News*, 2 December 2019; "US recalls ambassador to Zambia after gay rights row" *BBC News*, 24 December 2019.

¹¹²³ "Anti-gay Zambians fear their new president will endorse gay rights", *Rights Africa*, 20 September 2021.

¹¹²⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹²⁵ "We've not taken any position on polygamy, insists Govt", *News Diggers!*, 4 March 2022; "We do not support gay rights, says President Hichilema", *Mwebantu*, 30 May 2022.

¹¹²⁶ "Zambia: Archbishop's anti-LGBTQ+ appeal comes under fire from all sides", *Erasing 76 Crimes*, 5 October 2022.

¹¹²⁷ "Lusaka July- A staging post for the LGBTQ- Amb. Emmanuel Mwamba", *Zambian Observer*, 4 September 2022; "PR Girl held the 2022 edition of Lusaka July under the theme ; Emeralds in a Zambian World", *Lusaka Times*, 5 September 2022; "We are not Promoting Gay Rights, says PR Media, the Company behind Lusaka July", *Lusaka Times*, 6 September 2022; "Homosexuality furore returns to haunt Zambia", *CAJ News Africa*, 14 September 2022; "Statement made by the Minister of Home Affairs and Internal Security is Malicious- Emmanuel Mwamba", *Lusaka Times*, 23 September 2022.

erosion the vices may cause on our society.¹¹²⁸

In a rare instance of an authority figure standing up to government homophobia, the Chairperson of the Zambian Human Rights Commission, Mudford Mwandenga, urged politicians in September 2022 to stop the “vicious hate campaign” against the LGBTQI community. His statement was, however, couched in the acknowledgement “of the fact that practicing homosexuality or lesbianism is illegal in Zambia” and that the issue speaks to various religious and cultural values. The statement called on those found “on the wrong side of the law” to be “treated in a humane manner” regardless of the illegality of their actions.¹¹²⁹

Examples of Enforcement

On **7 April 2013** an HIV and human rights activist was arrested for stating in a local television interview that legal restrictions based on SOGIE and against sex workers should be repealed to better allow safe access to HIV-related care. He was held until **11 April** and charged with “soliciting for immoral purposes in a public place”, but in **February 2014** was acquitted. The State tried to appeal the acquittal, but multiple delays and an apparent lack of preparedness from the State legal team led to the Lusaka High Court dismissing the case in **May 2015**, reaffirming the accused’s acquittal. During the initial proceedings against the activist, the UN Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression; on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and on the situation of human rights defenders, expressed concern at the events and urged the Zambian government to ensure the freedoms of human rights defenders. While the judiciary’s acquittal is to be lauded, this case is a stark reminder that criminalising provisions can be used to not only target people of diverse sexual orientations, gender identities and gender expressions, but also silence their allies and advocates.¹¹³⁰

In **April 2013** two men were arrested and charged with engaging in homosexual acts, being held for several days before being granted bail. They were re-arrested four days later after a neighbour filed a police report. The details surrounding the case remain unclear, though in **June 2014** a verdict was due to be delivered but the magistrate handling the case failed to turn up. Later, the two men were acquitted, with the magistrate stating that officers had failed to prove their case through anal examination.¹¹³¹

In **May 2013** police in the Kapiri Mposhi district in central Zambia arrested a couple, a cisgender man and trans woman, in response to reports from neighbours that the two were in a same-sex relationship. As part of the police investigation both individuals were subjected to anal examinations without their consent at the Kapiri Mposhi

District Hospital. At the trial, prosecutors presented little evidence other than the medical reports of the anal examinations. The defence counsel, though, called another doctor as witness to challenge the reliability of anal examinations. On **3 July 2014**, after more than a year in detention, a magistrate acquitted the couple for lack of evidence. According to media reports, the magistrate found that even though the medical report claimed to find “evidence” of their sexual engagement, this was “not enough to prove the involvement of the two accused persons in a sexual act,” ruling that “other conditions such as constipation and compromised immunity [...] can cause the physical examination findings on the two suspects”.¹¹³²

On **6 March 2014** a couple was arrested and pleaded not guilty to charges of crimes “against the order of nature”. Local media reported that they had been living together for three years as a couple at that time. While in detention both were not granted access to legal representation, and were subjected to “forensic tests”. The trial began later that month, with a judgement date set for 10 April 2015, where both men were acquitted after the magistrate found numerous inconsistencies in the facts around the case, news outlets reported. This comes after the men were subjected to anal examinations in order to prove their alleged homosexuality.¹¹³³

In **2015** a trans woman was arrested, prosecuted, and sentenced to 15 years imprisonment for her relationship with a cisgender man who claimed she had deceived him into thinking he was having sex with a cisgender woman. She was prosecuted under Section 155 of the Zambian Penal Code which prohibits “carnal knowledge of any person against the order of nature”. The conviction generated a spate of transphobic media coverage, misgendering the victim by describing her as a “fake woman” and “a male hairdresser who had been posing as a woman”.¹¹³⁴

A gay man reportedly fled Zambia in **2017** after being reported to the police by his boss. She had seen him kissing another man at work and provided evidence to the authorities. Further details could not be verified at the time of publication.¹¹³⁵

In **January 2018**, police in Zambia launched a nationwide “hunt” for a couple suspected of being lesbians, based solely on online photos of them posing together. It is unclear if the women were ever caught.¹¹³⁶

One of the most prominent recent cases to come out of the country was that of a 15-year prison sentence being handed down to a couple who in **2018** were found guilty of “acts against the order of nature”. Two men had been reported to police by staff at a hotel where they were staying in Kapiri Mposhi and forced anal examinations had reportedly been used to find “evidence” against them. The Lusaka High Court reaffirmed the punishment in a **2019**

¹¹²⁸ Mwiimbu, J., *Ministerial Statement on Lesbian, Gay, Bisexual and Transgender in Zambia* (2022).

¹¹²⁹ “HRC asks govt to stop emerging vicious hate campaign against LGBTQI community”, *News Diggers*, 28 September 2022.

¹¹³⁰ OHCHR, AL G/SO 214 (67-17) Health (2002-7) G/SO 214 (107-9) ZMB 1/2013 (2013); Two additional entries that contain personal names or images have been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹³¹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹³² Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 56-58.

¹¹³³ OHCHR, ZMB 1/2015 (2015), 1-2. Another entry that contains personal names or images has been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹³⁴ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 50-51. Two additional entries that contain personal names or images have been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹³⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

¹¹³⁶ *Ibid.*

appeal, to international outcry. Backlash against the case culminated in a heated diplomatic dispute between the then-US ambassador to Zambia and the Zambian government. The harsh sentence against the men was also formally decried by the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the right to privacy; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Of the lengthy prison sentence, local groups such as Zambia's Young African Leaders Initiative (YALI) expressed that the couple had been given "leniency" by the sentencing judge, "who administered the minimum sentence of 15 years when he could have opted for the maximum life imprisonment". On **25 May 2020**, as part of Zambia's Africa Day celebrations, the two men received a pardon from the President alongside around 3,000 other inmates who had been convicted of various crimes.¹¹³⁷ It is important to note that this pardon did not constitute a reversal of the court's verdict.

Two men were arrested in late **August 2019** after police responded to calls from the public accusing them of being gay. It remains unclear if the pair were charged and sentenced. This comes **one week after** another couple were arrested and accused of being gay. The men in that earlier case were subjected to anal examinations and later released on bail.¹¹³⁸

On **3 February 2021** a Zambian media outlet published the images of two women accused of having participated in same-sex sexual activity in a video making the rounds on social media. It was stated that the women were student nurses being sought by police. No further information on police proceedings or the safety of the accused women could be found at the time of publication.¹¹³⁹

A complex case involving four Croatian couples was reported in **January and February 2022**, after Zambian officials arrested the group on allegations of "child trafficking" for attempting to adopt children from the Democratic Republic of Congo via Zambia. The veracity of the allegations could not be determined, though all eight Croatian nationals were released before long and were due to be deported. A right-wing former Parliamentarian in Croatia, however, later claimed that he had reached out to Zambian officials to alert them to the fact that one of the Croatians was in fact a transgender man. The former Parliamentarian claimed that the man was ineligible to adopt children either in Croatia or Zambia because of his

gender identity. He was promptly re-arrested by Zambian authorities, though further details were unclear at the time of publication.¹¹⁴⁰

Between **June 2022 and June 2023**, three trans women were detained by police in a number of separate incidents. Two of the women were released after paying bribes. At least one of the women was detained twice and harassed by police numerous times during this period. Further details have been withheld for the safety of those involved.¹¹⁴¹

On **5 March 2023** four women, including the co-founder of the Sistah Sistah Foundation, were arrested for organising a protest against gender-based violence ahead of International Women's Day. The march had received formal permission to go ahead, but Zambian authorities later said that the accused had provided false information on the purpose of the march, and that was a pretext to illegally promote LGBTI+ rights. If convicted the women could face up to seven years in jail, with the Foundation's co-founder liable to receive an additional six months for unlawful assembly, according to media reports.¹¹⁴²



Zimbabwe

Criminalising Provisions

Article 73(1) of the Criminal Law (Codification and Reform) Act (2004) criminalises anal intercourse between males as well as "any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act". For these two types of conduct, the Code imposes a penalty of imprisonment for up to a year and/or a fine.¹¹⁴³

Enforcement Overview

Between 2010 and 2023 ILGA World has noted seven examples of criminal enforcement and State-backed targeting of SOGIESC individuals and human rights defenders, a seemingly low number given the history of officials in Zimbabwe displaying notably antagonistic rhetoric and behaviour.

It has been reported that the adoption of the Criminal Law (Codification and Reform) Act (Act No. 23) (2004) led to widespread arrests throughout the country, with former-President Robert Mugabe calling for the "immediate arrest

¹¹³⁷ "Pan Africa ILGA condemns the prosecution and sentencing of a gay couple arrested in Zambia". *ILGA World (Website)*, 29 November 2019; "Gays jailed 15 years", *Zambia Daily Mail Limited*, 28 November 2019; "Two Kapiri Mposhi men found guilty of Homosexual conduct", *The Lusaka Times*, 4 August 2018; "Zambia | Two men get 15 years in jail for homosexuality", *Mamba Online*, 30 November 2019; "US Ambassador and YALI disagree on homosexuality laws", *The Lusaka Times*, 2 December 2019; OHCHR, AL ZMB 1/2020 (2020); "Zambian president pardons gay couple jailed for 15 years", *Herald Live*, 26 May 2020.

¹¹³⁸ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

¹¹³⁹ *Ibid.*

¹¹⁴⁰ "Hoće li uhićeni Hrvat u zambiji imati problema zbog transrodnosti? Homoseksualnost i transrodnost u Zambiji je zabranjena" [Will the Croat arrested in Zambia have problems because of transgenderity? Homosexuality and transgenderism are prohibited in Zambia], *Cronika*, 22 January 2023; "Pernar objavio da je na putu do Zambije 'zaglavio u imigracijskom' pa poručio: 'Sve je u redu, samo trolam...'" [Pernar announced that on the way to Zambia he was "stuck in immigration" and said: "Everything is fine, I'm just trolling..."], *Jutarnji List*, 21 February 2023; "Pravobraniteljici prijete smrću jer je prijavila Pernara DORH-u, nevladine udruge šute, a on ..." [The ombudsman is threatened with death because she reported Pernar to the DORH, non-governmental organizations are silent, and him? Counting down the hours...], *Slobodna Dalmacija*, 19 February 2023.

¹¹⁴¹ *Information supplied to ILGA World by the African Trans Women's Alliance.*

¹¹⁴² "Zambia Police Arrest Feminist NGO Leaders, Accuse Them of Promoting Homosexuality", *VOA News*, 8 March 2023 "Homophobic violence and arrests erupt in Burundi, Zambia, Ghana", *Erasing 76 Crimes*, 10 March 2023.

¹¹⁴³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Zimbabwe* (accessed: 5 September 2023).

of anyone 'caught practicing homosexuality'.¹¹⁴⁴ The former President was reported on several other occasions as making inflammatory statements during his rule, such as in 2013 when he called for the castration of homosexuals, and in 2015 when he decried international pressure to decriminalise in a United Nations General Assembly speech, shouting to delegates: "We are not gays!"¹¹⁴⁵

Zimbabwe has historically not been diligent in engaging with UN Special Procedures, with the UN Special Rapporteur on the situation of human rights defenders reporting that between 2004 and 2011, the mandate's office had sent 47 communications regarding the targeting of SOGIESC and other human rights activists—of which 37 went unanswered.¹¹⁴⁶

Some in local activist circles appear to have been hopeful that Emmerson Mnangagwa, who took over as President in 2017, would mean change for their communities, but while the hostile rhetoric from the Office of the President seems to have declined, the legal and social realities for people of diverse sexual orientations and gender identities and expressions in Zimbabwe remain largely unchanged.¹¹⁴⁷

During the third cycle of the UN Universal Periodic Review in 2022, several civil society groups spoke to the Zimbabwean delegation, headed by the Minister of Justice, Legal and Parliamentary Affairs, urging the government to decriminalise consensual same-sex sexual acts. The delegation responded that it would under no circumstances do so, citing a 2015 referendum on updating the country's Constitution. The Minister stated that "[on] sexual diversity, the Constitution of Zimbabwe guides our laws on this subject. Sexual diversity is, therefore, outlawed in Zimbabwe. The Constitution was voted for by 98% of the Zimbabwean population".¹¹⁴⁸

Intimidation and violence against LGBT individuals and human rights defenders appears to be more common than formal prosecution, as can be inferred in the disaggregated cases outlined below, but the threat of criminal enforcement and social backlash ensures a climate of fear in the country, regardless. For example, in 2018 a teacher at a prestigious private school came out to the student body to pre-empt a newspaper publicly outing him. Death threats, as well as the threat of criminal charges being laid against him from a contingent of the school's parents, forced the teacher to flee Zimbabwe even before any criminal enforcement from the State could take place.¹¹⁴⁹ A 2021 report by Gays and Lesbians of Zimbabwe (GALZ), similarly found multiple cases of informal violence and discrimination against community members.¹¹⁵⁰

Examples of Enforcement

On **24 May 2010**, two members of Gays And Lesbians of Zimbabwe (GALZ) were arrested in a raid on their offices in Harare. Police later returned to investigate the contents of the offices but could not gain access and so brought the detainees with them on an apparent third trip. Police claimed the raid was to seize drugs and pornographic material, but later charged them with "undermining the authority of the President" as a poster hanging in the office was critical of then-President Mugabe's homophobia. Those arrested were given legal support from the Zimbabwe Lawyers for Human Rights (ZHLR), though police initially refused to grant lawyers access to the detainees. They were released on bail but were required to report to the local police station at least twice a week and have alleged that they were beaten with bottles by officers while in detention. It is also alleged that other staff at GALZ were pressured by police to appear as witnesses against their arrested colleagues. In **2011** the UN Special Rapporteur on the situation of human rights defenders decried this and other cases of detention of activists.¹¹⁵¹

In **August 2012**, the Harare office of GALZ was raided again on two separate occasions. On the first occasion, on **11 August**, police officers assaulted several activists and arrested and detained 44 people. Even though they were released without charge, some of the detainees were subject to further questioning by the police at their own homes and workplaces the following week. A few days later, on **20 August**, the police again searched the office for six hours and confiscated computers, documents and other advocacy materials and on **23 August**, GALZ was charged with running an unregistered organisation in contravention of the Private Voluntary Organisation Act, forcing its closure—despite GALZ apparently being authorised to operate in Zimbabwe.¹¹⁵²

A trans woman was arrested in **2014** and charged with "criminal nuisance" for using a women's public bathroom. She was detained for several days and forced to undergo invasive "gender verification" by both police and staff at local hospitals, but was released after a magistrate refused to prosecute the case. In **2019** the Bulawayo High Court ordered that damages be paid to her.¹¹⁵³

In **2015**, Zimbabwe hosted the International Conference on AIDS and STIs in Africa (ICASA 2015). Transgender and gender-diverse delegates from around the world came to participate in the event. Many of them reported experiencing unlawful detentions at the main entry points into the country due to the difference in their documents and gender expressions.¹¹⁵⁴

¹¹⁴⁴ "Gay in Zimbabwe: Arrests, Limited Access to Health Care", *Global Press Journal*, 10 September 2012; Legal Aid Board (Ireland), *Information on whether homosexuals are openly at risk of police brutality and arbitrary arrest? What is the attitude of the Zimbabwean Government/ Agencies of the State (Police etc) towards those who are homosexual?* (2012).

¹¹⁴⁵ "Zimbabwe: President Mugabe advocates castrating gays!", *La Richesse*, 30 July 2013; "Why Robert Mugabe just shouted 'We are not gays' in his UN speech", *Vox*, 28 September 2015.

¹¹⁴⁶ *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum: Summary of cases transmitted to Governments and replies received*, A/HRC/16/44/Add.1 (2011), para. 2549.

¹¹⁴⁷ "Mugabe is gone, but is his successor Emmerson Mnangagwa less homophobic?", *Mamba Online*, 24 November 2017.

¹¹⁴⁸ "Zimbabwe refuses to buckle under pressure from the lesbian, gay, bisexual community", *Bulawayo24*, 4 July 2022.

¹¹⁴⁹ "Zimbabwe gay teacher quits after death threats", *SABC News*, 28 September 2018; "A flight from homophobia", *The Harvard Gazette*, 27 January 2020.

¹¹⁵⁰ GALZ, *LGBTI Violations Report* (2021).

¹¹⁵¹ "Zimbabwe: LGBT organisation's staff face new political charges", *LGBT Asylum News*, 25 May 2010; UNHRC, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum: Summary of cases transmitted to Governments and replies received*, A/HRC/16/44/Add.1 (2011), para. 2517-2525, 2549; OHCHR, AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) ZWE 8/2012 (2012), 1-2.

¹¹⁵² UNHRC, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Addendum: Summary of cases transmitted to Governments and replies received*, A/HRC/16/44/Add.1 (2011), para. 2517; OHCHR, AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) ZWE 8/2012 (2012), 1-2; Amnesty International, *Making love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa* (2013), 31.

¹¹⁵³ "High court decision affirms human rights of transgender people in Zimbabwe", *Mail & Guardian*, 26 November 2019.

¹¹⁵⁴ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 107.

In **April 2018** it was reported that two men in Bulawayo were arrested while urinating at the back of a bar. Police alleged that the two were groping and kissing one another, with one man placing his penis between the buttocks of the other, though both men have denied this and say they were only making conversation while relieving themselves. The men were arrested, with at least one being held for two days and beaten before being charged with sodomy in court. He was released on bail but no further details of the court case, or the fate of the other man, could be verified at time of publication.¹¹⁵⁵

On **16 January 2021** three young men were arrested while walking in the street past a police station in Mbare. Police officers on duty accused the trio of being gay without any evidence, and arrested them on this basis. The young men were verbally abused by officers in custody and never

charged with anything before finally being released due to the intervention of Zimbabwe Lawyers for Human Rights (ZLHR). One of the men successfully sued the officers involved for unlawful arrest and detention, with the Harare Magistrate's Court ordering a damages payment of 800,000 Zimbabwean Dollars (approximately USD 2,484) on **4 November 2022**.¹¹⁵⁶

It was reported in **March 2021** that a woman was assaulted by police when they could not find her husband. They were searching for the husband on the basis of allegations that he was gay.¹¹⁵⁷

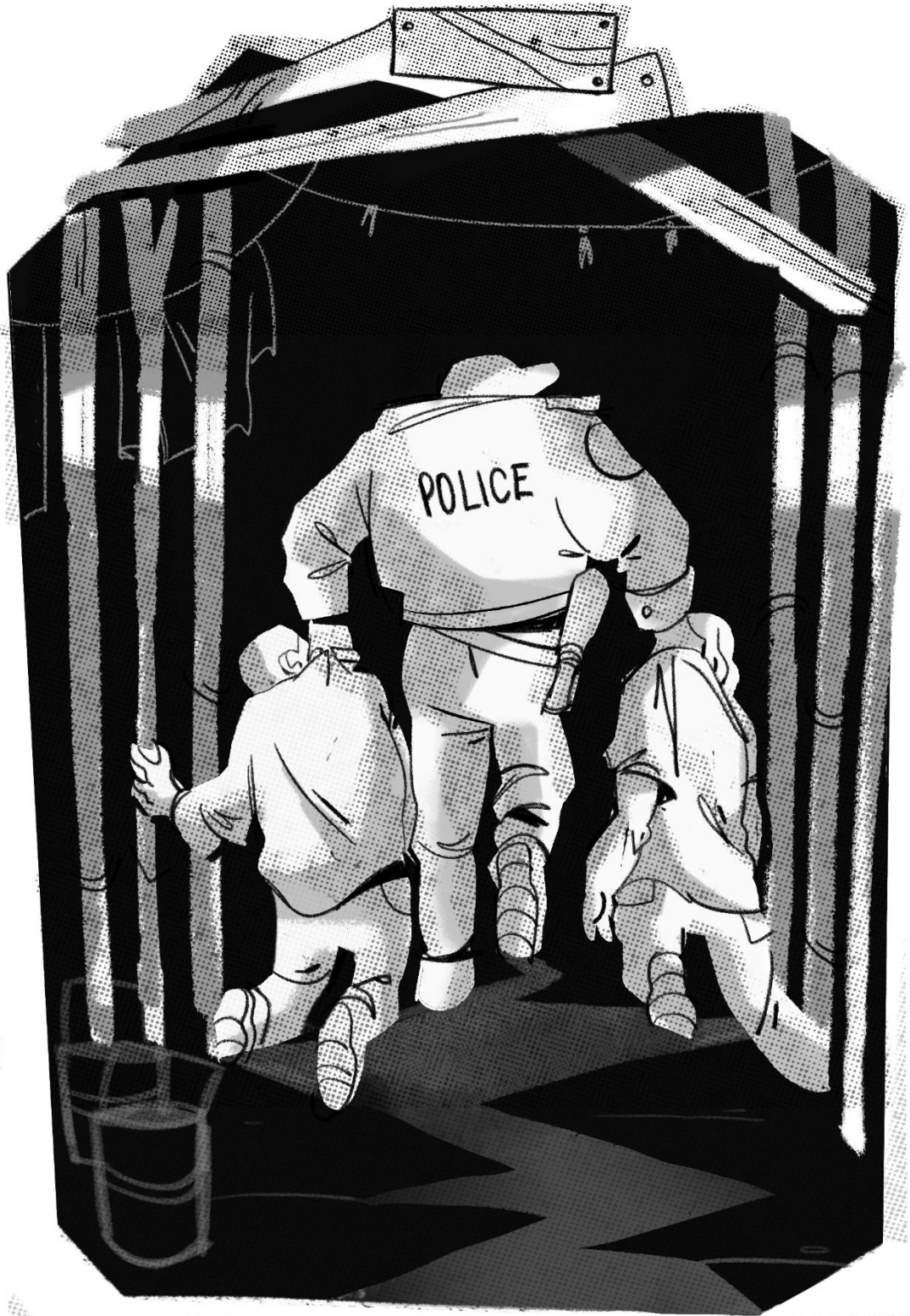
On **15 February 2023**, an SOGI activist in Bulawayo was arrested and questioned by three men identifying themselves as police, for organising a social event for queer students. Further details of the incident are not known.¹¹⁵⁸

¹¹⁵⁵ "2 Zimbabweans pee at a bar. Result: Arrest for gay sex", *Erasing 76 Crimes*, 20 April 2018.

¹¹⁵⁶ "ZRP Ordered To Pay \$800k To Mbare Resident Arrested And Accused Of Being Homosexual By Cops", *Pindula*, 26 November 2022.

¹¹⁵⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

¹¹⁵⁸ *Ibid.*



Americas

Six out of 35 UN Member States in the Americas have legal frameworks explicitly criminalising consensual same-sex sexual acts: Dominica, Grenada, Guyana, Jamaica, Saint Lucia, and Saint Vincent and the Grenadines.

The region has been the epicentre of recent country-level decriminalisation efforts. Three countries have decriminalised since the first edition of this report was published, namely Saint Kitts and Nevis, Barbados, and Antigua and Barbuda. Decriminalisation in these jurisdictions came through three court cases, heard by the Eastern Caribbean Supreme Court and the Barbados High Court throughout 2022. The rulings followed a coordinated campaign of strategic litigation launched in 2019 by the Eastern Caribbean Alliance for Diversity and Equality.

Of these, only Antigua and Barbuda was featured in the report for verified examples of criminal enforcement. In 2014 two people “caught in public” were arrested and held for several days, while in 2015 a trans woman was arrested and severely beaten to the point of losing the use of an eye. At the time, ILGA World noted: “Extrajudicial violence against persons of diverse SOGIE as a result of negative social attitudes, and a lack of response from police in dealing with such hate crimes cases, seem to form the bulk of incidents, and thus are not included in this report”. It thus cannot be presumed that Antigua and Barbuda’s—or indeed any country’s—removal from this report reflects a state of safety or non-discrimination on the ground.

The first edition of this report made mention briefly of “a slew of subnational level legislative attacks against legal gender recognition, freedom of assembly and freedom of association for trans and gender-diverse persons” across the United States of America. Unfortunately, this trend has only grown since. The introduction of anti-LGBTQI+ bills in state legislatures across the US has risen exponentially, with well over 500 such laws proposed in 2023 alone. The vast majority of these have been aimed at harming persons

of diverse gender identities and expressions, by banning “drag” performances, restricting access to gender-affirming care, or legal gender recognition, and in some cases attempting to legally define gender-diversity out of existence, among other things. While many of those bills which have been passed into law were struck down as unconstitutional, and no verifiable arrests or prosecutions have yet been reported, the silencing effect of this coordinated assault by homophobic and transphobic lobbyists cannot be ignored.

In June 2022, after the US Supreme Court ruled to repeal *Roe v. Wade*—the case which guaranteed the right to abortion nationwide—Justice Clarence Thomas wrote that “we should reconsider all of this Court’s substantive due process precedents, including *Griswold*, *Lawrence*, and *Obergefell*” (*Lawrence v. Texas* being the 2003 Supreme Court case which decriminalised same-sex sexual acts in all 50 states, mooted any remaining statutes against “sodomy”). While these developments do not yet warrant the inclusion of the United States into this report, it is telling that a growing number of LGBTQI+ persons are seeking to move to safer states. In May 2023 the Human Rights Campaign (HRC) and Equality Florida issued travel warnings for LGBTQI+ persons visiting Florida due to the legal risks they would face there, with the HRC declaring a “national state of emergency” for LGBTQI+ Americans the following month.

Note: After the cutoff date of this report (30 June 2023), in July 2023 reports indicated that law enforcement officers in Venezuela had raided a gay sauna without a warrant, reportedly arresting 33 men, charging them with “public indecency” and “unlawful association”, and using condoms and lubricants found at the scene as evidence of their supposedly “illicit behaviour”. More information will be included in the next edition of this report.



Dominica

Criminalising Provisions

Section 16 of the Sexual Offences Act (1998) punishes the crime of “buggery” with imprisonment of up to 10 years and, if the court thinks it fit, the court may order that the convicted person be admitted to a psychiatric hospital for treatment. Under Section 14, the crime of “gross indecency”—understood as “an act other than sexual intercourse by a person involving the use of genital organs for the purpose of arousing or gratifying sexual desire”—is punished with imprisonment for five years.¹

Enforcement Overview

Though criminalising legislation is not consistently enforced in Dominica, ILGA World was able to identify at least three incidents between 2001 and 2023. However, limited reporting means that the two items documented from 2001 may well represent a greater number of individual cases. Indeed, in the early 2000s it appears that there were at least 35 cases of “buggery” against both men and women. Police authorities and the Prime Minister at the time have stated that no convictions, against gay men at

¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Dominica* (accessed: 14 June 2023).

least, had been issued in any of those 35 reported cases, however.² By July 2014 the Prime Minister of Dominica had also dismissed claims that the police had threatened to arrest people engaging in private, consensual same-sex sexual activity.³

In 2010 the Dominican delegation stated during its first UN Universal Periodic Review cycle that the issue of criminalisation of consensual same-sex acts “was a challenging area” and the delegation recognised “that it is discriminatory”,⁴ though in the years since that statement the criminalising legislation has remained intact, and at least one case of enforcement seems to have occurred.

Outside of the direct effect that the criminalising legislation has on persons who may be detained or prosecuted, it also negatively impacts on the rights of safety and access to justice for victims of violence or discrimination. In 2019 a gay man, kept anonymous for his safety, sued to have the law declared unconstitutional. He had reportedly approached police for assistance in a hate crime case but received no assistance because of his sexual orientation. The case was heard on 28 September by the Eastern Caribbean Supreme Court, acting as the High Court of Justice of Dominica, but at the time of writing no verdict had been reached.⁵

Examples of Enforcement

In **2001**, 15 women were arrested for allegedly engaging in same-sex sexual activity and thus sentenced to five years’ imprisonment for “gross indecency”. It is not clear if this constitutes a single case or several separate incidents.⁶

Also in **2001**, 10 men were sentenced to five years’ imprisonment for engaging in same-sex activity. It is also not clear if this constitutes a single case or several separate incidents.⁷

In **2012**, two American citizens aboard a cruise ship were arrested and charged with “buggery” after someone claimed to have witnessed the men having sex on the ship from a dock. The two men pleaded guilty and were fined nearly USD 900. The ship continued on its journey to Saint Barthelemy (France) without the men, who remained at police headquarters in Dominica.⁸



Grenada

Criminalising Provisions

Article 431 of the Criminal Code (1958) criminalises “unnatural connexion” with imprisonment for ten years. Further, Article 430 provisions that “whoever publicly and wilfully commits any grossly indecent act is guilty of a misdemeanour”.⁹

Enforcement Overview

Though the law does not seem to be consistently enforced, ILGA World was able to identify at least two examples of apparent criminal enforcement between 2011 and 2023 in Grenada.

In 2015 at the 156th Period of Session of the Inter-American Commission of Human Rights, it was reported that local activists claimed Grenada to be one of the only jurisdictions in the America’s which still prosecutes people for same-sex acts. The Commission recommended that Grenada decriminalise, and that the State implement a moratorium on the implementation of the law until such time as it could be repealed, but noted with regret that delegates from Grenada did not attend the hearing.¹⁰

In 2016, a man was reportedly arrested for “unnatural carnal knowledge”.¹¹ The news source reporting the incident frames this as a case of rape, and ILGA World was unable to verify any further details, as Grenada’s legislation does not differentiate between consensual and non-consensual same-sex sexual activity (this case is thus not tallied or included among the examples below). The article reporting the incident makes clear and inaccurate links between acts of sexual violence and same-sex sexual activity in general, which highlights the difficulty in verifying and documenting consensual sexual acts.

In 2019 the Eastern Caribbean Alliance for Diversity and Equality (ECADE), along with GrenCHAP, initiated a constitutional challenge to the criminalising law in Grenada,

² “Police shoot down gay website allegations”, *Dominica News Online*, 28 March 2013; “Dominica Prime Minister: ‘We will never accept same-sex marriage’”, *Pink News*, 10 July 2014.

³ “Dominica PM says no to same-sex marriage”, *Jamaica Observer*, 9 July 2014.

⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Dominica, A/HRC/13/12*, (2010) para. 33.

⁵ “Laws banning gay sex under challenge in tiny Caribbean nation”, *Reuters*, 19 July 2019; “Dominica High Court accepts challenge to sodomy laws”, *Erasing 76 Crimes*, 28 September 2022.

⁶ “Dominica Prime Minister: ‘We will never accept same-sex marriage’”, *Pink News*, 10 July 2014.

⁷ *Ibid.*

⁸ “Dominica Anti-Sodomy Law Lands Gay Cruise Ship Passengers in Custody”, *NBC News*, 22 March 2012.

⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Grenada* (accessed: 3 June 2023).

¹⁰ IACHR, *Report on the 156th Period of Sessions of the IACHR* (2015).

¹¹ *This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.*

as well as four other Caribbean States.¹² Such strategic litigation efforts saw success in Antigua and Barbuda, Saint Kitts and Nevis, and Barbados throughout 2022, though rulings for other countries in the region have yet to be made.¹³

Examples of Enforcement

In 2015, a UN Universal Periodic Review report documented that at least two people had been formally charged for consensual same-sex sexual acts. Per the report, GrenCHAP and Groundation Grenada allege that one man was convicted in 2011 and went on to serve a six-year prison sentence. The other individual was charged sometime between 2010 and 2015.¹⁴



Criminalising Provisions

Section 353 of the Criminal Law (Offences) Act (1893) punishes the crime of “buggery” committed either with a human being or with any other living creature, with imprisonment for life. Under Section 352, an attempt to commit buggery carries a penalty of imprisonment for 10 years. Additionally, Section 351 punishes acts of “gross indecency” between male persons, in public or private, with imprisonment for two years.¹⁵

In August 2021, President Irfaan Ali, gave assent to the Summary Jurisdiction (Offences) (Amendment) Act, repealing a provision which banned cross-dressing. This came two years after the Caribbean Court of Justice ruled in favour of a group of local trans women who argued that the law was “unconstitutionally vague and contravened their right to freedom of expression”.¹⁶

Enforcement Overview

In 2017, the government of Guyana announced a plan to hold a referendum on whether “homosexuality” should remain criminalised. However, this was opposed by SOGIE advocacy groups on the basis that it would only fuel homophobia within society and the public discourse.¹⁷

There have been numerous cases documented of the law against cross-dressing being enforced,¹⁸ though given that the ban has been lifted they have not been included in this

report. However, close monitoring of whether authorities abide by the repeal and respect the rights of those with diverse gender expressions and identities going forward is necessary.

While few cases of criminal enforcement relate to statutes still on the books, ILGA World notes at least one example of police targeting on the basis of sexual orientation at the time of publication.

Examples of Enforcement

It was reported that a gay man—apparently in 2014—was forced to strip naked and stand on a counter for hours by police when he went to the station to lodge a formal complaint against another person.¹⁹



Criminalising Provisions

Article 76 of the Offences Against the Person Act (1864) establishes that those convicted of “the abominable crime of buggery” shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years. An attempt to commit such an “abominable crime” is punishable under Article 77 with imprisonment of up to seven years, with or without hard labour. Article 79 criminalises “gross indecency” with another male person, in public or private, and establishes a penalty of imprisonment of up to two years, with or without hard labour.²⁰

In 2009 Jamaica introduced a new Sexual Offences Act (in force as of 2011), which establishes the rules for the “Sex Offender Register and Sex Offender Registry” at Sections 29 – 35. Under this law, a person convicted per Articles 76, 77 or 79 must be registered as a “sex offender”.²¹

Enforcement Overview

Between 1999 and the time of publication, ILGA World notes at least nine known cases of criminal enforcement or targeting by police as a result of criminalising legislation, though violence from police that falls outside the scope of this report is believed to also be widespread.

Though the law does not directly reference transgender people, transgender women and “homosexuals” are often conflated. Thus, gender-diverse Jamaicans, especially trans

¹² “The region which legislates who you can love”, *BBC News*, 1 January 2020; Human Dignity Trust, *Eastern Caribbean: Constitutional challenges to multiple laws criminalising same-sex activity* (accessed 2021).

¹³ “Antigua’s ban on same-sex acts ruled unconstitutional”, *BBC News*, 8 July 2022; “IACHR welcomes decision declaring criminalization of LGBTI consensual sexual activity unconstitutional in Saint Kitts and Nevis”, OAS, 7 September 2022; “Barbados High Court strikes down anti-gay laws”, *Erasing 76 Crimes*, 14 December 2022.

¹⁴ GrenCHAP et. al., *Report on Grenada 21st Round of the Universal Periodic Review – Jan/Feb 2015* (2014), para. 14.

¹⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Guyana* (accessed: 28 June 2023).

¹⁶ “Ali assents to bill to decriminalise cross dressing”, *Stabroek News*, 15 August 2021.

¹⁷ “Referendum to decide legality of homosexuality”, *Guyana Chronicle*, 20 April 2017; “Rights Groups believe referendum on anti-gay laws will only fuel more homophobia”, *News Source Guyana*, 24 May 2016.

¹⁸ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts*, (2019), 18.

¹⁹ Human Dignity Trust, *Country Profile: Guyana* (2021).

²⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Jamaica* (accessed: 28 June 2023).

²¹ *Ibid.*

women and gender-diverse men who are publicly visible, are most likely to suffer violence and discrimination, as a result of their gender expressions.²²

The Equality For All Foundation (J-FLAG) noted that rates of prosecution for “buggery” are “admittedly unclear, but reportedly low”. Statistics indicate that the majority of cases that result in conviction involve women and children being anally raped by adult men.²³ Jamaica is far from the only nation not to differentiate consensual and non-consensual “buggery” or “sodomy” in law, which serves only to obscure the marginalisation faced by those engaging in consensual same-sex sexual relations.

The use of criminalising laws by police to extort money from, or otherwise threaten those suspected of being gay or lesbian is all too common, however, as documented in the Examples of Enforcement below. These cases highlight the risks to safety and dignity to which such provisions expose persons of diverse-SOGIE, even if formal arrests and prosecutions remain rare.

Criminalising laws are also reportedly used by landlords to justify discrimination, by local media to publish hostile content, and by community members and religious leaders to justify violence against SOGIE persons. Reports on extrajudicial or community violence against trans women, gay men, and other visibly queer persons, are widespread.²⁴

Such discrimination and violence is well-documented by local organisations, such as the Equality For All Foundation, which informed ILGA World that in 2022 and the first half of 2023, there had been 24 reports of abuses against LGBT+ individuals, with each report featuring multiple human rights violations. These violations included, but were not limited to, mob violence, sexual assault, expulsion from local communities, and police discrimination.²⁵

Police are widely considered to be unreliable in dealing with such violence, either turning a blind eye to or actively exacerbating violence.²⁶ In 2013 Human Rights Watch interviewed a foot patrol police officer in Montego Bay who said he felt that SOGIE people were criminals who deserved the violence they experienced. Another officer from Montego Bay told Human Rights Watch that “gay men need to just stop being gay [...] They are just greedy”.²⁷

Prominent political figures also regularly espouse homophobic views, such as in 2009 when then-Prime Minister, Bruce Golding, publicly stated that:

We are not going to yield to the pressure, whether that pressure comes from individual organisations, individuals, whether that pressure comes from foreign governments or groups of countries, to liberalise the laws as it relates to buggery.

However, several notable political leaders, such as a nominee for Prime Minister in 2011, the Mayor of Kingston in 2015, and Prime Minister Andrew Holness in 2018, have spoken out against the violence and discrimination faced by SOGIE persons.²⁸

Perhaps as a result of statements such as these, some limited sensitisation among the police, and a dearth in verifiable cases of criminal enforcement, Jamaica is often not considered an “unsafe” country of origin for asylum seekers. But the unwillingness of State actors to decriminalise and address the ongoing violence, remains a pressing concern. In February 2021 the Inter-American Commission on Human Rights released its 2019 judgement in which it found that the government of Jamaica had “violated the rights of a gay man and a lesbian” who fled the country after facing mob and police violence.²⁹ A few months thereafter, however, in October 2021, a man who had lived in the United States for 16 years lost his appeal against deportation as he could not prove he would face “State-sanctioned persecution” in Jamaica over his sexual orientation. One judge in the appeals process also claimed that “police officers have protected gay people from violence”, as justification for the decision.³⁰

In 2015 an activist filed a claim at the Supreme Court, claiming that Jamaica’s criminalising legislation was a violation of his constitutional rights, and sought for courts to clarify that such legislation did not apply to consensual activity. Under Sections 13 (12) and 18 of the Jamaican Charter of Fundamental Rights and Freedoms, however, legislation criminalising same-sex acts between men is protected from being challenged on constitutional grounds, however. In April 2023, then, the Court of Appeal put the case on hold pending a second court case on whether the Supreme Court has the legal right to rule on this matter to begin with.³¹ Should it be decided that the Supreme Court has no authority to decriminalise same-sex acts, it is likely that a legislative process will be required to achieve equality in Jamaica.

Examples of Enforcement

A young gay man was arrested in **1999** after a third party accused him of having sex with another man. Police beat him with a stick and chanted repeatedly that gay people should be killed. When he was released into the custody of his mother, they loudly informed those in the vicinity of the charges against him. This act of “outing” resulted in repeated targeting and violence from members of the public.³²

In **December 2002** police arrested two women when they went to a common couples’ “hook-up” spot for New Year’s Eve celebrations. Other couples were present, but police only detained the “dirty lesbians” and threatened to charge

²² Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT people in Jamaica* (2014), 10.

²³ Information supplied by the Equality For All Foundation.

²⁴ Human Rights Watch, *Hated to Death: Homophobia, Violence, and Jamaica’s HIV/AIDS Epidemic* (2004); Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT people in Jamaica* (2014), 10; Human Dignity Trust, *Country Profile: Jamaica* (accessed 2021).

²⁵ Information supplied by the Equality For All Foundation.

²⁶ Human Rights Watch, *Hated to Death: Homophobia, Violence, and Jamaica’s HIV/AIDS Epidemic* (2004); Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT people in Jamaica* (2014), 33.

²⁷ Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT people in Jamaica* (2014), 33.

²⁸ Human Dignity Trust, *Country Profile: Jamaica* (accessed 2021).

²⁹ “International court finds Jamaica violated rights of gays”, ABC News, 17 February 2021.

³⁰ This entry has been redacted for the safety of those involved. For more information, please contact ILGA World.

³¹ “Gay rights activist’s constitutional challenge delayed”, *Jamaica Observer*, 2 April 2023; “Court seizes on a new way to delay challenge to Jamaica’s anti-gay law”, *Erasing 76 Crimes*, 14 April 2023.

³² Human Rights Watch, *Hated to Death: Homophobia, Violence, and Jamaica’s HIV/AIDS Epidemic* (2004).

them with “indecent and lewd exposure” if they didn’t pay a bribe. When the women refused, the police took them to the Portmore Police Station. At the station, the superintendent told the women that they were not going to be charged, but that their names would be recorded in a register.³³

In **2004** Human Rights Watch interviewed a young man who, because of his behaviour and manner of speech, was taken into custody on suspicion of being gay. They threatened to charge him with “gross indecency”, but when he pointed out that he was not engaged in sexual acts, merely talking to his friends in public, they angrily threatened to lock him up so that other detainees could rape him, and later charged him with “obstructing police on duty and resisting arrest”.³⁴

Also in **2004**, three friends were arrested by police for sitting together in a car. They were taken to a local police station and threatened with charges of “buggery”, but eventually released. Many men in Jamaica have been reportedly harassed or mocked by police for being in the same car as other men, though this does not always result in arrest or the threat thereof.³⁵

In **2010**, police threatened to arrest two lesbian women in Greater Portmore when they were found together in a parked car. They paid a bribe of 5,000 Jamaican dollars (USD 45) to be allowed to walk free.³⁶

In **October 2011** police in the capital, Kingston, arrested two men who were found allegedly having sex in a car parked in a secluded spot. Police videotaped the arrest and demanded a bribe to let them go, but as the pair were unable or unwilling to pay they were made to drive their

car to the police station and charged with “gross indecency and buggery”. While in detention, other inmates reportedly verbally abused and beat them, with police doing nothing to intervene. J-FLAG (now the Equality For All Foundation), a local organisation, managed to secure access to a lawyer for the men, but they were only released on bail after two weeks, with a trial date set for three months thereafter. On the advice of the lawyer, the pair accepted a plea deal for “gross indecency” instead of going to court, and opted thus to pay a fine of 250,000 Jamaican dollars (USD 2,225) rather than spend six months in jail.³⁷

In **September 2012** police approached two men who were sitting together in a parked car on suspicion that they were gay. They demanded a bribe of over 50,000 Jamaican dollars (USD 445) to permit the men to walk free without being arrested.³⁸

In **January 2013** police detained a gay man after he was violently assaulted by a homophobic mob in St. Anne. Police beat him in the vehicle en route to the station, and held him in handcuffs overnight. He was released the following morning and simply told to go to church.³⁹

In **April 2013** a gay Jamaican citizen who had returned from his home in Canada was travelling through the country with a local friend when the pair were approached by police. The friend had gone to a nearby bush to urinate out of sight of the public but police accused the two of having sex in the bushes, with one officer saying “it’s my word against yours”. Officers threatened to detain the pair and confiscate the Canadian resident’s passport, so the men opted instead to pay a bribe of 20,000 Jamaican dollars (USD 180) to walk free.⁴⁰

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Human Rights Watch, *Not Safe at Home: Violence and Discrimination against LGBT people in Jamaica* (2014), 37.

³⁷ *Id.*, 38.

³⁸ *Id.*, 36.

³⁹ *Id.*, 34.

⁴⁰ *Id.*, 36-37.



Asia

On 30 June 2023, 19 out of 42 UN Member States in Asia had legal frameworks explicitly criminalising consensual same-sex sexual acts: Afghanistan, Bangladesh, Brunei, Iran, Kuwait, Lebanon, Malaysia, Maldives, Myanmar, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Syria, Turkmenistan, United Arab Emirates, Uzbekistan, and Yemen.¹ Additionally, in Indonesia such legislation exists at the subnational level. Among these, several also criminalise diverse gender-expressions *de jure*.²

ILGA World has compiled a robust record of instances of enforcement documented across all jurisdictions in the region where criminalising laws are in place. Even when the frequency and intensity of these enforcement actions can vary from country to country, this comprehensive body of documentation underscores a consistent pattern: where such legislative provisions are operational, they pose a palpable and immediate threat to individuals of diverse sexual orientations, gender identities and gender expressions.

Additionally, the list of 25 UN Member States included in this chapter is completed by 5 jurisdictions where varying degrees of state-targeting have been observed, despite the absence of *de jure* criminalising legislation. In numerous of these countries, ILGA World has identified substantial documented evidence of people of diverse sexual orientations, gender identities, and gender expressions being subjected to targeting through an array of implicit or unrelated provisions. The list of these additional countries

includes Bahrain, Iraq, Jordan, Kyrgyzstan, and Tajikistan. It is worth noting that in the majority of these countries, tangible efforts are underway either to formalise the criminalisation of consensual same-sex sexual acts or to further restrict freedom of expression pertaining to issues related to sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC).³

Perhaps no country in this report better exemplifies the unpredictable and sporadic nature of enforcement than the Maldives, though, which rarely saw any enforcement of its anti-homosexuality legislation until 2022. A single incident there seems to have caused an unprecedented cascade of arrests in the country. It demonstrates that even countries considered “quiet” or “safe” can at any moment target people on the basis of laws once presumed defunct.

Despite these concerning developments, ILGA World has been able to take the positive step of removing Singapore from this report, after that country formally repealed Section 377A of its Criminal Code in November 2022 (in force 2023), thus decriminalising same-sex sexual acts. The fraught legal process to reach this point, however, did require that a ban on same-sex marriage be passed in order to appease conservative legislators.⁴ Prior to this, an amendment to Bhutan’s Penal Code saw that country decriminalise in 2021, and India repealed Section 377 of its own Penal Code in 2018, thus decriminalising same-sex acts there, too.

Afghanistan

Criminalising Provisions

Since the takeover by the Taliban in August 2021 as Afghanistan’s *de facto* government, the extent to which the legal frameworks of the Islamic Republic of Afghanistan are still in force has become unclear. In August 2021, senior commander Waheedullah Hashimi broadly explained how the Taliban government would be run and indicated that a council of Islamic scholars would determine the new legal system. The new government, according to Hashimi, “will be guided by Islamic law, not the principles of democracy”.

In October 2021, Human Rights Watch reported that Taliban officials in various provinces of Afghanistan were implementing a manual that enforces regulations that are

notably more stringent than the policies articulated by their leadership in Kabul. Moreover, it has been observed that the Taliban authorities frequently do not adhere to the rights protections delineated within this manual, which originates from the Taliban’s Ministry of Vice and Virtue. While the manual primarily focuses on enforcing regulations concerning what it terms as “vice”, its concluding sections provide guidelines applicable to all Afghans, as well as Taliban members. These guidelines include stringent restrictions on the behaviour of women and girls and imposes restrictive measures on personal autonomy and various liberties. Notably, it proscribes sexual relations outside of marriage, adultery, same-sex relations, and behaviours categorised as “immorality and

¹ For more information, see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts* (retrieved: 7 June 2023).

² See, inter alia: ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020); Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019).

³ For more information, see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts*; *ILGA World Database: Legal barriers to freedom of expression and ILGA World Database: Legal barriers to freedom of association* (retrieved: 07 June 2023).

⁴ “Singapore: UN Human Rights Office welcomes repealing of Section 377A of the Penal Code and decriminalisation of consensual sexual relation between men”, OHCHR, 3 December 2022; “S377A officially repealed after President Halimah gives assent to Bill”, *The Straits Times*, 4 January 2023; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Singapore* (accessed: 3 June 2023).

vice". Allegations of adultery or homosexuality must be reported to the ministry's district manager, presumably for further action, which may involve punitive measures.⁶

Enforcement Overview

Between 1998 and 2023, ILGA World has noted more than 65 examples of apparent enforcement or targeting in Afghanistan.

Most of the cases identified by ILGA World were enforced by the Taliban during the extremist group's *de jure* governance in the 1990s, while the group had only partial control of the Afghan territory, and after the *de facto* return of the Taliban government in 2021. The relative calm of the situation under the central US-backed government may give a false sense that it was a safer and more accepting period, but the UK Home Office reported in 2020 that the "lack of appetite to prosecute did not indicate an increased openness to homosexuality". Indeed, social stigma and violence remained, even in regions outside of Taliban control.⁷

As reflected below, there is evidence showing that teenagers have been arrested and charged with *liwat* (sodomy) by the central government. In 2017, a report found that at least 16 boys in the Kabul Juvenile Detention Centre were imprisoned for "moral crimes", mostly (though not exclusively) for "sodomy". The report further states that children can end up in adult prisons and that, among the 16 cases documented, five boys were given more than 24 months in prison.⁸

With the historical instability of the unified State government in Afghanistan, the social and legal situations of sexual and gender diverse communities have often been quick to shift and difficult to ascertain with certainty. However, the death penalty under Sharia law has remained a legal possibility throughout much of Afghanistan's recent history, and statements from the Taliban indicate an intention to resume this practice nationwide. Shortly before the group retook Kabul a Taliban judge confirmed to the German newspaper *Bild* that gay men would be killed under their regime, either by stoning or wall toppling.⁹

ILGA Asia and 138 supporting organisations showed concern about reports of the Taliban already implementing their strict version of Sharia law by August 2021 and expressed fear that LGBTQI+ people will be further criminalised and persecuted.¹⁰ These concerns proved to be well-founded, and by the following year ILGA Asia had collected testimonies indicating the existence of extrajudicial LGBTQ-only prisons in major cities in Afghanistan and in Baghlan province.¹¹

A report conducted by Human Rights Watch and OutRight

Action International in 2022 found that there has been a significant uptick in the criminalisation and active persecution of LGBTI individuals in Afghanistan since the Taliban assumed power, with the group's targeting "growing more systematic, more institutionalized" over the preceding year. The report makes reference to at least 98 cases of targeted violence against LGBTQI+ individuals, highlighting how diverse sexual orientations, gender identities, and even sex characteristics are not only subject to strict enforcement under the new Taliban rule but also exploited by neighbours seeking to settle old grievances, online contacts, romantic partners, and even families who frequently inform the Taliban about their relatives to secure personal protection.¹²

In line with the growing disregard for human rights, *Reuters* reported in 2022 that the Taliban had moved to dissolve the Afghanistan's Independent Human Rights Commission (AIHRC) since it was considered to be "unnecessary" and too costly to maintain in the wake of Afghanistan's ongoing economic crisis.¹³ The Ministry of Women's Affairs was also made defunct, with its offices being filled by the newly reinstated Ministry for the Propagation of Virtue and the Prevention of Vice. Through this Ministry, the Taliban enforces a "Bylaw of the Commission for Preaching and Guidance, Recruitment and Propagation of Virtue and the Prevention of Vice", which commands religious leader to ban same-sex relations. The Ministry is in charge of investigating and administering punishment for "strong allegations" of homosexuality through its district manager.¹⁴

The 2022 outbreak of the "Mpox" virus has been reported as being used as an excuse by the Taliban to increasingly round up and detain male individuals on the basis of their appearance, due to widespread beliefs that the virus was spread through same-sex sexual activity. Men without beards or wearing non-traditional clothing were reportedly targets for arbitrary detention, having their cell phones searched for "evidence of homosexuality" in order to arrest them. Therefore, many LGBTQ+ Afghans have been forced to adjust their appearance and behaviour and social interactions to avoid being targeted.¹⁵ Unsurprisingly, provisions targeting the appearance and gender expressions of Afghan people is most extensively directed at women and girls, regardless of their sexual orientation or whether they are gender-diverse in any way. Numerous women have been assaulted, held *incommunicado*, or even killed for not adhering to the Taliban's strict gendered dress-code or protesting against the curtailment of their rights.¹⁶

While the specific legal framework surrounding consensual same-sex sexual acts and diverse gender expressions has remained uncertain since 2021, there is extensive documentation of *de facto* authorities imposing severe

⁶ "Afghanistan: Taliban 'Vice' Handbook Abusive", *Human Rights Watch*, 29 October 2021. Note: ILGA World has been unable to obtain a copy of this document, reportedly titled: "By-Law of the Commission for Preaching and Guidance, Recruitment and Propagation of Virtue and the Prevention of Vice".

⁷ "Afghanistan LGBT community living under threat of death", *BBC*, 7 October 2016; UK Home Office, *Country Policy and Information Note, Afghanistan: Sexual orientation and gender identity or expression* (2020), para 4.2.2; "LGBTQ Afghans fearing for their lives", *Attitude*, 26 August 2021.

⁸ Samuel Hall, *Hope Behind Bars - The Boys of the Kabul JRC* (2017), 22-23.

⁹ "LGBTQ Afghans fearing for their lives", *Attitude*, 26 August 2021.

¹⁰ "Joint Statement on Afghanistan: Protect Women, Children, LGBTIQ & Other Vulnerable Persons", *ILGA Asia*, 18 August 2021.

¹¹ "Afghanistan: One year of the Taliban rule and the unknown future of LGBTIQ lives", *ILGA Asia*, 19 August 2022.

¹² OutRight Action International, *'Even If You Go to the Skies, We'll Find You': LGBT People in Afghanistan After the Taliban Takeover* (2022), 5-30.

¹³ "Taliban dissolve Afghanistan's Human Rights Commission, other key bodies", *Reuters*, 16 May 2022.

¹⁴ "Afghanistan: Taliban 'Vice' Handbook Abusive", *Human Rights Watch*, 29 October 2021; "Afghanistan: One year of the Taliban rule and the unknown future of LGBTIQ lives", *ILGA Asia*, 19 August 2022.

¹⁵ "Taliban using monkeypox as an 'excuse' to 'round up' and arrest LGBTQ+ Afghans", *Pink News*, 3 June 2022.

¹⁶ Institute on Gender, Law, and Transformative Peace at the City University of New York (CUNY) School of Law, *Gender Persecution in Afghanistan: A Crime Against Humanity (Part One: Severe Deprivation of the Fundamental Rights to Education, Assembly, and Expression)*, March 2023.

penalties on individuals based on their perceived or known sexual orientation, gender identity, or gender expression. These penalties encompass deprivation of liberty, public floggings in stadiums, and even capital punishment. The erosion of the rule of law has also resulted in the absence of due process, with numerous cases involving instances where Taliban members or their associates have resorted to physical violence, sexual assault, psychological abuse, entrapment, public exposure, extortion, public humiliation, and even coerced repentance rituals. Additionally, as reflected in the examples listed below, officials at checkpoints have engaged in physical abuse against individuals they perceive as non-heterosexual, and they have misused their authority to subject gender-diverse individuals to physical violence and public humiliation.

Examples of Enforcement

In **February 1998** three men in Kandahar were sentenced to death by the Taliban: two for “sodomy” and one for “anal rape”. They had a large wall pushed onto them by a tank. Only one of the men managed to survive and was sent to prison, where he served six months before fleeing to Pakistan.¹⁷ This case is not listed in the tally of examples of enforcement above as some sources indicate that all three men were engaging in activities with minors, but it is outlined here as a known example of an execution for same-sex acts under the rule of the Taliban. It also serves to highlight the difficulty in identifying consensual same-sex sexual activity under legal frameworks that conflate such acts with rape.

It was reported on **24 March 1998** that two young men, each over the age of 18, were executed by the Taliban in the province of Herat. News of the execution came from the Taliban-controlled *Voice of Shariat* radio station, which reported that the men were executed for sodomy, after having confessed, by having a wall bulldozed onto them.¹⁸

It was reported in **September 2004** that an American acting as an advisor to the newly elected government’s Finance Ministry was arrested by Afghan officials for engaging in same-sex sexual activity in exchange for money with a local 18-year-old. Further details regarding legal action are not known.¹⁹

According to the Afghanistan Independent Human Rights Committee (AIHRC) in **2006**, police arrested many teenagers and children after catching them having sex with adults. These minors were not considered by law enforcement to be victims of rape or trafficking and were rather incarcerated as adults for same-sex sexual activity. One source alleges that Afghan authorities, supported by the US-led military coalition, were still jailing teenagers convicted of homosexuality in a Kandahar prison, despite the end of the Taliban government. No further details could be verified at the time of publication.²⁰

In **2015**, the extrajudicial sentencing of three gay men to

death by “wall toppling” imposed by a parallel justice court was reported by the UN Assistance Mission in Afghanistan. Having survived the process, a 17-year-old accused of sodomy was allowed to live.²¹

On **15 August 2021**, as the Taliban gained control over the capital, Kabul, in the wake of the withdrawal of US troops from the country, a young gay man was beaten and beheaded outside his home. The boyfriend of the victim stated that “the Taliban said this is what we do to LGBT+, to set an example”, and claimed there was a dedicated branch of the Taliban going “street by street” to find individuals of non-normative sexual orientations, gender identities or gender expressions. This comes after a Taliban judge, Gul Rahim, stated to media that gay men would be killed under their regime.²²

A gay man interviewed in **August 2021** claimed: “one of my relatives was killed by the Taliban last week because he was gay”. Further details are not known.²³

Another young gay man stated in **2021** that he was trying to evade the Taliban by hiding in a building with his family near Kabul. They had initially fled his home province after two young gay men were shot after an informant told the Taliban that they were in a relationship.²⁴

In **August 2021**, a gay man in Kabul was entrapped through social media by two individuals associated with the Taliban, who impersonated a gay man offering assistance in fleeing the country in order to lure him into meeting them in person. Upon meeting, he was violently assaulted and raped. He was also forced to provide his father’s contact information to the Taliban, who subsequently informed him of his son’s sexual orientation.²⁵

According to OutRight Action International, in **August 2021** during the aftermath of the Taliban takeover of Kabul, a 20-year-old man visited his former workplace to collect his wages. Despite working in an undisclosed profession targeted by the Taliban, he proceeded with his visit. At a Taliban checkpoint, an armed individual directed a homophobic slur toward him before physically assaulting him. He was subsequently taken to a separate location, where he was subjected to an eight-hour gang rape by four Taliban members. Following his release, the Taliban members warned him that they could locate him at will and subject him to further abuse. Subsequently, two men arrived at his workplace seeking access to his personal information, including his and his family’s addresses. In response, he went into hiding. However, Taliban members repeatedly visited and occupied his family’s residence and subjected them to questioning and physical assault. The members of the Taliban insinuated that they had been conducting surveillance to ascertain whether he had attempted to leave the city or the country. He avoided venturing outside his place of hiding, but when he eventually left to seek medical attention, a Taliban member he believed to have knowledge of the assault saw him and attacked him.²⁶

¹⁷ United States Department of Justice, *Afghanistan: Sexual Minorities, REF 270209* (2009), 7.

¹⁸ “Afghanistan Kills 2 for Sodomy”, *News Planet*, 24 March 1998. Archived in: GLAPN.org; United States Department of Justice, *Afghanistan: Sexual Minorities, REF 270209* (2009), 8.

¹⁹ “American Arrested in Afghanistan on Suspicion of Homosexuality, Soliciting, Officials Say”, *Pak Tribune*, 1 September 2004. Archived in: GLAPN.org.

²⁰ United States Department of Justice, *Afghanistan: Sexual Minorities, REF 270209* (2009), 8-9.

²¹ United Nations Assistance Mission in Afghanistan, *Afghanistan Annual Report 2015: Protection of Civilians in Armed Conflict* (2015), 51.

²² “LGBTQ Afghans fearing for their lives”, *Attitude*, 26 August 2021.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ “Afghanistan: Gay man in Kabul ‘raped and beaten’ by Taliban after being tricked into meeting”, *ITV*, 28 August 2021.

²⁶ OutRight Action International, *‘Even If You Go to the Skies, We’ll Find You’: LGBT People in Afghanistan After the Taliban Takeover*, 2022, 13-14.

A young man reported in **August 2021** that he had expressed his romantic interest in a neighbour. Since the neighbour did not reject his proposal, he remained hopeful that a relationship might develop between them. However, after the Taliban took over their city, he discovered that his neighbour had pictures of Taliban members as his display picture on his social media. He then texted him to question his association with the Taliban, and the neighbour responded with threats, including that he had shared his information with Taliban groups. Afterwards, the neighbour and other Taliban members repeatedly searched for him at his home for a week, but his family members concealed him until he was able to flee.²⁷

It was reported that about a **week before** the Taliban takeover in **2021**, a 21-year-old gay man in one of Afghanistan's major cities that had posted videos of himself dancing on social media, worked as a model, and appeared in music videos online, received a threatening message from a man demanding sex and threatening to kill him if he refused. He deleted his social media accounts but still had the videos on his phone. **Two months later**, while on his way to university, he was reportedly stopped by three Taliban members who interrogated him about his clothing and short beard. They searched his phone and found his videos, which they deemed "anti-Islamic". They proceeded to beat him, calling him a *dokhtar chap* ("sissy") and hitting him in the face with their guns. The Taliban warned him that if he made more such videos they would come back and do "much worse" to him.²⁸

The same day that the Taliban retook Kabul in **2021**, a gay man was arrested and brutally beaten by Taliban members who wanted to force him to disclose his sexual orientation to them. The victim was deprived of liberty for 10 days with almost no food, and was subjected to physical violence. After this period, he was placed under house arrest, and had all of his belongings confiscated. The man reportedly moved to another part of the country to escape persecution.²⁹

A report launched by Rainbow Railroad noted that after the Taliban takeover in **2021**, Taliban members captured a gay man, deprived him of his liberty for three days, tortured and raped him. After the victim's ordeal, his attackers warned him that he would be killed if he spoke about the attack. The victim also reported that his partner had been killed during the evacuation at Hamid Karzai International Airport earlier that year.³⁰

A few days after the Taliban retook Afghanistan in **2021**, they captured a bisexual man, holding him for more than a week before he managed to escape. No further details are known.³¹

Outright International noted the case of a 23-year-old who reported that at an **undisclosed date** an unknown individual obtained his cell phone number and coerced him to meet. At the meeting, the individual, who identified himself as a member of the Taliban, raped him and threatened to kill him if he disclosed what occurred.

According to his recollection, the perpetrator stated, "I will tell my superiors and we will tell everyone, and we will kill you". After 12 days, his family discovered the assault, and turned on him. Fearing for his safety he fled his city, as he received threats from his uncles and cousins.³²

It was reported that in **September 2021** a group of armed men in traditional attire visited the family home of a 40-year-old man who was working with an organisation providing HIV testing services. He took shelter in the back of the house while his brother confronted the visitors at the door. One of the armed men claimed, "we know he works for an organisation that deals with homosexuals. He is involved in homosexuality and takes homosexuals to different places". The man thus disguised himself as a woman wearing a blue chadar and escaped the city with his wife. Meanwhile, however, the armed group detained his brother and subjected him to physical assault and questioning about his brother's whereabouts for three days at a police station.³³

In **August 2021** a group of eight Taliban soldiers and the uncle of a lesbian woman arrived at her home in search of her. She managed to hide from them, but they beat her father – breaking his arm – when they could not find her. They demanded he marry her off to a member of the Taliban, but left when the father denied that his daughter was a lesbian. The woman has claimed that soldiers occasionally return to their home to beat her and her father because she remains unmarried, saying "I became a prisoner in my home to stay alive".³⁴

In **September 2021** a young trans woman was stopped by the Taliban for being out in public without a male relative to escort her. Upon discovering that she was trans, though, they began to beat her. She fled the scene successfully, but was reported to the Taliban again in **October** when her boyfriend's family learned of her gender identity, and she went into hiding in a "remote area".³⁵

In **October 2021** an angry mob attacked a trans woman in her home, forcibly removing her clothes and beating her. Shortly afterward, members of the Taliban arrived at the scene and forcefully took her away in their vehicle, transporting her to an undisclosed location. For the next 10 days the Taliban held her captive, keeping her naked and subjecting her to daily beatings and verbal abuse. They shaved her hair and eyebrows, broke her nose during the course of her captivity. They told her: "You will serve as a warning to the public and your trans community". Eventually, the Taliban abandoned her on the streets, warning her that if she returned to the area, they would kill her.³⁶

In **October 2021** Taliban soldiers raided a wedding in a village in northern Afghanistan and arrested a 24-year-old trans woman who had been hired to perform as a dancer and singer at the event, along with nine of the hosts. They were blindfolded and transported to a dark basement where they endured three days of physical and verbal abuse. Subsequently, the woman was escorted by the

²⁷ *Id.*, 18.

²⁸ *Id.*, 23.

²⁹ Rainbow Railroad, *No Safe Way Out: Human Rights violations against LGBTQ+ people under the Taliban* (2022), 17.

³⁰ *Id.*, 21.

³¹ *Id.*, 17.

³² OutRight Action International, *'Even If You Go to the Skies, We'll Find You': LGBT People in Afghanistan After the Taliban Takeover*, 2022, 14.

³³ *Id.*, 26.

³⁴ OutRight Action International, *"A Mountain on My Shoulders": 18 Months of Taliban Persecution of LGBTIQ Afghans*, 2023, 18.

³⁵ *Id.*, 20-21.

³⁶ *Id.*, 16-17.

soldiers to a mosque, where she was publicly shamed by the mullah. The mullah proclaimed to the public that people like her were "cursed" and deserving of "hellfire". Only after being forced to perform a public repentance ritual and having her relatives assure community leaders that she would no longer engage in dancing or "homosexual activities", was she released. She fled her village two months later due to ongoing harassment, including neighbours chasing and pelting her with rocks when she ventured out to buy groceries.³⁷

In **December 2021** a 24-year-old trans woman and a friend were arrested by Taliban soldiers at gunpoint, calling them both "hated insects". They were whipped at a police station and photographed before being released. The trans woman has stated that she fears the photographs taken of her could be used to rearrest her, and has thus gone into hiding.³⁸

Sometime in **2021** a 19-year-old gay man was stopped at a Taliban checkpoint. The soldiers found "signs of homosexuality" on his phone and arrested him. He was given 80 lashes on his back for being gay, and another 80 lashes on his feet for having a tattoo.³⁹

A 15-year-old trans girl was detained at a Taliban checkpoint in **early 2022**. They searched her phone for evidence of same-sex activity and demanded that she reveal the locations of other LGBTQ+ people. When she was unable to do so, she was beaten and mocked for wearing makeup. They released her after a few hours on her assurance that she would not do it again.⁴⁰

In **January 2022** a gay man went missing and was found dead a month later with evidence of having been severely beaten and raped. His family have claimed that he had been captured and executed by the Taliban.⁴¹

Two young trans women entrapped and handed over to the Taliban in **February 2022**, thinking that they had been hired perform at a party. They had their hands bound and were whipped, insulted and threatened. Their manicured nails were clipped before they were released on promises that they would stop dancing and wearing makeup.⁴²

In **June 2022**, the Taliban arrested the head of the prosecutor's office of the Court of Appeal from the province of Ghor. He was arrested on the accusation of having sexual relations with a militant. The grounds for the arrest reportedly stemmed from the militant's complaints to a doctor.⁴³

On **24 June 2022**, a gay man was detained and raped by six Taliban members in Kabul. The victim is reported to have fled the country soon after. This incident was a part of a growing trend of targeting of gay, bisexual or gender non-conforming men in the name of combatting the spread of

the "Mpox" virus within Afghanistan.⁴⁴

In **June 2022** the Dand Patan district of the Paktia province saw the arrest of nine gay men on charges related to their involvement in same-sex sexual activity. This came as a result of a tip-off received by the Ministry for the Propagation of Virtue and the Prevention of Vice, leading to an investigation and subsequent arrests.⁴⁵

In **July 2022** a trans man, who had gone into hiding at the home of a relative because of threats made against him by family members, was warned that the Taliban were searching for him. His hosts cut power to the house so that he could remain hidden under cover of darkness, though Taliban members vowed that they would find him, saying: "We won't tolerate this kind of ignorance and disobedience. We will find [him] and deal with [him] about [his] sin".⁴⁶

A gay man who had worked at a healthcare outreach NGO was targeted by the Taliban in **July 2022**. They demanded the names of LGBTQ+ persons to whom he had provided health services. When he was unable to do so, they took him to a small police post, threatening to transfer him to a larger station where he would face electric shocks if he did not cooperate. One Taliban member agreed to release him in exchange for sex, though he claims to have been beaten by the Taliban at least five times since then because he does not grow his beard out and has several gay and transgender friends.⁴⁷

On **23 July 2022** a 21-year-old trans woman was stopped in the street by two apparent Taliban members, who instructed her to get into their vehicle. After she refused, they dragged her into their car while one of them announced into a walkie-talkie that they had found another *nar omad* (a derogatory term for trans women). She was taken to a police station where she was beaten, dragged across the floor, and whipped. She was only able to leave after agreeing to have sex with a guard in exchange of her release.⁴⁸

Four trans women and a 16-year-old trans girl were attacked by Taliban forces in a raid of a party they had been attending in **August 2022**. The fates of the four women are not known, though the 16-year-old was knocked unconscious in the commotion, awaking in a hospital. At first, staff there refused to offer medical assistance to her, though one doctor eventually did despite fear of retribution against him. He encouraged her to go into hiding to avoid being detained again.⁴⁹

In **August 2022** a 22-year-old gay man was kidnapped and subjected to torture leading to his death at the hands of Taliban members. This occurred following the individual's detention at a checkpoint in Kabul, where it is believed that his phone was searched to provide justification for his

³⁷ *Id.*, 21-22.

³⁸ *Id.*, 29-30.

³⁹ "From in-between fear and hope: A glimpse at the perilous situation of LGBTQ community in Afghanistan", *Zan Times*, 11 August 2022; "The Taliban Issued Four Orders of 'Killing Under the Wall' on the Charge of Sodomy", *Afghan LGBT Association*, 4 May 2023.

⁴⁰ OutRight Action International, "A Mountain on My Shoulders": 18 Months of Taliban Persecution of LGBTQ Afghans, 2023, 26-27.

⁴¹ *Id.*, 20.

⁴² *Id.*, 23.

⁴³ "«Талибан» арестовал своего прокурора за содомию с боевиком" [Taliban arrest their prosecutor for sodomy with militant], *Moskovskij Komsomolets*, 18 June 2022.

⁴⁴ "Taliban using monkeypox as an 'excuse' to arrest LGBTQ+ Afghans", *Pink News*, 3 June 2022.

⁴⁵ "9 held for homosexuality in Paktiya", *Afghan Islamic Press*, 5 June 2022.

⁴⁶ OutRight Action International, "A Mountain on My Shoulders": 18 Months of Taliban Persecution of LGBTQ Afghans, 2023, 17.

⁴⁷ *Id.*, 25-26.

⁴⁸ *Id.*, 22.

⁴⁹ *Id.*, 26.

arrest. The Taliban later reportedly sent a video recording of the victim's murder to his family.⁵⁰

According to a BBC news article dated **23 November 2022**, 12 people were publicly flogged in a stadium in Logar Province, reportedly for "moral crimes" including adultery, robbery, and same-sex sexual acts. Three of the accused were women and were released after being flogged, while an unknown number of the nine men were jailed afterward. This occurred shortly after the Taliban's supreme leader, Hibatullah Akhundzada, instructed judges to implement punishments for certain crimes in line with the Taliban's interpretation of Sharia Law.⁵¹ The article notes that a similar incident occurred **the week prior**, though it is unclear whether the accused in that case were specifically charged with same-sex activity.

In **December 2022** it was reported that 27 individuals, some of whom were facing charges of "sodomy" and "debauchery", were publicly flogged in a stadium under the order of the Sharia Court of Parwan Province. The specific number of individuals being prosecuted for same-sex sexual acts among those who were flogged is unclear.⁵²

On **1 December 2022**, Afghanistan's Supreme Court announced on social media that 21 individuals—15 men and six women—were found guilty by the Kabul Urban Sharia Court of various crimes including "homosexuality", though the specific punishment meted out is unclear.⁵³

An article from VOA News dated to **19 December 2022** indicates that 22 people were publicly flogged in a sports stadium in Jowzjan Province for various crimes, including "adultery [and] gay sex". The accused received between 25 and 39 lashes each. It is important to note that the maximum number of lashes a person can receive according to the Taliban is 39.⁵⁴

A trans woman interviewed by Outright Action International in late 2022 said that she had been pulled from her vehicle at a Taliban checkpoint between two cities, having failed to remove all of the nail-polish from her fingers before going out in public. They shaved her head to give her a "proper masculine hairstyle", leaving her head bleeding in the process, and beat her. They allowed her to leave when she contacted someone to escort her away from the area.⁵⁵

Another Outright interview conducted in **late 2022** came from a gay man who was arrested, likely because of his attire, and subjected to sexual assault and electric shocks at a local jail.⁵⁶

Another gay man recounted to Outright in **late 2022** that he had been arrested along with a transgender woman. The woman, having developed breasts while on Hormone Replacement Therapy, was said to have been subjected to "particularly harsh abuse" by Taliban forces.⁵⁷

Based on a **2022** report by Rainbow Railroad, Taliban members beat a gay man in front of a crowd at a market because "he appeared different from others". With the limited information provided, it is known that after this incident the man stopped leaving his home, relying on his friends to deliver food and medicine.⁵⁸

The **2022** Rainbow Railroad report also mentioned a case in which Taliban members beat and threatened to shoot a trans woman in a market, referring to her as an "infidel". She managed to escape with the help of others who were present.⁵⁹

The **2022** report also outlined the case of a gay man who was stopped by the Taliban while he was in his vehicle, having a phone call with his same-sex partner. They forced the victim to hand over his phone, where they found photographs of the couple. He was beaten and compelled to reveal his partner's address. He managed to escape and hide after lying to the Taliban that he would find and turn in his partner. Since then, Taliban members have repeatedly harassed the victim's mother in an attempt to find him.⁶⁰

Per the **2022** report, a lesbian woman who was forced to marry a man was reported to the Taliban by her husband, who subsequently placed her under house arrest with a relative.⁶¹

The **2022** Rainbow Railroad report also mentioned two separate cases of gay men who managed to escape Taliban raids on their homes. One of the men continued to receive threatening phone calls after the incident, while the other had an arrest warrant issued against him.⁶² One bisexual man, while not arrested, reportedly received threats from members of the Taliban saying they would "cut off his head and feed it to dogs if they find him".⁶³

According to the **2022** report published by Rainbow Railroad, a bisexual man and his family were accused to the Taliban of supporting and assisting LGBT+ people. The Taliban arrested one of their relatives, who was forced to reveal the man's location. No further details are known at present.⁶⁴

A gay man was arrested and brutally beaten by Taliban members who wanted to force him to disclose his sexual

⁵⁰ "Taliban kill 22-year-old gay man in Afghanistan", *Gay Sonoma*, 20 October 2022.

⁵¹ "Three women among dozen publicly flogged in Afghanistan - Taliban official", *BBC*, 23 November 2022 [Archived]; "Taliban persecution against LGBTIQ Afghans heightens", *Los Angeles Blade*, 21 February 2023.

⁵² "Afghanistan: 27 personnes fouettées en public, au lendemain d'une première exécution", *RTL info*, 8 December 2022.

⁵³ "۲۱ مجرمینو نه تعزیری سزا ورکړل شوه" [21 criminals were sentenced to punishment in the Kabul Urban Sharia Court], *Supreme Court of Afghanistan (@SupremeCourt_af)* [Twitter], 1 December 2022 [Accessed at 10 April 2023]; "Taliban persecution against LGBTIQ Afghans heightens", *Los Angeles Blade*, 21 February 2023.

⁵⁴ "Afghan Taliban Announce New Round of Public Floggings", *VOA News*, 19 December 2022; "Taliban persecution against LGBTIQ Afghans heightens", *Los Angeles Blade*, 21 February 2023.

⁵⁵ OutRight Action International, "A Mountain on My Shoulders": 18 Months of Taliban Persecution of LGBTIQ Afghans, 2023, 24.

⁵⁶ *Id.*, 29.

⁵⁷ *Id.*, 29.

⁵⁸ Rainbow Railroad, *No Safe Way Out: Human Rights violations against LGBTQ+ people under the Taliban* (2022), 12.

⁵⁹ *Ibid.*

⁶⁰ *Id.*, 13.

⁶¹ *Id.*, 14.

⁶² *Id.*, 15.

⁶³ *Id.*, 13.

⁶⁴ *Id.*, 15.

orientation to them, it was reported in **2022**. The victim was deprived of liberty for 10 days with almost no food, and was subjected to physical violence. After this period, he was placed under house arrest, and had all of his belongings confiscated. The man reportedly moved to another part of the country to escape persecution.⁶⁵

Another gay man, reported in **2022** as having been arrested at least twice, was waterboarded, burned, and held in another city by the Taliban in order to prevent him from getting help.⁶⁶

Taliban members arrested, abused, and stabbed a lesbian woman two times, according to the **2022** Rainbow Railroad report. No further details were disclosed on this case.⁶⁷

It was reported in **2022** that the partner of an intersex person was arrested by the Taliban. After the arrest, the Taliban threatened the intersex individual by phone, demanding that they report to the police station, or their partner would be killed. They broke their phone to avoid being traced and fled.⁶⁸

Taliban members arrested and abused a gay man, according to the **2022** report. The victim managed to escape, but a provincial police official reportedly sent a letter to his home accusing him of “committing sexual immorality”. The letter also warned the victim that: “We are allowed to kill and to stone you and people like you to death”.⁶⁹

According to the **2022** report, local leaders of the Taliban regime issued an arrest warrant for a gay activist. The victim was accused of “working under the name of the so-called human rights and rights of sexual minorities, which has disgraced the Muslim community and promoted prostitution”.⁷⁰

It was reported in **2022** that a gay couple had been arrested by the Taliban after their relationship had been exposed to the public, though the pair managed to escape. Consequently, the Ministry of Interior Affairs, Provincial Police, Directorate of Counter-Criminal Crimes, among others, issued individual orders for both to report to the police station.⁷¹

Taliban members captured a trans woman and her boyfriend, according to the **2022** report. They were subjected to physical violence and torture, with the boyfriend being severely beaten, while the trans woman was shaved and had her tattoos burned with hot metal.⁷²

Per the **2022** report, Taliban members violently beat and arrested a gender-fluid person and their partner. According to the limited information available, the couple managed to escape and fly to Kabul, hoping to flee the country, however, their passports had expired, and they risked

exposure if they tried to obtain new ones. The report also made mention of a gender-nonconforming activist who had their home burned down by the Taliban, forcing them to spend 10 months in hiding in the mountains.⁷³

The **2022** Rainbow Railroad report, making only brief mention of most of the cases outlined above, contains several additional cases deemed likely duplicates of those already identified in previous years. It does, though, also make mention of 10 individual cases of persecution that did not result in arrest. At least five gay and five bisexual men whose cases appear to not be duplicated above were the victims of threats and intimidation, beatings, and sexual violence between the Taliban takeover and the report’s publication. The numbers are undoubtedly higher than can be documented, and likely include many women and gender-diverse persons.⁷⁴

In **January 2023**, nine men were publicly flogged at a sports stadium in Kandahar Province by the Taliban. The lashings were carried out in front of officials, religious clerics, elders, and local people, with each man being struck between 35 and 39 times. While the specific crimes of the men were not disclosed by the Taliban, the country’s Supreme Court stated that they were charged with robbery and “sodomy”, according to a local news broadcaster.⁷⁵

On **4 May 2023** the Afghan LGBT Association (ALO) reported that the Taliban Supreme Court had sentenced 37 people to death by stoning and four more to death by “killing under the wall” for “adultery and sodomy”. The ALO has indicated that the four people receiving the latter punishment were accused of “sodomy”.⁷⁶

Bangladesh

Criminalising Provisions

Section 377 of the Penal Code (1860) criminalises “unnatural offences”. This is defined as “carnal intercourse against the order of nature with any man, woman or animal” and penetration is “sufficient to constitute the carnal intercourse”. Those found guilty are punished with up to imprisonment for life and shall also be liable to fine.⁷⁷

Enforcement Overview

Besides Section 377 of the Penal Code other legislation has reportedly been used to harass, arrest and charge suspects

⁶⁵ *Id.*, 17.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Id.*, 18.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² *Id.*, 19.

⁷³ *Id.*, 23.

⁷⁴ *Id.*, 19-23.

⁷⁵ “Taliban publicly flogs nine men up to 39 times in football stadium”, *The Independent*, 18 January 2023; “Taliban persecution against LGBTIQ Afghans heightens”, *Los Angeles Blade*, 21 February 2023.

⁷⁶ “The Taliban Issued Four Orders of “Killing Under the Wall” on the Charge of Sodomy”, *Afghan LGBT Association*, 4 May 2023.

⁷⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Bangladesh* (accessed: 25 June 2023).

since at least 2014.⁷⁸ Social stigma and vigilante violence also remains a significant issue, according to activists from Bangladesh interviewed by ILGA World. Though Bangladesh has taken steps to acknowledge and protect “third-gender” individuals (hijra), police and social attitudes toward such groups appears broadly negative. Arbitrary arrest of hijra for begging or vagrancy is, according to some human rights defenders, disproportionately common.⁷⁹ Extrajudicial attacks by extremist groups or mobs have also been documented against persons of diverse-SOGIE, with police sometimes being unable or unwilling to intervene.⁸⁰

In 2019, the UN Committee Against Torture expressed concern about reports of violence against lesbian, gay, bisexual and transgender individuals by law enforcement officials, which is facilitated by the criminalisation of consensual same-sex sexual relations as “unnatural behaviour”.⁸¹

In July 2021, a gay asylum seeker was sentenced to 12 months in prison for “illegally” trying to stay in the UK due to the threat of life imprisonment if he was deported back to Bangladesh.⁸² His case, paired with the examples of enforcement outlined below, underscores the potential threat faced by refugees fleeing countries that are generally considered “safe” due to a lack of publicly available information on enforcement.

Despite this lack of information, ILGA World has identified at least six examples of enforcement between 2013 and 2023.

Examples of Enforcement

Two girls were arrested on **23 July 2013** in the capital city of Dhaka for eloping and marrying each other in a symbolic Hindu ceremony. The younger girl’s father reported her missing to police, and though she was a minor she was also held, and both were threatened with life imprisonment for their same-sex relationship. It is not known from reporting whether any sexual activity took place.⁸³

In **April 2016** during the Bengali New Year celebrations, four individuals accused of participating in an unauthorised “rainbow rally” at Dhaka University were arrested. This came as an apparent response to threats of violence against the rally from religious extremists, and police officials said that those who were detained would be released later the same day.⁸⁴ Some local activists have claimed that the rainbow rally had been cancelled the previous night due to the threat of violence, and that the gathering was an unrelated event, with the police arrests

being purely because of their association with the LGBTQ+ movement.⁸⁵

On **19 May 2017** the Rapid Action Battalion (RAB), a special forces branch of the Bangladeshi police, arrested 26 gay people from the Atibazar Shady Community Center in Keraniganj, near Dhaka. Later, a case was registered against them under the Narcotics Act and they were also remanded in police custody.⁸⁶

In **May 2017**, the RAB was mobilised to raid a gathering in Dhaka. Between 20 and 30 men were arrested, had lubricant and condoms confiscated, and were outed in the media as gay. They were accused of holding a “homosexual party”. All were eventually released and granted bail after one week, though a narcotics case was opened against them due to marijuana and other drugs being found at the scene.⁸⁷

On **15 September 2020** an individual identified in local media as a “well-known woman” who has been identified by local activists as a transgender man was arrested for homosexual activity. Some media outlets have claimed the accused had a habit of “forcing girls into homosexuality”, and it is unclear to what degree this is the interpretation of detractor media, or if some form of coercion or blackmail was involved.⁸⁸

In late **October 2020** the RAB arrested two young lesbian women in Patuakhali in a raid. The pair met online and fled their homes to live together in peace, but the family of one of the pair alerted police to an “abduction” and both were taken in for investigation.⁸⁹



Criminalising Provisions

While Bahrain is the only nation among the Gulf States to not criminalise consensual same-sex sexual activity, four instances of *de facto* criminalisation and targeting through other laws and policies between 2011 and 2023 have come to ILGA World’s attention, resulting in the country’s inclusion in this report. Persons of diverse gender expressions seem to be particularly targeted. Some transgender individuals have even claimed that the lack of legal gender recognition in the country precludes them from amending their identity documents, putting them in

⁷⁸ “Sexual minorities being harassed”, *The Daily Star*, 12 December 2014; Kaleidoscope Trust, *Speaking Out 2015: The Rights of LGBTI People Across the Commonwealth* (2015), 48.

⁷⁹ Bangladesh Legal Aid and Services Trust, *From Recognition to Realising Rights: Legal Protection of Gender Identity In Bangladesh Law*, December 2019; “Bangladesh: Human rights activists outraged at arrests of trans women for begging”, *Erasing 76 Crimes*, 7 March 2023.

⁸⁰ “Sexual minorities being harassed”, *The Daily Star*, 12 December 2014; “Two gay rights activists hacked to death in Bangladesh”, *Aljazeera*, 26 April 2016; “Bangladesh: Investigate LGBT murders”, *Human Rights Watch*, 26 April 2016; “Militant attacks force Bangladesh’s gay community into hiding”, *Reuters*, 18 May 2016; “A transgender woman’s struggle to be herself in Bangladesh”, *European Civil Protection and Humanitarian Aid Operations*, 1 February 2022.

⁸¹ Committee against Torture, *Concluding observations on the initial report of Bangladesh*, CAT/C/BGD/CO/1 (2019), para. 23.

⁸² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸³ *Ibid.*

⁸⁴ “Four revellers held after Bangladesh bans ‘rainbow rally’”, *Daily Mail*, 14 April 2016.

⁸⁵ Information supplied by an anonymous activist in Bangladesh.

⁸⁶ Information supplied by Noboprobhaat.

⁸⁷ Inclusive Bangladesh; “Bangladesh ‘Gay Party’ Raid Flouts Privacy Rights”, *Human Rights Watch*, 25 May 2017; “Bangladesh: 28 men suspected of being gay freed”, *Amnesty International*, 11 August 2017; ILGA Asia, *An Unsafe Haven: Challenges of Bangladeshi LGBTIQ people inside and outside the community* (2021), 10.

⁸⁸ Information supplied by Inclusive Bangladesh.

⁸⁹ Information supplied by Noboprobhaat and Inclusive Bangladesh.

conflict with police who accuse them of forgery.⁹⁰

In December 2017 the UN Human Rights Committee requested that the government of Bahrain “provide information on the legal and practical measures taken to combat discrimination on the basis of SOGI, [and] respond to reports that persons have been prosecuted for same-sex conduct under provisions of the Penal Code regarding, inter alia, ‘debauchery’ and ‘obscenity’”.⁹¹ The following year, the Bahraini delegation responded simply that:

No trials have been conducted on the basis of gender identity or homosexual behaviour, but they would be if such acts were to take place in public, where they would constitute the offence of a scandalous act offending public decency (article 350 of the Criminal Code) or indulging in an immoral practice without remuneration (article 326 of the Criminal Code).⁹²

Indeed, throughout 2020 and 2021, ILGA World located several online reports issued by the Bahraini Police informing on several instances arrests for acts of “indecentcy” and on detainees being referred to prosecution for such acts. Some of these instances involved more than a dozen people. However, reports do not contain enough information to ascertain whether any of these arrests involved people of diverse SOGIE or if anyone was targeted for their gender expression or for acts of same-sex intimacy.⁹³ Therefore, these instances are not tallied above or included among the examples below.

Social stigma and opposition from society at large and government representatives remains widespread, with several Members of Parliament writing a formal letter condemning the raising of a rainbow Pride flag at the US Embassy in Bahrain in 2021. In the wake of the backlash, a group of MPs were reported in October 2021 as having submitted a bill to criminalise “promoting homosexuality”. The bill sought to impose “a jail sentence of no more than five years and a fine of [about USD 8,000–13,200] to any person who raises a flag, logo or sign that symbolises homosexuality [or] promotes by any means the ideas and beliefs of homosexuals or calls for, organises or attends any gathering or meeting of homosexuals”.⁹⁴

Such State opposition continued into the following year, with the Supreme Council for Islamic Affairs (SCIA) decrying “systematic campaigns to promote homosexuality” internationally in June 2022, and King Hamad bin Isa Al Khalifa saying at the opening of Parliament in December that “we will not allow [homosexuality] in any way to prejudice our system of values and traditions”, and that “we will stand in the face of

any intellectual invasion that contradicts the values of our tolerant Islamic law and common human instinct”. 2022 also saw the Bahraini Ministry of Commerce warning against the importation of rainbow-coloured products, with some reporting indicating that the country had joined other Gulf States in confiscating colourful children’s toys.⁹⁵

In April 2023, it was reported that yet another bill had been drafted by an MP—Muhammad al-Maarafi—“to support the existing legal provisions in the Penal Code” with the “addition of texts that explicitly criminalise [same-sex sexual acts]”. This legislation, if passed, would mandate a minimum prison sentence of six months and a fine of between 500 and 2,000 dinars (about USD 1,300 to 5,300).⁹⁶ The same year, the Bahraini delegation to the International Labour Organisation (ILO) Conference indicated that it would oppose any provisions aimed at protecting the rights of LGBTQ+ workers.⁹⁷

Examples of Enforcement

It was reported in **February 2011** that authorities in the town of Muharraq raided a “gay party”, arresting 200 “cross-dressers and male revellers” from Bahrain and other Gulf countries.⁹⁸

In **April 2014** two trans sex workers reportedly lost their bid to appeal a six-month jail sentence, which came after police were tipped off that they were “wearing women’s clothing, makeup and wigs”. The prosecution also reportedly used images they had posted online depicting themselves in a feminine gender expression as evidence. The pair plead guilty to “prostitution and homosexuality” in the Lower Criminal Court, but held that they should not have been sentenced to more than three months’ imprisonment. When complaining to the appeals judge of their sentence being upheld, he told them to be quiet and threatened that if he ever saw them again he would jail them for two years.⁹⁹

In **April 2021** it was reported that the Third Minor Criminal Court sentenced an individual to six months’ imprisonment under Article 329 of the Penal Code, which prohibits “incitement to debauchery or prostitution”. The person in question was claimed to be a “man” wearing “women’s pants, wearing a sports bra and wearing cosmetics”, though it is unclear whether or not the accused may thus actually have been a trans woman or transfeminine person.¹⁰⁰ This case could potentially reflect the common conflation between gender identity and gender expression (and even sexual orientation) which makes determining the exact nature of criminalisation difficult to research in many jurisdictions.

⁹⁰ “Arab Gulf countries crack down on homosexuality”, *Jerusalem Post*, 17 December 2022.

⁹¹ Human Rights Committee, *List of issues in relation to the initial report of Bahrain*, CCPR/C/BHR/Q/1 (2017), para. 9.

⁹² Human Rights Committee, *List of issues in relation to the initial report of Bahrain Addendum: Replies of Bahrain to the LOI*, CCPR/C/BHR/Q/1/Add.1 (2018), para. 42.

⁹³ “Seven women held for indecency incitement”, *Bahrain Police Media Center*, 7 January 2021; “Four women arrested for indecency”, *Bahrain Police Media Center*, 06 November 2020; “CID arrests 16 individuals for indecency”, *Bahrain Police Media Center*, 2 November 2020; “Six held for indecency incitement”, *Bahrain Police Media Center*, 29 September 2020; “11 Asians held for indecency incitement and selling alcohol”, *Bahrain Police Media Center*, 10 August 2020.

⁹⁴ “Al-Azhar Observatory condemns raising of rainbow flag by US embassy in Bahrain”, *Egypt Independent*, 11 June 2021; “Clamp on gays proposed”, *GDN Online*, 17 October 2021; “بحريننا اقترح بقانون نيابي يجرم الترويج لافكار التشنود الجنسي والمثلية - موقع نبض” [Bahrain: A proposal for a parliamentary law criminalizing the promotion of homosexual and homosexual ideas], *Nabd*, 17 October 2021.

⁹⁵ “Bahrain News: Council slams bids to destroy human values”, *Gulf Daily News*, 1 June 2022; “Arab Gulf countries crack down on homosexuality”, *Jerusalem Post*, 17 December 2022.

⁹⁶ “المعروفى يتقدم بمقترح قانون لتغليظ عقوبة مرتكب أفعال التشنود الجنسى” [Al-Maarafi presents a law proposal to increase the punishment for the perpetrator of acts of homosexuality], *Al Watan*, 12 April 2023.

⁹⁷ “Arab Chambers: Refusal to equate ‘homosexual labour’ with international labour laws”, *Al Ayam*, 14 June 2023.

⁹⁸ “Bahrain arrests 200 men at gay party - newspapers”, *Reuters*, 9 February 2011.

⁹⁹ “Two transgender prostitutes in Bahrain have lost an appeal against a six-month jail sentence”, *Pink News*, 24 April 2014.

¹⁰⁰ “الحبس ستة أشهر لشاب بتهمة التحريض على الفجور والذعارة” [Six months imprisonment for a young man for incitement to debauchery and prostitution], *Akhbar Al Khaleej*, 17 April 2021.

In **November 2022** it was reported that a “man [...] attending a private cross-dressing party” and who was subsequently found guilty of “inciting debauchery and public indecency” lost an appeal against the two-year sentence imposed by the Lower Criminal Court. At the time of the article’s publication the accused had already been behind bars for 12 months.¹⁰¹



Criminalising Provisions

The Sultanate of Brunei runs a dual or hybrid legal system, with common law and Syariah Law running in parallel to each other.

Under Article 82 of the Syariah Penal Code Order (SPCO) (2013), the death penalty can be imposed for acts of *liwat* (sodomy). Article 92(3) criminalises *musahaqah* (lesbian acts), which can result in a fine, imprisonment for up to 10 years, whipping, or a combination thereof.¹⁰²

Article 377 (Chapter 22) of the secular Penal Code (1951) criminalises “unnatural offences”, defined as “carnal intercourse against the order of nature with any man, woman, or animal”. In 2017, the Penal Code (Amendment) Order (2017) increased the punishment for a conviction under Article 377 of the secular Penal Code to imprisonment for a term not exceeding 30 years and whipping. Previously, the punishment was imprisonment for up to 10 years and a fine.¹⁰³

With regard to the criminalisation of gender expression, Section 198 of the SPCO of 2013 establishes that “any man who dresses and poses as a woman or any woman who dresses and poses as a man in any public place without reasonable excuse” shall be liable on conviction to a fine and/or imprisonment of up to three months. Additionally, the same section stipulates that any man who dresses and poses as a woman or any woman who dresses and poses as a man in any public place “for immoral purposes” is guilty of an offence and shall be liable on conviction to a fine not exceeding 4,000 Brunei Dollars, imprisonment for a term of up to one year or both”.¹⁰⁴

Enforcement Overview

The Syariah Penal Code Order (SPCO) had been adopted in multiple stages since 2013. The announcement that the SPCO would be fully implemented from April 2019 onwards drew negative reactions from the UN High Commissioner for Human Rights, UNAIDS, and the UN Population Fund (UNFPA). Several UN Special Procedures

issued a joint-communication on 1 April 2019 urging Brunei to “revoke the Syariah Penal Code Order and to repeal it completely”. The Bruneian Minister of Foreign Affairs replied to this communication by affirming Brunei’s commitment to protecting human rights, and stating that the “Syariah criminal law system focuses more on prevention than punishment”.¹⁰⁵

In a 2019 media interview, a gay human rights defender who fled to Canada after being charged for publishing a social media post critical of the government noted that at the time no prosecutions for same-sex sexual activity had taken place under the new Syariah law, saying: “I’d hate to be the first gay man to be tried under the [new] system”.¹⁰⁶

According to the Sultan of Brunei, the country has a “*de facto* moratorium on the execution of death penalty for cases under the common law”, which will “also be applied to cases under the SPCO which provides a wider scope for remission”. According to the government, no executions have been carried out since 1996, and ILGA World was unable to identify any evidence to the contrary. However, the retention of such a criminalising provision invariably contributes to heightened fear from and stigma against persons of diverse SOGIE, and leaves room for the Sultan or one of his successors to lift the moratorium at virtually any moment.¹⁰⁷

ILGA World has identified at least two examples of enforcement in Brunei, both relating to the criminalisation of gender expression through provisions against “cross-dressing”. As in all other country entries, this number is likely only a small fraction of incidents. Formal reporting on the matter from the country remains limited. For example, a transgender teenager seeking asylum in Canada claimed that she “heard about two people fined and jailed for cross-dressing” in 2014, though no further details could be verified regarding the date of the incident, the identities of those arrested, the details of their punishment or the presiding authorities. This dearth of information should not be taken to represent a lack of enforcement, but rather as a demonstration of the urgent need for further research.

Examples of Enforcement

In **2015**, a Bruneian civil servant was fined under the Syariah Penal Code for cross-dressing in a public place, with the prosecutor warning during proceedings that “if this is not dealt with, it can lead to the spread of social disorder such as homosexuality, free sexual relations, [and] drug abuse”.¹⁰⁸

It was reported on **16 August 2016** in a Bruneian news outlet that Religious Enforcement officials and members of the Brunei Royal Police Force “arrested a local man for wearing women’s clothes and improper conduct in a public area”.¹⁰⁹ No further details are known.

¹⁰¹ “Bahrain News: Court rejects final plea of cross-dressing partygoer”, *Gulf Daily News*, 29 November 2022.

¹⁰² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Brunei* (accessed: 19 June 2023).

¹⁰³ *Ibid.*

¹⁰⁴ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 93.

¹⁰⁵ OHCHR, OL BRN 1/2019 (2019); “Bachelet urges Brunei to stop entry into force of “draconian” new penal code”, *UNHCR Website*, 1 April 2019; “UN agencies urge Brunei to repeal new ‘extreme and unjustified’ penal code”, *UN News*, 4 April 2019; Ministry of Foreign Affairs (Brunei Darussalam), *Note 33/2019: Reply to Communication from Special Rapporteurs*, 7 April 2019, 1–2.

¹⁰⁶ “This Is What It’s Like to Be Gay in Brunei, Where Homosexuality Is Now Punishable by Being Stoned to Death”, *Time*, 5 April 2019.

¹⁰⁷ “Titah Of His Majesty Sultan Haji Hassanal Mu’izzaddin Waddaulah Ibni Al-Marhum Sultan Haji Omar ‘Ali Saifuddin Sa’adul Khairi Waddien, The Sultan and Yang Di-Pertuan Of Brunei Darussalam”, *Prime Minister’s Office Brunei Darussalam*, 5 May 2019; “Brunei: New Report on Abusive Code”, *Human Rights Watch*, 22 May 2019.

¹⁰⁸ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

¹⁰⁹ “Crossdresser Detained in ‘Sepadu Cegah Jenayah’”, *BruDirect*, 16 August 2016.



Indonesia

Criminalising Provisions

Consensual same-sex sexual acts between consenting adults are not criminalised at the national level in Indonesia, however a number of provinces, cities, and districts prohibit or discourage same-sex intimacy or diverse gender expressions through a variety of local ordinances.¹¹⁰

The semi-autonomous province of Aceh is notable, however, for its explicit criminalising provisions and enforcement thereof. Articles 63 and 64 of Regulation No. 6 (2014) stipulate a punishment of 100 lashes and/or up to approximately eight years in prison for the crimes of *liwat* (sodomy) and *musahaqah* (lesbian acts). The regulation applies to both locals and foreigners living in the province.¹¹¹

The legal reality is less clear at the national level. The Indonesian Penal Code (1952) has no provisions prohibiting consensual same-sex sexual acts. However, Articles 290 and 292 of the Penal Code, as well as the Child Protection Law (2002), set a higher age of consent for same-sex sexual acts than for heterosexual acts. Amendments to the Penal Code passed in 2022 through the Criminal Code Bill (2019) purportedly ban “indecent acts” in public, extramarital sex, and extramarital cohabitation. Given that Indonesia does not allow same-sex marriage, this legislation could, in theory, be used to target same-sex couples.¹¹²

Enforcement Overview

Though most jurisdictions within Indonesia do not *explicitly* criminalise persons on the basis of their real or perceived sexual orientations or gender identities, ILGA World noted 28 examples of both *de facto* and *de jure* criminal enforcement throughout the country between 2007 and 2023.

Indonesia’s size and inherent diversity has meant that several jurisdictions with varying levels of autonomy have been able to pass localised legislation relating to SOGIEC issues. Notably, the province of Aceh has adopted its own legislation, though such provisions exist in other

cities. Local activists in Indonesia have informed ILGA World of the concerning trend of “creeping criminalisation” in a country increasingly leaning toward the conservative. Indeed, in 2020 in the city of Palembang, several queer couples were arrested but later released, because according to a local official, “Palembang does not yet have an LGBT Regional Regulation”.¹¹³ It is perhaps telling from the official’s statement that it is taken as a given that such ordinances will be adopted in future.

Criminalising provisions are not only used against people on the basis of same-sex sexual activity. Trans and gender-diverse people in Indonesia are also targeted on the basis of their gender expression and identity; notably under Islamic dress requirements in jurisdictions with Sharia provisions. In 2010 the head of the Wilayatul Hisbah (the Islamic religious police force in Aceh province) said publicly of transgender women: “we consider them men, and they should dress accordingly”.¹¹⁴

At the national level, Indonesia’s People’s Council of Representatives began deliberation of the contentious Criminal Code Bill in 2019,¹¹⁵ which was reported to contain various provisions criminalising extramarital and same-sex sexual activity. The bill reportedly sparked national outrage and protests among youth and civil society groups, which demanded that the government remove such provisions.¹¹⁶ International and local organisations alike reported that punishing extramarital relations and cohabitation in a country without same-sex marriage, as well as banning poorly defined “obscene acts” in public, could be used against LGBTI+ people in Indonesia.¹¹⁷ However, lawmakers defended the bill on the grounds that it contained no explicit criminalisation of same-sex sexual acts.¹¹⁸

In December 2022, the Criminal Code was passed in parliament.¹¹⁹ As the new legislation will likely only come into effect in 2025,¹²⁰ its impact on LGBTI+ communities is yet to be seen, though homophobic attitudes in society and government prior to the adoption of the law may make the point moot, regardless.

Despite the bill not having been passed at the time and no formal criminalisation in Indonesia existing, the Deputy Governor of the Special Capital District of Jakarta reportedly claimed in July 2022 that homosexuality was prohibited in the country.¹²¹ In May 2023 the Coordinating Minister for Politics, Law, and Security, speaking at an Islamic Student Association Alumni Corps National Working Meeting, seemingly offered a conciliatory tone when he said “LGBT people were created by God [and therefore] cannot be banned”. However, he added that

¹¹⁰ See, among others: Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 55; “Rancangan Perda anti-LGBT di Makassar dan Garut disebut ‘tren jelang tahun politik’” [Draft anti-LGBT regional regulations in Makassar and Garut are called ‘a trend ahead of the political year’], *BBC News*, 10 January 2023; “DPRD Makassar Harap Raperda Larangan LGBT Disetujui Pemprov Sulsel” [Makassar DPRD Hopes South Sulawesi Provincial Government Approves Raperda Prohibiting LGBT], *CNN Indonesia*, 10 January 2023.

¹¹¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Indonesia* (accessed: 26 June 2023).

¹¹² *Ibid.*

¹¹³ “There is no Regional Regulation yet, Gay Transgender Couples Netted in Raids Released”, *Inten News*, 6 February 2020.

¹¹⁴ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 55.

¹¹⁵ “Breaking logjam on revised penal code deliberation”, *Jakarta Post*, 4 March 2019.

¹¹⁶ “Thousands protest against new criminal code in Indonesia”, *The Guardian*, 24 September 2019; “Bahas 14 Isu Kontroversial, Kemenkumham Sempurnakan RUU KUHP” [Discussing 14 Controversial Issues, Kemenkumham Completes the Criminal Code Bill], *CNN Indonesia*, 1 October 2021.

¹¹⁷ “Indonesia: Draft Criminal Code Disastrous for Rights”, *Human Rights Watch*, 18 September 2019; “RKUHP Tak Pidanakan LGBT, Begini Kata Kemenkumham” [RKUHP Doesn’t Criminalise LGBT, This Is What Kemenkumham Says], *Viva*, 11 July 2022.

¹¹⁸ “Segera Disahkan: RKUHP Penjarakan Zina-Kumpul Kebo, LGBT Tidak” [Approved Soon: RKUHP Imprisonment for Adultery-Kumpul Kebo, LGBT No], *Detik News*, 4 December 2022.

¹¹⁹ “Indonesia’s new Criminal Code could be used to target LGBT people”, *Erasing 76 Crimes*, 7 December 2022.

¹²⁰ Information supplied by Free to Be Me (F2BM).

¹²¹ “Wagub DKI: LGBT Tak Diperkenankan di Indonesia, Jangan Beri Ruang” [Deputy Governor of DKI: LGBT is not allowed in Indonesia, don’t give space], *Pikiran Rakyat*, 31 July 2022.

"what is prohibited is his behaviour" and that he was thus preparing a Draft Criminal Code to deal with "LGBT behaviour".¹²²

Notably, negative social attitudes also lead to persons of diverse sexual orientations, gender expressions and identities, being coerced by authorities, relatives, or social pressure more broadly, to engage in harmful and debunked "conversion therapies". In that vein, the Ministry of Social Affairs' Directorate of Social Rehabilitation for Social Problems and Victims of Human Trafficking reportedly operates a programme offering "rehabilitation" to persons classified as having "social dysfunction". Trans women are regularly categorised as such, allowing civil service police to arrest them in raids and send them to "psychosocial, mental, and spiritual guidance".¹²³

In light of such attitudes by society, politicians and law enforcement, when individuals are targeted based on their SOGIE they reportedly face disproportionate levels of arbitrary detention, sexual abuse, violence in custody and other forms of discrimination.¹²⁴ For example, on 18 October 2006 a communication was sent to OutRight Action International alleging that a gay activist was detained after participating in protests against a new hazardous waste dump being built by the government. While in detention prison staff and other inmates would regularly sexually abuse him, and mock him for his sexual orientation. Officials also refused to offer medical assistance for his tuberculosis or the injuries he received as a result of the ongoing homophobic attacks. After seven months in prison, he was released and began receiving medical treatment, but reportedly died three weeks later.¹²⁵ Given that this seems to be a case of personal prejudice rather than detention as a direct result of the activist's sexual orientation, it is not outlined in the Examples of Enforcement section below. However, multiple incidents recorded below further demonstrate the impact of prejudice on already-criminalised persons.

Note: After the cutoff date of this report (30 June 2023), multiple civil society organisations informed ILGA World about a growing wave of hostility and backlash stemming from opposition to the SOGIE Advocacy Week. This event was organised by the ASEAN SOGIE Caucus in collaboration with Arus Pelangi in Jakarta. Details about these incidents will be included in the third edition of this report.¹²⁶

Examples of Enforcement

Sometime before **9 August 2007** an activist in Jakarta was arrested en route home after spending the day doing community health outreach. Police accused the activist of prostitution because of her gender identity as a 'waria' (a local term roughly analogous to "trans woman"), and

detained her for five hours despite her pointing out that being trans was not illegal, and regardless of having documents with her to prove that she was an NGO worker. Her phone was confiscated, her headscarf ripped off, and she was denied food or water until she paid a bribe of 20,000 rupiah (USD 2), at which point she was released into the custody of the Civil Service, who knew her work and let her go.¹²⁷

On **30 April 2017**, police in the city of Surabaya raided two hotel rooms after receiving a tip that they were being used by a group of gay men for sex. 14 men were arrested and police confiscated a number of condoms, pornographic videos, and cell phones, while detainees were forced to undergo HIV/AIDS tests. Eight of the men were charged with violating the country's prohibition on pornography, with the two organisers of the gathering specifically facing up to 15 years' imprisonment for their role. No details of the fate of the group were verified, however.¹²⁸

On **21 May 2017** police in the capital city of Jakarta raided a "sex club", and arrested 141 men. Though most were released, 10 were charged with violating the country's anti-pornography legislation and were sentenced to three years' imprisonment.¹²⁹ Amnesty International called this incident an example of the "increasingly hostile" environment in the country for persons with diverse sexual orientations, gender identities and gender expressions, and urged the Indonesian government to amend its anti-pornography legislation to prevent the wrongful targeting of queer persons.¹³⁰

On **8 June 2017** police in an unknown region of Indonesia arrested five "suspected lesbians" and ordered their parents to supervise them as part of the conditions for their release. Police further shared a video of the raid and gave the names of the five women to reporters.¹³¹

On **2 September 2017** police raided the homes of 12 "suspected lesbians" in West Java province's Tugu Jaya village. This was apparently in response to complaints from local Islamic youth groups and religious leaders that the women's cohabitation was "against the teachings of Islam". The details of the women were recorded and they were given three days to vacate the jurisdiction. Authorities justified the forced eviction on the basis that "their presence had created public disturbance in the area". In a 2013 report on Indonesia, the UN Special Rapporteur on the right to housing noted a pattern of forced evictions of LGBT people in the country.¹³²

According to Amnesty International, a sauna in Jakarta was raided on the evening of **6 October 2017** under suspicion that a "gay sex party" was taking place. 51 people, made up of both Indonesian nationals and foreigners, were detained. Most were released the following day though five employees, as well as the owner who was not initially caught in the raid, were charged with "providing

¹²² "Menko Polhukam Mahfud MD Sebut LGBT adalah Kodrat, Tidak Boleh Dilarang" [Coordinating Minister for Political, Legal and Security Affairs Mahfud MD Says LGBT is Nature, Shouldn't be Banned], *Suara*, 21 May 2023.

¹²³ Asia Pacific Transgender Network, "There was no *bencong* in our ancestors, *bencong* is the devil": *Conversion Therapy Practices in Indonesia* (2020), 5-8.

¹²⁴ IGLHRC (Outright Action International), *Human Rights Abuses Against Sexual Minorities in Indonesia* (2007).

¹²⁵ *Id.*, 4.

¹²⁶ *If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.*

¹²⁷ *Id.*, 2.

¹²⁸ "Indonesia: 'Gay Porn' Arrests Threaten Privacy", *Human Rights Watch*, 5 May 2017.

¹²⁹ "Jakarta police arrest 141 in raid on Indonesia gay club", *The Guardian*, 22 May 2017; "Indonesia sentences gay men raided in sex club to up to 3 years in jail", *Gay Star News*, 15 December 2017.

¹³⁰ "Indonesia: Government exploiting pornography law to target LGBTI community", *Amnesty International*, 22 May 2017.

¹³¹ "Indonesia: Stop Raids on Homes of 'Suspected Lesbians'", *Human Rights Watch*, 5 September 2017.

¹³² *Ibid.*

pornography and prostitution services". Amnesty International called on the government of Indonesia to amend the legislation to prevent the ongoing targeting of persons of diverse sexual orientations under provisions against pornography.¹³³

In **September 2020**, nine men were arrested in Jakarta following a raid on a private party and charged under Article 296 of the Penal Code (committing or facilitating obscene acts with another person) and anti-pornography laws.¹³⁴

In **October 2020**, the Semarang Military Court sentenced a soldier to one year's imprisonment and dismissal from military duty for having same-sex intercourse.¹³⁵ In the **same month**, a police officer was demoted and made to undergo "special training" for allegedly having participated in same-sex sexual activity, as the officer's "sexual preference was deemed as a despicable act".¹³⁶

A 2020 report by the Asia Pacific Transgender Network (APTN) identified at least one trans woman who was arrested in a raid on her village by civil service police. Though details are unclear, it appears she was eventually released, but had to attend a lecture at the police station in which a speaker told her and other gender-diverse detainees that "there was no *bencong* in this world, there are no *waria*".¹³⁷ There was no *bencong* in our ancestors, *bencong* is the devil, these are all, like that".¹³⁸

In **April 2021** it was reported that two men, alleged to have been "making out" in a car in the city of Palangka Raya, were arrested. A police patrol appears to have only arrested the two men after a search of their belongings verified that the accused were gay. This, according to local reports, came in the form of erotic messages on their cell phones, and evidence of both being part of a local SOGIESC community group.¹³⁹ An officer who took part in the arrest described the relationship between the two men as "illicit", though prior to this incident ILGA World had no record of this part of Indonesia (Central Kalimantan province) formally criminalising consensual same-sex sexual activity.

It appears that in **May 2021** nine gay men were sentenced to four and five years' imprisonment. The previous year they had been arrested for allegedly breaching the country's Covid-19 pandemic prohibitions on gatherings, but were later accused of holding a "gay sex party" and

charged by the court with breaking "anti-pornography" laws.¹⁴⁰

On **1 August 2021** a soldier was tried before a military court in Balikpapan (East Kalimantan province) and sentenced to seven months in prison for participating in consensual same-sex sexual acts. This is prohibited in the Indonesian armed forces, and when intelligence services uncovered the soldier's activity, he was detained and tried for disobeying direct orders.¹⁴¹

The **previous month** a naval officer stationed in Aceh province and allegedly engaged in same-sex sexual activity was discharged from the Navy and sentenced to five months in prison for "deliberate disobedience",¹⁴² and a soldier from East Java province was sentenced to six months, with the Surabaya Military High Court upholding the sentence at his appeal trial in **October 2021**.¹⁴³

In South Jakarta's Pancoran District, police conducted investigations into an incident that occurred on **31 May 2022** at a café involving a gay couple who were reported to be "committing immoral acts in public". A video of the couple went viral on social media and was subsequently reported to the police. After interviewing several patrons of the café and contacting the parents of the couple, the police arrested the two men later in **June 2022**. The head of the Pancoran police district said that they could be subject to punishment following a decision by the police chief, if their "immoral acts" were found to be against the law. Reporting varies, but it appears that those in question were investigated for "making out" and "same-sex hugs".¹⁴⁴

On **21 July 2022**, the Makassar District Court sentenced a social media content creator to the maximum sentence of three years in prison, under Article 27(1) of Indonesia's Law No. 11 of 2008, which punishes the distribution of content considered "against propriety". This was the result of two police reports made against the accused in **September 2021** for allegedly posting content relating to his relationship with his same-sex partner, as well as content featuring his work as an online pornographic model. One of the reports was made by the South Sulawesi Indonesian Muslim Brigade. His sentence was later reduced in **August 2022** to 18 months in prison, in addition to a fine of 25,000,000 Rupiah (approx. 1,700 USD at the time).¹⁴⁵

It was reported on **29 November 2022** that two soldiers had been dismissed from the military and sentenced to

¹³³ *Ibid.*

¹³⁴ "Indonesia: gay partygoers face 15 years in prison", *Outnews Global*, 4 September 2020; "Police lambasted for targeting LGBT community in raid in Jakarta", *The Jakarta Post*, 5 September 2020.

¹³⁵ "Indonesian military imprisons, dismisses soldier for having same-sex intercourse", *Asia One*, 16 October 2020; "TNI Threatens Action by Soldiers Who are LGBT Practitioners", *Republic*, 18 November 2020.

¹³⁶ "Indonesian Police Officer Convicted Over LGBT Issue Faces Demotion", *Tempo.co*, 21 October 2020.

¹³⁷ "Bencong" and "waria" are both local terms, often used derogatorily, to refer to trans women or persons of feminine gender expression assigned male at birth.

¹³⁸ Asia Pacific Transgender Network, "There was no bencong in our ancestors, bencong is the devil": *Conversion Therapy Practices in Indonesia* (2020), 8.

¹³⁹ "2 gay men caught by police making out in a car in the dark of Palangka Raya stadium", *Voi (Indonesia)*, 14 April 2021.

¹⁴⁰ "Prisión para 9 hombres por organizar una fiesta gay en un hotel en Indonesia" [Prison for 9 men for organizing a gay party at a hotel in Indonesia], *World News Platform*, 13 May 2021.

¹⁴¹ "Anggota TNI di Kaltara Dipecat dan Dipenjara karena Terbukti Hubungan Sejenis" [TNI Members in Kaltara Fired and Imprisoned for Proving Same-sex Relationships], *Detik News*, 1 August 2021; "7 maanden cel voor Indonesische soldaat omdat hij seks had met andere man" [7 months in prison for Indonesian soldier for having sex with another man], *VRT*, 2 August 2021.

¹⁴² "Terlibat Hubungan Seks Sesama Jenis, Oknum TNI di Aceh Dibui 5 Bulan" [Involved in same-sex sex, TNI personnel in Aceh jailed for 5 months], *DetikNews*, 7 July 2021.

¹⁴³ "Indonesian soldier gets 6 months in prison over gay sex", *Coconuts (Indonesia)*, 6 October 2021.

¹⁴⁴ "Pasangan LGBT yang Viral saat Duduk Berpelukan akhirnya Diamankan Polisi" [An LGBT couple who went viral while sitting hugging each other was finally arrested by the police], *VOI*, 7 June 2022; "Nasib Remaja 'Tulang Lunak' Usai Kepergok Peluk Mesra Sesama Jenis, Kafe Viral Ketiban Sial" [The Fate of Teenagers 'Soft Bones' After Caught Intimate Same-Sex Hugs, Viral Cafes Get Unlucky], *Tribune News Bogor*, 7 June 2022; "Update Kasus Pasangan Sesama Jenis Bermesraan di Kafe Jaksel, Pemuda 'Tulang Lunak' Terancam Pidana" [Update on Cases of Same-Sex Couples Making Out in South Jakarta Cafes, 'Soft Bones' Youths Threatened with Crime], *Tribune News Bogor*, 9 June 2022.

¹⁴⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

seven months' imprisonment by the Surabaya Military Court, after it was found that the pair were in a long-term same-sex relationship. The official charge against them was "intentional disobedience", as homosexuality is prohibited in the Indonesian armed forces. However, the judicial panel is reported to have dismissed and imprisoned the two men "because they could transmit HIV, so that they were not ready to face national defence contingencies which require the physical and mental readiness of every TNI soldier". Panel representatives stated that "deviant sexual behaviour with people of the same sex [is] absolutely inappropriate", as soldiers are to be an "example to the local community" by obeying local laws and religious provisions.¹⁴⁶

On the night of **26 March 2023** authorities in Bukittinggi conducted joint raids across two hotels as part of a campaign against the spread of "community diseases". It was reported that six people were arrested—two sex workers, an unmarried couple, and two gay men—as part of the raids.¹⁴⁷

On **28 May 2023** the Civil Service Police Unit of Pekanbaru City together with the Sukajadi Police Station arrested 73 people in joint raids across the city. Around eight were arrested for possession of "sharp weapons" and narcotics, and many were targeted on suspicion of engaging in sex work, but some of those detained "were strongly suspected to be lesbian, gay, bisexual and transgender perpetrators". A police spokesperson told local media that this suspicion stemmed from "lipstick and other makeup tools in the bags of the men", and that some were caught engaging in "deviant behaviour" with persons of the same sex.¹⁴⁸ The Mayor of Pekanbaru, reportedly stated at the time: "We agreed with Forkopimda some time ago [to] conduct raids at locations where there are indications of LGBT activity". "Forkopimda" being the Regional Leadership Coordination Forum where regional and local governments discuss the coordination and implementation of general government affairs across jurisdictions. The Pekanbaru Mayor added that the raids had been part of ongoing "persuasive" and "preemptive" measures meant to counter the influence of LGBTQ+ people. For his part the Governor of Riau Province, of which Pekanbaru is the capital, for his part, urged the authorities to impose stringent sanctions on LGBTQ+ people. "For those who join LGBT, I ask them to immediately change and repent and pray to ask forgiveness from the Creator because this activity invokes divine wrath," he said.¹⁴⁹

Note: After the cutoff date of this report (30 June 2023), further cases of enforcement were documented by local civil society organisations and tracked by ILGA World through online media monitoring. These instances will be included in the next edition of this report.¹⁵⁰

Aceh Province

On **21 September 2015** it was reported that West Aceh Sharia police arrested nine trans persons at a beauty salon after locals complained of a group of people possibly breaking local Sharia ordinances. Police checked their documents and found they were not in violation, but told them that if they wanted to keep dressing as women they should leave the jurisdiction and rather stay in their hometowns.¹⁵¹

On **28 September 2015** the Wilayatul Hisbah (local Sharia religious police) arrested two young women for hugging in public in Banda Aceh, the capital of Aceh province. A police official told reporters that they "suspected the women were lesbians". Police held the pair, willing only to release them into the custody of their families rather than simply freeing them.¹⁵²

On **17 May 2017** it was reported that two men were caught in bed together in a private domicile by a vigilante group in Aceh province, and subsequently sentenced to 85 lashes each in a public caning ceremony in the capital. Around 2,000 spectators came to see the public punishment, jeering and shouting that the men need to be hit harder. At least one of the men had his punishment ended at 83 strokes rather than 85, when authorities deemed him to be at his physical limit.¹⁵³

On **27 January 2018**, North Aceh police and the Wilayatul Hisbah raided five hair salons, resulting in the arrest of 12 trans women, referred to as 'waria' in some reports. All of those detained were also members of the local SOGIESC advocacy group, Putroe Sejati Aceh. They were stripped, had their hair shaved, and forced to undergo gruelling military-style training to make them "manlier", under threat of further punishment. Police also published images of the humiliating arrest and their families were not allowed to visit them. By **30 January** all had been released without charge.¹⁵⁴

In **March 2018** a vigilante group in Aceh raided a hair salon, handing over two men and two trans women to the local hisbah religious police. They were accused of same-sex sexual activity and were to be held in police custody until they could stand trial in a Sharia court, though no details on whether such a trial took place were reported.¹⁵⁵

On **13 July 2018** two men accused of engaging in same-sex sexual activity received 87 lashes each in a public caning ceremony in the city of Banda Aceh, in front of a large, jeering crowd. This, despite prior instruction from the Governor of Aceh that such punishments be meted out privately within the local prison. Along with the two men, 13 people, including five women, were caned for various infractions such as adultery and drunkenness after being

¹⁴⁶ "Sejoli Oknum TNI LGBT di Jatim Dipenjara 7 Bulan dan Dipecat" [LGBT TNI Couple in East Java Jailed for 7 Months and Fired], *Detik News*, 30 November 2022.

¹⁴⁷ "Razia Penyakit Masyarakat, Satpol PP Bukittinggi Amankan Dua Pria Sesama Jenis di Dalam Kamar Hotel" [Community Disease Raids, Satpol PP Bukittinggi Secures Two Same-Sex Men in a Hotel Room], *Tribun News*, 27 March 2023.

¹⁴⁸ "Razia Gabungan di Wisma, 73 Orang Diamankan Dengan Indikasi LGBT Serta Sajam dan Narkoba" [Joint Raid on Wisma, 73 People Arrested with LGBT Indications as well as Sajam and Drugs], *Harian Haluan*, 28 May 2023.

¹⁴⁹ "Pasangan LGBT di Pekanbaru Terjaring Razia, Ini Kata Pj Wali Kota hingga Kecamatan Gubernur Riau" [LGBT Couples in Pekanbaru Netted Raids, Said the Acting Mayor to the Criticism of the Governor of Riau], *Tribun News*, 29 May 2023; "Pasangan LGBT di Pekanbaru Terjaring Razia, Ini Kata Pj Wali Kota hingga Kecamatan Gubernur Riau" [LGBT Couples in Pekanbaru Netted Raids, Said the Acting Mayor to the Criticism of the Governor of Riau], *Tribun News*, 29 May 2023.

¹⁵⁰ If you require access to these sources for COI Research purposes, please reach out to research@ilga.org.

¹⁵¹ "20 LGBTI-related arrests in Egypt, Indonesia", *Erasing 76 Crimes*, 29 September 2015.

¹⁵² "Indonesia: 'Suspected Lesbians' Detained", *Human Rights Watch*, 2 October 2015.

¹⁵³ "Indonesia's Aceh: Two gay men sentenced to 85 lashes", *BBC News*, 17 May 2017; "Indonesia: public caning of two men for gay sex was 'sickening spectacle'", *Amnesty International*, 23 May 2017; "Gay man caned in Indonesia as crowd chants 'hit him harder'", *Vice*, 23 May 2017.

¹⁵⁴ OHCHR, UA IDN 1/2018 (2018); Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 55.

¹⁵⁵ "Four detained in Indonesia's Aceh for alleged gay sex, face 100 lashes", *Reuters*, 3 April 2018; Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 55.

approved by medical practitioners as being healthy enough to withstand the punishment.¹⁵⁶

In early 2021 it was reported that two gay men had been arrested in Aceh province on suspicion of being a couple, and of having engaged in consensual sexual acts with one another. The pair were subjected to flogging as punishment. Media indicated that each of the two received around 80 lashes.¹⁵⁷

In Banda Aceh the Civil Service Unit and Wilayatul Hisbah raided a massage parlour on suspicion that it was being used for illegal sexual activity, according to a report from local media on 6 June 2021. The place was apparently known by authorities to employ trans women, but the raid was authorised only after they were tipped off that a man had entered the premises (with the implication then that he was there for sex with persons perceived by the State to also be male). A "same-sex couple" (likely the cis man and a trans woman) were found in their underwear and detained.¹⁵⁸



Criminalising Provisions

Even though consensual same-sex sexual acts between adults have officially been legal since at least 2003, following the deposing of Saddam Hussein's government by US-led forces, politicians and religious leaders in the country frequently condemn LGBTI+ people. Targeting by State actors under a number of vague provisions against "immodest acts" remains common, and numerous extrajudicial killings by militia groups affiliated with the State, politicians, or religious leaders have been recorded over the past two decades.

Iraq's Penal Code (1969) does not explicitly prohibit consensual same-sex relations. However, Article 401 of the Code criminalises "immodest acts" in public, which are punishable by a period of detention not exceeding six months and/or a fine. This legislation is commonly invoked in the targeting of LGBTI+ persons, though the opacity of Iraqi law enforcement means that no provision is cited in most known cases of police targeting at all.

Previously, the "Revolutionary Command Council Order 234 of 2001" codified the death penalty for same-sex sexual acts, "prostitution", incest, and rape. In 2003 the Coalition Provisional Authority suspended the death

penalty across Iraq. However, Order 234 of 2001 was itself not explicitly repealed according to some sources, and in 2004 the new Iraqi government reinstated the death penalty for certain high-level crimes, such as murder or treason. In 2014 a woman was sentenced by the Basra High Court to 15 years in prison for "prostitution" under Order 234, despite the legal uncertainty as to whether the law was still in effect.¹⁵⁹ Arguably, then, the law could be used to target LGBTI+ persons if it is determined to still be valid. As of May 2022, at least one Iraqi "legal expert" was quoted in Iraqi media as arguing that the criminalisation of same-sex acts remained the law of the land, citing "Law 234 of 2001 which punished adultery, sodomy, and brokerage with death".¹⁶⁰

In July 2022 a member of the Parliamentary Legal Committee confirmed that the legislature had been developing proposals to formally criminalise homosexuality, as reported by the official *Iraqi News Agency*. Parliamentarians reportedly agreed to gather signatures of support for the law upon their return to session.¹⁶¹ In the autonomous region of Iraqi Kurdistan similar legislative moves were reported in September 2022. Under the proposed Bill on the Prohibition of Promoting Homosexuality (2022), advocating for SOGIESC rights or "promoting homosexuality" would be punishable by up to one year in prison and a fine of up to 5,000,000 dinars (USD 3,430). Additionally, the bill would suspend media companies' and civil society organisations' licenses for up to one month if they are found to be "promoting homosexuality". The bill was postponed for further discussion after being tabled, according to local organisations.¹⁶²

There are conflicting accounts of the lived realities of gay and gender-diverse persons prior to the 2003 invasion. The now-defunct Ministry of Human Rights claimed that more than 3,000 men were tortured by State officials for "expressing their sexuality" between 1991 and 2003,¹⁶³ while several reports speak of a laxity in criminal enforcement due to various factors ranging from government secularism to a lack of resources for law enforcement in the wake of international sanctions. Others have argued that the sanctions of the 1990s in fact resulted in a clampdown on "gay hangouts" and the aggravation of criminalising penalties as a means for the government to show strength.¹⁶⁴ Some commentators have claimed that violence and repression against people of diverse SOGIE worsened following the collapse of the former government, despite the resulting decriminalisation of same-sex acts.¹⁶⁵ One 2012 article published by the BBC has gone so far as to claim: "Even gays in Saudi Arabia, arguably the most conservative Middle Eastern state, have not experienced persecution on Iraq's scale".¹⁶⁶

¹⁵⁶ "Gay men, adulterers publicly flogged in Aceh, Indonesia", CNN, 15 July 2018.

¹⁵⁷ "Indonesian gay couple whipped for Sharia-banned sex", *New Indian Express*, 30 January 2021.

¹⁵⁸ "Hanya Pakai Celana Dalam, Pasangan Sesama Jenis di Aceh Digerebek Satpol PP saat ..." [Wearing only panties, same-sex couples in Aceh were raided by Satpol PP when they were alone in their room], *Tribun News*, 6 June 2021.

¹⁵⁹ Iraq Legal Development Project, *The Status of Women in Iraq: An Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards* (July 2005), 36; "Male homosexuality still a taboo", *The New Humanitarian*, 5 February 2006; UNAMI/OHCHR, *Report on the Death Penalty in Iraq* (October 2014), 1, 7, 25; Walter, A., *Sex Crimes and Punishment in Baghdad*, in: Project On Middle East Political Science, *Religion, Violence, and the State in Iraq* (October 2019), 10-16.

¹⁶⁰ "ما هي عقوبة زواج المتللين في القانون العراقي؟ خير يجيب" [What Is The Penalty For Same-Sex Marriage In Iraqi Law? An Expert Answers], *EarthIQ News*, 21 May 2022.

¹⁶¹ "Iraq bid to ban homosexuality will 'let government get away with murder'", *PinkNews*, 17 July 2022; "Queer Iraqis alarmed over proposed law banning homosexuality", *Erasing 76 Crimes*, 5 August 2022.

¹⁶² "A Push to Silence LGBT Rights in the Kurdistan Region of Iraq", *Human Rights Watch*, 7 September 2022.

¹⁶³ "Male homosexuality still a taboo", *The New Humanitarian*, 5 February 2006.

¹⁶⁴ "Male homosexuality still a taboo", *The New Humanitarian*, 5 February 2006; "Shia Death Squads Target Iraqi Gays -- U.S. Indifferent", *Direland*, 22 March 2006; "Was life easier for gays under Saddam?", *PinkNews*, 30 December 2006; "How the persecution of gay people took hold in post-Saddam Iraq", *BBC News*, 11 September 2012; Walter, A., *Sex Crimes and Punishment in Baghdad*, in: Project On Middle East Political Science, *Religion, Violence, and the State in Iraq* (October 2019), 10-12.

¹⁶⁵ *Ibid.*

¹⁶⁶ "How the persecution of gay people took hold in post-Saddam Iraq", *BBC News*, 11 September 2012.

Faced with continued armed conflict, the rise of militias, and the weakening of the rule of law since 2003, people of diverse SOGIE in Iraq are especially vulnerable to violence from society and State actors.¹⁶⁷ Today, security officials routinely subject LGBTQ+ individuals to physical and verbal abuse, arbitrary arrests, and detention. At checkpoints, security forces also harass individuals whom they suspect of gender non-conformity, frequently resorting to sexual abuse and harassment. Those who do get arrested are rarely charged in accordance with Iraqi law and are often forced to sign false pledges denying police abuses. Reporting indicates that the detention conditions of those arrested are dire, due to food and water deprivation, denial of access to family or legal representation, and nearly non-existent medical services.¹⁶⁸

A Human Rights Watch report published in 2023 highlighted how authorities in Iraq have also incorporated technology into their surveillance and persecution of LGBTQ+ individuals.¹⁶⁹ Traditional methods like street-level harassment, arbitrary arrests and house raids are now coupled with digital tactics, such as entrapment on social media and dating apps, online extortion, harassment, public outing, and the use of private digital information as evidence in prosecutions.¹⁷⁰

IraQueer, an organisation working for SOGIE advocacy, is also in possession of several videos showing the police humiliating and physically abusing trans people, though the individual stories of the victims and their fates under Iraqi law could not be established at the time of publication. Further, there have been reports of executions ordered by Sharia judges,¹⁷¹ and of both police and militias frequently kidnapping, extorting and killing people of diverse SOGIE.¹⁷²

Many trans and gender-nonconforming persons, have faced similar abuse in Northern Iraq under the Kurdistan Regional Government, according to IraQueer. Many of those individuals have been detained without being informed of their rights, or without access to legal representation.¹⁷³ In all, it is estimated that more than 70 individuals were detained in 2018 without being informed of their rights, and were still being held in 15 prisons awaiting charges as of March 2019. Some of the detainees are alleged to have been in prison for more than a year.¹⁷⁴ A March 2022 Human Rights Watch report additionally identified 15 cases of arrest against 13 LGBTQ+ individuals in Iraq between 2018 and its publication.¹⁷⁵

Iraq has experienced a number of organised campaigns of violence carried out or incited by militia and vigilante

groups since 2003 as well. Iraqi police have been accused of turning a blind eye to these attacks and, in some cases, actively assisting these groups. For example, in 2009 in the low-income Sadr City area of Baghdad, dozens of men were killed under suspicion of being gay. Press suggested that a fatwa or other form of instigation by local religious clerics may have spurred militias, and even family members, to take part in the killing of suspected gay men there. In the weeks leading up to the spate of killings, local police said they had started cracking down on LGBTQ+ people, stating that they were cleaning up the streets to “get the beggars and homosexuals off them”, though it is not known how many people, if any, were arrested.¹⁷⁶ In March 2012 a similar spate of attacks around Baghdad and Sadr City came to be known as the “emo killings”, where militia groups and vigilantes compiled lists of, and killed, hundreds of “obscene males and females” thought to be part of the “emo” youth subculture. Reporting indicates that many young gay and “effeminate” men were also targeted in these attacks. The month prior saw the Interior Ministry issue a statement that labelled the emo subculture as “Satanism” and announced that a special police unit would stamp it out.¹⁷⁷

More recently, on the International Day against Homophobia, Transphobia and Biphobia (IDAHOBIT) in May 2020, the EU mission, and the Canadian and British embassies in Baghdad, raised rainbow flags which Iran’s Foreign Ministry condemned for “violating moral values and social norms”. Shiite cleric Muqtada al-Sadr, leader of an armed group within the Popular Mobilisation Forces (PMF), also spoke out, saying the embassies were imposing a “Western agenda” onto Iraq.¹⁷⁸ According to a 2022 report by Human Rights Watch and IraQueer, this rhetoric from government and public figures enflamed the situation in the country, spurring members of armed groups to target people of diverse sexual orientations and gender identities. Sexual abuse and violence by armed groups, including rape, genital mutilation, and forced anal examinations, were reported by 27 out of 54 people interviewed by Human Rights Watch and IraQueer at the time.¹⁷⁹

It must be noted that between 2013 and 2017 members of the radical militant Islamic State in Iraq and the Levant (ISIL), which held *de facto* control over a large part of Syria and Iraq’s territories, publicly executed numerous individuals suspected of being gay. Between 2013 and 2016 the Islamic State claimed to have executed at least 23 persons in Iraq for various forms of “sodomy” or “indecent behaviour”, which included same-sex activity. Two of the group’s preferred mechanisms for execution notably were

¹⁶⁷ IraQueer, OutRight Action International, *Dying to be free: LGBT Human rights violations in Iraq. In response to the fifth periodic report of the Republic of Iraq* (2015), 10.

¹⁶⁸ Human Rights Watch, “Everyone Wants Me Dead”: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq (23 March 2022); Human Rights Watch, *Submission to the UN Human Rights Committee in advance of its review of Iraq* (2022), 18.

¹⁶⁹ Human Rights Watch, “All this terror because of a photo”: Digital Targeting and Its Consequences for LGBT People in the Middle East and North Africa (21 February 2023).

¹⁷⁰ *Ibid.*

¹⁷¹ “Timeline of publicized executions for “indecent behavior” OutRight Action International, 2 April 2016; OHCHR, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, A/HRC/38/44/Add.1 (2018).

¹⁷² “Exposing persecution of LGBT individuals in Iraq”, OutRight Action International, 19 November 2014.

¹⁷³ IraQueer, *Fighting for the Right to Live: The State of LGBT+ Human Rights in Iraq* (2018), 15.

¹⁷⁴ IraQueer, MADRE, and OutRight Action International, *Violence and Discrimination based on Sexual Orientation and Gender Identity in Iraq: A submission to the United Nations Human Rights Council for the Universal Periodic Review of IRAQ* (2018), para. 7; IraQueer, *Fighting for the Right to Live: The State of LGBT+ Human Rights in Iraq* (2018), 15; Human Rights Watch, *Submission to the UN Human Rights Committee in advance of its review of Iraq* (2022), 18.

¹⁷⁵ Human Rights Watch, “Everyone Wants Me Dead”: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq (23 March 2022).

¹⁷⁶ IraQueer, MADRE, and OutRight Action International, *Violence and Discrimination based on Sexual Orientation and Gender Identity in Iraq: A submission to the United Nations Human Rights Council for the Universal Periodic Review of IRAQ* (2018), para. 7; IraQueer, *Fighting for the Right to Live: The State of LGBT+ Human Rights in Iraq* (2018), 15; Human Rights Watch, *Submission to the UN Human Rights Committee in advance of its review of Iraq* (2022), 18.

¹⁷⁷ “Fear as death squads hunt Iraq’s gays and “emos””, Reuters, 12 March 2012; “Iraq’s Emo killings: A horror story out of control?”, BBC News, 21 March 2012.

¹⁷⁸ “بيان صحفي” [Press Release], *Iraq Ministry of Foreign Affairs*, 17 May 2020; “Iraqi leaders condemn western diplomats for hoisting LGBTQ+ pride flags”, RUDAW, 17 May 2020.

¹⁷⁹ Human Rights Watch, “Everyone Wants Me Dead”: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq (23 March 2022).

beheadings and throwing suspects from tall buildings.¹⁸⁰ Executions carried out by ISIL have not been included in the Examples of Enforcement section below given the Iraqi government's declaration of victory against the *de facto* ISIL "State", and thus presumably its criminalising rules, too.¹⁸¹

A similar criterion for exclusion has been applied to many attacks carried out by militia and insurgent groups, as the shifting landscape of alliances and power, lack of clear information, and fact that many of these groups are now defunct or have been reformed under new structures, has made it impossible to offer an accurate overview of their activities within the scope of this report. One notable exception to this is in regard to prominent groups like the Badr Corps. This militia group, while not a branch of government in and of itself, was formed by the Islamic Supreme Council of Iraq—one of the country's largest political parties after 2003, to which Adil Abdul Mahdi, the former Iraqi Prime Minister, was affiliated during his tenures as Finance Minister, Oil Minister, and Vice-President.¹⁸² The Badr Corps was incorporated into the State-sponsored Popular Mobilisation Forces (PMF) as a means of combatting ISIL in 2014.¹⁸³ The group and others like it have been accused of operating "death squads" throughout the 2000s, often in collaboration with police or other State actors.¹⁸⁴

As such, between 2002 and 2023 ILGA World notes around 25 examples of State actors and their allies targeting persons based on their real or perceived SOGIE status, but the true number of cases remains elusive, with the line between State criminal enforcement and extrajudicial violence being so severely blurred.

Note: After the cutoff date of this report (30 June 2023), legislative attempts to criminalise consensual same-sex sexual acts with the death penalty by legislative reform were reported. For updated information on this development please visit the ILGA World Database.

Examples of Enforcement

Sometime in **2002** a police raid on a suspected brothel reportedly resulted in the arrest of an unknown number of men, who confessed to "prostitution" and "pimping". They were, however, sentenced to six years in prison under RCC Order 234 of 2001's provision against "sodomy", which has been argued by analysts to imply that the men in question were caught having sex with one another. No further

information could be verified on this case, however.¹⁸⁵

Archival information relating to the Iraqi Justice Ministry's activities prior to the US-led invasion indicates that sometime prior to **February 2002**, two men were sentenced to life in prison for "practicing sodomy". No further information could be verified at the time of publication.¹⁸⁶

In another case from **2002**, a young gay man alleges that he and his partner were arrested one night in Baghdad when police spotted them together. He was held for six months, being regularly raped and beaten. His partner, who faced similar violations, is said to have died after five days because of his injuries. It is unclear whether this story is the same case of enforcement as identified in the Justice Ministry's archive above.¹⁸⁷

In **April 2005** a gay couple from Baghdad were allegedly kidnapped by Badr Corps militias after being outed by informants. Their bodies were found in **June**, with the pair having been bound, blindfolded, and shot in the backs of their heads. This formed part of a widespread crackdown on persons of diverse SOGIE, with the total numbers of victims remaining unknown to this day.¹⁸⁸

In **August 2005** a 45-year-old gay man was kidnapped by Badr Corps militias, according to his family, as part of a widespread crackdown on persons of diverse SOGIE. His body was discovered in **January 2006**, seemingly having been subject to an extrajudicial execution.¹⁸⁹

In **September 2005** a trans woman in Baghdad's Al-Karada district was set on fire by alleged Badr Corps members wearing Interior Ministry Uniforms. Witnesses reportedly cheered as she burned to death.¹⁹⁰

An Iraqi journalist told Human Rights Watch that in **early 2009** he witnessed police in Baghdad's Bab Sharqi neighbourhood rounding up four transgender women. The four were kicked and had their hair pulled by the officers while being loaded into the van.¹⁹¹

In **February 2009** a young human rights defender was stopped at a police checkpoint and arrested. He had a bag placed over his head and was taken to the Interior Ministry, where he was held for several hours with five other gay men. An official demanded USD 10,000 from him, believing internationally funded activists to be wealthy, and when he could not pay he was hung upside-down by his ankles naked for several hours, and denied food or water when he was eventually lowered to the ground. He was held overnight in a solitary confinement cell too small for him to

¹⁸⁰ "ISIS throws man accused of being gay off building in Iraq", *Haaretz*, 13 December 2014; "ISIS beheads 3 gay men in northern Iraq", *News 24*, 10 March 2015; "Timeline of publicized executions for 'indecent behavior' by is militias", *Outright Action International*, 2 April 2016; Human Rights Watch and Helem, *"They Treated Us in Monstrous Ways": Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict* (2020), 28-29.

¹⁸¹ "ISIS is beaten, but Iraq is still hell for LGBT+ people", *Daily Beast*, 25 June 2018; "Timeline: the Rise, Spread, and Fall of the Islamic State", *Wilson Center*, 28 October 2019.

¹⁸² "SCIRI highlights nomination of Abdel Mahdi as Iraq's next Prime Minister", *Asharq Al-Awsat*, 28 January 2006; "Shia Death Squads Target Iraqi Gays -- U.S. Indifferent", *Direland*, 22 March 2006; Geneva International Centre for Justice, *Militias in Iraq: The hidden face of terrorism* (September 2016); "Iraq: Adel Abdul Mahdi named prime minister", *Aljazeera*, 3 October 2018; "Pompeo names Iraqi Badr militia leader Hadi al-Amiri as Iranian proxy", *The Jerusalem Post*, 2 January 2020; "President Welcomes Leader of Islamic Supreme Council of Iraq", *Iraqi Presidency*, 25 June 2020; Counter Extremism Project, *Badr Organization* (2022); "President Barzani visits Baghdad, meets Iraqi leaders", *RUDAW*, 8 April 2023.

¹⁸³ Geneva International Centre for Justice, *Militias in Iraq: The hidden face of terrorism* (September 2016); "Pompeo names Iraqi Badr militia leader Hadi al-Amiri as Iranian proxy", *The Jerusalem Post*, 2 January 2020; Counter Extremism Project, *Badr Organization* (2022).

¹⁸⁴ "Death squads behind Iraq killings", *Aljazeera*, 7 October 2005; "Shia Death Squads Target Iraqi Gays -- U.S. Indifferent", *Direland*, 22 March 2006; Human Rights Watch, *"They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq* (17 August 2009).

¹⁸⁵ Walter, A., *Sex Crimes and Punishment in Baghdad*, in: Project On Middle East Political Science, *Religion, Violence, and the State in Iraq* (October 2019), 12-13.

¹⁸⁶ *Id.*, 16.

¹⁸⁷ "Male homosexuality still a taboo", *The New Humanitarian*, 5 February 2006.

¹⁸⁸ "Shia Death Squads Target Iraqi Gays -- U.S. Indifferent", *Direland*, 22 March 2006.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*; "Dying To Come Out: The War On Gays in Iraq", GQ, February 2007 (archived).

¹⁹¹ Human Rights Watch, *"They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq* (17 August 2009).

lie down in, and the next day was taken to be interrogated about his work, being regularly beaten in the process. The activist was held for 25 days in total, being regularly beaten and raped by officers there. One officer told him that they were doing him a favour by withholding the report they should have sent to the judge, so that he could avoid being sentenced, and that if they did not receive at least USD 5,000 from him, they'd have to let him go to court. One day they showed him the bodies of the five men he was originally held with, and a document they claimed to be a court order for their execution. After that they gave him a phone to contact friends in the United Kingdom to secure money for his release. It appears that the officers and the judge, if indeed there was a judge giving these orders, were working alongside militia groups known for executing gay men, or were abusing their power to extort money, as Iraqi State law does not permit such executions for same-sex sexual activity.¹⁹²

In **April 2009** an Iraqi activist group shared a letter with Human Rights Watch, allegedly written by a gay detainee sentenced to death. The **undated** letter described the physical violence to which the victim was subjected in order to force a confession, and claimed that the victim was not given access to a lawyer during his brief trial at a criminal court in Al-Koukh.¹⁹³

On **16 June 2010** police raided a house in the city of Karbala, beating, blindfolding, and transporting the six residents to an unknown location. Police reportedly seized their computers and burned down the house as well. One of the detainees later wound up at a hospital, but reporting at the time indicated that the whereabouts of the remaining five—a lesbian woman, two gay men, and two trans women—was not known, and that they may have been taken to the Interior Ministry in Baghdad where persons of diverse SOGIE are alleged to have been routinely detained and tortured.¹⁹⁴

On **25 June 2010** members of the Interior Ministry raided a men's beauty parlour, beating those present with cattle prods so severely that one of the five suspected gay men arrested that day had to be carried out on a stretcher. The waxing and massage services of such venues are reportedly used by bodybuilders as part of their competition regimen and are not illegal, though several prominent pro-Sharia clerics have spoken out against them. Officers claimed that the location was raided as it was being used for sex work, though eyewitnesses have argued against this. At least one eyewitness who spoke to Amnesty International would go on to disappear mysteriously.¹⁹⁵

In **2017** a trans woman had her apartment raided by six police officers as they had been informed of it being occupied by a "hermaphrodite" (an outdated and derogatory term for intersex people, often mistakenly used to identify gender-diverse persons). She tried to deny that she was trans, but was found to be wearing women's underwear when officers made her strip. They interrogated, mocked and slapped her in her home, before

shaving her hair off in her bathroom. They did not arrest her, but told her "[t]his is your warning, next time we will not be this forgiving. If we ever hear you are doing anything feminine, we will be back and will solve the problem permanently". Since the incident the woman has reportedly been living in a safe-house.¹⁹⁶

In **January 2017** the militia group, Asa'ib Ahl Al-Haq, released a list of 100 "suspected homosexuals" to be executed. Some were killed while others fled the country, though it is not clear how many. This incident is recorded here as the militia forms part of the State-sponsored PMF, which was created to fight the Islamic State insurgency.¹⁹⁷

A young gay man told the IraQueer in **2018** about the time he was assaulted by a group of friends and acquaintances, and claimed that when he went to report the matter to police, they held him for two hours while deliberating if they should keep him overnight because of his "feminine behaviour". Before eventually releasing the young man, they sexually assaulted him.¹⁹⁸

A transgender woman from Basra, aged 41, was subjected to verbal abuse and arrested by airport security in **December 2018** at Baghdad airport upon her return from abroad. She reported being insulted by security officials due to her appearance, and was accused of impersonation.¹⁹⁹

A young gay man from Karbala told IraQueer of his being arrested three times throughout his teenage years. In **2019**, when he was 16, he was arrested at a checkpoint near his home in Basra after returning from the cinema with his cousin. Another arrest followed in **November 2020**, this time at a checkpoint in Baghdad. He was taken to a nearby police station in Arab Jibor, where he was detained for around eight hours. During his detention, he was bullied and harassed by police officers.²⁰⁰

On **2 October 2020**, at a checkpoint in Baghdad, a 17-year-old gay teenager from Najaf was arrested simply because he had long hair. Cornered by 14 police officers in a tiny space at Dora police station, he was subjected to verbal, sexual, and physical harassment, including threats of rape and imprisonment. One officer did allegedly sexually assault him during an inspection. The victim was released on bail the following day after being forced to sign a pledge that he had not been subjected to any abuse and an agreement that he would never enter Baghdad again.²⁰¹

Kurdistan Region of Iraq (KRI)

In **January 2014** a human rights defender was abducted by a group of men in the city of Sulaymaniyah in the autonomous region of Iraqi Kurdistan. They beat him, but he managed to contact police who arrived on the scene. Everyone was arrested, including the activist, who was interrogated about his work and sexual orientation rather than about his assailants before being released the

¹⁹² Human Rights Watch, "They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq (17 August 2009); "ISIS is beaten. but Iraq is still hell for LGBT+ people", *Daily Beast*, 25 June 2018; "Timeline: the Rise, Spread, and Fall of the Islamic State", *Wilson Center*, 28 October 2019.

¹⁹³ Human Rights Watch, "They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq (17 August 2009).

¹⁹⁴ "Iraqi police raid Karbala LGBT safe house; fears of 'witch hunt'", *Madikazemi*, 19 June 2010.

¹⁹⁵ "Iraqi police 'crackdown' on gays continues, protest by UK + USA needed", *Madikazemi*, 14 July 2010.

¹⁹⁶ IraQueer, *Living on the margins; LGBT+ stories from Iraq* (2018), 36-37.

¹⁹⁷ Human Dignity Trust, *Country Profile: Iraq* (2021).

¹⁹⁸ IraQueer, *Living on the margins; LGBT+ stories from Iraq* (2018), 34.

¹⁹⁹ Human Rights Watch, "Everyone Wants Me Dead": Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq (23 March 2022).

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

following day without charge.²⁰²

In **October 2014** the human rights defender from Sulaymaniyah was apprehended at the local airport by two plainclothes individuals identifying themselves as airport security and taken to an unknown location for a “meeting”. He was interrogated for thirteen hours about his work on sexual orientation and gender identity advocacy, and had his electronic devices searched and destroyed. Before he was released, he was told to “obey the rules of the Kurdish government and work in a profession which serves the government and the society”.²⁰³

A **2019** report by IraQueer, MADRE, OutRight Action International and the Organization of Women’s Freedom in Iraq (OWFI) noted that there were several cases of suspected lesbian women being targeted by State actors in Kurdistan, with none being given formal hearings or access to lawyers despite being locked up for months. It is not known how many women have been detained for their presumed sexual orientations, but one woman told the organisations that she had been arrested and threatened with rape by police numerous times in Sulaymaniyah.²⁰⁴

On **1 April 2021** in the city of Sulaymaniyah in Iraqi Kurdistan, several individuals of diverse SOGIE were arrested by police. One report indicated that eight individuals were arrested, another ten, and yet another claiming the number was up to 15.²⁰⁵ Reporting is also unclear as to whether the accused were explicitly targeted for their sexual orientations or if suspected “prostitution” and “immorality” were at the core of police action, as local authorities seem to have declared a campaign to “eradicate the phenomenon of prostitution”.²⁰⁶ Nevertheless, a news outlet called *Rudaw* reported that up to 17 members of Sulaymaniyah’s provincial council signed a petition supporting the arrests as a means to combat “homosexuality”.²⁰⁷ At least one Kurdistan MP decried the arrests, however.²⁰⁸ There were also conflicting reports around **5 April** regarding the fates of those detained, with authorities claiming they had been released, and local activists denying this to be true—though by **10 April** it appears that all detainees were released, according to the same activists.²⁰⁹

In **June 2021** police in the Kurdistan region issued arrest warrants for 11 individuals (three lawyers, two social workers, a driver, and five activists) affiliated with the Rasan Organisation, a human rights group based in Sulaymaniyah. The charges were based on Article 401 of the Penal Code, which carries a penalty of up to six months’ imprisonment and/or a fine for “public indecency”. The activists were also forced to take down SOGIESC-related content from their online platforms. As of **September 2022**, the case remained open pending investigation, and the activists had not been detained.²¹⁰

On **4 November 2021** in the Kurdistan Region of Iraq, a 25-year-old gay man from Sulaymaniyah arranged a meeting in public with a man he met on a dating app. The meeting turned out to be a case of entrapment by undercover police officers, however. After spending some time together at a local bazaar, the man’s “date” brought him to a private bathroom to kiss. Two Asayish officers arrived and beat the man with batons, threatening to contact his family, or arrest him and imprison him for 15 years. One officer took him to a police vehicle where he was allegedly forced to re-download the dating app, at which point the officer sexually assaulted him and then let him go.²¹¹

In **May 2023** a court in the Kurdistan region of Iraq ordered the closure of the Rasan Organisation, an LGBTQ+ and women’s rights advocacy group. The closure followed a lawsuit filed by Omar Kolbi, a member of the Kurdish Parliament, accusing Rasan of “promoting homosexuality”. As a result of the lawsuit, 11 activists associated with Rasan were issued with arrest warrants based on Article 401 of the Penal Code, which criminalises “public indecency”.²¹²



Criminalising Provisions

After the 1979 Islamic Revolution, the Iranian judiciary reportedly lacked a codified set of criminal laws and sentenced political prisoners and alleged criminals to death on the basis of Sharia law interpretations. In 1982 lawmakers passed an initial set of penal code provisions and in 1991 approved a new “Islamic Penal Code”. This Code carried the death penalty for “sodomy” if both the active and passive parties were “mature”, “of sound mind”, and had “free will”.²¹³

Today, the Iran Islamic Penal Code (2013) contains several provisions which impose the death penalty, imprisonment and/or flogging for different crimes related to same-sex sexual acts. Under Article 233 of the Code, the crime of *livat* is defined as “penetration of a man’s sex organ (penis), up to the point of circumcision, into another male person’s anus”. Article 234 provides that the “*hadd* punishment” for *livat* shall be the death penalty: (a) for the insertive party, if married (otherwise, the penalty amounts to 100 lashes); (b) for the receptive party, in any case. Note 1 to this provision adds that “if the insertive party is a non-Muslim and the

²⁰² IraQueer, OutRight Action International, *Dying to be free: LGBT Human rights violations in Iraq. In response to the fifth periodic report of the Republic of Iraq* (2015), 10.

²⁰³ *Ibid.*

²⁰⁴ IraQueer, MADRE, OutRight Action International and OWFI, *Violence and Discrimination Based on Sexual Orientation and Gender Identity in Iraq: A Report for the United Nations Committee on the Elimination of Discrimination against Women* (2019), pg. 5-6.

²⁰⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁰⁶ “السلطانية في المظالم من عداة تعقل الاسايش قوات” [Asayish forces arrest a number of homosexuals in Sulaymaniyah], *Face Iraq*, 4 April 2021.

²⁰⁷ “Kurdish parliamentarian slams Sulaimani LGBT+ arrests as possible ‘crime’”, *Khazan Jangiz*, 5 April 2021.

²⁰⁸ “Iraqi-Kurdish MP slams arrest of LGBTQ+ activists in Iraq”, *Your Middle East*, 5 April 2021.

²⁰⁹ “Verhaftete LGBTIQ im Nordirak offenbar wieder frei” [LGBTIQ arrested in northern Iraq apparently released], *Mannschaft Magazin*, 10 April 2021.

²¹⁰ Human Rights Watch, “Everyone Wants Me Dead”: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq (23 March 2022); Human Rights Watch, *A Push to Silence LGBT Rights in the Kurdistan Region of Iraq* (7 September 2022).

²¹¹ Human Rights Watch, “All this terror because of a photo”: Digital Targeting and Its Consequences for LGBT People in the Middle East and North Africa (21 February 2023).

²¹² “Kurdistan Region of Iraq: LGBT Rights Group Shattered”, *Human Rights Watch*, 6 July 2023.

²¹³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Iran* (accessed: 3 June 2023).

receptive/passive party is a Muslim, the *hadd* punishment for the insertive party shall be the death penalty".²¹⁴

Under Article 235, *tafkhez* is defined as putting a man's sex organ (penis) between the thighs or buttocks of another male person. A note to this provision specifies that "a penetration [of a penis into another male person's anus] that does not reach the point of circumcision shall be regarded as *tafkhez*". Article 236 provides that the *hadd* punishment for the insertive and receptive party shall be 100 lashes. However, if the active party is a non-Muslim and the passive party is a Muslim, the *hadd* punishment for the active party shall be the death penalty.²¹⁵

Under Article 237, homosexual acts of a male person in cases other than *livat* and *tafkhez*, such as "kissing or touching as a result of lust", shall be punishable by 31 to 74 lashes. Note 1 to this provision clarifies that this is equally applicable in the case of a female person.²¹⁶

Under Article 238, *musahiqeh* is defined as "where a female person puts her sex organ on the sex organ of another person of the same sex" and under Article 239, the *hadd* punishment for this crime is of 100 lashes.²¹⁷

Some commentators have suggested that the vague provision of *efsad-e-fel-arz* ("corruption on Earth") can also be used against non-heterosexual individuals and may carry the death penalty. Although the provision does not contain any explicit SOGIE reference, there have been reported instances of this provision being used against LGBTQ+ individuals.²¹⁸

Even though "cross-dressing" is not specifically prohibited by the Penal Code, Article 638 of the Fifth Book of Ta'zirat, states that "whoever commits a religiously prohibited act in the public will be sentenced to a prison term of 10 days to two months, or flogging not to exceed 74 lashes, in addition to the penalty prescribed for the prohibited act itself". According to the Iran Human Rights Documentation Centre, even if the specific act is not punishable by law, if the act "injures public chastity", a person committing such an act will be sentenced to a prison term of 10 days to two months or flogging of up to 74 lashes.²¹⁹

Enforcement Overview

ILGA World has identified nearly 60 examples of criminal enforcement between 1997 and 2023, though this number is undoubtedly higher.

The cases outlined in this report represent only a few of the latest examples in a trend going back at least to the start of the Iranian Revolution. The Iranian Human Rights Documentation Centre has indicated that between 1979

and 1981 nearly 760 people were executed, of whom 20 were killed for engaging in same-sex sexual activity.²²⁰ A Monash University report indicated that between 1979 and 2020 at least 241 executions for same-sex sexual conduct took place, with at least 79 suspects killed between 2004 and 2020.²²¹ More recently, research by Amnesty International and the Abdorrahman Boroumand Center for Human Rights indicated that at least 251 people were executed between January and June 2022. Three of these were confirmed to be homosexuality-related charges but the organisations estimate that the number is higher due to the secrecy around the number of death sentences imposed and carried out by authorities.²²² The Norway-based NGO, Iran Human Rights (IHRNGO) additionally found evidence of 10 men charged for various crimes being executed at the end of June 2022, of which one was convicted on a charge of "sodomy".²²³

The aforementioned Monash study, alongside others, notes that several of the executions it identified were tied to sexual violence or rape allegations. Iran's Penal Code does not recognise rape as a separate crime from consensual same-sex activity. Instead, the acts of heterosexual and homosexual rape are discussed as forms of adultery and sodomy respectively. In fact, rape is sometimes treated as a defence for the crimes of adultery and sodomy.²²⁴ Naturally, this makes it difficult to differentiate cases of criminal enforcement on the basis of sexual orientation from cases of rape. This is further compounded by allegations put forward by some activists that the State expressly interprets consensual cases as rape in order to limit sympathy for those executed and mitigate backlash on the global stage.²²⁵

Given then the sensitive issues at play when discussing both capital punishment and rape, ILGA World has opted to not include most reported incidents that involve accusations of sexual violence. This is part of the methodology for all countries in this report, but special mention is made here again given Iran's specific socio-political circumstances. As a result of this, it cannot be said with *absolute certainty* that some cases of legitimate criminal enforcement have not been mistakenly excluded, nor can it be assured that none of the executions ordered by courts in this report are in fact for cases of non-consensual acts.

In 2019 Iran's Foreign Minister, Mohammad Javad Zarif, reportedly defended Iran's execution of suspected homosexuals as a "moral" issue, saying "these are moral principles concerning the behaviour of people in general. And that means that the law is respected and the law is obeyed".²²⁶ Indeed, the convergence of religious doctrine and the law into such "moral principles" is plain to see in

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*

²¹⁹ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 21.

²²⁰ *Id.*, 109.

²²¹ Mai Sato and Christopher Alexander, *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty* (Monash University, 2021), 17-18.

²²² "Iran: Horrific wave of executions must be stopped", *Amnesty International & Abdorrahman Boroumand Center for Human Rights in Iran*, 27 July 2022

²²³ "Rights Watchdog Says Iran Secretly Executed 10 Prisoners On June 29", *Big News Network*, 1 July 2022.

²²⁴ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 132-133.

²²⁵ Human Rights Watch, *We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran* (2010), 27-32; Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 21; "Iran's New Gay Executions", *The Daily Beast*, 12 August 2014; "Iran: Hanging of teenager shows authorities' brazen disregard for international law", *Amnesty International*, 2 August 2016; "Iran publicly hangs man on homosexuality charges", *The Jerusalem Post*, 26 January 2019; "Iran executes 'high number' of gays, says German intelligence", *The Jerusalem Post*, 9 June 2020; Mai Sato and Christopher Alexander, *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty* (Monash University, 2021), 42-44.

²²⁶ "Iran's Top Diplomat Defends Killing Homosexuals", *IranWire*, 12 June 2019.

the ways Iranian society refers to law enforcement. According to the Iran Human Rights Documentation Centre, the “morality police” are a branch of the general police service tasked with enforcing a range of provisions against same-sex sexual activity, “dressing improperly”, “mixing with the opposite sex”, or any other behaviour deemed immoral or “un-Islamic”. Other State entities often broadly referred to as “morality police” may include the Iranian Revolutionary Guard Corps (IRGC) and the Basij (a volunteer militia force).²²⁷

A 2020 report published by 6Rang found that the national police and the Basij regularly arrest, detain, and violently abuse individuals based on their SOGIESC. These actions are not necessarily based on sexual behaviour, but often on mere presumptions based on a victim’s appearance and demeanour. This includes lesbian and transgender women who disregard the mandatory wearing of the hijab or other gendered dress-codes.²²⁸ The same report includes accounts of victims showing that family members are sometimes the ones who reported them to the authorities for their gender expression in the first place.²²⁹

Discussions around issues of legal gender recognition for trans and gender-diverse persons, and SOGIE criminal enforcement, invariably make mention of the apparent contradiction of Iran’s staunch anti-LGBT actions and the fact that transgender Iranians can access gender-affirming medical interventions and legal gender recognition through the State. However, the situation is significantly more complex than this. As reported by Outright Action International, trans individuals wishing to express their gender identity face serious challenges. In 2014, the chair of the board of directors of the Iranian Society to Support Individuals with Gender Identity Disorder (ISIGID) confirmed that law enforcement agents often arrest trans and gender-diverse people for wearing clothes “of the opposite sex” and keep them in custody until their “disorder” is legally and medically established.²³⁰ The only way to potentially reduce the risk of being vulnerable to arbitrary arrest is to undergo gender confirmation surgery, a procedure only provided to those found to be eligible by the Legal Medicine Organisation (LMO) and a family court.²³¹ This burdensome process is based on a 1986 *fatwa* issued by Ayatollah Khomeini, though it has been suggested by persons who advocated to the Ayatollah for legal gender recognition that his decree was based on a misunderstanding of gender identity and that he initially intended only for intersex persons to apply for legal gender recognition.²³² Other activists have privately informed ILGA World that a provision for intersex persons did exist

prior to 1986 and that the Ayatollah’s *fatwa* does indeed represent recognition of transgender identities.

Regardless, the provision remains problematic as it makes gender confirmation surgery all but compulsory for those found to have gender dysphoria, offers no provision for non-binary or gender-nonconforming individuals. Use of this provision to force gay men into undergoing Hormone Replacement Therapy and surgery to avoid criminal penalties has been documented—as have cases of gay men identifying themselves as transgender in order to avoid compulsory military service. Transgender individuals may be granted an exemption from conscription, albeit due to the problematic belief that they are “mentally ill”.²³³

Persons with diverse sexual orientations and gender identities are often held arbitrarily for extended periods, or sentenced on minimal or circumstantial evidence. It is also reportedly difficult for the accused to receive willing legal representation from lawyers who may not want to associate with their cases, while those that do are sometimes barred from their own clients’ trials. Judicial procedures remain opaque, with judges seemingly able to forego the traditional need for a confession or four male witnesses in a case of same-sex activity, and rely on their own “discretionary knowledge” to mete out the death penalty instead.²³⁴

Those who are imprisoned are reportedly subjected to torture or otherwise dire conditions, with most gay and trans detainees in the capital, Tehran, allegedly held in Ward 240 of Evin Prison. In Ward 240, which some prisoners have nicknamed “Tomb 240”, people are said to be held in isolation with only limited access to fresh air, light, food or phone-calls to family. This in addition to regular beatings and other forms of physical abuse. In 2020 most of the prisoners at Evin were apparently downgraded to even less hospital conditions in Ward 240’s basement.²³⁵ Outside of prison, social stigma from both authorities and wider society—including families—means that individuals of diverse sexual orientations, gender identities and gender expressions in Iran continue to face high levels of violence beyond the State’s criminal enforcement measures.²³⁶

In September 2022 Iran experienced widespread anti-government protests after a young Kurdish woman, Mahsa Zhina Amini, was detained by “morality police” for not wearing her hijab “in the appropriate manner”, later dying in custody from being beaten. The protests gained international attention and saw violent pushback from government forces, with several protestors being tried and

²²⁷ Iran Human Rights Documentation Center, *Denied Identity: Human Rights Abuses Against Iran’s LGBT Community* (2013), 25.

²²⁸ 6Rang, *Hidden Wounds: A research report on violence against LGBTI in Iran* (2020), 12.

²²⁹ *Id.*, 11.

²³⁰ OutRight Action International, *Being Transgender in Iran* (2016), 25.

²³¹ *Ibid.*

²³² Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran’s LGBT Community* (2013), 12-13; OutRight Action International, *Being Transgender in Iran* (2016), 6-10.

²³³ Human Rights Watch, *We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran* (2010), 79-86; 6Rang and Justice for Iran, *Diagnosing Identities, Wounding Bodies: Medical Abuses and Other Human Rights Violations Against Lesbian, Gay and Transgender People in Iran* (2014), 113-116; Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran’s LGBT Community* (2013), 12-13; OutRight Action International, *Being Transgender in Iran* (2016), 28-37.

²³⁴ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum: Communications to and from Governments, A/HRC/14/24/Add.1* (2010), para. 450; Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran’s LGBT Community* (2013), 21-22; Mai Sato and Christopher Alexander, *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty* (Monash University, 2021), 40.

²³⁵ “Voices From the Basement: Gay and Trans Detainees on Life in Evin Prison”, *IranWire*, 9 June 2021.

²³⁶ 6Rang, *Hidden Wounds: A Research Report on Violence Against LGBTI in Iran*, September 2020; “Iran: shocking persecution of LGBTQ+ people continues”, *Outnews Global*, 18 September 2020.

executed in 2022 and 2023.²³⁷

According to 6Rang, Iran's SOGIESC community's support of the reform protests resulted in heightened targeting of LGBT+ people and activists. A report published by the organisation in March 2023 notes that authorities attempted to promote homophobic incitement as a means of curbing the unrest, claiming that if the protests succeeded "immorality will overtake Islam and all Iranians will be forced to partake in same sex conduct".²³⁸

Examples of Enforcement

In 1997 a trans woman from Tabriz was arrested, allegedly solely on the account of her appearance. She was taken to a local police station where she was raped and released the next day without charge.²³⁹

On 16 September 2002 two men, the author and publisher of a book alleging that several renowned historical figures from Iran were gay, were ordered to present themselves to court. This was after they were made by authorities to buy back every single copy that had been distributed at personal cost. It is not known what punishment, if any, was meted out by the court.²⁴⁰

In September 2003 police in Shiraz arrested a group of men at a private party and held them in detention for several days. One of the detainees alleged that they were tortured into confessing their illegal deeds. The judiciary charged five of the defendants with "participation in a corrupt gathering" and fined them.²⁴¹

In June 2004 in Shiraz, undercover police entrapped several young gay men online, with one of the victims claiming that he was held in detention and tortured for a week. He was sentenced to 175 lashes—of which 100 were to be issued immediately—and police repeatedly threatened him with execution in the months that followed until he fled the country in late 2005.²⁴²

A gay man told the German Federal Office for Migration and Refugees at his asylum hearing that he had been arrested in 2004 and held for three months at Ghezel Hesar Prison. He also claimed to have been held for 50 days at Evin Prison after facing a second arrest in 2007. Details about both incidents are unclear, though the man told the asylum court that he had been attending parties both times. If so, he was likely not the only victim of these raids.²⁴³

In 2005 two teenage boys were executed, to international outcry. This incident is not included in the tally above as they were officially charged with raping a younger teenage boy, though some rights groups claimed that the two boys had only engaged in consensual activity and that the State's accusation of rape was merely meant to villainise them.²⁴⁴

In March 2005, *Etemaad*, an Iranian newspaper, reported that the Tehran Criminal Court had sentenced two men to death following the discovery of a video showing them having sex. According to the paper, one of the men had shot the video as a precaution, should he need to blackmail the other into continued financial support, though both were to be executed.²⁴⁵

November 2005 saw two men publicly executed in the northern town of Gorgan for the crime of *liwat*, though further details are not known.²⁴⁶

In June 2006 a 16-year-old boy in Ardabil was charged with engaging in homosexual activity—the crime of *liwat*. The Criminal Court of Ardabil found him guilty and sentenced him to death in 2008. In November 2009, the Supreme Court quashed the sentence and sent the case back to a different section of the Criminal Court of Ardabil, though his fate thereafter is unclear.²⁴⁷

The Iranian Queer Organisation (IRQO) reported in a submission to the United Nations Universal Periodic Review for Iran that a mass arrest of suspected gay men at a private party took place in Isfahan in 2006—with another similar raid in the city occurring in 2007 as well. According to 6Rang and Justice For Iran (JFI) this latter raid came during a nationwide crackdown on modes of dress and conduct deemed to be "un-Islamic," and saw 87 people arrested for "cross-dressing". They were held and physically abused for more than six days while subjected to invasive interrogations. 24 detainees were eventually tried for "facilitating immorality and sexual misconduct" as well as possessing and drinking alcohol. All were found guilty and three were sentenced to 80 lashes for drinking alcohol, but the majority were fined instead, with the judge considering their "affliction with a gender disorder" as a mitigating factor warranting a reduced sentence.²⁴⁸

One of the detainees from the party in Isfahan also claimed that he was arrested at his own birthday party earlier in 2007. His trial is said to have lasted less than one hour and he was sentenced to two months' imprisonment at Dastgerd Prison, plus 74 lashes.²⁴⁹

²³⁷ "Even in death we fight to be visible – Mahsa Jina Amini's death sparked protests across Iran", *6Rang*, 5 December 2022; "Iran's state media denies abolition of 'morality police' as three-day strike begins", *CNBC*, 5 December 2022; "Timeline: Events in Iran since Mahsa Amini's arrest and death in custody", *Alarabiya News*, 12 December 2022; "As more women forgo the hijab, Iran's government pushes back", *AP News*, 10 May 2023; "Iran condemned after executing three men over recent protests", *CNN*, 19 May 2023.

²³⁸ "موج جدید شناسایی و دستگیری افراد ال‌جی‌بی‌تی و مقاومت این جامعه" [The new wave of identifying and arresting LGBT people and the resistance of this community], *6Rang*, 19 January 2023; "Hate Speech Against LGBT People Used to Create Fear of Protests, Report Finds", *6Rang*, 30 March 2023.

²³⁹ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 27-28.

²⁴⁰ UNHCR, *Chronology of Events in Iran, September 2002* (2003), 6.

²⁴¹ "Iran: Two More Executions for Homosexual Conduct", *Human Rights Watch*, 21 November 2005.

²⁴² *Ibid.*

²⁴³ Information supplied by *Lesben- und Schwulenverband in Deutschland (LSVD)*.

²⁴⁴ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 21.

²⁴⁵ "Iran: Two More Executions for Homosexual Conduct", *Human Rights Watch*, 21 November 2005; Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 22.

²⁴⁶ "Iran: Two More Executions for Homosexual Conduct", *Human Rights Watch*, 21 November 2005.

²⁴⁷ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum: Communications to and from Governments*, A/HRC/14/24/Add.1 (2010), para. 450.

²⁴⁸ IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 6; 6Rang and Justice for Iran, *Diagnosing Identities, Wounding Bodies: Medical Abuses and Other Human Rights Violations Against Lesbian, Gay and Transgender People in Iran* (2014), 72-75.

²⁴⁹ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 24-25.

On **31 May 2007** the First District of the Criminal Court of Ardabil found the two men guilty of *liwat* and sentenced them to death. Reportedly, the conviction was based on “the knowledge of the judge”, despite the fact that Iranian law is said to require at least four male witnesses in order for the death penalty to be applicable.²⁵⁰

In **mid-2007** an unknown number of men were arrested at a private party in Shiraz when their apartment was raided by several plainclothes Basij officers. They were beaten with batons, blindfolded, then pushed down the stairs toward a police vehicle. They were held for three days, handcuffed and blindfolded without food or water, before their families were informed of their whereabouts and allowed to post bail. At least one of the detainees’ family members had to offer the deed to their house as bail, plus a further fine of 20,000,000 tomans (USD 21,000) when he fled Iran rather than showing up in court.²⁵¹

In late **2007** a young man in Tehran was interrogated by a plainclothes Basij officer as to why he was out so late that evening and why his outfit was “inappropriate”. The officer arrested the young man under the pretence of taking him to the police station, but took him to an unknown house’s basement instead where he was stripped, beaten and subjected to punitive rape before being released.²⁵²

Another young man arrested in **2007**, this time for allegedly “engaging in sex acts with another man in public”, was held in Isfahan’s Dastgerd Prison where he was reportedly raped regularly throughout his incarceration.²⁵³

Two more young men, aged 19 and 18, were found guilty of same-sex sexual activity in early **2008**, though details of their fates are not known. According to the Special Rapporteur on extrajudicial, summary or arbitrary executions, Iranian officials did not respond to official communications regarding this and other cases.²⁵⁴

On **14 January 2008** a young human rights defender in Tehran was arrested at a meeting along with several university students, apparently for his work in writing about and translating foreign texts regarding issues of gender identity and expression. He was reportedly placed in solitary confinement in Evin Prison without charge or trial. He was only permitted one short phone-call to his relatives, seemingly with guards present to intimidate him. Further details are not known, though the following month several UN Special Procedures issued an urgent appeal to the Iranian government for his immediate release.²⁵⁵

In **2009**, according to Human Rights Watch, three teenagers from Ardabil were arrested in three separate cases, and each sentenced to death. Under Iranian law four

male witnesses are required for a court to declare the death penalty, but two of these cases reportedly relied on the judge’s “discretionary knowledge” instead.²⁵⁶

IRQO reported in its UN Universal Periodic Review submission that another mass arrest of suspected gay men at a private party took place in Karaj in **2009**.²⁵⁷

In **2009** a trans woman who reported regular harassment from the police got angry at officers during one such incident and insulted them. As a result they arrested her, but when they got to the police station they took her to the basement of a neighbouring mosque instead. They raped her and burnt her with cigarettes. They allegedly filmed the incident and further used it as blackmail against her.²⁵⁸

In **December 2009** a trans man and his girlfriend were stopped by Basij forces while walking the streets of Mazandaran. They were asked for ID, and the trans man, hoping to avoid trouble for the mismatch between his gender expression and legal identity, told them he was a girl who dressed in masculine clothing to avoid harassment when out in public in the evenings. He was forced into a police vehicle, and en route to a detention centre they sexually harassed him. He was held overnight with two women who had been detained for not wearing their hijabs properly, and was released the next day after signing a letter of repentance. Authorities told him he was lucky that they did not press charges.²⁵⁹

IRQO reported another mass arrest from **2010** in Shiraz. Details for this and the other cases remain limited.²⁶⁰

In **2010** it was reported by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions that the Criminal Court of Shiraz found a man guilty of same-sex activity and sentenced him to death. The judgment was upheld on appeal by the Supreme Court. According to the Special Rapporteur, Iranian officials did not respond to communications regarding this case or others.²⁶¹

In **2010** police raided the home of two lesbian women when they were celebrating their union with friends. They released everyone except the two women and coerced them into confessing under the pretence that they would be released. While in detention, a security camera allegedly caught the two women kissing and so they were sentenced to 100 lashes independent of their initial reason for arrest. One of the women passed out after about 50 lashes, and does not seem to have been hit further thereafter. In all, she spent nine months in prison and was taken to court on **7 July 2011**. At the court her relatives appeared and attempted to beat her. The judge ruled for her to be

²⁵⁰ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum: Communications to and from Governments*, A/HRC/14/24/Add.1 (2010), para. 450.

²⁵¹ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 39.

²⁵² *Id.*, 25-26.

²⁵³ *Id.*, 26-27.

²⁵⁴ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum: Communications to and from Governments*, A/HRC/14/24/Add.1 (2010), para. 450.

²⁵⁵ UN Human Rights Council, *Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum: Summary of cases transmitted to Governments and replies received*, A/HRC/10/12/Add.1 (2009), para. 1298-1300.

²⁵⁶ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 21-22.

²⁵⁷ IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 6.

²⁵⁸ 6Rang and Justice for Iran, *Diagnosing Identities, Wounding Bodies: Medical Abuses and Other Human Rights Violations Against Lesbian, Gay and Transgender People in Iran* (2014), 70.

²⁵⁹ *Id.*, 67-68.

²⁶⁰ IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 6.

²⁶¹ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum: Communications to and from Governments*, A/HRC/14/24/Add.1 (2010), para. 450.

released in light of the lengthy period of pre-trial detention, whereafter she immediately fled Iran with a friend's passport without so much as changing her clothes. She would only later learn that same-sex activity between women is not usually punishable by death, and believes her own lawyer used the threat of execution as a means to extract more money from the desperate women. It is not known what happened to the other woman.²⁶²

In **2011** a police raid was allegedly conducted against a lesbian woman and her girlfriend, though neither were home at the time of the incident. Two of the pair's friends were present, however, and authorities reportedly confiscated "explicit photos and material". Alerted of the raid by a neighbour, the two women opted to flee the country, though relatives of the lesbian woman's girlfriend were issued with a court summons relating to the case. The pair reportedly experienced at least one prior arrest, with a local colonel allegedly trying to make sexual advances on them whilst in custody.²⁶³

In **January 2011** a Revolutionary Court in Tehran sentenced a journalist to four years in prison, plus 60 lashes and a fine, for interviewing and writing about LGBT community members in the country.²⁶⁴

In **March 2011** a gay man was arrested in Tehran as police assumed he was part of an anti-government protest happening nearby. They held him for four days, at which point they gained access to his laptop and there found evidence of his sexual orientation. He was beaten for this, but ultimately released on bail of 40,000,000 tomans (approximately USD 38,500). He was instructed in **July** to go to Branch 71 of the Criminal Court in Tehran. The man claimed that the Criminal Court would only be dealing with cases of "sexual indecency" and not political protest. As such, he and his boyfriend fled to Turkey.²⁶⁵

A gay man told Germany's Federal Office for Migration and Refugees in **May 2011** that he fled the country two months after a friend of his father walked in on him and his boyfriend of two years having sex. The family friend reported the incident to authorities, who opened an investigation into the pair and searched the young man's home. He managed to evade capture, but claimed that his father's friend—who had ties to Iranian intelligence services—was intent on arresting him.²⁶⁶

In **September 2011** it was reported that a teenager—identified in local media as a boy of "girlish tone"—was arrested for wearing women's clothing and charged with impersonation. The teenager was sent to the Qom Disciplinary Command Counselling Center for "psychological assessment".²⁶⁷

In **2012** a trans woman reported that police in Tehran had arrested and beaten her on multiple occasions, always releasing her without charge.²⁶⁸

In **May 2012** a plaintiff disclosed to the German Federal Office for Migration and Refugees that upon a previous entry into Iran he underwent interrogation and detention at the airport by the police. He claimed they had a file on his "homosexuality" ready.²⁶⁹ Further details are unclear at present.

The Iranian Queer Organisation (IRQO) reported in a submission to the United Nations Universal Periodic Review for Iran that another mass arrest of suspected gay men at a private party took place in Kermaz in **2013**.²⁷⁰

In early **2013** a 23-year-old lesbian woman was summoned to appear before the General Court in the Sa'adat Abad district in Tehran, after her girlfriend's family learned of their relationship and filed a complaint. Her uncle, who previously served in the Iranian military, was able to have the charges dropped through his connections, but he too did not approve of her sexual orientation and demanded she marry a man, cutting her face in the ensuing argument. She fled to Turkey soon after, though her relatives continued to reach out via phone-calls to threaten her life.²⁷¹

Also according to IRQO, JFI and 6Rang, on **8 October 2013** in the city of Kermanshah, members of the Revolutionary Guard raided a private birthday party attended by 80 people. According to a statement issued by Kermanshah province's Basij forces, their goal was to disband an alleged "[homosexual] and Satan-worshipping network". Detainees and staff at the venue were reportedly beaten, pepper-sprayed and shocked with electric batons. 17 detainees were then photographed and had their personal belongings confiscated before being blindfolded and taken to a secret location. They were beaten and authorities held a mock-execution, seemingly for the sole purpose of scaring their prisoners. After a few days in detention most detainees were released on bail and told they would face charges in the coming weeks, but their court dates were cancelled. When released they were apparently dumped by police near a local oil field far from the city. The organiser of the party was allegedly held for a longer period and died in custody. One of the victims alludes that authorities may have hanged him in his cell, but suggests also that he may also have succumbed to injuries suffered during the group's torture.²⁷²

On **4 February 2014** the head of the Cyber Police in Ilam province announced the arrest of an internet user on

²⁶² Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 23-24; OutRight Action International, *Human Rights Report: Being Lesbian in Iran* (2016), 15-16.

²⁶³ Information supplied by *Lesben- und Schwulenverband in Deutschland (LSVD)*.

²⁶⁴ IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 7.

²⁶⁵ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 37-38.

²⁶⁶ Information supplied by *Lesben- und Schwulenverband in Deutschland (LSVD)*.

²⁶⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁶⁸ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 37.

²⁶⁹ Information supplied by *Lesben- und Schwulenverband in Deutschland (LSVD)*.

²⁷⁰ IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 6.

²⁷¹ Iran Human Rights Documentation Centre, *Denied Identity: Human Rights Abuses Against Iran's LGBT Community* (2013), 33.

²⁷² "Iran arrests 'network of homosexuals and satanists' at birthday party", *The Guardian*, 10 October 2013; IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 5-6; 6Rang and Justice for Iran, *Diagnosing Identities, Wounding Bodies: Medical Abuses and Other Human Rights Violations Against Lesbian, Gay and Transgender People in Iran* (2014), 71-72; "Eight Years On, the Trauma Continues for LGBT+ Iranians Detained at Birthday Party by IRGC", *IranWire*, 2 September 2021.

charges of “promoting immorality and homosexuality on social networks”. The news reports indicated that the suspect was identified through online surveillance. It is not known what punishment awaited the accused, but an official told local media that “police will deal with such cases severely”.²⁷³

In **December 2014** a lesbian woman from the city of Rasht told OutRight Action International of a time when she was abducted by intelligence officials on account of her vocal SOGIESC advocacy and made to undergo a “reorientation course”. She was held for three days with 40 other people and tortured, made to undergo “virginity testing” and intimidated by religious officials, before her father managed to get her released.²⁷⁴

On **3 August 2016** a trans man in Golestan was gang-raped, and when he went to the police to report the crime, they instead mocked him and charged him with buggery. He was transferred to the general crime prison in Gonbad-e-Kawoos.²⁷⁵

6Rang reported that on **13 April 2017** around 30 men were arrested at a gathering in Isfahan in a raid by Basij forces. A court charged them with “sodomy and consuming psychedelic drugs and alcohol”, and they were subsequently transferred to Dastgerd Prison.²⁷⁶

On **3 September 2018** a gender equality activist was detained for 26 days at Tehran’s Evin prison. She had previously been gathering information on mass executions of prisoners that took place in the 1980s. According to reports received by 6Rang, her court session was held on **18 February** in Tehran’s Revolutionary Court, where her lawyer was denied access to her file and barred from defending her. The woman’s charges included “gathering and colluding against national security by normalising same-sex relations”. It was reportedly the first time a human rights defender has faced such an accusation in Iran. She was released on bail but in **December 2019** it was reported that she and a trade union activist from an unrelated case were each sentenced to five years’ imprisonment.²⁷⁷

On **17 September 2017**, Iranian Revolutionary Guard and Basij forces raided a private birthday party in Shiraz and arrested 23 people, some of whom were transgender. They were beaten and taken to Ministry of Intelligence offices where they were charged with “attending a *haram* (religiously prohibited) party”.²⁷⁸

A gender-nonconforming activist, Zahra Sedighi-Hamadani (also known as Sareh),²⁷⁹ was arbitrarily detained on **23 May 2019** in Kurdistan Province. She was charged with

various “national security offences”, according to Amnesty International, allegedly because of her work with marginalised demographics within the Kurdish community.²⁸⁰ Zahra’s name would go on to make international headlines in **2021** and **2022** when she was again targeted for her activism and sexual orientation.

On **29 December 2018** two men were arrested in the city of Jahrom after a private video of their symbolic wedding was published on social media. They were charged with committing a capital offense, though the results of their trial are not known.²⁸¹

In **October 2019** a British-Iranian anthropologist studying child marriage and female genital mutilation in the country was arrested, with reports in **November 2020** indicating that he had been sentenced by Iran’s Revolutionary Court to nine years’ imprisonment and a fine of USD 700,000 for “promoting homosexuality”, as well as “visiting Israel [...], cooperation and communication with foreign and hostile media, infiltration aimed at changing the law, and sending false reports about the country to the UN’s Special Rapporteur on Human Rights in Iran”.²⁸²

In a **2020** report by 6Rang, one person interviewed said “[m]y family gave me over to the police because I am intersex”. No further details are known regarding this incident, but the intervention of the State to persecute an intersex individual is notable.²⁸³ The same **2020** report by 6Rang notes six additional individual testimonies of violent arrest, though dates, locations and details of the victims’ detentions are not known.²⁸⁴

In **August 2020** a self-described non-binary gay man by the name of Alireza Fazeli Monfared, from Khuzestan province, was arbitrarily arrested by police and detained for several days in connection to social media posts made by Monfared in which they were seen dancing and expressing themselves in a way likely not in line with a masculine gender expression. Upon release they were attacked by a male relative for bringing “shame” to the family. In **2021** Monfared was granted an exemption from military conscription because of their sexual orientation and gender expression. Iran’s military regulations stipulate that individuals with “perversions that are contrary to social and military values” can receive a temporary or permanent deferral, and this is often used by queer individuals to escape the widely reported homophobic violence of the armed forces, even if it means formally submitting to the State’s definition of their identities as “mental illness”. However, it appears the exemption letter was seen by relatives, as on **4 May 2021** Alireza Fazeli Monfared’s throat was slit in an apparent honour-killing. No suspects

²⁷³ “Arrest of a homosexual on the Internet”, Iranian Students News Agency, 14 February 2014; IRQO and IGLHRC, *Submission to the United Nations Universal Periodic Review: Human Rights Violations of People in the Islamic Republic of Iran on the Basis of Their Sexual Orientation and Gender Identity* (2014), 6-7.

²⁷⁴ OutRight Action International, *Human Rights Report: Being Lesbian in Iran* (2016), 16-17.

²⁷⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁷⁶ “Men Arrested at a Party in Isfahan Charged with ‘Sodomy’”, 6Rang, 16 April 2017.

²⁷⁷ 6Rang, *Submission to the UN Universal Periodic Review, 34th Session of the UPR Working Group Islamic Republic of Iran* (2019), para. 20; “Two Iran Activists Convicted To Five-Year Prison Terms Each”, Radio Farda, 13 December 2019.

²⁷⁸ 6Rang, *Submission to the UN Universal Periodic Review, 34th Session of the UPR Working Group Islamic Republic of Iran* (2019), para. 24.

²⁷⁹ While it is standard practice for this report to redact the names of criminalised persons for their safety, the prolific reporting by both international media and human rights defenders has mooted this. An exception has thus been made to allow readers a clearer understanding of the incident.

²⁸⁰ “Iran: Kurdish Activist Arbitrarily Detained: Zahra Mohammadi”, Amnesty International, 13 November 2019.

²⁸¹ 6Rang, *Submission to the UN Universal Periodic Review, 34th Session of the UPR Working Group Islamic Republic of Iran* (2019), para. 25.

²⁸² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁸³ 6Rang, *Hidden Wounds: A Research Report on Violence Against LGBTI in Iran* (2020), 11.

²⁸⁴ *Id.*, 11.

were arrested by Iranian authorities.²⁸⁵

On **20 October 2020** it was reported that three young social media “influencers”—two of whom seem to be transgender—were arrested in Tehran and taken to Evin Prison for making posts online explicitly discussing their sexual orientations and for publishing satirical content critical of the government. Further details of their cases were not identified at the time of publication.²⁸⁶

On **27 October 2021**, activist Zahra Sedighi-Hamadani was arrested by the IRGC again after attempting to leave Iran. She was accused of “illegally leaving the country” and “collaborating with hostile media” because of an interview she did with the *BBC*. Zahra was forcibly disappeared for 53 days after her arrest, and was subject to extreme abuse in a detention centre in Urumieh from **October to December 2021**.²⁸⁷ According to 6Rang, a criminal court ordered her to pay a fine of 5,300,000 tomans (approx. USD 128) for the charge of illegal border crossing. She was found not guilty of the other charges, which included “encouraging prostitution and moral corruption”. In **August 2022**, 6Rang reported that a branch of the Urumieh Criminal Court had acquitted her on the charges of encouraging people to commit morally corrupt acts. An appeals court upheld this verdict, though the charges relating to her online activities were referred to the Revolutionary Court.²⁸⁸

It was reported on **13 November 2021** that two men who had engaged in same-sex sexual activity were sentenced to death for “adultery”. The wife of one of the men requested clemency from the court, but her father allegedly demanded the execution of his son-in-law for his behaviour. The court ruled in the father’s favour, though the date set for the men to be hanged, and whether any actions for an appeal might be open to them, were not clear at the time of publication.²⁸⁹

On **3 February 2022** two men who had been on death row for six years in Maragheh Central Prison were executed. They had been convicted of “forcible sodomy”, and as such are not tallied in the enforcement count above, though Iranian activists have claimed that the State regularly uses accusations of rape to justify the execution of homosexuals. A source familiar with the situation reported that the two men were denied legal counsel.²⁹⁰

The Norway-based NGO, Iran Human Rights (IHRNGO) found evidence that on **29 June 2022**, 10 men convicted of various charges had their punishments meted out in a mass execution at the Rajai-Shahr prison in Karaj. One of them was convicted on a charge of “sodomy”.²⁹¹

In **July 2022**, the Iranian intelligence organisation of the IRGC reportedly arrested Zahra Sedighi-Hamadani again, accusing her of “trafficking Iranian women into Iraq, promoting homosexuality, gambling, fraud, and promoting illicit sexual relations and publishing them on the Internet”.²⁹² Iranian State media later reported that another activist was also charged and convicted as part of the same case. Judicial authorities notified the two accused on **1 September 2022** that they had been convicted and sentenced to death by the Islamic Revolutionary Court of Urumieh. They were convicted on charges of “corruption on Earth” and “trafficking” LGBT+ persons to safety out of Iran, according to a press release by the Office of the United Nations High Commissioner for Human Rights (OHCHR).²⁹³ The sentences were appealed at the Supreme Court of Iran and in **December 2022** the verdicts appear to have been overturned. The death sentence against Zahra was formally revoked on **9 January 2023**, according to 6Rang. The other activist was released on **13 March 2023** after bail of Rial 1,000,000,000 (USD 23,640) was paid. On **18 March** Zahra was also freed, on a bail of USD 45,000.²⁹⁴

On **17 December 2022** a transgender teenager, was arrested as she left her home in the Shahre Rey area of Tehran. The girl was taken to a juvenile detention centre, but her family expressed fear that as soon as she comes of age, she could be transferred to a men’s facility and subjected to abuse there by the authorities. At the time of writing, she had not been granted access to her family or a lawyer.²⁹⁵

On **19 January 2023** a non-binary blogger was detained, but released some time later, according to 6Rang. The blogger seems to have been arrested for speaking out in favour of anti-government protests which had spread across much of Iran in the preceding months. They made statements on social media indicating that they expected to be arrested soon, and implied that if the authorities claimed they died of suicide or illness while in custody that this should not be believed.²⁹⁶



Enforcement Overview

Though Jordan does not explicitly criminalise consensual same-sex sexual acts or gender expression, trans women

²⁸⁵ “Iran: Murder of 20-year-old gay man highlights urgent need to protect LGBTI rights”, *Amnesty International*, 17 May 2021.

²⁸⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁸⁷ “Iran: UN experts demand stay of execution for two women, including LGBT activist”, *OHCHR*, 28 September 2022.

²⁸⁸ “Sareh, an Iranian LGBTI activist, is facing a possible criminal conviction”, *6Rang*, 6 August 2022; *OHCHR*, *UA IRN 21/2022*, 20 Sep 2022.

²⁸⁹ “Ιράν: Γκέϊ ζευγάρι καταδικάστηκε σε θάνατο μετά από αίτηση της οικογένειας” [Iran: Gay couple sentenced to death at family request], *Antivirus Magazine*, 13 November 2021.

²⁹⁰ “Iran executes 2 gay men accused of ‘forcible sodomy,’ human rights group says”, *Insider*, 5 February 2022.

²⁹¹ “Rights Watchdog Says Iran Secretly Executed 10 Prisoners On June 29”, *Big News Network*, 1 July 2022.

²⁹² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁹³ *OHCHR*, *UA IRN 21/2022*, 20 September 2022; “Iran: UN experts demand stay of execution for two women, including LGBT activist”, *OHCHR*, 28 September 2022.

²⁹⁴ “Todesurteile gegen LGBTIQ-Aktivist*innen offenbar aufgehoben” [Death sentences against LGBTIQ activists apparently overturned], *Mannschaft Magazin*, 31 December 2022; “Elham Choubdar has been released from Urmia prison on bail”, *6Rang*, 13 March 2023; “LGBTQ+ activist facing death penalty in Iran walks free after sentence overturned”, *PinkNews*, 15 March 2023; “Sareh will be spending Nowruz alongside her family and children”, *6Rang*, 18 March 2023.

²⁹⁵ “Iran: salvate Raha Ajudani, ragazza trans minorenne arrestata” [Iran: rescue Raha Ajudani, a minor trans girl arrested], *Gay.it*, 24 December 2022; “موج جدید شناسایی و مقاومت این جامعه” [The new wave of identifying and arresting LGBT people and the resistance of this community], *6Rang*, 19 January 2023.

²⁹⁶ “موج جدید شناسایی و دستگیری افراد ال‌جی‌بی‌تی و مقاومت این جامعه” [The new wave of identifying and arresting LGBT people and the resistance of this community], *6Rang*, 19 January 2023.

and persons of feminine gender expression can be de facto targeted under Article 307 of the Penal Code (1960), which says:

Any male who is disguised in a female's dress and enters a place reserved for women only, or which cannot be entered by other than women at the time of committing the act [...] shall be punished by imprisonment for a period not to exceed six months.²⁹⁷

The Arab Foundation for Freedoms and Equality and OutRight Action International have interviewed activists who indicate that transgender women accused of "presenting in the opposite gender" or "engaging in sex work" are often those most targeted by society and State actors. Those interviewed, however, note that getting a detailed picture of the situation of criminal enforcement remains difficult, given many cases go unreported or formally registered. One activist has claimed that targeted persons may be held by police, but that formal proceedings in a court of law are rare.²⁹⁸

In December 2021 the General Iftaa Department issued Fatwa No. 3670 on Sexual Relations from an Islamic Perspective (2021) in response to a question submitted from the member of the public, declaring that "homosexuality is illegal under Islamic law", as is advocating for LGBTI+ rights. Such *fatwas* (religious rulings) are not legally binding, though the General Iftaa Department acts in an advisory capacity to government branches and courts, with the Grand Mufti heading the Department being selected and inducted by the King of Jordan.²⁹⁹

According to a 2023 report by Human Rights Watch, Jordan, along with several other SWANA (South-West Asia and North Africa) countries, regularly engage in online or telephonic entrapment of suspected sex workers, homosexuals, or gender-diverse persons. Those who are targeted are often subject to sexual violence or extortion.³⁰⁰ Given, however, that consensual same-sex sexual activity is not technically illegal in Jordan, cases relating to the entrapment and arrest of many accused persons are often referred to local Governors who then have discretion to decide whether punishment should be meted out against the accused.³⁰¹

Human rights defenders in the region have indicated that violence and harassment against persons of diverse SOGIE has been on the rise since 2015, with a concerning increase in police and intelligence service officials detaining or abusing members of the community or activists in the 2020s. Intelligence officials are alleged to regularly monitor the online activities and movements of human rights defenders, with some claiming that they are brought in for interrogation on a regular basis. These attacks are said to be coordinated and systematic, rather than arbitrary acts of malice from law enforcement officials or homophobic

elements of society, as part of a growing pushback against SOGIESC advocacy.

Calls from religious groups and conservative politicians to outright criminalise homosexuality have also made headlines in 2023, as did the expansion of censorship of "immoral" digital content in the country. This crackdown has led to at least two LGBTIQ+ advocacy organisations in Jordan closing their doors in 2023, though Jordanian officials have denied that these organisations existed to begin with.³⁰²

Given the above, it is important to note that the few cases of enforcement identified by ILGA World between 2014 and 2023 are likely not representative of the prevalence of State targeting.

Examples of Enforcement

In **February 2014** the Administrative Governor of the Marka area ordered the arrest of 10 gay and lesbian partygoers to "prevent a disturbance of the peace". According to an anonymous security official, with no laws against homosexuality in the country, discretion lies with Administrative Governors on how to handle such cases, including decisions on the length of any period of detention.³⁰³

On **4 April 2019** a 25-year-old transgender woman was entrapped by police officers in Amman. She was called by an undercover officer who pretended to be a friend of hers asking to be picked up at his apartment. Her friend had himself been entrapped on a gay dating app and detained. The trans woman was raped by the officers present when she arrived and charged with "practicing sodomy in exchange of money" and "soliciting prostitution" on social media. Police used the same apartment to arrest another trans woman as well, tricking her into thinking she was meeting a man for a date there. It is alleged that the authorities falsified digital information to build a case against those they had captured, though all charges were dropped after eight court hearings.³⁰⁴

On **19 August 2019**, somewhere between 13 and 19 people (sources are not consistent in regard to the exact number), were arrested on a farm in Shouna for having a "noisy" "homosexual party", with five alleged organisers being referred to the Governor of Shouna to make a decision about what punishment, if any, they should face. Authorities interviewed in the media noted that they had been monitoring phone calls between party organisers and social media posts about the party.³⁰⁵

In **September 2021** a 25-year-old man from Amman met another man on a dating app, who later threatened to publish a video of their online intimacy as a form of blackmail. The 25-year-old approached the Cyber Crimes Unit in Amman seeking intervention, though officers there

²⁹⁷ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 81.

²⁹⁸ Arab Foundation for Freedoms and Equality (AFE) and OutRight Action International, *Activism and Resilience: LGBTQ progress in the Middle East and North Africa. Case studies from Jordan, Lebanon, Morocco and Tunisia* (2018), 9-11.

²⁹⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Jordan* (accessed: 18 June 2023).

³⁰⁰ Human Rights Watch, *All this terror because of a photo* (2023).

³⁰¹ "Jordan arrests 10 gays over get-together party", *Al Arabiya News*, 27 February 2014; "الامن يقبض على 13 مثليا في مزرعة", *Jfira News*, 4 July 2021; "19 arrested over 'gay party' in Jordan", *Gulf News*, 6 July 2021.

³⁰² "Jordan's LGBTQ community faces increased attacks, including from Islamists", *Al-Monitor*, 23 June 2023.

³⁰³ "Jordan arrests 10 gays over get-together party", *Al Arabiya News*, 27 February 2014.

³⁰⁴ Human Rights Watch, *All this terror because of a photo* (2023).

³⁰⁵ "Photos: Police arrest 'homosexuals' gathering in rented farm near Jordan Valley", *Roya News*, 20 August 2019; "What will happen to 'homosexuals' arrested in rented farm near Jordan Valley?", *Roya News*, 20 August 2019; "الامن يقبض على 13 مثليا في مزرعة", *Jfira News*, 4 July 2021; "19 arrested over 'gay party' in Jordan", *Gulf News*, 6 July 2021; "بعد 'حفل صاحب' في البلقاء.. الامن يقبض على 13 مثليا في مزرعة", *Jfira News*, 4 July 2021; "19 arrested over 'gay party' in Jordan", *Gulf News*, 6 July 2021.

mocked him for his sexual orientation and refused to take his statement. They transferred his case to another police station, in Tariq, instead. Several weeks later he was summoned to Tariq police station where officers again belittled him before taking him to a local court. At the court his blackmailer was already waiting. Rather than taking action against the blackmailer, the judge found the 25-year-old guilty of “soliciting prostitution online” under Article 9 of Jordan’s Cybercrime Law. The young man told Human Rights Watch: “I thought I was resorting to the law for protection, but they were manipulating me. The judge told me, ‘Shall I imprison you now? Or shall we wait?’ and everyone laughed”. His lawyer advised him not to appeal so as to avoid provoking the judge, and instead negotiated his sentence down to one month in prison and a fine of 100 dinars (USD 141).³⁰⁶

In **January 2023** a human rights defender was arrested—forced into a car by members of the General Intelligence Directorate (GID)—and held overnight for interrogation regarding his SOGIESC advocacy work. They released him, but contacted his family to out him as gay, resulting in backlash against him from his relatives. Reportedly, the activist also had his bank account frozen by the authorities.³⁰⁷

Another activist was also arrested around **January 2023**, according to media reporting. He claimed that he had been harassed and detained by GID members on numerous occasions, but in the most recent incident the officers also implied that they would out him to his family if he did not cease his activities, and froze his bank account. Around this time, the activist also began receiving threatening emails and texts, with one such message allegedly reading: “The place where you work is being watched by the Jordanian intelligence services. I’m letting you know now, don’t be stupid. [...] It won’t end well”.³⁰⁸



Criminalising Provisions

Article 193 of Penal Code (Law No. 16) (1960) criminalises consensual intercourse between men of full age (from the age of 21), which carries a possible imprisonment of up to seven years.³⁰⁹

Enforcement Overview

ILGA World has identified more than 60 examples of criminal enforcement between 2007 and 2023 in Kuwait. A significant majority of these cases appear to be the targeting of trans women and other persons of feminine gender expression under Article 198 of the Penal Code prohibiting the “imitation of the opposite sex”.

Article 198 was amended to this effect in 2007, but in February 2022 the Constitutional Court of Kuwait ruled it unconstitutional on the grounds that it did not include clear and objective criteria to “determine that legally sinful act, and what is considered to be an imitation of the opposite sex and what is not”.³¹⁰ Almost immediately thereafter some MPs and representatives of conservative NGOs publicly called for legislation to explicitly criminalise “impersonation of the opposite sex” within the framework set by the court.³¹¹

Regardless, the current period of decriminalisation of “impersonation” has not deterred authorities from detaining people with diverse gender identities and expressions. At the start of 2022 multiple security agencies and government departments were reportedly issued with instructions from the Deputy Prime Minister and Minister of the Interior on “the need to clean the country from crossdressers who imitate women, by launching wide campaigns in all governorates, due to the fact that their practices cause an outbreak of diseases in Kuwaiti society”. As such, up to 3,000 “cross-dressers” originating from other countries are claimed to have been arrested and deported by December 2022.³¹²

Undoubtedly then, there are many cases of criminal enforcement beyond those identified by ILGA World which remain uncaptured in this report. Some mass arrests or coordinated crackdowns by police have been recorded in such a way that the number of distinct cases of enforcement could not be disaggregated, while some victims interviewed by Human Rights Watch and other groups have reportedly been arrested so often that tracking the exact number of cases for individual persons was also not always possible. In 2012 Human Rights Watch interviewed around 40 trans women from Kuwait, 39 of whom had previously been arrested, often multiple times.³¹³ The United States Bureau of Democracy, Human Rights and Labor notes that in 2009 alone there were “more than a dozen” reports of people being arrested for their gender expressions.³¹⁴

The majority of arrests do not result in a formal trial, either for various procedural reasons or because police simply

³⁰⁶ Human Rights Watch, *All this terror because of a photo* (2023).

³⁰⁷ “Η Ιορδανία στοχοποιεί τη ΛΟΑΤΚΙ+ κοινότητα: Απαγωγές, παρενοχλήσεις και απειλές” [Jordan Targets LGBTI+ Community: Abductions, Harassment and Threats], *News* 24/7, 19 August 2023.

³⁰⁸ *Ibid.*

³⁰⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Kuwait* (accessed: 28 June 2023).

³¹⁰ “Kuwait court declares law on ‘imitation of opposite sex’ is unconstitutional”, *The National*, 16 February 2022; “Kuwait: Overturning law that criminalized ‘imitation of the opposite sex’ a breakthrough for transgender rights”, *Amnesty International*, 16 February 2022; “Kuwait court overturns law criminalising imitation of opposite sex”, *Reuters*, 16 February 2022.

³¹¹ “Kuwait court overturns law criminalising imitation of opposite sex”, *Reuters*, 16 February 2022; “«حماية الأسرة ضدّ طلب بتجريم» المطالبة” [“Family Protection” calls for the criminalization of “homosexuality”], *Masr Alyoum*, 24 February 2022.

³¹² “3000 Cross-dressers and transgenders deported from Kuwait this year”, *Arab Times*, 7 December 2022.

³¹³ Human Rights Watch, “They Hunt Us Down for Fun”: *Discrimination and Police Violence Against Transgender Women in Kuwait* (2012), 2.

³¹⁴ Bureau of Democracy, Human Rights and Labor, *2009 Country Reports on Human Rights Practices: Kuwait* (2010).

opted to informally extort or abuse their detainees instead.³¹⁵ A relative dearth of convictions does not, however, equate to a toothless law given the authority with which it imbues law enforcement to arbitrarily detain, and even torture, trans and gender-diverse individuals. Kuwaiti law, according to Human Rights Watch, does not properly define torture and as such torture of prisoners remains all too common.³¹⁶

In 2013 Kuwait put a motion to the Gulf Cooperation Council (GCC) countries of Saudi Arabia, Qatar, Bahrain, Oman, the UAE (and Kuwait itself), for the adoption of new measures to prevent LGBT migrants, workers and travellers in general from entering member States by subjecting them to medical examinations. After international backlash, the Foreign Ministry Undersecretary walked back the plan by noting that it was merely a proposal. In response to the backlash, particularly a statement issued by Amnesty International, one Kuwaiti MP defended the proposal by saying the “decision to bar homosexuals from entering Kuwait is a sovereign decision. Amnesty International should take care of lofty and noble goals for which it was established, leave aside homosexuality and deviations and stop defending delinquents”.³¹⁷

Attempts by Kuwaiti officials to aggravate the existing criminalisation of SOGIE did not end there, however, and a member of Parliament proposed in 2021 that any form of advocacy—up to and including publicly displaying a rainbow flag—as well as engaging in homosexuality (defined in the proposal as being inclusive of “imitating women”) be punishable by up to three years’ imprisonment and/or a fine. He is reported as saying that “perversion is not a matter of personal freedom”.³¹⁸

Kuwait has also demonstrated a pattern of opposition or apparent indifference to calls from United Nations human rights bodies to respect and uphold SOGIESC rights. In 2011 the UN Human Rights Committee formally expressed concern at “reports of harassment, arbitrary arrest and detention, abuse, torture, sexual assault and harassment of individuals on the basis of their sexual orientation or gender identity”. The group urged Kuwait to repeal the criminalising provisions and “send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation or gender identity”.³¹⁹

In 2019 ahead of Kuwait’s fourth Universal Periodic Review at the UN, the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requested comment from Kuwaiti officials “on reports that, in 2017, Kuwait deported 76 men on suspicion of being gay and that transgender people can be arrested under a 2007 Penal Code provision that prohibits ‘imitating the opposite sex’ in any way”. It further requested information on whether the State had “taken

any steps to decriminalise consensual sexual relations between same-sex adults”.³²⁰

In 2020, the Government of Kuwait submitted a report which responded to the Committee against Torture, indicating that “Islamic Sharia is a major source of legislation” and that it “prohibits homosexuality and imitation of persons of the opposite sex”. Article 49 stipulates that “observance of public order and respect for public morals are obligations incumbent on all inhabitants of Kuwait”. Thus, according to Kuwaiti officials, recommendations by UN bodies and member states for decriminalisation are “incompatible with these requirements and violates the nature, customs, values and traditions of Arab societies in the Middle East. The State of Kuwait reaffirms its commitment to the enforcement of its national legislation, which is accepted and approved by Kuwaiti society as a whole and reflects a moral, religious and social reality that cannot be ignored”.³²¹

Furthermore, efforts to reinforce the criminalising legal framework were made in October 2021 when five Members of Parliament made a proposal to amend Law No. 16 of 1960 to impose a penalty of three years’ imprisonment and a fine to anyone who: (a) raises a flag, logo or any reference symbolising “the category of homosexuals”; (b) promotes, by any means, ideas and beliefs related to “homosexuals”; (c) calls for the formation of a group that adopts the “ideas and beliefs of homosexuals” and (d) wears clothes with slogans on them or symbols or signs symbolising homosexuals.³²² The proposal came at roughly the same time that Bahraini MPs submitted a similar piece of legislation in the wake of outcry across multiple Middle-Eastern States at the raising of the rainbow Pride flag at the US Embassy in Manama.³²³ These provisions, if passed, would contribute to an even more restrictive environment, and may lead to more arrests if enforced with the same zeal used to enforce provisions currently in force in Kuwait.

Examples of Enforcement

A trans woman recounted to Human Rights Watch that she had been arrested twice before Kuwait’s law against “imitating the opposite sex” was passed in 2007. Each time, she was held for at least four hours and beaten before being released without charge. She claimed she and a friend were arrested again in **March 2008** (after the law was passed) when police saw their ID documents at a checkpoint. Instead of taking them into the police station, however, they held them at a neighbouring house, took photos of them, beat and sexually assaulted them. When they complained, police said that it was not really sexual harassment to touch their breasts because they were “really men”. After this abuse police transferred them to the Criminal Investigation Department in Salmiya where

³¹⁵ Human Rights Watch, “They Hunt Us Down for Fun”: *Discrimination and Police Violence Against Transgender Women in Kuwait* (2012), 1-3.

³¹⁶ *Id.*, 3, 22-23, 32.

³¹⁷ “Kuwait must reject proposed homophobic ‘medical tests’ on migrant workers”, *Amnesty International*, 11 October 2013; “Ban on homosexuals working in Gulf countries ‘just a proposal’: Kuwaiti official”, *Big News Network*, 22 October 2013; Human Dignity Trust, *Country Profile: Kuwait* (2021).

³¹⁸ “برلماني كويتي: الحبس 3 سنوات لمن يروج للشذوذ الجنسي - أحداث اليوم الإخباري” [Kuwaiti parliament: 3 years prison for promoting homosexuality], *Ahdath* 24, 2 September 2021.

³¹⁹ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant Concluding observations of the Human Rights Committee: Kuwait*, CCRP/C/KWT/CO/2 (2011), para. 30.

³²⁰ Committee against Torture, *List of issues prior to submission of the fourth periodic report of Kuwait*, CAT/C/KWT/QPR/4 (2019), para. 40.

³²¹ Committee against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2020*, CAT/C/KWT/4 (2020), para. 174.

³²² “نواب يقدمون مقترحاً بقانون لسجن مروجي فكر الشواذ - مجلة المجتمع 5” [Five MPs submit a proposal for a law to imprison the promoters of gay thought], *Al Mugtama*, 11 October 2021; “نواب لمسجن مروجي فكر الشواذ - جريدة الجريدة 5” [Five deputies to imprison the promoters of gay ideas], *Al Jarida (Kuwait)*, 10 October 2021.

³²³ “Al-Azhar Observatory condemns raising of rainbow flag by US embassy in Bahrain”, *Egypt Independent*, 11 June 2021; “Clamp on gays proposed”, *GDN Online*, 17 October 2021.

they were held for five days and further mistreated. They were released on a bail of 100 dinars (USD 360) and a court later fined them 1,000 dinars each (USD 3,600) for “imitating the opposite sex” plus three years’ probation. She was arrested again in **2010** despite wearing men’s clothing, and was held for three days when she refused the officer’s promise to release her in exchange for the chance to touch her breasts. This time her father came to the police station with medical documents identifying her as transgender, but police refused to add these to her file for future reference.³²⁴

In **March 2008** a Bidun trans woman was arrested. The Bidun are a stateless class within Kuwait considered illegal residents, and as such reportedly face significantly higher rates of violence and marginalisation. The woman in question was stopped at a police checkpoint and though she was wearing typical male clothing they searched the vehicle she was in and found her makeup in her bag. They dragged her out of the car, kicked and punched her, and took her to Salmiya police station. She tried to avoid further violence by telling them she was a man, but they beat her again to force her to confess to being of the “third sex”. In **2009**, a court fined her 1,000 dinars (USD 3,000) for “imitating the opposite sex”. She claims that she had been detained up to nine times between **2008** and **2012** because of her gender expression and Bidun status. Police would also make sure to “out” her and her friends to conservative family members.³²⁵

A trans woman was arrested outside a restaurant in broad daylight in **2008**, despite wearing a tracksuit instead of anything typically considered feminine. She was released on the condition that she give her phone number to the officer so that he could come have sex with her later. She claimed this was the second time she had been arrested because of her identity.³²⁶

Another trans woman was arrested in **2008** despite wearing a tracksuit and attempting to appear masculine in public. Police whistled at her as they came over and told her they would allow her to walk free if she let them grope her breasts, and so she complied. They took her to the Criminal Investigation Department anyway, where she was beaten, stripped, and made to pose for humiliating photographs. She was held for two days without her family being informed of her whereabouts before being taken to the Vice Unit and made to parade in front of staff there. She was forced to sign a document promising that she would never “imitate the opposite sex again” before being released into the custody of her brother, who they also mocked for being related to a trans woman.³²⁷

A trans woman who claims to have been arrested several times (though the number of arrests is not known), told Human Rights Watch that she was reported to police by a man whose sexual advances she had refused in **2008**. She noted that she was held in Salmiya prison for nine days.

The facility, she says, has 40 solitary confinement cells and only trans women are placed there. They are made to sleep on the hard ground without blankets and only a bottle in which to urinate. It is claimed that one room in the facility is called the “VIP Room” as it has been decked out with a bed and private bathroom, and some trans women are permitted to stay there in exchange for sex.³²⁸

On **10 March 2009** officers from the Criminal Investigations Division raided a coffee shop and arrested “five men for cross-dressing”, according to the US Bureau of Democracy, Human Rights and Labor. It is not clear whether these detainees may also have been trans women.³²⁹

In **July 2009** a trans woman was stopped by a patrol car and detained for “imitating the opposite sex”. When she asked how that was possible as she was wearing men’s clothing and had short hair as a result of police shaving it during a previous arrest, they simply said “your face”. This highlights the plight of trans women in Kuwait who by virtue of being women often cannot escape punishment, regardless of their gender expression. She was sexually assaulted and burnt with a cigarette while in custody. She complained about the incident on national television, and so when police arrested a friend of hers later that year, they instructed the friend to relay the message that they would “destroy” her for it.³³⁰

In **October 2009** a transgender university student was stopped at a police checkpoint. The officer who saw her male gender marker on her ID blackmailed her with arrest, seemingly under Kuwait’s laws against impersonation and cross-dressing, so that she would engage in sex acts with him until she completed her studies.³³¹

In **October 2009** police allegedly stopped three trans women as they left a party and threatened them with arrest if one of them didn’t come with them in their car. She was said to have been arrested twice before and so went to avoid a third arrest, but was raped by officers that night.³³²

A trans woman reported to Human Rights Watch that she had been arbitrarily arrested because of her appearance at least four times by the start of **2010**, each time being released without charge. During her most recent arrest she was allegedly raped by four officers while in detention, and then “released” by being thrown into the street from a moving vehicle.³³³

In **January 2010** a trans woman had her car rammed by men whose sexual advances she was refusing. Police arrived on the scene but instead of assisting the injured woman they arrested her, shaved her head, and made her sign a declaration that she would not “imitate the opposite sex” again.³³⁴

In **March 2010** a trans woman was arrested outside a dentist’s office after going there for a medical appointment.

³²⁴ Human Rights Watch, “*They Hunt Us Down for Fun: Discrimination and Police Violence Against Transgender Women in Kuwait*” (2012), 28, 36.

³²⁵ *Id.*, 28-32.

³²⁶ *Id.*, 27.

³²⁷ *Id.*, 35.

³²⁸ *Id.*, 38-39, 41.

³²⁹ Bureau of Democracy, Human Rights and Labor, *2009 Country Reports on Human Rights Practices: Kuwait* (2010).

³³⁰ Human Rights Watch, “*They Hunt Us Down for Fun: Discrimination and Police Violence Against Transgender Women in Kuwait*” (2012), 38-39, 41.

³³¹ *Id.*, 24-25.

³³² *Id.*, 26-27.

³³³ *Ibid.*

³³⁴ *Id.*, 48.

Police told her that another patient in the waiting room had reported her.³³⁵

In **July 2010**, according to a Kuwaiti journalist, a trans woman went to Salmiya police station to file a complaint against a man who broke her cell phone. She had changed into men's clothing and removed her makeup to avoid trouble but forgot to take off her earrings. Police arrested her for "imitating the opposite sex" before she could even explain to them why she was there.³³⁶

In **October 2010** it was reported by *The Arab Times* and *Gulf News* that four "cross-dressers"—possibly but not verifiably trans women—were arrested in Kuwait City and charged with violating rules on public decency. Three were arrested when their "behaviour caused traffic congestion", though how their presence as gender-diverse individuals in their own vehicle might have caused traffic is not clear. A fourth was arrested in an unrelated incident, though the details of this are not known.³³⁷

According to local newspaper *Al Rai*, on **28 January 2011** three trans women were arrested at the Traffic Control Department in the Surra district of Kuwait City. Police reportedly abused and humiliated the detainees and forced them to undress and dance for them. One officer reportedly fired his gun several times to scare them.³³⁸

Another young trans person reported in **February 2011** to Human Rights Watch that police stopped her at a checkpoint and attempted to blackmail her with arrest if she did not submit to having sex with them. After the incident she tried to ignore one officer's repeated phone calls, so police tracked her down at her place of work and took her to a local police station to "make a man of" her. She was held for two weeks, being regularly beaten and sexually assaulted without officials informing her family of her whereabouts at all. They released her without ever charging her or bringing her before a judge, after shaving her head and making her sign a confession that she had been caught causing a public disturbance because of her gender expression.³³⁹

In **2012** police in Salmiya arrested a foreign national "who disguised himself as a woman to beg for money". A woman who gave money to the accused became suspicious and her husband went to report the situation to police, who promptly returned to detain the beggar. Beyond restrictions on gender expression, street begging is also reportedly illegal in Kuwait.³⁴⁰

In **October 2012**, 11 transgender men and women were imprisoned for separate incidents, but all faced the same charges. Officials stated that they had raided "transsexual only parties" while other arrests came from police patrols stopping cars and questioning people about their identity. It was reported that authorities were using the article prohibiting "imitating the opposite sex" in these cases. How

many individual instances of enforcement this report represents is not known.³⁴¹

Over 215 suspected gay men and lesbian women were arrested in **May 2013**. This came after Kuwaiti police began a criminal investigation into "internet cafes and suspicious places" across the country. A similar investigation had apparently taken place **the year before**, where police identified and arrested 149 gay and transgender individuals on suspicion of their engaging in sex work. It is not clear how many individual instances of enforcement are represented in these reports.³⁴²

It was reported on **25 July 2013** by *Gulf Daily News* and other local sources that a "cross-dresser"—perhaps a trans woman—was arrested in a lingerie shop in the Salmiya area of Kuwait City. Other clientele complained, but the accused claimed the right to shop there too, which led to the police being called by staff. The accused was taken to a local police station and charged with cross-dressing and getting into a public fight. It is not clear what sentence, if any, the accused received. Comments on social media regarding the case saw calls from the public for specific segregated spaces for transgender individuals to express their gender identities.³⁴³

On **21 January 2014** a trans woman was arrested by police in Hawalli as she was leaving her home to go to work. She was reportedly taken to the Salmiya branch of the Department of Criminal Investigation and held for two days before being charged with "imitation of the opposite sex". On **23 January** she was reportedly transferred to the Kuwait Central Prison. The following month, Kuwaiti officials were sent a letter of concern from several UN Special Procedures regarding the woman's arbitrary arrest, the likelihood that she faced violence while incarcerated, and the existence of the legal provisions targeting people on the basis of gender expression.³⁴⁴

In **May 2014** police raided a livestock farm, arresting 32 people during an alleged "gay" party. News reports said those arrested included, "drunken persons, cross-dressers and tomboys". The report further stated that, "foreigners caught in the raid will be deported and legal action will be taken against others, as per directives from the Assistant Undersecretary for Criminal Affairs".³⁴⁵

In **October 2014** Kuwaiti police arrested 23 "cross-dressers and homosexuals" after they busted a "wild party" held at a chalet in the south of the country. Details of what happened to those detained are unclear.³⁴⁶

On **5 January 2015** it was reported that three "cross-dressers"—possibly trans women—were arrested when the loud music they played from their car caught the attention of traffic police in Salmiya. One of the detainees reportedly had previous charges of "cross-dressing" on record and had signed a pledge "not to wear women's dresses in public

³³⁵ *Id.*, 42.

³³⁶ *Id.*, 49.

³³⁷ "Cross-dressers arrested in Kuwait", *Gulf News*, 11 October 2010.

³³⁸ Human Rights Watch, "They Hunt Us Down for Fun": *Discrimination and Police Violence Against Transgender Women in Kuwait* (2012), 49.

³³⁹ *Id.*, 25-26.

³⁴⁰ "Dude looks like a lady: Saudi man arrested for crossdressing in mall", *Al Bawaba*, 30 December 2015.

³⁴¹ "Eleven trans arrested in Kuwait", *Gay Star News*, 30 October 2012.

³⁴² "Kuwaiti Police Sweep Cafes, Arrest 215 People for Being Gay", *The Atlantic*, 14 May 2013.

³⁴³ "Cross-dresser arrested after entering lingerie shop in Kuwait", *Gulf News*, 25 July 2013.

³⁴⁴ OHCHR, *UA G/SO 218/2 G/SO 214 (89-15) KWT 1/2014* (2014).

³⁴⁵ "Kuwait police raid 'gay' party, arrest 32", *Erasing 76 Crimes*, 11 May 2014.

³⁴⁶ "Married' gay couples arrested in Saudi raid", *Gulf News*, 26 January 2016.

again” as a condition of release. It is not clear if violating this pledge would have been an aggravating circumstance in any potential legal proceedings.³⁴⁷

In **April 2016**, 41 “gay men” were arrested at an alleged gay massage parlour. Officials reported that the accused were arrested for engaging in sexual services offered under the guise of massages. Although the authorities stated that the raid was part of a campaign to stop people from abusing the labour market, other statements suggest the raid was explicitly targeting the accused due to their presumed sexual orientations.³⁴⁸

In **July 2017** the government’s Inter-Ministry Morals Committee ordered the deportation of 76 “gay men” and the closure of 22 massage parlours.³⁴⁹

It was reported on **15 September 2017** that a 19-year-old Polish social media “influencer” was detained by undercover members of the Criminal Investigation Department for looking too “feminine” and held for two weeks as a result. Authorities allegedly said they would “make a man out of” him, and as such beat him and shaved his head while he was being held. Eventually he was freed, but also deported and banned from re-entry into Kuwait. The year prior he had also been detained in Qatar for two months, allegedly because of his gender expression.³⁵⁰

A well-known trans woman claims that she was detained for seven months in a male prison in **2019** for “imitating the opposite sex”, where she was raped and beaten by police officers numerous times. This is but one of six instances where she was held for her identity, with just three of the instances disaggregated in this report.³⁵¹

The trans woman was detained again in **June 2020**, this time held for three days, allegedly on account of her identity. Police abused her by spitting on and insulting her, and sexually assaulted her by taking turns touching her breasts. This is but one of six instances where she was held for her identity, with just three of the instances disaggregated in this report.³⁵²

In **February 2021** it was reported that police detained “an effeminate young man in women’s clothes and blatant makeup”—possibly a transgender woman—after requesting ID and finding that the feminine person they had stopped in the street was legally considered male. Police reportedly transferred the suspect to the “competent authorities” on charges of “imitating the opposite sex”.³⁵³

In **June 2021** police raided a farmhouse in Kabad and detained 40 people—young men, women and “cross-dressers”. Authorities claimed that the people were involved in an “immoral party” and that it was a violation of

COVID-19 health laws. The 40 people were referred to the Ethics Department for legal action.³⁵⁴

On **3 October 2021** a well-known trans woman was sentenced in absentia to two years in prison and a fine of 1,000 dinars (USD 3,315) for “misusing phone communication” by “imitating the opposite sex” online under Article 70 of the Telecommunication Law, and Article 198 of the Penal Code. Prosecutors reportedly used photos she had uploaded to social media in which she was wearing makeup as evidence against her, and she was further charged for criticising the government. The woman only became aware of her conviction on **8 October**, whereafter she went into hiding. Police located and arrested her at a hotel on **11 October**, however. She was taken to Kuwait Central Prison, a men’s prison, and held in a solitary confinement cell apparently reserved for transgender detainees. Her appeals hearing was set for **31 October**, and her lawyer indicated confidence that the appeal would succeed, but also noted that should the verdict be upheld they would seek to at least have the woman housed in a women’s prison. The woman has claimed that this was her sixth arrest on the basis of her gender identity and expression since **2019**, though only three of the cases are disaggregated in this report. Her lawyer has stated that of all her arrests, this latest incident was the most difficult for her.³⁵⁵

It was reported on **5 February 2022** that an unknown number of foreign nationals were arrested for “running massage parlours, imitating and behaving like women” as part of a joint raid by the Ministry of the Interior and the Public Authority of Manpower.³⁵⁶ News reporting of this incident came less than two weeks prior to the country’s Constitutional Court declaring the law against “imitating the opposite sex” unconstitutional. It is not known whether this ruling had any impact on the case against the accused, though it is unlikely, given that organised raids and deportations of “cross-dressers” continued throughout the year, with at least 3,000 individuals deported by **December 2022** according to Kuwaiti officials.³⁵⁷

On **6 December 2022** it was reported that authorities in Salmiya detained “18 homosexuals and lesbians in massage institutes”. This was part of an apparent year-long campaign coordinated between several government departments to identify foreigners “imitating the opposite sex”. The detainees were referred to the relevant authorities for deportation after their arrest.³⁵⁸

On **10 December 2022** the Ministry of the Interior announced the arrest of 14 people in a massage parlour in Hawalli for “immoral acts” as part of an ongoing campaign of raids by multiple government agencies. Further details

³⁴⁷ “Who would’ve thought cross-dressing was illegal? Three men arrested in Kuwait for dressing as women”, *Al Bawaba*, 5 January 2015.

³⁴⁸ “41 arrested in raid on homosexual massage parlour in Kuwait”, *Gulf News*, 17 April 2016.

³⁴⁹ “Kuwait departs 76 gay men in crackdown”, *Gulf News*, 7 August 2017.

³⁵⁰ “This controversial Instagram star was arrested and abused for being ‘too feminine’ in Kuwait”, *The New Arab*, 15 September 2017.

³⁵¹ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

³⁵² *Ibid.*

³⁵³ *Ibid.*

³⁵⁴ “40 Young men, women, cross-dressers held in Kabad farmhouse ‘wild’ party”, *Arab Times*, 2 June 2021.

³⁵⁵ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

³⁵⁶ “Kuwait: Expat gays arrested for running massage parlours and behaving like women”, *Gulf News*, 5 February 2022.

³⁵⁷ “Amnesty praise ‘breakthrough’ law change for transgender rights in Kuwait”, *The New Arab*, 17 February 2022; “3000 Cross-dressers and transgenders deported from Kuwait this year”, *Arab Times*, 7 December 2022.

³⁵⁸ “الكويت: ضبط 18 متلباً في معاهد للمساج وإبعادهم عن البلاد” [Kuwait: 18 homosexuals were arrested in massage parlors and deported from the country], *Cairo24*, 6 December 2022.

about the individuals involved or their fates could not be verified.³⁵⁹

In **February 2023** it was reported that Kuwaiti authorities in Salmiya deported three Saudi Arabian men charged with “practicing acts against public morals” for engaging in consensual same-sex sexual acts with one another, possibly in exchange for money.³⁶⁰

On **21 March 2023** it was reported that authorities in Salmiya arrested four individuals. Three were arrested for “immoral acts”, and it is unclear from reporting whether this is the same incident as was reported from Salmiya above. The fourth was arrested for “incitement to immorality and debauchery” by publishing videos on social media which “violate public morals”.³⁶¹



Kyrgyzstan

Enforcement Overview

While Kyrgyzstan does not explicitly criminalise gender expression or same-sex sexual acts, ILGA World has identified four concerning cases of apparent targeting by State actors between 2010 and the time of publication.

Additionally, discrimination and violence from society at large remains an issue, as documented by local organisations, with police often unwilling to assist LGBT victims.³⁶² Political leaders, too, have been documented to incite violence or hatred of sexual and gender minorities in the country, or outright promote a move toward *de jure* criminalisation. In 2005 a representative of the Ministry of the Interior was reported as saying of gay men and lesbian women at a human rights roundtable: “I would also beat them. Let’s say I walk in a park with my son. And there are two guys walking holding each other’s hands. I would beat them up too”.³⁶³ And in 2019 a Parliamentary Deputy, Jyldyz Musabekova, wrote on social media that “the men who do not want to have children and the girls who do not want to pour tea [...] must not only be cursed, they must be beaten,” further asking if there “are there any decent guys out there [willing to do that]?” She was speaking in response to an International Women’s Day march, reported by some media as a “Pride” march, which authorities initially threatened to shut down if any SOGIE advocacy groups participated.³⁶⁴

Some media outlets have inferred that prior to 2014 Kyrgyzstan was a relatively safe and open environment for individuals of diverse SOGIE in the region. Though this subjective claim cannot be verified, it does appear that in the years since then a spike in police targeting and violent vigilante attacks has taken place. It appears that this has been a social response to a proposed bill against “gay propaganda”, though the legislation itself stalled in Parliament in 2018.³⁶⁵

In 2021, President Sadyr Zhaparov signed Executive Decree No. 1, titled “On the spiritual and moral development and physical education of the individual.” This decree requires a comprehensive review of all government documents and prioritises “spiritual and moral motives” over material interests, and “public and state interests” over individual concerns. The media and state entities in culture, education, science, and sports are encouraged to promote “spiritual, moral, and family values.” However, local groups argued that vague terms like “traditional values” can be used against the LGBT community. Additionally, in 2023, there were reports of a proposed amendment to the “Law on measures to prevent harm to children’s health, their physical, intellectual, mental, spiritual, and moral development in the Kyrgyz Republic”. This amendment aims to label the “denial of family values” and “promotion of non-traditional sexual relations” as “information harmful to children’s health and development”.³⁶⁶

Examples of Enforcement

A gay man and his friend were arrested by police in **2004** as they were leaving a gay club in the capital, Bishkek. They were driven to the outskirts of the city and raped by the officers. In **2009** the man and a friend were arrested again under similar circumstances, but taken to the police station where other inmates raped them with police taking no action to prevent it. In **2011** he was arrested again, and while in custody police made him perform oral sex on them. When he refused, saying that they were violating his rights, one officer said “no, here we decide who knows their rights and who doesn’t”.³⁶⁷ ILGA World has identified numerous such cases of extreme violence and abuse meted out against individuals because of their sexual orientations or gender identities. Often, police use these situations as opportunities to extort bribes from their victims. This case has not been included in the tally of examples of enforcement above, and several others have not been included in the entry at all, as the distinction between

³⁵⁹ “الكويت تواصل توجيه الضربات ل الشواذ جنسيًا وتضبط 14 شخصًا داخل مركز مساج #عاجل” [Kuwait continues to strike homosexuals and seizes 14 people inside a #urgent massage center], *Nabd*, 10 December 2022.

³⁶⁰ “!موقع خبرني : الكويت ترحل 3 مثليين عرب لممارستهم الجنس مقابل المال” [Kuwait deports 3 Arab homosexuals for having sex for money!], *Khaberni*, 4 February 2023.

³⁶¹ “ضبط 3 متهمة «لاداب ومحرّض على الفسق»” [The arrest of 3 “violators” of morals and an incitement to immorality], *Al Rai*, 21 March 2023.

³⁶² “Kyrgyzstan: Halt Anti-Gay Raids”, *Human Rights Watch*, 16 April 2008; Kyrgyz Indigo and Labrys, *Alternative report on the implementation of the provisions of ICCPR related to LGBT people in Kyrgyzstan* (2014) 9-10; Human Rights Watch, “They Said We Deserved This”: *Police Violence Against Gay and Bisexual Men in Kyrgyzstan*, (2014).

³⁶³ “Kyrgyzstan: Protect Lesbians and Transgender Men From Abuse”, *Human Rights Watch*, 6 October 2008.

³⁶⁴ “Rainbow Rage: Kyrgyz Rail Against LGBT Community After Central Asia’s ‘First’ Gay-Pride March”, *Radio Free Europe / Radio Liberty*, 16 March 2019; Human Rights Watch, *Country Profiles: Sexual Orientation and Gender Identity: Kyrgyzstan* (2019); Human Rights Watch, *Kyrgyzstan: Events of 2020* (2021).

³⁶⁵ “Bad news: Kyrgyzstan, Morocco, Egypt, Nigeria, more”, *Erasing 76 Crimes*, 16 July 2015; “Anti-gay bill inspires attacks in Kyrgyzstan”, *USA Today*, 13 May 2016; “All of us will be victims at some point: why Bishkek’s only gay club closed”, *The Guardian*, 19 October 2017; Human Rights Watch, *Country Profiles: Sexual Orientation and Gender Identity: Kyrgyzstan* (2019).

³⁶⁶ For more information: Supreme Council of Kyrgyzstan, *года выносятся проект закона «О мерах по предупреждению причинения вреда здоровью детей, их физическому, интеллектуальному, психическому, духовному и нравственному развитию в Кыргызской Республике»*, [Draft law “On measures to prevent harm to the health of children, their physical, intellectual, mental, spiritual and moral development in the Kyrgyz Republic” is submitted], 17 March 2023.

³⁶⁷ Human Rights Watch, “They Said We Deserved This”: *Police Violence Against Gay and Bisexual Men in Kyrgyzstan*, (2014).

State-backed targeting and base prejudice is often impossible to make. In **December 2010** a 17-year-old boy from Bishkek was arrested after trying to escape his family because of his sexual orientation. He was held for two and a half days in solitary confinement, subjected to torture and rape, and denied food or water. After his release he sought the assistance of a lawyer, but could not find one willing to help him.³⁶⁸

In **2012** two young men in Bishkek were arrested by police for heading upstairs to their rented apartment together, without any women. The pair refused to disclose any personal details and were eventually released.³⁶⁹

In **May 2012** a gay man in southern Kyrgyzstan was arrested by police after they forced a friend to “out” him to them. He was forced to write a letter identifying his personal details and confessing to same-sex sexual activity, and threatened with a criminal investigation into his alleged “sodomy” if he failed to comply despite no law expressly outlawing consensual same-sex sexual activity in the country. They beat him when he refused to give them the details of other gay men they could extort, and released him for a bribe of 10,000 soms (USD 214). In **February 2013** he was detained by police again and assaulted until he gave them money. They told him that if he were to tell anyone things would get worse.³⁷⁰

On **30 July 2012** a gay human rights defender from Kyrgyzstan’s northern Chui region was stopped by police, along with a friend of his, as they were going to a party. Police checked their IDs and immediately detained the pair, threatening them with rape at the police station for allegedly “kissing in public”. They were released after paying a bribe of 2,000 soms (USD 41).³⁷¹

In **October 2012** another man was arrested by police, beaten and kicked until he fell unconscious. He was threatened with a criminal “sodomy” investigation if he did not pay a bribe. He was repeatedly insulted for being an ethnic Uzbek, and later an Uzbek police officer helped him to get out of the police station—but not before also taking 120 soms (USD 3) from him.³⁷²

On **8 March 2023**, during Bishkek’s International Women’s Day march it was reported that the police were grabbing those holding posters depicting “LGBT symbols”. A man was reportedly dragged out of the protest by the police for wearing a “colourful mask”. It is not clear where he was taken.³⁷³



Lebanon

Criminalising Provisions

Article 534 of the Penal Code (1943) criminalises “sexual intercourse against nature”, which is punishable with up to one year imprisonment.³⁷⁴

In relation to gender expression, Article 521 states that “any man who disguises himself as a woman” and enters a place designated for women only, may be jailed for no more than six months.³⁷⁵

Enforcement Overview

ILGA World was able to identify 32 examples of criminal enforcement in Lebanon between 2007 and 2023, with a significant number of persons targeted being vulnerable migrants or refugees from jurisdictions such as Syria.

While Lebanon has been considered a “safe” country within the SWANA (South-West Asia and North Africa) region, the reality remains that criminalising provisions continue to be enforced, while stigma and violence remains all too common. Indeed, in a 2017 report submitted to the UN Human Rights Committee, Helem, a local civil society organisation, identified apparent evidence of a steady increase in the number of arrests between 2012 and 2016.³⁷⁶ Helem noted in a later report that it had dealt with at least 58 arrests between 2019 and the start of 2022 as well, and added that this does not represent the totality of cases, as arrests outside of major cities are rarely brought to their attention.³⁷⁷

Furthermore, Helem identified two patterns for arresting LGBT individuals in Lebanon, namely informal public profiling and the illegal search of suspects’ mobile data. It is usually only after informal or illegal means are employed to arbitrarily detain suspects that formal investigations are initiated.³⁷⁸ A 2023 Human Rights Watch report found that such practices have not subsided.³⁷⁹

Once in detention, suspects are often subjected to torture, sexual abuse, or other forms of degrading treatment, and

³⁶⁸ *Ibid.*

³⁶⁹ *Ibid.*

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*

³⁷² *Ibid.*

³⁷³ ““Аялдар укугу үчүн” маршы аяктады, бир кишини милиция кармап кетти” [The “For Women’s Rights” march ended, one man was arrested by the police], *Azattyk Unalysy*, 8 March 2023.

³⁷⁴ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Lebanon* (accessed: 21 June 2023).

³⁷⁵ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 85.

³⁷⁶ Helem, *Human Rights Violations against Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals in Lebanon: A Shadow Report submitted to the Human Rights Committee* (2017), 3-4.

³⁷⁷ Helem, *LGBTQ+ Rights Violations Report 2021* (2022), 38-39.

³⁷⁸ Helem, *Human Rights Violations against Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals in Lebanon: A Shadow Report submitted to the Human Rights Committee* (2017), 3-4; Helem, *LGBTQ+ Rights Violations Report 2021* (2022), 3-5.

³⁷⁹ Human Rights Watch, *“All This Terror Because of a Photo”: Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa* (2023).

are commonly held without charge for well beyond the prescribed legal limit of 48 hours.³⁸⁰ It is also reported that non-consensual HIV testing and forced anal examinations are regularly carried out, despite the latter practice being long-debunked as a means of gathering evidence of anal sex, and even being banned in Lebanon in 2012.³⁸¹

Trans women and persons of feminine gender expression are at particular risk of police targeting and violence. A 2015 study identified anecdotal evidence from local trans women who reported that either themselves or their friends had been arrested several times on the streets for “masquerading” as women and were often detained for long periods of time without receiving information or legal assistance.³⁸² Further, a 2019 report by Helem, Human Rights Watch and Mosaic found that transgender women are at greater risk of arbitrary arrest and physical violence at police checkpoints. The report shows that these arrests take place under Article 534 of the Penal Code (sexual intercourse contrary to the order of nature) and under laws against “violating public morality”, “incitement to debauchery,” and “secret prostitution”.³⁸³

Many of these cases come after, and in spite of, a 2007 case where a judge acquitted two suspected gay men on the basis that a law prohibiting “sexual intercourse against nature” should not include consensual same-sex activity, given that it forms part of nature.³⁸⁴ In fact, so many examples exist of courts throwing homosexuality-related cases out that it could be argued that Lebanon has a form of de facto decriminalisation in place, though this has not deterred police or other State actors from engaging in arbitrary arrests and online monitoring in recent years.³⁸⁵

In 2018 the UN Human Rights Committee in its third periodic report on Lebanon expressed concern “that, despite the information about court judgments holding that Article 534 of the Criminal Code is not applicable to [LGBTI] individuals, such individuals continue to be arrested and prosecuted, including for sexual relations between consenting adults of the same sex”.³⁸⁶

This report came the same year that Lebanese authorities prohibited foreign visitors from attending a SOGIE-related advocacy conference which had occurred annually since 2013, and arrested the organiser of Beirut Pride.³⁸⁷ Curtailment of freedom of expression and association appears to have continued to this day, with Interior Minister Bassam al-Mawlawi sending a letter on 24 June 2022 to the directorates of Internal Security and General

Security instructing them to ban any gatherings aimed at “promoting sexual perversion”. According to an open letter signed by local activists and shared by Human Rights Watch, this incident resulted in an increase in hate speech and online incitement against the LGBT community, and saw several politicians condemning the “promotion of homosexuality.” Activists planned to march in protest of the order but this was called off as police could not be guaranteed to protect the protestors from violence.³⁸⁸

In July 2022, possibly in response to the rise homophobic backlash and jurisprudence arguing that homosexuality is not illegal in Lebanon, the Lebanese Commission for Human Rights urged Parliament to formally decriminalise consensual same-sex acts in private.³⁸⁹

Note: After the cutoff date of this report (30 June 2023), several legislative developments relating to the criminalisation of consensual same-sex sexual acts were reported. For updated information on these developments please visit the ILGA World Database.

Examples of Enforcement

In **February 2007** two men in the city of Batroun were arrested when a police patrol found them sitting together in a car. The presiding judge, however, used his discretion in interpreting the law so as to order that the criminal investigation be stopped. The law prohibits sexual activity that is “against nature”, which the judge countered by saying “if the sky is raining during summertime or if we have hot weather during winter or if a tree is giving unusual fruits, all these can be according to and in harmony with nature and are part of its rules themselves”.³⁹⁰ Unfortunately, as is made evident in the cases outlined below, not all State actors in Lebanon have shared this sentiment.

In **2009** a young man suspected of being gay was reported to authorities by his mother for “acting like a woman”. On this basis the public prosecutor had him arrested and subjected to the pseudo-scientific practice of anal examination to seek supposed evidence of same-sex sexual activity. The invasive exam yielded no such evidence, but the prosecutor indicted the suspect anyway. Eventually, a judge dismissed the charges for lack of evidence.³⁹¹

In early **2010** a trans woman was arrested in the northern Lebanese city of Tripoli when a neighbour mistook her for

³⁸⁰ Human Rights Watch, “It’s Part of the Job”: Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations (2013), 12.

³⁸¹ “Dakwaneh’s “No Gay Land” Triggers Debate on Homophobia”, *The Legal Agenda*, 2 December 2013; Human Rights Watch, “Dignity Debased”: Forced Anal Examinations in Homosexuality Prosecutions (2016); Arab Foundation for Freedoms and Equality and Outright Action International, *Activism and Resilience: LGBTQ Progress in the Middle East and North Africa* (2018), 26; ALEF et al., *Civil society report on the implementation of the International Covenant on Civil and Political Rights in Lebanon* (2018), 4.

³⁸² Ahmad J. Saleh, Adriana A. Qubaia, *Transwomen’s Navigation of Arrest and Detention In Beirut: A Case Study* (Civil Society Knowledge Centre, 2015).

³⁸³ Helem, Human Rights Watch and Mosaic, “Don’t Punish Me for Who I Am”: Systemic Discrimination Against Transgender Women in Lebanon (2019); Human Rights Watch, *Submission to the Committee on the Elimination of Discrimination against Women for the Review of the Lebanese Republic’s periodic report for the 79th Pre-Session* (2020), 2; Helem, *LGBTQ+ Rights Violations Report 2021* (2022), 3-5.

³⁸⁴ Human Rights Watch, “It’s Part of the Job”: Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations (2013), 11.

³⁸⁵ Proud Lebanon, *The LGBTQ+ community in Lebanon, documenting stories of torture & abuse* (2017); Helem, Human Rights Watch and Mosaic, “Don’t Punish Me for Who I Am”: Systemic Discrimination Against Transgender Women in Lebanon (2019); “Cleaning up the streets of faggots”, *Human Rights Watch*, 4 August 2021; Human Rights Watch, “All This Terror Because of a Photo”: Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa (2023); Human Dignity Trust, *Country Profile: Lebanon* (2023).

³⁸⁶ Human Rights Committee, *Concluding observations on the third periodic report of Lebanon*, CCPR/C/LBN/CO/3 (2018), para. 13.

³⁸⁷ Civil Society Knowledge Centre, *Beirut pride organiser detained, Judge ordered cancellation of events* (2019); “Cleaning up the streets of faggots”, *Human Rights Watch*, 4 August 2021.

³⁸⁸ “Lebanon: Unlawful Crackdown on LGBTI Gatherings Immediately Annul Ban on Assembly; Protect LGBTI People from Attacks”, *Human Rights Watch et al.*, 4 July 2022.

³⁸⁹ “هيئة حقوق الإنسان: للمصادقة على اقتراح قانون يلغي المادة 534 التي تجرم العلاقات الجنسية المثلية...Lebanon”, *Press Bee*, 11 July 2022.

³⁹⁰ Human Rights Watch, “It’s Part of the Job”: Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations (2013), 11.

³⁹¹ *Id.*, 12.

a sex worker and reported her to police, after three of her male relatives came to visit her home. She was detained and beaten in order to force her to confess to engaging in anal sex. Though she was brought in under the false accusation of being a sex worker, her admission and her gender identity ended up being what led the judge to sentence her anyway. She was imprisoned for three months for “unnatural sexual acts”, having already spent five months in pre-trial detention.³⁹²

A young gay man told Human Rights Watch in 2010 that his mother asked police to detain him for a night in order to “scare” him out of being gay. Police assisted the mother with her request.³⁹³

On 28 July 2012 police conducted a raid on a cinema in the Bourj Hammoud neighbourhood of Beirut. 36 people were arrested, while the cinema itself was temporarily closed down for “posing a threat to public morality”. This came in response to a local television station publishing video content of gay men using a cinema as a dating location, though the video clip itself seems to have been filmed in the northern city of Tripoli, not Beirut. The detainees were all made to undergo invasive anal exams aimed at finding out whether they had engaged in same-sex activity. Public outcry led Lebanon’s Justice Minister to speak out, saying “from a humanitarian point of view, this is totally unacceptable”. He wrote to the public prosecutor, who in turn issued a memorandum calling for restraint in the application of forced anal exams.³⁹⁴ The same year, through sustained advocacy by local groups such as Helem, forced anal testing was banned,³⁹⁵ though the practice appears to have continued in the years since.

As reported by Helem, in 2013 three men were arrested on the assumption that they were gay and, in the absence of any evidence, the public prosecutor ordered an anal examination.³⁹⁶

On 22 April 2013 authorities raided a nightclub in Dekwaneh on the order of the mayor, arresting an unknown number of gay and trans individuals from both Lebanon and Syria. At the police station they were beaten, stripped, and forced to kiss each other while being photographed. The images were then distributed to local news outlets. The club was forced to close and the names of the detainees were affixed to the outside of the venue for the public to see. The mayor defended the actions, saying “I saw 25 men outside, or what looked like boys and men. I went inside and saw people kissing, touching each other, and a man wearing a skirt. These homosexual acts that are happening are scandalous sexual acts [...] Of course we made them take off their clothes. We saw a scandalous situation and we had to know what these

people were. Is it a woman or a man? Turned out to be a half-man. I do not accept this in Dekwaneh”.³⁹⁷

On 8 January 2014 five men were arrested in the Msaytbeh neighbourhood after police received a tip-off regarding “illegal activities” taking place in a private apartment. Upon arrest they were asked if they would like to call anyone, and two (who were refugees from Syria) asked to contact the UN High Commission for Refugees. Authorities denied them this request, claiming that the right to a phone call extended only as far as phoning family members. On the orders of the public prosecutor, they were subjected to anal examinations. They were released after two days in custody.³⁹⁸

On 9 August 2014 the Morals Protection Bureau raided a Turkish bathhouse and arrested all 27 employees, and customers present, including the owner. This came in response to an investigation being carried out against a “foreigner” whose behaviour authorities described simply as “uneven”. Police illegally searched his phone, where videos were found apparently identifying the bathhouse as a place for MSM to meet or pay for sex. Detainees were charged under Article 534 of the Penal Code and allegedly tortured into confessing to “sodomy” and outing more MSM individuals. Forms of torture went beyond physical beatings and allegedly included guards putting plastic bags over detainees’ heads. At one point they were transferred to Zahle Prison where they were made to pay a bribe to avoid sexual assault. Those who did not pay were made to sleep in the bathroom and denied food and water. They were also subjected to forced HIV/AIDS testing. All except the owner of the bathhouse were released on bail after four to 10 days, though many were held and beaten for several days after a court order mandated their immediate release.³⁹⁹

In 2015 two men were detained on suspicion of smoking hash, but when police found intimate conversations between them on their cell phones, an investigation into possible same-sex sexual activity began. The pair were also reportedly tortured into providing the names of other MSM in Lebanon.⁴⁰⁰

Also in 2015, according to the Lebanon-based NGO, Legal Agenda, a young Syrian man approached the General Directorate of Public Security to renew his academic residency permit. He was arrested on the spot, however, as authorities had received an anonymous tip that he was gay. He was held for nine days and faced severe beatings throughout this time in an effort to force a confession. Two Lebanese friends of the man were also arrested after texting him to determine his whereabouts, but were released before long allegedly due to their status as

³⁹² *Id.*, 21.

³⁹³ *Id.*, 12.

³⁹⁴ “The Cinema Plaza Scandal: 36 citizens underwent homosexuality test”, *LBC International*, 31 July 2012; “Lebanon: Inflammatory TV Show Leads to Arrests of Gay Men”, *Global Voices*, 1 August 2012; “Outraged Lebanese demand end to anal exams on gay men”, *BBC News*, 8 August 2012.

³⁹⁵ “Dakwaneh’s “No Gay Land” Triggers Debate on Homophobia”, *The Legal Agenda*, 2 December 2013.

³⁹⁶ Helem, *Human Rights Violations against Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals in Lebanon: A Shadow Report submitted to the Human Rights Committee* (2017), 6.

³⁹⁷ “Lebanese Mayor Cracks Down on Gay Men in His Town Dekwaneh”, *Kaos GL*, 26 April 2013; “Mayor Shakhmoura: Responsible for Sexual and Racial Violations in Lebanon”, *Kaos GL*, 29 April 2013; “Lebanese Police Arrest Four During Gay Club Raid”, *Global Voices*, 8 May 2013; “Dakwaneh’s “No Gay Land” Triggers Debate on Homophobia”, *The Legal Agenda*, 2 December 2013.

³⁹⁸ “Lebanon’s Republic of Shame: Law and Medicine as Means to Humiliate and Frighten”, *The Legal Agenda*, 29 July 2014; Helem, *Human Rights Violations against Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals in Lebanon: A Shadow Report submitted to the Human Rights Committee* (2017), 6; Proud Lebanon, *The LGBTQ+ community in Lebanon, documenting stories of torture & abuse* (2017), 9.

³⁹⁹ “Lebanon Launches Police Raids Targeting Gay Men”, *Huffington Post*, 15 August 2014; “The Hammam al-Agha Raid: Collective Prosecution in Violation of Individual Rights”, *The Legal Agenda*, 18 September 2014; “Torture at Every Stage: The Unofficial Narrative of the Hammam al-Agha Raid”, *The Legal Agenda*, 12 November 2014; Proud Lebanon, *The LGBTQ+ community in Lebanon, documenting stories of torture & abuse* (2017), 6-8.

⁴⁰⁰ Proud Lebanon, *The LGBTQ+ community in Lebanon, documenting stories of torture & abuse* (2017), 6.

citizens. The Syrian national is said to have been urinating blood and unable to stand or sleep due to his injuries. He was also subjected to a forced HIV test. When he and his friends appeared before the court, judges allegedly reacted to their case with hostility and fined them 500,000 Lebanese Pounds (approx. USD 330) each. The court refused to consider the allegations of violence made against the authorities, and instead fined the Syrian man an additional 300,000 (approx USD 210 at the time) Lebanese Pounds for his “misuse of the right to sue” when he laid a formal complaint of torture. On **14 November 2018** the trio were acquitted by the Beirut Court of Appeal due to a lack of evidence, but a majority of judges refused to rule on the violence they experienced or whether the police acted legally. The court felt that whether the coerced confession and phone searches were valid forms of evidence-gathering were mooted by the fact that not enough evidence for a conviction was gathered anyway.⁴⁰¹

Around the Spring of **2015** a young man, his boyfriend and another friend were caught up in a random stop and search at a checkpoint run by Hezbollah. When the Hezbollah fighters found nude photographs on his phone, they presumed he was gay and transferred him to the Lebanese Internal Security Forces. He was detained for 12 hours, without food and water, and reported that the officers used both psychological and physical torture before he was able to pay a fine of USD 500 to secure his release.⁴⁰²

Nine people suspected of being gay and transgender were arrested in a police raid in **2015**. In **2017** they were acquitted but State prosecutors appealed this. In **July 2018** Court of the Criminal Appeal in Mount Lebanon upheld the acquittal, adding to the growing judicial precedent that Article 534 of the Penal Code cannot be said to criminalise same-sex acts, despite the interpretations of police and other State actors.⁴⁰³

In **2016** it was reported that a gay asylum seeker from Syria was arbitrarily arrested and held at Rehanieh military police station. He was tortured into confessing his sexual orientation, and was subjected to an improvised anal examination by means of a rod being painfully inserted into his rectum.⁴⁰⁴

On **12 January 2016** a trans woman from Syria who was waiting in Lebanon for approval to relocate to Canada was arrested. She was being sexually harassed in the street by a stranger who did not realise she was transgender, and police arrested them both for the public disturbance caused. She was held for three days at Ramlet Al-Baida station, chained to a chair in one of the station’s offices as authorities could not decide whether to house her with men or women. She was subjected to violence, denied access to the bathroom, and claimed she had nothing to eat or drink in that time. Police searched her phone for “others like her” but came up short. Eventually she was permitted to make a phone call and so reached out to Helem. A representative of Helem arrived but was not permitted to

see her, and left quickly when police started questioning him on whether or not he was gay. Later, a representative from the UN High Commission for Refugees arrived, but was also not allowed access to the victim. The woman was eventually released but further details are not clear.⁴⁰⁵

On **6 July 2016**, according to the Beirut-based NGO, Legal Agenda, the Criminal Court in Beirut convicted five men of a misdemeanour under Article 534 of the Penal Code. One of the men had been called as a witness in the case of the murder of his friend. The man made mention that both he and the murdered individual were homosexual, resulting in court proceedings evolving to include his “confession” and an investigation for more individuals who had been close to the murder victim. Those accused of committing the murder were sentenced alongside the victim’s gay friends.⁴⁰⁶

In **December 2016**, a gay Syrian refugee was detained for five days and allegedly tortured by Lebanese security services and Internal Security Forces. He was asked to confess to having sex with men, beaten and suffered an anal examination to prove he was homosexual.⁴⁰⁷

In **April 2017** a gay man from Syria was arrested while attempting to renew his residency papers. Officers suspected his documents were fake and so searched his phone, where they found a photo of him kissing another man. This man was also arrested as a result and both spent a week in Hobeish Police Station where they were subjected to verbal abuse and made to clean the station on occasion. The Syrian national was then transferred to Roumieh Prison for four months where he faced sexual assault, and was eventually fined 500,000 Lebanese Pounds (approx. USD 330 at the time) by a judge who claimed he was “not okay” with the man’s sexual orientation. The fate of the other man is not known.⁴⁰⁸

In **August 2017** a Palestinian trans woman was lured to a police station after one of the officer’s wives accused her of being sexually involved with him. She was held in a cramped cell with several men, and when a Syrian man attempted to defend her from sexual assault in the cell, both he and the trans woman were beaten by police. The next morning she was brought to an investigator who did not interview her at all, having already had a confession written for her. He told her “everything that is written in this paper is final. The confession is not going to change. You will sign this, or I will finish you”. She was denied access to a lawyer and when her mother came to bring her vital kidney medication police refused to give it to her. After eight days the public prosecutor had her released for lack of evidence.⁴⁰⁹

On **13 August 2017** another trans woman was detained on accusations of “sodomy”. She was held at a police station for seven weeks—well beyond the 48-hour limit prescribed for pre-trial detention under Lebanese law—suffering regular violence and denied access to a lawyer, before

⁴⁰¹ “استئناف بيروت ترفض معاقبة المثلية خارج حالات الجرم المشهور: ومخالفة بمئاته درس ببلغ في أصول التحقيقات الجزائية” [Beirut Appeal refuses to punish homosexuality outside cases of flagrante delicto: a violation that serves as an eloquent lesson in the principles of criminal investigations], *The Legal Agenda*, 2 April 2019.

⁴⁰² “Despite allegedly torturing gay people, UK still funds Lebanese police force”, *Middle East Eye*, 11 August 2017.

⁴⁰³ “Activists Hail Lebanon Ruling that Could Protect Gay Rights”, *VOA News*, 17 July 2018; “Major court victory in Lebanon: consensual same-sex intimacy not a crime”, *Human Dignity Trust*, 20 July 2018.

⁴⁰⁴ Proud Lebanon, *The LGBTIQ+ community in Lebanon, documenting stories of torture & abuse* (2017), 6.

⁴⁰⁵ “Detained Transgender in Lebanon: This is What Happened to Me”, *The Legal Agenda*, 23 February 2016; Proud Lebanon, *The LGBTIQ+ community in Lebanon, documenting stories of torture & abuse* (2017), 6.

⁴⁰⁶ “الحكم على الهوية في محكمة جنديات بيروت: المثلية والخصوصية وهاب محكمة النظام لهما” [Judgement on Identity in the Beirut Criminal Court: Homosexuality, Privacy, and the Regime Court’s Fear of Them], *The Legal Agenda*, 14 September 2016.

⁴⁰⁷ “Despite allegedly torturing gay people, UK still funds Lebanese police force”, *Middle East Eye*, 11 August 2017.

⁴⁰⁸ Human Rights Watch, “All This Terror Because of a Photo”: *Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa* (2023).

⁴⁰⁹ Helem, Human Rights Watch and Mosaic, “Don’t Punish Me for Who I Am”: *Systemic Discrimination Against Transgender Women in Lebanon* (2019), 34.

being transferred to Roumieh Prison and held there for five months. Purely by chance, representatives of the International Red Cross would go on to conduct a routine inspection of the prison, and thus intervene to have her given access to a lawyer and a fair trial. The judge displayed a vitriolic contempt for the accused, calling her a "piece of shit", but ordered her release, regardless. While in detention her landlord, not knowing where she had disappeared to, disposed of her belongings. She tried to stay with friends and former colleagues, but she had been outed publicly during her case and was largely shunned by everyone she knew.⁴¹⁰

In **December 2017** a Syrian trans woman and her boyfriend were stopped at a police checkpoint in Bekaa. The officer checking their vehicle turned to ask his superior if homosexuality was punishable under the law, and when the response came in the affirmative the officer dragged them from the car and proceeded to beat them for several hours through the night. The beating reportedly lasted several shifts, with fresh officers coming in to man the checkpoint taking over the beatings from those who went home. The trans woman's boyfriend requested his medication from their car, but the presiding officer said "I'd rather you suffocate and die than be a faggot". Eventually they were taken to the police station and beaten further. The pair were held in a cramped cell for eight days and given only limited food. They were subjected to sexual abuse from other inmates, and verbal abuse from officers for being Syrian. They were eventually moved to a police station near the Syrian border and held for 10 days before being brought before a judge. Police could provide no evidence of any romantic or sexual relationship between the accused and so the judge ruled for the pair to be released.⁴¹¹

In **2018** a gender and sexuality conference, held annually since **2013**, was shut down by Lebanese authorities. Non-Lebanese SOGIESC activists present at the event were indefinitely denied permission to re-enter the country. This comes after religious groups called for the cancellation of the conference for "inciting immorality".⁴¹²

A trans woman reported to Human Rights Watch in **2018** that police violently evicted her and her friends from their home when neighbours complained about their presence.⁴¹³

On **16 May 2018** police arrested the organiser of Beirut's Pride celebrations after a judge ordered all planned Pride events be cancelled. He was held and interrogated overnight, being made to sign a pledge that he would cancel the remaining Pride activities. Police warned him that if he did not put an end to the activities he would be referred to an investigating judge for "incitement to immorality".⁴¹⁴

It was reported that on **30 March 2019** a military court declined to prosecute four individuals accused of homosexuality on the basis of past jurisprudence finding consensual same-sex acts to not be automatically illegal. Nevertheless, the four were discharged from the military, and army officials approached an appeals court seeking to charge them. In **February 2020** the Government Commissioner to the Military Court issued a decision not to prosecute four individuals, though it is unclear if this is the same case or a separate incident.⁴¹⁵

According to Human Dignity Trust, a civilian court issued a fine to two men accused of same-sex sexual activity in **April 2019**.⁴¹⁶

On **6 July 2020** police arrested two Syrian trans women and the boyfriend of one of the women in a raid. They went through the contents of their cellphones and forced the two women to respond to all texts they received by asking for money in exchange for sex. This was then used as evidence to draw up charges of engaging in prostitution. The two trans women were held in a men's cell for two months and 20 days before being transferred to the General Security Office for another 20 days to face deportation to Syria.⁴¹⁷

It was reported in **April 2021** that three people were arrested in Beirut's Daoura suburb for engaging in sex work, after a video featuring them surfaced on social media. All three were charged under Lebanon's anti-sex work legislation, but one of the group, a Syrian national with feminine gender expression, was additionally charged with engaging in same-sex acts under Article 534 of the Penal Code. After two additional gender-nonconforming sex workers were called up by police as informants, the court found all three accused guilty. In addition to being sentenced to three months in prison and a fine of 200,000 Lebanese Pounds (USD 132) for sex work, the Syrian national received an additional penalty for violating Article 534 (possibly up to 12 months in prison), and for having outdated immigration papers.⁴¹⁸

In **August 2021** four police officers arrested a trans woman in Beirut's Raouche neighbourhood. After finding photographs of her wearing makeup on her phone, they took her to the Ramlet al-Baida police station where she claimed to have been held overnight and subjected to beatings and verbal abuse. She was released the following day without charges, after being made to sign a statement confessing to "imitating women".⁴¹⁹

In **October 2021** police raided a house after neighbours complained of several undocumented Syrian gay men living there. Police searched their phones and after finding images of one of them wearing a dress, indicated that they would be called in for questioning. The individual in the

⁴¹⁰ *Id.*, 36.

⁴¹¹ *Id.*, 29.

⁴¹² "Cleaning up the streets of faggots", *Human Rights Watch*, 4 August 2021.

⁴¹³ Helem, Human Rights Watch and Mosaic, "Don't Punish Me for Who I Am": *Systemic Discrimination Against Transgender Women in Lebanon* (2019), 53.

⁴¹⁴ Civil Society Knowledge Centre, *Beirut pride organiser detained, Judge ordered cancellation of events* (2019).

⁴¹⁵ "In landmark decision, Lebanese military court rules that homosexuality is not a crime", *Global Voices*, 9 April 2019; Human Dignity Trust, *Country Profile: Lebanon* (2023).

⁴¹⁶ Human Dignity Trust, *Country Profile: Lebanon* (2023).

⁴¹⁷ Human Rights Watch, "All This Terror Because of a Photo": *Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa* (2023).

⁴¹⁸ "ويني الدولة "تكتشف مجموعة متحولين جنسياً وبتاعت هوى ومرضى سيدا تحت هذا الجسر"" ["Winyi State" exposes a group of transgender people, prostitutes and Sida patients under this bridge], *Lebanon24*, 10 April 2021.

⁴¹⁹ Human Rights Watch, "All This Terror Because of a Photo": *Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa* (2023).

photograph changed their phone number and went into hiding rather than submit to interrogation and possible arrest.⁴²⁰

On **15 November 2021** a trans woman was dragged naked out of her home by eight police officers, who subsequently ripped up her clothing and personal belongings, and transferred her to Joseph Daher Police Station. It appears she had been outed or entrapped by a man in Jordan with whom she had started a relationship online. She was held for 52 days, being handcuffed for 38 of them, and described a level of homophobic verbal abuse and maltreatment so severe that she attempted to commit suicide by eating glass. She was released without charge, but made to sign a statement confessing to “prostitution”.⁴²¹

In **December 2021** the same trans woman who had been arrested in Raouche in **August** was again detained while heading home from a New Year's party. Members of the Internal Security Forces (ISF) dragged her into a vehicle and beat her. They searched her phone for incriminating photographs and transferred her to a local police station. At the station she was handcuffed to a door and police filmed her there while making mocking animal noises. The following day she was released without charges, after again being made to sign a statement confessing to “imitating women”.⁴²²



Malaysia

Criminalising Provisions

Article 377A of the Penal Code (1997) criminalises same-sex activity between men, with punishments of up to 20 years in prison and whipping. It defines the perpetrator of “carnal intercourse against the order of nature” as: “Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of [another] person”. Section 377B states: “Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable for whipping”. Section 377D states that: “Any person who, in public or private, commits, or abets the Commission of, or procures or attempt to procure the Commission by any person of, any act of gross indecency with another person, shall be punished with imprisonment for a term which may extend to two years”.⁴²³

Article 377 dates back to the Penal Code of the Federated Malay States (1936) enacted during the colonial occupation of some of the territories that form modern Malaysia, but was expanded to cover the entire country, and to

aggravate penalties for offenders, through the 1970s and 1980s.⁴²⁴

The Minor Offences Act (1955), which prohibits “indecent behaviour”, is reportedly also used by authorities to arbitrarily arrest people on the presumption of their SOGIE-status, as “indecent behaviour” is not defined in the law.⁴²⁵

Besides criminalisation at the federal level, individual states in Malaysia also have the power to pass local legislation, but only insofar as it does not overlap with or contradict federal law. Consensual same-sex sexual acts are currently criminalised to varying degrees in each Malaysian state under various Syariah provisions. Diverse gender-identities and expressions are also de facto criminalised by such provisions in each of Malaysia's 13 states, through bans on “posing as a woman” or cross-dressing for “immoral purposes”.⁴²⁶

It is also to be noted that in the restrictive binary context of gender in Malaysia, laws dictating *liwat* (sodomy) apply to trans women as well, while laws dictating *musahaqah* (sexual relations between women) apply to trans men. Additionally, throughout the states of Malaysia, same-sex sexual relations are criminalised under individual state Syariah enactments. These Syariah enactments apply to Muslims only. Those who are born to Muslim parents in Malaysia are automatically registered as Muslim and local identification cards are required to denote this, and cannot be amended. Therefore, Syariah enactments will always apply, regardless of whether one actively practices Islam or not.⁴²⁷

Enforcement Overview

Between 2000 and 2023 ILGA World has identified at least 38 individual examples of criminal enforcement—mostly against trans women and persons of a feminine gender expression. However, by including reports from just five trans women who allege multiple arrests (the individual circumstances of which ILGA World could not disaggregate), the number of known cases spikes to between 111 and 123 from the same period. Given the sheer number of additional cases alleged by such a small group, the number of cases of criminal enforcement based on SOGIE is likely significantly higher than is reported. Indeed, based on the Attorney General's Chambers and Royal Malaysia Police statistics, a total of 171 cases have been charged under section 377B of the Penal Code between 2010 and 2014 alone.⁴²⁸

It is important to note that Malaysia practises a dual justice system, as provided for in Article 121A of Malaysia's constitution. As such, diverse sexual and gender identities are criminalised under federal law (i.e., the Penal Code), as well as under a Syariah system whereby each of the 13 states have their own criminalising provisions in force. As

⁴²⁰ *Ibid.*

⁴²¹ *Ibid.*

⁴²² *Ibid.*

⁴²³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malaysia* (accessed: 21 June 2023).

⁴²⁴ *Ibid.*

⁴²⁵ Asia Pacific Transgender Network and RFSL, *Leave No One Behind: Malaysian Transgender at Risk A Spotlight Report on SDGs Implementation in Malaysia* (2021), 12.

⁴²⁶ Asia Pacific Transgender Network, SEED Malaysia, *Legal Gender Recognition in Malaysia: A Legal & Policy Review in the Context of Human Rights* (2017), 30.

⁴²⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malaysia* (accessed: 21 June 2023).

⁴²⁸ Human Rights Commission of Malaysia (SUHAKAM), *Study on discrimination against transgender persons based in Kuala Lumpur and Selangor* (2019), para. 48.

of 2023, there are at least 52 state-level Syariah laws that explicitly criminalise persons on the basis of their sexual orientation, gender identity, or gender expression to varying degrees.⁴²⁹ Limits to the punishment imposed by these local provisions are set out at the federal level in the Syariah Courts (Criminal Jurisdiction) Act (1965). However, in 2020, 2021, and 2022, various government officials indicated that a bill to amend this law to allow for higher penalties for same-sex sexual acts was being drafted.⁴³⁰ If such legislative amendments were to pass, subnational authorities would have the power to enforce existing state-level legislation that currently surpasses the limits set forth in the Act. Indeed, this could have the effect of making “sodomy” in states like Kelantan and Terengganu punishable by death. As it stands, the limits on penalties set out by Act No. 355 are a maximum prison sentence of three years, a fine, up to six strokes of the whip, or a combination of these sentences.⁴³¹

Various *fatwas* (religious edicts) have also been issued by state Fatwa Committees; some of which have been gazetted and therefore have legal effect, such as in Malacca, Kedah and Perak, among others.⁴³² While Syariah laws and fatwas apply only to Muslims, non-Muslims have also been subjected to “moral policing”. They are subjected to arrests during police raids in entertainment outlets and for “roaming around on the street as cross-dressers which may be accused of disorderly behaviour in public places”. A non-Muslim transgender woman could also be charged under the Section 21 of the Minor Offence Act of 1955 for “obscene” behaviour.⁴³³

Some of the cases summarised by ILGA World in the section below demonstrate that trans women who have developed breast tissue will often be detained for “cross-dressing” even when they are wearing typical men’s clothing over their bras. It appears that this issue is prevalent enough that some trans women opt to not even wear bras so as to avoid being targeted.⁴³⁴

Some progress seemed to be on the cards in November 2014 when the Court of Appeals ruled Section 66 of Negeri Sembilan’s Syariah law prohibiting Muslims from cross-dressing to be unconstitutional. Though the basis upon which the ruling was made was that trans women are seen as “male” by the State and that it is thus discrimination against men to be banned from wearing women’s clothing when no parallel provision existed for women, the judgement was well-received by local activists as a partial victory. However, the Federal Court overturned

the ruling in October 2015 on procedural grounds. According to one local organisation, Justice for Sisters, this set off a wave of raids and arrests across the country.⁴³⁵

More recent progress at the local level was made in 2021 with the landmark Federal Court of Malaysia decision that ruled Section 28 of the Selangor Syariah Criminal Offences Enactment—which bans consensual same-sex acts—as unconstitutional. However, this was only because such a law already exists at the federal level through the Penal Code.⁴³⁶ Nevertheless, the ruling had the effect of making other states’ Syariah provisions unenforceable—in theory, at least.

Local authorities have continued to expand and aggravate criminalising provisions regardless of the Federal Court’s 2021 ruling. For example, in November 2021 the Kelantan Syariah Criminal Code Enactment was passed by that state’s Assembly, which expanded criminalising provisions to include same-sex acts between women and “posing as the opposite sex” among both men and women. Shortly after the provisions took effect dozens of people were reportedly charged with offenses, with 70 arrests documented by local human rights defenders in the first two months of 2022 alone.⁴³⁷ In December 2022 amendments to the Syariah provisions in Terengganu were also passed which expanded gender-expression restrictions to “females posing as males”.⁴³⁸ In September 2021 it was announced that the Fatwa Committee for the state of Perlis had adopted a new segregationist policy barring trans women from entering Islamic places of worship, with the head Mufti for Perlis reportedly saying: “Those who deliberately resemble the opposite sex are included in the wicked group [that is] prohibited from entering the mosque in a state of gender confusion because it can disrupt the atmosphere of worship”.⁴³⁹ And in March 2023 the Sultan of Selangor announced a ban on all LGBT-related gatherings, activity or advocacy in the state.⁴⁴⁰

At the national level persons of diverse SOGIE are targeted by the State not only by means of criminalisation and arrest, but through so-called “conversion therapies” as well. These discredited and harmful practices have seen widespread use within families, schools, Islamic and Christian religious groups, as well as through a number of government-sponsored programmes. In July 2020, Zulkifli Mohamad Al-Bakri—Malaysia’s Religious Affairs Minister—drew widespread backlash from local human rights activists for defending a government-led campaign of apparent “conversion therapy” camps. He claimed federal religious

⁴²⁹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malaysia* (accessed: 5 June 2023).

⁴³⁰ “RUU 355 tingkat bidang kuasa Mahkamah Syariah” [Bill 355 on the jurisdiction of the Sharia Court], *Bharian*, 28 July 2020; “Kerajaan sedang draf RUU 355” [The Kingdom is drafting Bill 355], *Utusan*, 15 September 2021; “RUU 355 still on track, PAS Youth chief tells delegates at its muktamar”, *Malay Mail*, 2 September 2022; “Agenda pembentangan RUU 355 akan diteruskan” [The agenda of the tabling of Bill 355 will continue], *Bharian*, 9 December 2022.

⁴³¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malaysia* (accessed: 21 June 2023).

⁴³² JAKIM, *Pengharaman Wanita Menyerupai Lelaki (Pengkid) - Melaka [Ban on Women Resembling Men (Tomboys) - Malacca]* (2008. Accessed: 7 April 2023); JAKIM, *Pengkid - Kedah [Tomboys - Kedah]* 2010. Accessed: 7 April 2023; JAKIM, *Fatwa Mengenai Hukum Wanita Menyerupai Lelaki (Pengkid) Dan Hukum Lelaki Menyerupai Perempuan (Pondan Dan Mak Nyah) - Perak [Fatwa on Women’s Law Resembles Men (Tomboys) And Men’s Ruling Resembling Women (Pondan And Mak Nyah) - Perak]* (2010. Accessed 8 April 2023).

⁴³³ Human Rights Commission of Malaysia (SUHAKAM), *Study on discrimination against transgender persons based in Kuala Lumpur and Selangor* (2019), para. 48.

⁴³⁴ “Malaysian court to rule on sharia law, transgender women”, *Erasing 76 Crimes*, 29 May 2014.

⁴³⁵ “Raids, arrests of 21 trans women after Malaysian ruling”, *Erasing 76 Crimes*, 26 October 2015; Asia Pacific Transgender Network (APTAN), SEED Malaysia, *Legal Gender Recognition in Malaysia: A Legal & Policy Review in the Context of Human Rights* (2017), 30-31.

⁴³⁶ “Federal Court unanimously declares Selangor Syariah law criminalising ‘unnatural sex’ void, unconstitutional”, *Malay Mail*, 25 February 2021; Human Rights Watch, “I Don’t Want to Change Myself”: *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴³⁷ “How Kelantan’s latest Syariah criminal code law affects the marginalised and minorities”, *Malay Mail*, 24 March 2022; Human Rights Watch, “I Don’t Want to Change Myself”: *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴³⁸ “Terengganu syor 4 seksyen baharu kesalahan jenayah syariah” [Terengganu recommends 4 new sections of sharia criminal offences], *Sinar Harian*, 26 October 2022; “Fearing persecution and child marriages, women’s groups call for Suhakam review of Terengganu Syariah amendments”, *Malay Mail*, 4 December 2022; “Women’s groups demand review of Terengganu’s Syariah amendments that criminalizes pregnancies out of wedlock and ‘females posing as men’”, *Coconuts*, 5 December 2022.

⁴³⁹ “Bingung Gender, Mufti Perlis Haramkan Waria Masuk Masjid” [Confused by Gender, Mufti of Perlis Bans Shemales from Entering Mosques], *Hidayatullah*, 24 September 2021.

⁴⁴⁰ “Sultan Selangor larang aktiviti LGBT di negeri ini” [The Sultan of Selangor has banned LGBT activities in the state], *Utusan Malaysia*, 27 March 2023.

police have “full license” to arrest trans people and subject them to “religious education” to “return to the right path”.⁴⁴¹ The following year, in June 2021, the Prime Minister of Malaysia informed Parliament that since 2011, at least 1,733 people had been sent to “rehabilitation camps” run by the Department of Islamic Development to “bring them back to the right path”, though the details of almost all of the individuals who attended these camps remain unknown. According to Human Rights Watch, many of the camps are ostensibly voluntary—with LGBT persons joining up either because of social and religious stigma or because of economic incentives offered by the organisers—though Syariah courts can and do sentence trans and gender-nonconforming persons to so-called “rehabilitation” centres.⁴⁴²

Anti-LGBT rhetoric from high-ranking political and religious leaders has also been on the increase in this time, with Human Rights Watch interviewing activists in 2022 claiming that the tumultuous political landscape has become more conservative and hostile to SOGIESC advocacy despite the present governing coalition having been seen as more moderate than its predecessors.⁴⁴³ In 2023 this was reflected in multiple statements from the Executive branch of government, such as the Minister of Development and Local Government saying that the government would never support any LGBT initiative in the country, and the Minister in the Prime Minister’s Department for Religious Affairs saying that the government does not recognise “LGBT culture”.⁴⁴⁴

All of this comes after Prime Minister Anwar Ibrahim—who notably was convicted twice of “sodomy” in a series of apparently politically motivated campaigns—told media in January 2023 that his government would never accept “never recognise secularism, communism [or] LGBT”. Ibrahim, who became Prime Minister in late-2022, was responding to claims from his political opponents that his tenure in office would result in the decriminalisation of same-sex sexual acts. “This is a delusion. Of course, it will never happen under my administration”, noted Ibrahim.⁴⁴⁵

Discrimination and violence motivated by hate remains common in Malaysia, with some local activists arguing that the criminalisation of persons with diverse SOGIE and the negative morality rhetoric from government officials contributes to such incidents as a form of incitement. Vigilante mobs are reported to “arrest” suspected gay or trans persons and subject them to physical or sexual abuse rather than hand them over to the authorities. Several cases have been documented in which victims do not approach the police or press charges against their attackers for fear of revictimisation, arrest, or retribution.⁴⁴⁶

Examples of Enforcement

On **8 August 2000** Malaysia’s former Deputy Prime Minister, Anwar Ibrahim, was found guilty of “sodomy” and sentenced to nine years in prison. This was the culmination of a lengthy legal battle over more than two years following the publication of a book accusing him of being a homosexual. Ibrahim was fired from his position and charged with corruption and sexual misconduct in what many commentators decried as a politically motivated purge of the then-Prime Minister’s opponents, and he was eventually sentenced to six years’ imprisonment on this basis prior to the sodomy verdict. He was later acquitted of his sodomy charges, partially on the basis that the man who claimed to have been raped by Ibrahim was deemed to not be a reliable witness, and he was released from prison in **2004**. A friend of Ibrahim’s, and Ibrahim’s adoptive brother, had also been arrested at the onset of the case and sentenced to six years in prison each after “admitting they allowed Anwar to sodomise them”. In **2008**, Ibrahim was again accused of non-consensual “sodomy”, though this has also been widely described as a politically motivated action. A multi-year trial and appeals process saw him begin a five-year prison term in **2015**, though he was granted a royal pardon in **2018** by Sultan Muhammad V of Kelantan, the constitutional monarch of Malaysia at the time. Though the non-consensual nature of the allegations against Anwar Ibrahim would ordinarily preclude his case from being highlighted in this report, it remains notable as it demonstrates the ways in which criminalising legislation can be used to leverage power and target a diversity of individuals. Ibrahim would go on to become Malaysia’s Prime Minister in **November 2022**, and despite having been targeted under laws criminalising same-sex acts has rejected calls for reform. The degree to which a need to defend his political position from allegations of homosexuality made by opposition politicians remains a matter of debate.⁴⁴⁷

In **2000**, a trans woman was targeted by Religious Department police for “cross-dressing” despite wearing a gender-neutral t-shirt and jeans, because they had spotted the bra she was wearing underneath. They released her when she told them “I have breasts! This is between me and God, this has nothing to do with you”. Many others were not so lucky. A report by Human Rights Watch notes that at an **unknown date** and location, religious police raided a private function being held at a golf course and arrested eight people accused of being crossdressers. As members of the event tried to flee across the golf course, police allegedly used golf carts to chase them down. The report further makes mention of a trans woman who

⁴⁴¹ “What trans people need is the license to be respected as human”, *Justice for Sisters*, 11 July 2020; “Strong rebukes for Malaysian minister’s anti-trans stance”, *Erasing 76 Crimes*, 15 July 2020; Asia Pacific Transgender Network, “Because it makes people believe in the lie that it is possible to pretend to be something you’re not. Just so that you can, you know, have a day in heaven or whatever”: *Conversion Therapy Practices in Malaysia* (2020), 9.

⁴⁴² Lucas Ramon Mendos: ILGA World, *Curbing Deception: A world survey on legal regulation of so-called “conversion therapies”* (2020), 26-27, 44, 55-56; “Malaisie : le Département du développement islamique a arrêté et déporté 1.730 LGBT dans un « camp de réhabilitation » afin de les « ramener sur le droit chemin »” [Malaysia: Department of Islamic Development arrested and deported 1,730 LGBT people to “rehabilitation camp” in order to “bring them back to the right path”], *Fdesouche*, 19 September 2021; Human Rights Watch, “I Don’t Want to Change Myself”: *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴⁴³ Human Rights Watch, “I Don’t Want to Change Myself”: *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴⁴⁴ “Tindakan tegas terhadap pihak sokong LGBT” [Strict action against LGBT supporters], *Sinar Harian*, 27 March 2023; “【國會】法律不承認但不歧視lgbt享憲法基本權利” [Congress: The law does not recognise but does not discriminate against LGBT to enjoy basic constitutional rights], *Guang Ming Daily*, 24 May 2023.

⁴⁴⁵ “We’ll never recognise secularism, communism, LGBT, says Anwar”, *Free Malaysia Today*, 7 January 2023.

⁴⁴⁶ Human Rights Watch, “I Don’t Want to Change Myself”: *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴⁴⁷ “Malaysia: Former Deputy Prime Minister Ibrahim Arrested”, *Human Rights Watch*, 23 October 1998; “Former Driver’s Sodomy Testimony at Issue: Witness in Anwar Case Seems to Change Story”, *New York Times*, 8 December 1998; “Timeline of Anwar’s trials and tribulations”, *Malaysiakini*, 9 July 2002 (updated: 29 January 2008); “Anwar Ibrahim’s two-year Malaysia sodomy trial ends”, *BBC News*, 15 December 2011; “Anwar Ibrahim’s sodomy cases: What you need to know”, *The Straits Times*, 28 October 2014; “Malaysia’s Anwar jailed for five years after losing appeal in sodomy trial”, *Reuters*, 10 February 2015; “Malaysia PM Anwar Ibrahim speaks out on sodomy trials: ‘clear travesty of justice’”, *South China Morning Post*, 20 December 2022; “We’ll never recognise secularism, communism, LGBT, says Anwar”, *Free Malaysia Today*, 7 January 2023.

claimed to have been arrested between 20 and 30 times in the two decades preceding her interview with the researchers in 2014, which underscores the inherent difficulty in identifying anything close to a precise count of incidents of criminal enforcement.⁴⁴⁸

The same Human Rights Watch report indicates that one trans woman in Johor was arrested five times between 2002 and 2014, with one incident at a club in 2009 reportedly involving the arrest of 76 trans women. It is alleged in Human Rights Watch's interview with the woman in question that she was detained solely because she had breasts as a result of hormone replacement therapy, as she was not wearing typically feminine attire at the time and thus should not have been considered to be cross-dressing under existing legal parameters. She was released on condition she attend counselling sessions aimed at encouraging her to be a man. She was targeted in 2010, but not arrested, by a police officer who recognised her from previous arrests and demanded a bribe and her cellphone in exchange for leaving her alone.⁴⁴⁹

In 2007 in Malacca, religious police arrested a trans woman and reportedly beat her so violently that she had to undergo surgery. Local activists from an organisation called Justice For Sisters sought to file a complaint, but the victim declined out of fear that she would be further targeted by authorities.⁴⁵⁰

It was reported by *The Guardian* that 37 men in northern Penang Island were arrested in a raid of a fitness centre on 4 November 2007. Police alleged that they had found pornographic videos, condoms, lubricant and other incriminating evidence at the scene. The men, including at least one British and one Chinese national, were released pending an investigation into whether they could be charged with "unnatural sex acts".⁴⁵¹

In 2009 a trans woman in Kedah state was arrested for wearing a sundress, and while being taken to the Religious Department police van, she was kicked by an officer until her leg started bleeding.⁴⁵²

In May 2010 a trans woman in Seremban was punched in the face and choked by religious police for wearing pyjamas deemed to be too feminine.⁴⁵³

Another trans woman arrested in 2010 was assaulted with a police flashlight and was refused medical care at the police station where she was taken, despite reportedly bleeding heavily.⁴⁵⁴

In 2011 a trans woman was arrested while at a local food stall by Religious Department officials, and at the police station was stripped in front of other detainees and sexually assaulted.⁴⁵⁵

In March 2011 a trans woman gave an interview published in a 2014 OutRight Action International report. She claimed she and her friends were getting food on their way home after work one evening, when police began arresting a group of nearby sex workers. Presuming she and her friends to be sex workers as well, due to their trans status, they were also detained. They were later released, but personal items, including bras, were confiscated for further investigation.⁴⁵⁶

Another trans woman, interviewed by Human Rights Watch, had been arrested five times between 2012 and 2014 in Kedah state for "cross-dressing", and was accused of prostitution at one point for handing out condoms to other trans women as part of her work as a sexual health activist.⁴⁵⁷

Also in 2012 three Muslim trans women were arrested by religious police in Seremban and charged with cross-dressing. They were attempting to hide in the home of a Christian friend, as only Muslims are normally subject to Syariah law in Malaysia, but police forced their way in and arrested them, leaving the Christian trans woman behind.⁴⁵⁸

In July 2013 three trans women in Seremban were arrested by religious police who had informed a television station ahead of time so that the raid could be covered on the news. The women were forced to hold a media interview where they were asked about details of their presumed lives as sex workers, before being hauled away to the police station.⁴⁵⁹

On 9 June 2014, 16 transgender women were arrested in Negeri Sembilan while at a wedding in a private home, with police tearing their clothes, beating and choking them in the process. They were charged with contravening Article 66 of the local Syariah Criminal Enactment prohibiting "men" from wearing women's clothing. The women were held in a men's facility and had their heads shaved while there. They were fined 950 ringgit (USD 300) each by a Syariah religious court and sent to Sungai Udang Prison for seven days. Local advocacy group Justice for Sisters raised money to pay their fines and fund their legal appeals.⁴⁶⁰

On 1 September 2014 two women in Johor Bahru were arrested when their hotel was raided by the Johor Islamic Religious Department. Authorities claimed that they were being held on suspicion of engaging in same-sex sexual activity as one of the women was naked at the time of arrest and there was a sex toy in the hotel room, but human rights defenders who took up their case called for their acquittal as no witness had observed any of the alleged same-sex activity, which is often a requirement for conviction. Their fates are not known.⁴⁶¹

⁴⁴⁸ Human Rights Watch, *'I'm Scared to Be a Woman': Human Rights Abuses Against Transgender People in Malaysia* (2014), 25-26.

⁴⁴⁹ *Id.*, 23-24, 30.

⁴⁵⁰ *Id.*, 29.

⁴⁵¹ "Malaysian police arrest 37 at gay sex party", *The Guardian*, 6 November 2007.

⁴⁵² Human Rights Watch, *'I'm Scared to Be a Woman': Human Rights Abuses Against Transgender People in Malaysia* (2014), 29.

⁴⁵³ *Id.*, 28-29

⁴⁵⁴ *Id.*, 28-29

⁴⁵⁵ *Id.*, 27.

⁴⁵⁶ IGLHRC (now OutRight Action International), *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia* (2014), 114.

⁴⁵⁷ Human Rights Watch, *'I'm Scared to Be a Woman': Human Rights Abuses Against Transgender People in Malaysia* (2014), 22-23.

⁴⁵⁸ *Id.*, 30-31.

⁴⁵⁹ *Id.*, 31.

⁴⁶⁰ Human Rights Watch, *'I'm Scared to Be a Woman': Human Rights Abuses Against Transgender People in Malaysia* (2014), 20; "Malaysia: Support overwhelms 16 jailed trans women", *Erasing 76 Crimes*, 12 June 2014.

⁴⁶¹ "Islamic women's group defends Malaysian arrestees", *Erasing 76 Crimes*, 3 September 2014.

In the aforementioned 2014 OutRight report, a trans woman from Malaysia's Indian minority community claimed to have been arrested 36 times, and repeatedly subjected to degrading treatment, physical violence, and sexual abuse. As only Muslim residents are typically subject to Syariah law, authorities were never able to charge her with "imitating a woman", and rather targeted her under the guise of "public indecency".⁴⁶²

Another trans woman claimed in 2014 to have been arrested by religious police four or five times and charged for "imitating a woman". During her repeated detentions she would have her hair cut, her personal belongings confiscated, and would have her breasts groped by officers.⁴⁶³

In February 2015, leading opposition leader and former Deputy Prime Minister, Anwar Ibrahim, was convicted of sodomy and sentenced to five years' imprisonment—though the case is widely considered to have been politically motivated and Ibrahim received a royal pardon in 2018.⁴⁶⁴

On 12 October 2015 three trans women were arrested while out shopping in Kuala Lumpur, Malaysia's capital, when a man approached them for sex. When they refused, he told police they had stolen his wallet, and even when it became apparent that they did not steal anything, police took them into custody and held them for three days.⁴⁶⁵

On 15 October 2015, in an apparent coordinated raid (though this is not verified), 15 trans women were arrested in Bukit Bintang, Pudu and Chow Kit. They were held in detention for six days, where they reportedly suffered physical violence and had their hair shaved off. Four were charged with "posing as women for immoral purposes" under Section 28 of the Penal Code and subsequently fined 990 ringgit (around USD 237) each. The remaining 11 were allowed to leave on bail, but on the condition that a (cisgender) man post bail for them.⁴⁶⁶

On 21 October 2015 three trans women from the Philippines were arrested in Terengganu when members of the Immigration Department went undercover to solicit sex from them as a form of entrapment. It is not clear if this is a case of targeting because of their gender identity, or if the case hinges on issues of immigration and a prohibition on sex work instead. For this reason, it is not included in the tally above.⁴⁶⁷

On 2 March 2016, 12 "cross-dressers"—possibly trans women—were arrested in Chulia Street, George Town. Several were apprehended for allegedly robbing a tourist in the area, but six not involved in the robbery were detained and investigated for contravening Section 28 of the Penal Code. A police official told reporters that "Chulia Street is a

place crowded with tourists and it is not right to have men impersonating women there".⁴⁶⁸

On 3 April 2016 a trans woman was arrested in the raid of a trans-friendly event she had organised, and was held for a day without being informed of why she had been arrested. Her guests were permitted to walk free. One news outlet has claimed that the raid took place because of a local fatwa against beauty pageants. Later she was charged with "obstructing the duties of [an] officer", though a Kuala Lumpur Magistrate's court acquitted her of this on 21 August. She and a group of additional complainants have taken the Federal Territory Islamic Religious Department, the Federal Territory Islamic Religious Council, and the office of the Prime Minister to court for wrongful arrest and malicious prosecution. At the time of publication, the case appeared to be ongoing.⁴⁶⁹

In 2018, according to Human Rights Watch, a group of trans women were arrested in Kelantan after authorities raided their home. They were held for five days without being told why, before being released. While in detention they were interrogated about the number of other trans women and gay men residing in the province.⁴⁷⁰

In April 2018 a trans woman interviewed by Justice For Sisters claimed that she had been arrested "seven or eight times" in Kedah, but had never gone to court. Instead, she was sent to religious "counselling" every time.⁴⁷¹

On 12 August 2018 the Syariah court in Terengganu sentenced two women who pleaded guilty to engaging in same-sex sexual activity to six lashings each, as well as a fine of 3,300 ringgit (USD 805 at the time). Religious authorities found them "attempting" sex in a car in April of that year. The Terengganu Executive Councillor stated in response to outcry from human rights groups and the Human Rights Commission of Malaysia that "no one has the right to interfere in the court's judgement—not even politicians". On 3 September the women received their lashings, representing the first time Terengganu's corporal punishment provisions were used for same-sex acts.⁴⁷²

On 21 August 2018 the Federal Territories Minister confirmed that a raid had been conducted at a famous gay club in Kuala Lumpur as part of Operation *Banteras Aktiviti Haram*, a government initiative to tackle "unhealthy cultures" among the public. A total of 20 Malay men were given a notice to attend counselling by the Federal Territories Islamic Religious Department.⁴⁷³

On 8 March 2019 a group of feminists held a march through the streets of Kuala Lumpur to commemorate International Women's Day. The event saw significant LGBT representation, with rainbow flags and banners visible, leading some government officials to declare it an

⁴⁶² IGLHRC (now OutRight Action International), *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia* (2014), 114-115.

⁴⁶³ *Id.*, 127.

⁴⁶⁴ "Malaysia's Anwar jailed for five years after losing appeal in sodomy trial", *Reuters*, 10 February 2015; "Anwar Ibrahim fails to strike out legal challenge to pardon for his 2014 sodomy conviction", *Channel News Asia*, 21 September 2020; "Court of Appeal to hear Anwar's pardon case on Jan 11", *New Straits Times*, 14 October 2020.

⁴⁶⁵ "Raids, arrests of 21 trans women after Malaysian ruling", *Erasing 76 Crimes*, 26 October 2015.

⁴⁶⁶ *Ibid.*

⁴⁶⁷ *Ibid.*

⁴⁶⁸ "12 cross-dressers taken off the streets", *The Star*, 4 March 2016.

⁴⁶⁹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁷⁰ Human Rights Watch, "I Don't Want to Change Myself": *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴⁷¹ *Ibid.*

⁴⁷² "Syariah Court's judgement against lesbian couple is final", *The Star Online*, 16 August 2018; "Caning for Alleged Lesbian Acts in Malaysia Postponed", *Human Rights Watch*, 28 August 2018; Human Rights Watch, "I Don't Want to Change Myself": *Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (10 August 2022).

⁴⁷³ "Menteri sahkan serbu kelab gay beroperasi lebih 30 tahun di Bukit Bintang" [Minister confirms gay club raids operating for more than 30 years in Bukit Bintang], *Astro Awani*, 21 August 2018.

illegal gathering. Over the following nine days, nine of the march's speakers and organisers were summoned for questioning under the Peaceful Assembly Act and Sedition Act, though the case was later dropped by prosecutors.⁴⁷⁴

On **7 November 2019** the Selangor Syariah Court sentenced five men accused of participating in same-sex sexual activity under Section 28 of Selangor's Syariah Criminal Code. Four were given six-month prison sentences, six lashes, and a fine of 4,800 ringgit (USD 1 163). The fifth was given a slightly higher fine of 4,900 ringgit, also received six lashes, and was sent to jail for seven months. On **19 November** four of the five received their lashes, though the fifth attempted to appeal the ruling and so was not caned at the time. The presiding judge claimed that this sentence would help to "rehabilitate the accused men and isolate them from others and their environment". Religious police had arrested the group in late **2018** in an apartment raid after monitoring their cell phone activity, and claiming that they found evidence there of "an attempt to carry out intercourse outside of the order of nature [which] was not in the early stages of preparation". While in custody, authorities reportedly verbally abused the men and forced them to remain naked for two hours while being photographed. One of the accused, with support from local activists, filed a lawsuit at the Federal Court seeking Section 28 declared unconstitutional on the grounds that local legislation could not supersede federal law in regard to matters already criminalised. On **25 February 2021** the court ruled in favour of the victim, nullifying Selangor's Section 28.⁴⁷⁵

On **12 November 2019** a Vietnamese gay couple were arrested in a raid after it was found that they were engaging in possible sex work at their hotel. They were fined 1,000 ringgit (USD 240), with possible further investigations by the Penang Immigration Department.⁴⁷⁶

On **25 February 2021** the Malaysian Federal Court unanimously declared that a man from Selangor state charged with "sodomy" in **2019** could challenge the ruling. The Court found that the Syariah Crimes (Selangor) Enactment of 1995 violated the country's constitution, but former Deputy Public Prosecutors have told the media that the State could still investigate and charge the man under the Malaysian Penal Code, as sections 377B and 377C of the Code carry a penalty for same-sex sexual activity (sodomy) of up to 20 years' imprisonment and whipping.⁴⁷⁷ Several conservative groups and religious organisations

have publicly urged the government to investigate the incident so that the man may be re-imprisoned.⁴⁷⁸

Also on **25 February 2021**, in Selangor, the Islamic Religious Department issued a warrant of arrest for a trans woman who failed to appear in court on charges of "insulting Islam". Those charges came from an incident in **2018** where she attended a social event at a religious school in a dress, as well as another similar complaint against her from **2020**. If found guilty of "offenses relating to the sanctity" of Islam, she would face a fine of 5,000 ringgit (USD 1,200) and up to three years' imprisonment. The Selangor Islamic Religious Department allegedly sent at least 122 officers to hunt her down, which led her to flee the country. She was arrested on **8 September** in Thailand for breaching immigration protocols, but sought asylum through the UNHCR and was relocated the following month. Malaysian authorities told media at the time that they would continue their attempts to extradite and "educate" her.⁴⁷⁹

In **March 2021** authorities in Kuala Lumpur raided a massage parlour on suspicion of offering sexual services to MSM. Authorities from the Kuala Lumpur City Hall Enforcement Department ostensibly closed the premises on account of it not being appropriately licenced as a massage parlour, but noted that they had uncovered "immoral activities such as massage services for gays" on the premises, confiscating lubricant gel and condoms during the raid.⁴⁸⁰ This was just one of at least three raids on massage parlours reported in **March** and **April**, with five women believed to be sex workers and four allegedly gay men from Pakistan, Vietnam and Indonesia being arrested across all three raids.⁴⁸¹

In **June 2021** the Prime Minister reportedly informed Parliament that 1,733 people of diverse sexual orientations and gender identities had been sent to a "rehabilitation camp" run by the Department of Islamic Development to "bring them back to the right path", though the details of almost all of the individuals detained remain unknown.⁴⁸² Indeed, in **2019**, a local activist informed ILGA World that those who are "soft spoken" and those who "dress against masculinity" have reportedly been forced to attend "conversion camps" to change their behaviour and sexual orientation.⁴⁸³

In **January** and **February 2022** at least 70 individuals in Kelantan were arrested with the coming into force of the

⁴⁷⁴ Human Rights Watch, "I Don't Want to Change Myself": Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia (10 August 2022).

⁴⁷⁵ "Malaysia sentences five men to jail, caning and fines for gay sex", *Reuters*, 7 November 2019; "Malaysian men caned for gay sex under Islamic law", *The Straits Times*, 19 November 2019; Human Rights Watch, "I Don't Want to Change Myself": Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia (10 August 2022).

⁴⁷⁶ "Gay Vietnamese tourists fined for committing 'immoral act' in Penang hotel", *New Straits Times*, 25 November 2019; "Two Vietnamese males held for offering massages to men", *The Star*, 14 November 2019.

⁴⁷⁷ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁷⁸ *Ibid.*

⁴⁷⁹ "JAI's can't say why they needed 122 officers to get Nur Sajat", *Coconuts*, 26 February 2021; "Celebrity transwoman Nur Sajat seeking asylum in Australia after Bangkok arrest", *Coconuts*, 20 September 2021; "Nur Sajat arrives in Australia, seeking asylum", *Free Malaysia Today*, 18 October 2021; "Cops say still want to extradite Nur Sajat despite asylum granted in Australia", *Malay Mail*, 4 November 2021; "Why Is Malaysia Afraid of Nur Sajat?", *allure*, 24 March 2022; Human Rights Watch, "I Don't Want to Change Myself": Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia (10 August 2022).

⁴⁸⁰ "Pusat urut tawar khidmat seks sejenis diserbu" [A bargain massage center for same-sex services was raided], *Sinar Harian*, 30 March 2021; "DBKL serbu, tutup premis urut gay - Malaysiapost" [DBKL raids, closes former gay premises], *Malaysia Post*, 31 March 2021.

⁴⁸¹ "5 wanita, 4 gay warga asing ditahan dalam serbuan rumah urut" [5 women, 4 gay foreigners arrested in massage parlor raid], *Malaysia Gazette*, 10 April 2021; "DBKL serbu tiga pusat urut gay - Malay News" [DBKL raids three gay massage parlors - Malay News], *Malay News*, 11 April 2021.

⁴⁸² "Malaisie : le Département du développement islamique a arrêté et déporté 1.730 LGBT dans un « camp de réhabilitation » afin de les « ramener sur le droit chemin »" [Malaysia: Department of Islamic Development arrested and deported 1,730 LGBT people to "rehabilitation camp" in order to "bring them back to the right path"], *Fdesouche*, 19 September 2021.

⁴⁸³ Jeremy Tan Fok Jun, "On the impact of government policies to "convert" LGBT people" in ILGA World: Lucas Ramón Mendos, *State-Sponsored Homophobia 2019* (March 2019), 451.

Kelantan Syariah Criminal Code Enactment of 2019.⁴⁸⁴ The details of most of the victims remain unknown at the time of publication.

On **18 February 2022** the Johor state police arrested two individuals for “cross-dressing as women” and “performing an indecent act” in front of the royal palace. The Johor police chief said in a statement that the two arrests were made separately following a photo of the two individuals being uploaded to social media.⁴⁸⁵

On **7 August 2022** it was reported that the Religious Affairs Bureau and the city council of Ampang Jaya in the state of Selangor jointly arrested six transgender people in a shophouse the night before. Five of them were Muslim and were handed over to the Selangor Religious Affairs Bureau for further investigation while the non-Muslim was detained in police lockup as they had tested positive for illegal narcotics. All six were detained for at least four days. The incident was reported to be investigated under Section 14 of the Petty Crimes Act of 1955, which punishes “indecent behaviour with the intention of disturbing the peace”, and Section 15(1)(a) of the Narcotics Act of 1952.⁴⁸⁶

On **28 September 2022** it was reported that the family of a “pengkid” (tomboy; someone assigned female at birth appearing as a man) had reached an out-of-court settlement with the Perak Islamic Religious Department (JAIPk), after the individual in question was photographed dressed in traditional male attire on a pilgrimage to the Holy City of Mecca. The family agreed to let the accused attend “counselling” instead of receiving formal punishment. The head of the JAIPk told media that “if it is found that the offence is repeated and committed deliberately, then of course strict action will be taken”.⁴⁸⁷

On **29 October 2022** a private Halloween-themed party in Kuala Lumpur was jointly raided by the Royal Malaysian Police (PDRM) and the Federal Territories Islamic Religious Department (JAWI). Around 40 religious officers and police separated the attendees by gender and by religion to check whether each individual could be charged with “cross-dressing”. It was reported that around 62 individuals were checked for “cross-dressing” that night. 20 Muslims, including individuals who identify as men, non-binary and transgender, were detained at the office of JAWI in Tasik Perdana. Many of those detained were charged under Section 28 of the Syariah Criminal Offences (Federal Territories) Act while some were charged under Section 35 which punishes “encouraging vice”. All detainees were released the same night after activists coordinated volunteers to have them released on bail.⁴⁸⁸

In **June 2023** photos of two women allegedly engaging in a wedding proposal and “displaying affection in a private lodging facility in Balik Pulau” made the rounds on social media. This prompted an investigation by the Penang State Islamic Religious Council (MAINPP). The Chairperson of the

MAINPP told media that they would “gather more information to determine the authenticity of the circulating photos [and] if it is indeed true, action will be taken according to the prescribed laws”.⁴⁸⁹



Criminalising Provisions

Section 411(a)(2) of the Penal Code (2014) criminalises “unlawful sexual intercourse”, which is committed when a person engages in sexual intercourse with a person of the same sex. “Same-sex intercourse” is defined either as the insertion by a man of his sexual organ or any other object into the anus of another man for sexual gratification; the insertion into another man’s mouth the penis of a man; or insertion of a woman’s organ or any object into the vagina or anus of another woman for sexual gratification. The offences in the section range from Class 1 misdemeanours to Class 3 felonies that carry a jail term of between six months and eight years. It may also result in an additional punishment of 100 lashes.⁴⁹⁰

Section 412(c) of the Penal Code criminalises “unlawful sexual contact” with a person of the same sex, which includes “indecent acts for obtaining sexual gratification” other than those listed under Section 411(a)(2). The offences in the section range from Class 1 misdemeanours to Class 3 felonies that carry a jail term between six months and eight years.⁴⁹¹

Enforcement Overview

ILGA World could identify only one clear example of criminal enforcement in the Maldives prior to 2022. However, several prominent cases made headlines throughout 2022, demonstrating that an otherwise “quiet” country can seemingly at any moment target its residents.

It is believed that a moratorium on arbitrary arrests had existed for some time in the Maldives, though this appears to have been revoked. The government of the Maldives has further demonstrated no recent action in repealing these criminalising provisions. In 2020 during its Universal Periodic Review at the UN, the Maldives received the following recommendation from Chile:

Repeal the laws that criminalise consensual same-sex relationships and immediately reinstate the moratorium on the arbitrary arrest and detention of persons based on their sexual orientation (real or perceived), gender identity or expression.⁴⁹²

⁴⁸⁴ Human Rights Watch, “I Don’t Want to Change Myself”: Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia (10 August 2022).

⁴⁸⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁴⁸⁶ “店屋改装成淫窟 警捕6变性人归案” [The shophouse was converted into a sex den, and the police arrested 6 transgender people], *Oriental Daily*, 7 August 2022.

⁴⁸⁷ “Isu pengkid pakai ihram dah selesai rupanya...” [The issue of children wearing ihram has apparently been resolved...], *My Metro*, 28 September 2022.

⁴⁸⁸ “Authorities raid KL Halloween party with drag performers”, *Malaysiakini*, 30 October 2022; “Malaysia: Religious police raid LGBT Halloween party”, *Deutsche Welle*, 30 October 2022; “It Was Traumatizing” – PDRM & JAWI Raid Private Drag Queen Halloween Party At REXKL”, *SAYS*, 31 October 2022;

⁴⁸⁹ “Investigation launched into alleged same-sex wedding proposal in Penang”, *New Straits Times*, 8 July 2023.

⁴⁹⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Maldives* (accessed: 14 June 2023).

⁴⁹¹ *Ibid.*

⁴⁹² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Maldives*, A/HRC/46/10 (2020), para. 133.67.

The recommendation was rejected, with the following justification coming from Maldivian delegates:

Islam is the religion of Maldives and Islamic principles are fundamental to the Maldivian identity, forming the basis of the Constitution of the Republic of Maldives and all our laws.⁴⁹³

In 2022 in response to a series of high-profile arrests and investigations into government officials and businesspeople, the leader of the Jumhooree Party submitted a bill to amend the Criminal Procedure Act of 2016. The bill would have classified homosexuality as a “serious criminal offence”, making it a crime punishable by death. The bill was rejected in Parliament by a vote of 25 to 13, however.⁴⁹⁴

Examples of Enforcement

In 2015, an organisation called Rainbow Warriors reported that a gay couple was arrested in their home on the island of Dhaandhoo under the accusation of “homosexual activities”. Police had reportedly not actively tackled “private behaviour” until then.⁴⁹⁵

In June 2022, a series of videos depicting same-sex relations between a Bangladeshi sex worker and several Maldivian officials were leaked online, causing a spate of arrests over several months. Both the sex worker and a former member of Parliament were arrested in July. Other leaked videos showed that the Bangladesh national had also engaged in sexual relations with other high-profile Maldivian men, including a lawyer, a relative to a Parliamentary Speaker, several politicians, and law enforcement officials. The Criminal Court thus issued warrants for the arrests of these other men. On 29 August the Bangladesh national pleaded guilty to three charges of homosexuality during a closed hearing. The court originally sentenced him to seven months and six days in prison, but additional charges of “producing pornographic content” were later brought against him to which he pleaded guilty and as such was sentenced to two years and eight months in prison on 30 September.⁴⁹⁶

On 5 August 2022 the Education Ministry stated that several teachers who had also been flagged by the police for engaging in “homosexual relations” in the aforementioned case had been suspended, though at the time of reporting they had not been arrested or charged. The number of teachers and the schools where they teach were not disclosed. A customs officer was also suspended on the same suspicions.⁴⁹⁷

On 9 August 2022 it was reported that travel bans had been imposed on 18 men who are believed to have had “homosexual relations” with the Bangladesh national. The Maldives Police Service confirmed that they had seized the passports of the men in relation to the case though details of any criminal enforcement against them could not be verified.⁴⁹⁸ In terms of clear arrests being made, a former journalist was detained on 29 July in relation to the case. He was reportedly released on 22 August after his remand period, which had been extended several times, came to an end. The police said that his case was to be referred to the Prosecutor General's Office for prosecution.⁴⁹⁹

In September the brother of a Parliamentarian was arrested and sentenced to one month and 28 days in prison, having admitted to having an “immoral relationship” with the sex worker in the videos. The court granted the man’s request to serve out his sentence under house arrest instead of prison, but extended the term by nearly two months.⁵⁰⁰ The prosecution reportedly filed an appeal in October, arguing that the sentence against him was “too light”. It is not known whether their appeal was accepted.⁵⁰¹

It was also reported that on 15 September 2022 a law enforcement official was sentenced to three months and 26 days of house arrest for having “homosexual relations” with the Bangladesh national. The initial sentence was reportedly set at one year’s imprisonment, but the State appealed against this sentence, arguing that it was “too harsh”. The law enforcement officer was released on 9 January 2023 at the end of his sentence.⁵⁰²

Another officer was reportedly sentenced to one year, two months and 12 days in jail on 22 September 2022, but after an appeal it was reported in March 2023 that the sentence had been reduced to one year.⁵⁰³

In an unrelated case, on 25 July 2022 police stated that they had received a report from the island of Nolvhivanfaru involving two men engaging in “homosexual relations” and were conducting investigations into the matter.⁵⁰⁴ There have been no reports of arrests regarding this case.

In another unrelated case from 17 August 2022, police reported that they had arrested two foreigners on suspicion of “engaging in homosexuality” in a housing development on the artificial island of Hulhumalé, near the nation’s capital. Police released a statement on the matter, confirming that they made the arrest upon receiving information of the two men having sexual relations. The inciting incident was reportedly live-streamed on social media from a window overlooking the scene.⁵⁰⁵

⁴⁹³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Maldives: Addendum - Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/46/10/Add.1 (2020), para 133.30.

⁴⁹⁴ People’s Majlis, *Bill on Amendment to the Criminal Procedure Act (No. 12/2016) sponsored by Hon. Qasim Ibrahim, MP for Maamigili* (2022).

⁴⁹⁵ “Worrying arrest in the Maldives”, *Rainbow Warriors*, 31 August 2015.

⁴⁹⁶ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁴⁹⁷ *Ibid.*

⁴⁹⁸ *Ibid.*

⁴⁹⁹ *Ibid.*

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

⁵⁰² *Ibid.*

⁵⁰³ *Ibid.*

⁵⁰⁴ *Ibid.*

⁵⁰⁵ *Ibid.*



Criminalising Provisions

Section 377 of the Penal Code (1860) criminalises “carnal intercourse against the order of nature”. This carries the potential punishment of imprisonment for a term which may extend to ten years and a fine.⁵⁰⁶

Further, Section 30 of the Rangoon Police Act (1899) and Section 35 of the Police Act (1945), colloquially called “Shadow Laws” or “Darkness Laws”, permit police to take into custody virtually any suspected person for up to three months without a warrant. Section C of both acts criminalises “any person found between sunset and sunrise having his face covered or otherwise disguised and who is unable to give a satisfactory account of himself”. This provision is reportedly used to *de facto* criminalise trans and gender-diverse persons.⁵⁰⁷

Enforcement Overview

Between 2011 and 2021 ILGA World notes at least 20 examples of criminal enforcement, with a significant number of incidents constituting a form of *de facto* criminalisation of trans women and gender-diverse persons. The tally is likely higher, as the predominant source used to identify cases was a 2019 report by Equality Myanmar, the LGBT Rights Network, Color Rainbow, and KNQ, which interviewed “dozens of lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals [who] spoke of how Myanmar’s criminal laws, law enforcement officials, and the whole justice system fail them”. These stories were not always tallied or individually disaggregated, and thus may not have been included in this report.⁵⁰⁸ Further, ILGA Asia has reported that in the years prior to 2020 at least 67 cases of arrest have been documented across the country.⁵⁰⁹

While ILGA World has not been able to include each specific incident in the country, local activists have claimed that people of diverse SOGIE—especially transgender women—are targeted under Section 35C of the Police Act, also known as the “Darkness Law”, which allows authorities to detain someone whose face is covered or otherwise “disguised”.⁵¹⁰ According to a submission by ILGA Asia and C.A.N-Myanmar to the UN Special Rapporteur on Torture, many of the documented arbitrary arrests take place under a local law enforcement operation called “Peace and

Tranquillity projects” where police hunt for cases “to meet their target quota”.⁵¹¹

In 2014 the Asian Human Rights Commission “expressed concerns over the police violence against transgender persons” that commonly take place across the country.⁵¹² The situation, however, seems to have worsened in the years since.

In February 2021 the military took power in an apparent coup.⁵¹³ C.A.N-Myanmar and ILGA Asia noted in 2021 that “the threat of being arbitrarily arrested and tortured has tripled among LGBTI anti-coup protesters. Reports from local LGBTI organisations have already indicated that many LGBTI activists are arrested, tortured, and killed due to their participation in the peaceful demonstrations and civil disobedience movement in the past six months. Moreover, a recent report on situations of LGBTI persons in Myanmar, co-published by the Ministry of Human Rights and Ministry of Women, Youth and Children Affairs of the National Unity Government of Myanmar, also highlighted 12 cases of LGBTI fatalities; with 73 being arrested and/or charged under Sections 505(a) of the Penal Code and 65 still being detained”.⁵¹⁴

The apparent disproportionate targeting of LGBT people critical of the military government has not subsided, it seems, with ILGA World noting two prominent examples of gender-diverse persons being arrested in 2022.⁵¹⁵ It could not be verified to what degree their SOGIE status played a role in their detention or charges, however, and so these examples are not included below.

Examples of Enforcement

A trans woman was detained by police allegedly on account of her gender identity in **2011**, and again in **2012**, and both times was sexually assaulted instead of being formally charged with any crime.⁵¹⁶

In **2014** a trans woman was arrested at a night-time cultural festival after another festival-goer accused her of stealing her earrings. When it became clear that she had not stolen the earrings, police decided to detain her anyway under one of Myanmar’s “Darkness Laws” allegedly for no reason other than her gender identity. She was released after she managed to pay a bribe.⁵¹⁷

One evening in **June 2016** an individual in Mandalay who was described as “cross-dressing” was arrested by five plainclothes police officers. She asked why she was being arrested and was told she was “being detained under Section 377 (prohibiting same-sex acts) and the Shadow Law” with no further explanation. She was beaten at the

⁵⁰⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Myanmar* (retrieved: 3 June 2023).

⁵⁰⁷ Equality Myanmar, LGBT Rights Network, Color Rainbow, and KNQ, *In the shadows: Systemic injustice based on sexual orientation and gender identity /expression in Myanmar* (2019), 29-31.

⁵⁰⁸ *Id.*, 7.

⁵⁰⁹ ILGA Asia, *At an impasse: How decade-long dictatorship, systemic oppression and social conservatism empowered (or fueled) discrimination and, stigma towards LGBTI people in Myanmar* (2021), 7.

⁵¹⁰ “Prejudice and progress: a snapshot of LGBT rights in Myanmar”, *MM Times*, 1 June 2017.

⁵¹¹ ILGA Asia and C.A.N-Myanmar, *Submission of Inputs for the report on the Impact of thematic reports presented by the Special Rapporteur on Torture* (2021), 6.

⁵¹² Sida, *Compilation of Briefs on Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons* (2014), Section 22, 1.

⁵¹³ “Myanmar coup: What is happening and why?”, *BBC News*, 1 April 2021.

⁵¹⁴ ILGA Asia and C.A.N-Myanmar, *Submission of Inputs for the report on the Impact of thematic reports presented by the Special Rapporteur on Torture* (2021), 8.

⁵¹⁵ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵¹⁶ Equality Myanmar, LGBT Rights Network, Color Rainbow, and KNQ, *In the shadows: Systemic injustice based on sexual orientation and gender identity /expression in Myanmar* (2019), 41.

⁵¹⁷ *Id.*, 31.

police station where police made her remove her clothes and wig.⁵¹⁸

Another trans woman was targeted in **June 2016**, this time in the Sagaing region, when police followed her home from a tea house. They told her “we know you are transgender, so you need to follow us”. They took her to the police station and only then told her she was being arrested for violating Section 377 of the Penal Code for engaging in same-sex sexual activity. She retorted that police had no evidence of this, to which one officer responded that “all trans women engage in anal sex and are bottoms”. She and several other trans women detained that night were beaten at the station, but eventually released.⁵¹⁹

A trans woman was reportedly arrested under one of Myanmar’s “Darkness Laws” in **2017** while heading to a wholesale flower market to get bouquets to set up at her business.⁵²⁰ Another trans woman was arrested in **2017**, along with a friend of hers, when police came by a popular hangout spot. They were beaten on the street before being taken into custody, and when the woman asked why, they told her she had no right to ask questions. At the station they were made to hop up and down like frogs and were sexually assaulted by officers. They were held for 15 days before being transferred to a court holding area, where by chance the woman’s friend spotted her sister there who was a lawyer, and they were released.⁵²¹

In **November 2017** a transgender makeup artist and her friend were stopped in the streets of Yangon by an unmarked police vehicle. Officers took pictures of them before transporting them to the police station. They were not charged, but were made to clean the station while shouting “I am a man” repeatedly. The woman recounts that other detainees were given food and allowed to phone their families, and when she asked why she and her friend were not permitted the same, an officer told her “because you are transgender!”⁵²²

In **2018** a gay man was held under a “Darkness Law” when police arrested a group of young men for an unrelated fight close to where he happened to be standing. One officer recognised him and so told the others “he is gay, so arrest him too”. At the station the men who had been arrested for their brawl were allowed to call their families and post bail, but police held the gay man for several hours after the others were released before allowing him to do the same.⁵²³

In **2018** a trans woman reported that she and her friends were walking home from work after dark in Yangon when they noticed police following and photographing them. When they asked why the police were doing this, they were taken into a police vehicle and held at a station under

one of the “Darkness Laws”.⁵²⁴

A trans makeup artist also reported in **2018** that she was arrested in Shan state when she refused the sexual advances of a police officer. She was held under the “Darkness Law” until she agreed to sex with two officers at the station.⁵²⁵

It was reported in **2018** that seven trans women were arrested at Mandalay’s U Bein bridge, a hotspot for arrests, for being caught “behind the shadow” (out after dark). They were each made to pay a bribe of 50,000 kyats (USD 32), but one woman who could not afford that amount was taken into police custody.⁵²⁶

Another trans woman reported in **2018** her case in which an officer arrested her for violating the Rangoon Police Act. At the police station she was made to do 100 squats as a form of corporal punishment and was beaten with a stick until it broke. Her uncle was a high-ranking government official at the time and thus secured her release.⁵²⁷

Three more transgender individuals recounted in **2018** that they were arrested under “Darkness Laws” because of their sexual orientations or gender identities, with one claiming to have asked police the reason for the arrest, to which they responded: “Because you are a trans woman! Because you are gay!”⁵²⁸

Also reported in **2018** were the cases of a gay couple walking together in the street arrested under the “Darkness Law”, and an individual of unknown SOGIE identity detained while walking through a park one evening.⁵²⁹

In **March 2018** an outspoken SOGIE activist in Yangon was charged with engaging in homosexual acts, though he had also been accused of sexual assault by an employee and was denied bail. Reports imply that the evidence for his incarceration was one-sided and that he is in fact facing discrimination because of his sexual orientation and HIV status, though the veracity of these claims could not be ascertained. The accused was allegedly also denied bail and antiretroviral treatment while in detention.⁵³⁰

In a **2020** report by C.A.N.-Myanmar, it was noted that a trans woman who worked as a sexual health educator and counsellor in the Mandalay region was arrested under the so-called “Darkness Law”. Beyond being held under Police Acts 30C and 35D they threatened to charge her under Article 3B of the Anti-prostitution Act because they found condoms and lubricant on her person, which she used for her outreach work. After two nights in police custody the organisation she worked for managed to bail her out, but the experience left her too afraid to continue doing community outreach work.⁵³¹

⁵¹⁸ *Id.*, 32.

⁵¹⁹ *Id.*, 39.

⁵²⁰ *Id.*, 31.

⁵²¹ *Id.*, 45.

⁵²² *Id.*, 44.

⁵²³ *Id.*, 46.

⁵²⁴ *Id.*, 31.

⁵²⁵ *Id.*, 33.

⁵²⁶ *Id.*, 33.

⁵²⁷ *Id.*, 47.

⁵²⁸ *Id.*, 38.

⁵²⁹ *Id.*, 32.

⁵³⁰ “Two Gay Men Arrested in Myanmar while anti-gay crackdown intensifies in Tanzania”, *Kuchu Times*, 8 November 2018; ILGA Asia, *At an impasse: How decade-long dictatorship, systemic oppression and social conservatism empowered (or fueled) discrimination and, stigma towards LGBTI people in Myanmar* (2021), 6.

⁵³¹ C.A.N.-Myanmar, *Leaving no one but LGBTI behind in Myanmar: Spotlight Report from the perspective of LGBTI NGO/CSOs on the implementation of Sustainable Development Goals in Myanmar* (2020), 15.



Oman

Criminalising Provisions

Per Article 261 of the Penal Law—promulgated by Royal Decree No. 7 (2018)—consensual sexual intercourse between men, carries a maximum punishment of three years. Further, Article 262 punishes “lustful acts with a person of the same sex” with imprisonment of up to three years. This provision applies both to men and women, though criminal proceedings cannot commence except on the basis of a complaint by a spouse or guardian.⁵³²

The 2018 Penal Law repealed the prior Penal Code (1974), which under Article 223 had criminalised “erotic acts with a person of the same sex” and punished “homosexual or lesbian intercourse” with imprisonment from six months to three years.⁵³³

Article 266 of the current Penal Law also criminalises diverse gender expression, particularly transfeminine expressions, by stating: “Any male who [...] (c) Disguises himself as a female and enters a female-only area; (d) publicly appears in a female outfit, either in his way of clothing or body appearance. Will be subject to a prison sentence of one month to one year and a fine of 100 to 300 Omani Riyal or by either of these penalties”.⁵³⁴

Enforcement Overview

Significant restrictions on freedom of expression and media exist in Oman, with the State telecommunications company, Omantel, blocking access to a local LGBTI blog in 2010, and government officials suing and shutting down a newspaper in 2013 after it published a story about Oman’s LGBT community and made inferences about the now-late Sultan Qaboos’ sexuality.⁵³⁵ These instances are telling, and serve as reminder that additional cases of enforcement may exist which simply were not publicised.

It is also notable that under Sultan Qaboos legal punishments for consensual same-sex sexual acts were actually aggravated. In 2018 the amended Penal Code increased penalties for same-sex activity and expressly criminalised diverse gender expressions by explicitly prohibiting men from “appear[ing] dressed in women’s clothing”. Sultan Qaboos’ successor, Sultan Haitham bin Tariq, has also maintained this status quo since 2020.⁵³⁶

Further, in December 2021 it was reported that the Grand Mufti of Oman, Sheikh Ahmed bin Hamad al-Khalili, seemingly reaffirmed this stance against homosexuality by

issuing a message in which he reminded his followers that “silence about [homosexuality] is a matter that leads to the wrath and punishment of Almighty God”.⁵³⁷

As such, from 2009 to the time of publication ILGA World has noted between three and 13 possible examples of criminal enforcement, though many details remain unknown.

Examples of Enforcement

According to the US Department of State, nine men were prosecuted for “sodomy” in 2009, though further details are not clear. Whether this was a single case or multiple, and what the fates of the accused were, are not known.⁵³⁸

In August 2013 a local newspaper, *The Week*, reportedly published a story about Oman’s LGBTI community in which it praised the country’s openness and inferred that the Sultan was of a diverse sexual orientation. Despite then publishing a front-page retraction and apology, the government sued the paper and ordered it to suspend operations. The writer of the article and editor of the paper faced criminal charges.⁵³⁹

On 27 January 2018, less than two weeks after Article 266 of the Penal Law came into force, Royal Oman Police arrested four “men wearing women’s clothes” in the city of Salalah. Police were alerted to social media posts and images which showed attendees at a private party wearing feminine attire. On 15 February a Salalah court convicted them of “immoral conduct”, “distributing material that violates public ethics”, and “imitating the opposite sex”. Each of the accused was sentenced to three years in prison, a fine of 3,000 Omani Riyals (about USD 7,800), and a month of street cleaning for four hours a day. The social media accounts of one of the accused were also shut down.⁵⁴⁰

On 11 March 2018 the *Times of Oman* reported that Royal Oman Police arrested a foreign national of “Asian nationality in Al-Buraimi park, dressed in women’s clothing”. Reportedly, the park was hosting a women’s-only event at the time.⁵⁴¹

On 19 September 2018 it was reported that four individuals in Salalah were found guilty of “publishing immoral acts on social media”. Two of the group were reported as being men who were wearing men’s clothing, while two others were called “cross-dressers” in media reports. All were arrested for appearing in a video and photos together, which were uploaded to social media. The masculine-presenting pair were only ordered to shut down their social media accounts, but the feminine-presenting pair were additionally sentenced to three years’ imprisonment and a fine of 3,000 Omani Riyals (about USD 7,800). All four were further sentenced to four hours of

⁵³² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Oman* (accessed: 1 June 2023).

⁵³³ *Ibid.*

⁵³⁴ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 95.

⁵³⁵ “Stop Press: New Omani Blog Community Queer blocked by ... Omantel”, *Muscat Confidential*, 14 February 2010; “Sultanate of Oman takes newspaper to court over gay story”, *Gay Star News*, 10 September 2013.

⁵³⁶ Human Rights Watch, *Oman: Events of 2020* (2021).

⁵³⁷ “مفتي سلطنة عمان يوجه رسالة للعالم: «المثلية» خطر كبير يهدد إنسانيتنا السكوت عن هذه الفاحشة” [The Grand Mufti of the Sultanate of Oman sends a message to the world: “Homosexuality” is a great danger that threatens our humanity. keep quiet about this outrage...], *Nabd*, 13 December 2021.

⁵³⁸ United States Department of State, *Oman 2013 Human Rights Report* (2013), 19.

⁵³⁹ “Sultanate of Oman takes newspaper to court over gay story”, *Gay Star News*, 10 September 2013; United States Department of State, *Oman 2013 Human Rights Report* (2013), 19.

⁵⁴⁰ “Letter Re: Arrests and Convictions Under Oman’s 2018 Penal Code”, *Human Rights Watch*, 13 July 2020.

⁵⁴¹ *Ibid.*

community service every day for one month.⁵⁴² Similarities between this case and the one documented on **27 January** mean this may be a case of contradictory reporting on a single incident, though both are included here given that this could not be verified at the time of publication.



Criminalising Provisions

Section 377 of the Penal Code (1860) punishes “carnal intercourse against the order of nature” with up to life in prison.⁵⁴³

There is a possibility, though disputed by several sources, that the death penalty could potentially be applicable to those convicted of same-sex sexual acts in Pakistan. The Shariat-based Offence of Zina (Enforcement of Hudood) Ordinance (1979) prohibits zina (adultery). Section 5 provisions that consenting adults found guilty of zina may be stoned to death. Commentators have noted that this may apply to consensual same-sex conduct in Pakistan if the high evidentiary requirements are met, “insofar as non-heterosexual relationships cannot be legalised in any form of marriage”. However, it is unclear if this is applicable to consensual same-sex conduct. Section 4 specifically states: “A man and a woman are said to commit *zina* if they willfully have sexual intercourse without being validly married to each other”. The phrase “to each other” suggests that the ordinance only contemplates a situation where a man and a woman commit adultery with each other. A textual reading of Section 5 further supports this. It provides that *zina* is liable to *hadd* if: (i) it is “committed by a man [...] with a woman”, or (ii) it is “committed by a woman [...] with a man”. Section 5 does not provide for a situation where the act is committed between two individuals of the same gender.⁵⁴⁴

Additionally, Section 294 of the Penal Code criminalises “any obscene act in any public place” and “singing, reciting or uttering any obscene songs, ballad or words, in or near

any public place”, “to the annoyance of others”, which may result in imprisonment for up to three months, a fine, or both. This section is reportedly often deployed to target male, trans and hijra sex workers.⁵⁴⁵

Enforcement Overview

Pakistan presents in many ways a peculiar legal and social situation. Same-sex sexual activity is illegal and considered “unethical and sinful” in the eyes of many in Pakistan. Religious groups and leaders, in particular, are vocal on the matter. According to a 2021 report by ILGA Asia, “the religious community does not support LGB persons at all”.⁵⁴⁶ At the same time, persons of diverse gender identities and expressions are recognised as a part of local culture and society, broadly. For example, the “hijra” and “khawaja sira” are recognised as a “third sex” in local culture, religious readings, and law.⁵⁴⁷ As such Pakistan offers anti-discrimination protections on the basis of gender identity and gender expression, and for “intersex (Khunsa)” people,⁵⁴⁸ and recent years has seen the adoption of several affirmative action initiatives.⁵⁴⁹

Nevertheless, ILGA World notes concerning trends among State actors and influential conservative groups working to erode existing legal protections. Discrimination, stigma and violence against gender-diverse persons in Pakistan remains rife,⁵⁵⁰ and existing protections are seemingly not always enforced.⁵⁵¹ This has arguably allowed a kind of *de facto* criminalisation of diverse gender identities and expressions to take place in some regions.

One recent example of this came in March 2023, with reporting that police in Quetta, Balochistan’s capital, had banned transgender individuals from visiting certain public spaces after midnight. The authorities framed the order as a matter of public safety, given that cases of violence against trans persons had been on an apparent increase—but also on the basis of accusations that trans persons attracted robbers to the area or were engaging in sex work. One official told media the order was to “prevent obscenity from spreading in the city”, with another saying, “our young population is being ruined”. Authorities in Quetta said that any transgender residents found outside of their homes after curfew would be arrested, though at present no

⁵⁴² “Playing dress-up: Four cross-dressers jailed in Oman”, *Roya News*, 19 September 2018.

⁵⁴³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Pakistan* (accessed: 21 June 2023).

⁵⁴⁴ *Ibid.*

⁵⁴⁵ Kaleidoscope Australia, *Shadow Report to the Committee on Economic, Social and Cultural Rights Regarding Pakistan’s Protection of the Rights of LGBTI Persons* (2016), 3; Immigration and Refugee Board of Canada, *Pakistan: Situation of sexual minorities in Islamabad, Karachi and Lahore, including treatment by society and authorities; state protection (2010-2013)* (2014).

⁵⁴⁶ ILGA Asia, *Disapproval and rejection: The LGBTIQ struggle for freedom bounded by social and religious beliefs in Pakistan* (2021), 6.

⁵⁴⁷ “Pakistan’s Khawaja Siras: Perspectives on Identity”, *Huffington Post*, 3 October 2016; “Khawaja Sara and Hijra: From the middle rung of power in Mughal Harem to the Outcast individuals in British Colonialism”, *Daily Times*, 4 June 2020; “Meet the Khawaja Sira: Pakistan’s Transgender Community”, *The Diplomat*, 1 April 2022.

⁵⁴⁸ ILGA World, *ILGA World Database: Jurisdictions - Pakistan* (accessed: 13 April 2023).

⁵⁴⁹ See, *inter alia*: “LG Dept recommends 2pc job quota for trans people”, *Pakistan Observer*, 25 May 2021; “Punjab govt to give monthly stipend to transgender persons”, *The Current*, 29 May 2021; “Educational institutions to be established for transgenders: Murad Raas”, *Daily Times (Pakistan)*, 7 July 2021; “Lahore to have country’s first Transgender Rehabilitation Centre”, *The News International*, 5 September 2021; “Trans-persons job quota”, *The Express Tribune*, 9 July 2022; “Transpersons to get Rs7,000 under Benazir Kafalat Programme”, *Geo News*, 4 December 2022; “Lahore opens its first transgender school providing free education”, *Devdiscourse*, 9 December 2022; “Punjab police to develop ‘protection centres’ for transgender community”, *The Nation*, 28 February 2023; “Senate body presents special report on Transgender Persons’ Rights Bill”, *Daily Times*, 06 April 2023; “PHC orders NADRA to restore transgender’s CNIC”, *The Frontier Post*, 28 April 2023; “Pakistan’s Sindh province is a model for trans rights in South Asia”, *Erasing 76 Crimes*, 5 May 2023.

⁵⁵⁰ “Pakistani police arrest 10 for flogging transgender woman”, *CBS News*, 14 November 2016; “Pakistan Makes Arrests After Killing, Mutilation Of Transgender Person”, *Radio Free Europe*, 17 August 2017; “Karachi’s transgender community protest rise in hate crimes”, *PinkNews*, 8 December 2018; “The not-so-curious case of trans oppression in Pakistan”, *News International*, September 2020; “Pakistan’s trans community is still living with the violence of empire”, *openDemocracy*, 30 March 2021; ILGA Asia, *Disapproval and rejection: The LGBTIQ struggle for freedom bounded by social and religious beliefs in Pakistan* (2021); “Pakistan’s transgender women protest against rising tide of violence”, *The Guardian*, 1 April 2022; “Pakistan: Acid Thrown On 23-Year-Old Transgender In Lahore, Suspect Arrested”, *abp Live*, 23 June 2022; “Two faces of Pakistan: The Transgender Rights Act and its Muslim opponents”, *Erasing 76 Crimes*, 19 December 2022; “Transgender persons not allowed to leave homes after midnight in Quetta”, *Daily Pakistan*, 1 March 2023; “Intimidasi Transgender di Pakistan, Kelompok Sayap Kanan Ingin Ubah Undang-undang” [Transgender Intimidation in Pakistan, Right-wing Groups Want to Change the Law], *Suara*, 8 April 2023; Amnesty International, *Public Statement: Pakistan: Reject Proposed Rollbacks on the Transgender Persons Act, ASA 33/6787/2023* (17 May 2023); Human Dignity Trust, *Country Profile: Pakistan* (2023), (accessed: 1 June 2023).

⁵⁵¹ ILGA Asia, *Disapproval and rejection: The LGBTIQ struggle for freedom bounded by social and religious beliefs in Pakistan* (2021), 9-14.

arrests have been confirmed.⁵⁵²

The 2018 passage of the Transgender Persons (Protection of Rights) Act guaranteed gender-diverse people in Pakistan the right to assembly and social welfare, protection from various forms of discrimination, and the ability to update their gender-marker to reflect “third-gender” status.⁵⁵³ This faced clear opposition from detractor groups, though backlash remained relatively minor until 2022. In September of that year three separate bills were introduced in an attempt to repeal the law, and that same month the Balochistan Assembly adopted a resolution unanimously calling upon the provincial government to plead with the national government to declare the Act “null and void”. For its part, the Council of Islamic Ideology declared several provisions of the Act to be against Sharia law and decided to form a high-level committee to review it.⁵⁵⁴ Several court cases were lodged against the Act, from multiple parties, and in May 2023 the Federal Shariat Court ruled that while diverse gender identities were recognised in Islam and were protected from harm under the Pakistani constitution, provisions for legal recognition, as well as several other sections of the Act, were unconstitutional and would need to be struck down.⁵⁵⁵ The Federal Shariat Court also held in Shariat Petition No. 5 (2023) that homosexual activities are *al-fahishah* (“immoral”) and that these “immoral activities are the acts of Shaitan (Demon)”.⁵⁵⁶

The minutiae of the debate around the Transgender Persons (Protection of Rights) Act are well beyond the scope of this report, but it is a valuable illustration of the intersecting issues faced by SOGIESC communities in areas of both social justice, and legal recognition. Much of the campaign against the Act seemingly sought to rile up homophobic members of society in opposition to it. Anxieties that recognising transgender persons as their affirmed gender could “promote homosexuality” and legalise same-sex marriage were widely exploited in an alleged disinformation campaign against the Act—and so an erosion of rights for gender-diverse persons was justified as a safeguard against the possible decriminalisation of same-sex intimacy.⁵⁵⁷

Indeed, six of the seven examples of apparent criminal enforcement identified below relate in some way to weddings or the cohabitation of same-sex couples, demonstrating clearly the anxieties around these issues in particular. There is a strong likelihood that additional examples of enforcement or targeting exist, which may be revealed by further investigation.

Examples of Enforcement

In **September 2006** a trans man and a cisgender woman wed, which led to widespread public outcry against the perceived “same-sex wedding”. The bride’s father lodged a complaint against the marriage with the police, and they launched an investigation. The court in Lahore appointed a panel of doctors “to settle the issue of legal identity”. In the end the legal ambiguity around how provisions against same-sex sexual activity should be applied to trans and gender-diverse individuals led the prosecutors to drop their case against the couple. However, on **28 May 2007** a High Court judge sentenced the couple to a “lenient” three-year imprisonment for perjury, as they had told the Lahore court that the transgender man was a man. IGLHRC (now Outright Action International) and activists from ASR Centre worked to advocate for the couple, and in **June 2007** a Supreme Court judge ordered the case to be reopened and for the couple to be released on bail.⁵⁵⁸

A Pakistan national testified in **December 2007** to Germany’s Federal Office for Migration and Refugees that they had faced risk of criminal prosecution for cohabiting with a same-sex partner, and could thus not return home. After years of discrimination and occasional violence from other villagers, the two men soon had to flee to Lahore when they learned that residents of their village had filed a case against them with police. Their lawyer in Lahore told them they had “no chance” of winning in court, and so they left the country.⁵⁵⁹

On **24 May 2010**, 47 people in Peshawar were arrested in a raid of an alleged “hijra wedding”. The group denied it was a wedding and claimed it was an annual cultural event for their community, but police had been tipped off that a hijra and a cisgender man were getting married and thus raided the property. They also confiscated clothing, musical instruments and a Kalashnikov rifle on the premises. The two people alleged to be getting married, a hijra and a cisgender man, were held and charged under Article 377 of the Penal code prohibiting “carnal knowledge against the order of nature”, given that authorities viewed this as a same-sex relationship. They were also charged under numerous other provisions, including Article 294 which prohibits “obscene acts and songs”. They denied that they were a couple, but authorities provided photographs of a wedding dress as supposed evidence against their claims.⁵⁶⁰

According to the Human Dignity Trust, in **December 2013** a same-sex couple were arrested by police not long after a

⁵⁵² “Transgender persons not allowed to leave homes after midnight in Quetta”, *Daily Pakistan*, 1 March 2023; “Fact-check: Police ban transgenders in Quetta from public places post”, *Geo News*, 8 March 2023.

⁵⁵³ ILGA World, *ILGA World Database: Jurisdictions - Pakistan* (accessed: 13 April 2023).

⁵⁵⁴ *Ibid.*

⁵⁵⁵ “Pakistan’s Progressive Transgender Law Faces Opposition 4 Years Later”, *VOA News*, 28 September 2022; “Pakistan: Conservative Muslims seek to undo progress on trans rights”, *Erasing 76 Crimes*, 7 October 2022; “Shariat Court strikes down three sections of Transgender Act 2018”, *ARY News*, 19 May 2023; “A person can’t change gender at will, rules FSC”, *The Nation*, 19 May 2023; “Pakistan: Revocation of rights of transgender and gender-diverse people must be stopped”, *Amnesty International*, 19 May 2023; “Pakistani transgender activists to appeal Shariah court ruling against law aimed at protecting them”, *AP News*, 20 May 2023; “Activists Decry Pakistani Religious Court’s Transgender Law Decision”, *VOA News*, 20 May 2023.

⁵⁵⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Pakistan* (accessed: 21 June 2023).

⁵⁵⁷ “Trans rights in focus amid Pakistan legal battle”, *DW*, 25 September 2022; “Pakistan’s Progressive Transgender Law Faces Opposition 4 Years Later”, *VOA News*, 28 September 2022; “Two faces of Pakistan: The Transgender Rights Act and its Muslim opponents”, *Erasing 76 Crimes*, 19 December 2022; Amnesty International, *Public Statement: Pakistan: Reject Proposed Rollbacks on the Transgender Persons Act*, ASA 33/6787/2023 (17 May 2023).

⁵⁵⁸ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism* (2008), 55-56; IGLHRC (now Outright Action International), *Annual Report 2007* (2008), 7.

⁵⁵⁹ Information supplied by *Lesben- und Schwulenverband in Deutschland (LSVD)*.

⁵⁶⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

reporter entered their home with cameras and accused them of being gay as part of a broadcast claiming that "LGBT people are worthy of stoning", It is not known under which provisions the couple were arrested.⁵⁶¹

In **June 2015** it was reported that two men in Balochistan were arrested after getting married in a ceremony they would later downplay as being just a joke between friends. The man who facilitated the ceremony was also arrested. The couple offered to get divorced if it would mean an end to their troubles, but one official reportedly told the media that "divorce cannot save them from prosecution. The law doesn't recognise gay marriages, so we can obviously not recognise a gay divorce". It is unclear what happened to them thereafter.⁵⁶²

In **August 2020** an arrest warrant was reportedly issued for a trans man who married a cisgender woman, for what authorities viewed as a same-sex wedding.⁵⁶³

The following month, in **October 2020**, a Pakistan-based digital media platform reported that two lesbian women were "arrested by the police after their relatives and friends reported about their relationship and marriage plan".⁵⁶⁴

On **3 March 2023** police in Rawalpindi, Balochistan, lodged a case against a transgender person for having allegedly concealed their gender identity to perform the duties of Imam at a local. Reporting is unclear, but the individual in question was likely transfeminine or of the hijra community and presented as male while leading religious prayer ceremonies. After a year and a half in this role, local residents saw the transgender person begging in the street while presenting as their affirmed gender and laid a complaint. On **7 March** the accused was sentenced to an unknown jail term by the Civil Court.⁵⁶⁵ This incident is not counted in the tally of enforcement examples above, due to a lack of information and the complexity of the interplay between recognised gender-diversity and religious rites and regulations in Pakistan. Nevertheless, it is illustrative of the use of State power against persons of diverse SOGIE across the country.



Criminalising Provisions

Article 285 of the Penal Code (2004) states that whoever "copulates with a male over sixteen years of age without compulsion, duress, or ruse shall be punished with

imprisonment for a term up to seven years". The same penalty applies "to the male for his consent".⁵⁶⁶

Moreover, Article 296(3) criminalises the "leading", "instigating", or "seducing" of a male to commit sodomy, while Article 296(4) criminalises the "inducing" or "seducing" of a male or female in any way to commit illegal or immoral actions. Both may result in imprisonment for up to three years. Article 298 also criminalises "sodomy as a profession or for a living" with imprisonment for a term up to ten years.⁵⁶⁷

It is important to note that Article 1 of the Penal Code mandates that courts apply Sharia law for *zina* (adultery; extramarital sex). Consequently, Courts could in theory rely on this provision to impose the death penalty for consensual same-sex sexual acts, if interpreted as a form of *zina* (as same-sex marriage is not permitted in Qatar).⁵⁶⁸ Qatari officials have denied this to be the case, however.⁵⁶⁹

Enforcement Overview

A Wahhabi interpretation of Sharia continues to be a significant influence in Qatar's policies and remains the official legal system under the Constitution, though a seemingly dual secular-religious legal system is employed. As such, Qatar is one of the 11 remaining UN member States where there is some legal possibility that the death penalty exists as a prescribed punishment for same-sex sexual acts. Notably, a nearly two-decade informal moratorium on capital punishment ended in April 2021 with the execution of a Nepali migrant worker found guilty of homicide.⁵⁷⁰

People of diverse SOGIE living in Qatar face severe forms of criminalisation or hostility from State actors and the public.⁵⁷¹ During its first United Nations Universal Periodic Review in 2010, Sweden issued Qatar with the recommendation that it "ensure that LGBT persons are not discriminated against and, as an immediate step, to amend the provisions of the penal code criminalising consensual same-sex sexual acts and to ensure that no one is punished for such activity under Sharia law". The recommendation was rejected, with no further response issued by the State.⁵⁷² In its third Universal Periodic Review in 2019, Qatar rejected all recommendations relating to SOGIE issues and the death penalty "on account of their incompatibility with the Islamic Sharia, the Constitution or domestic legislation, on grounds related to sovereignty, or because they require further study or are based on unsubstantiated allegations".⁵⁷³

In 2022 the Qatari delegation at the UN Human Rights Committee further claimed that the death penalty was prescribed only for extremely serious criminal offences

⁵⁶¹ Human Dignity Trust, *Country Profile: Pakistan* (2023) (accessed: 1 June 2023).

⁵⁶² "Pakistani men arrested for exchanging marriage vows", CBS News, 17 June 2015.

⁵⁶³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁵⁶⁴ *Ibid.*

⁵⁶⁵ *Ibid.*

⁵⁶⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Qatar* (accessed: 4 June 2023).

⁵⁶⁷ *Ibid.*

⁵⁶⁸ *Ibid.*

⁵⁶⁹ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Initial report of Qatar, CCPR/C/SR.3837*, 4 March 2022.

⁵⁷⁰ "Qatar Executed Nepali Man, Ending 20 Year Hiatus: Amnesty", *Barron's News*, 21 April 2021.

⁵⁷¹ "Resisting gay rights in Qatar", *Al Bab*, 9 August 2016; "What it's like to be gay and Qatari", *Doha News*, 5 August 2016.

⁵⁷² UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Qatar*, A/HRC/14/2 (2010), para. 6.

⁵⁷³ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: State of Qatar. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/42/15/Add.1 (2019), para. 4.

such as murder and terrorist offences, and "not for homosexual acts". According to the delegation, "Sharia prescribed set punishments for certain offences which had to be taken into account but need not necessarily be carried out in their original form. By design, it was nearly impossible to satisfy the conditions necessary for the execution of a sentence of death by stoning. That punishment was therefore never carried out in practice".⁵⁷⁴

Notably, some reporting suggests that many LGBT individuals are not arrested under laws criminalising same-sex acts, but rather legislation such as "Law No 17 of 2002 on Protection of Community", which allows for detention without charge or trial for up to six months if "there exist well-founded reasons to believe that the defendant may have committed a crime" such as "violating public morality".⁵⁷⁵ On this note, in 2020 the UN Working Group on Arbitrary Detention identified systemic problems within the criminal justice system that placed defendants at a high risk of arbitrary detention or in conditions of detention that might affect their ability to exercise their fair trial rights or to seek release. The Working Group noted that the "definition and enforcement of certain sexual offences, including adultery and sodomy, may result in the arbitrary detention of individuals based on discriminatory grounds, such as gender or sexual orientation".⁵⁷⁶

According to Dr Nasser Mohamed, Executive Director of the Alwan Foundation, the Preventive Security Department in Qatar is "by far the most dangerous force that both local and foreign LGBT individuals have to face, as they are responsible for arresting and detaining LGBTQ+ people, based on their gender expression, or other factors that they determine". Police, who often make use of informants or online communications monitoring, can seemingly target people for a wide range of things, including persecuting those who are HIV-positive or seek HIV treatment. Foreign nationals found to live with HIV are often deported, despite the Qatari government's claims that the healthcare system does not discriminate.⁵⁷⁷ Dr Mohamed further informed ILGA World that State-sponsored "conversion therapy" is also reportedly common in Qatar, with several institutions existing to establish "a society free from behavioural deviations".⁵⁷⁸

In 2013 Qatar was one of the countries in the Gulf Cooperation Council (GCC) that was exploring a ban on LGBT foreigners from working in the region, though the initiative was first proposed by Kuwait. Some analysts have suggested that Qatar backtracked on this decision only as a result of significant international criticism, in light of a potential boycott of the 2022 football World Cup.⁵⁷⁹

Indeed, the FIFA World Cup of November and December 2022 brought to the fore the issue of human rights in the host nation and the possibility of enforcement of criminalising provisions on locals and visitors. The Qatari Chief Executive for the World Cup, Nasser Al-Khater, is reported in 2020 as saying: "When it comes to the rainbow flags in the stadiums, FIFA (International Federation of Association Football) have their own guidelines, they have their rules and regulations. Whatever they may be, we will respect them". Al-Khater may have implied in his statement that the country's inclusive policies had their limitations when he said "we also expect people to respect our culture".⁵⁸⁰ In response to a 2018 case of apparent censorship of LGBT-related news content, FIFA said it would investigate the matter ahead of the World Cup, but one official added "Qatar as a host country is not subject to FIFA's Statutes, nor is it bound by FIFA's Human Rights Policy and related FIFA regulations".⁵⁸¹

During the 2022 FIFA World Cup regulations limiting freedom of expression appear to have largely remained in place. Human rights defenders from the Gulf have claimed that cases of torture and arrest were on the rise in the lead-up to the competition.⁵⁸² In October 2022 Human Rights Watch published an article in which six trans, gay, and bisexual individuals had been arrested—with some cases dating from as late as September of that year. All six individuals reported verbal, physical and sexual violence from authorities, who also searched their phones in order to identify and entrap more people.⁵⁸³ Various news outlets have also independently reported on gay and trans individuals being arrested since then.⁵⁸⁴ This highlights the double-standard in both external governments, corporations and other stakeholders—and the Qatari government—in treating visitors from the Global North by different standards than migrant labourers and low-income Qatari citizens. It perpetuates an inaccurate narrative of Qatar as a safe haven in the Gulf, and undermines the access of local SOGIE communities to their rights.

ILGA World has thus identified 17 individual examples of apparent enforcement between 1995 and the time of publication. This does not reflect the totality of cases as a number of detentions remain unreported or not disaggregated. The Qatari delegation to UN in Geneva did, however, provide official statistics on persons in detention for non-violent acts to the UN Human Rights Committee and confirmed that at least eight people were in prison at that time for "homosexuality".⁵⁸⁵

⁵⁷⁴ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant: Initial report of Qatar*, CCPR/C/SR.3837, 4 March 2022.

⁵⁷⁵ "Qatar: Security Forces Arrest, Abuse LGBT People", *Human Rights Watch*, 24 October 2022.

⁵⁷⁶ *Report of the Working Group on Arbitrary Detention on its visit to Qatar*, A/HRC/45/16/Add.2, 30 July 2020, para. 92.

⁵⁷⁷ Information supplied by the Alwan Foundation.

⁵⁷⁸ "وثيقة تأسيس مركز دعم الصحة السلوكية لمؤسسة خاصة ذات نفع عام" [The founding document for the Behavioral Health Support Center 'a private public benefit institution'], *Al Mezan Foundation, Qatar Laws Portal. Official Gazette: Issue*, 20 May 2014; "Qatar: State of Fear?", *ITV*, 2022; "About Centers", *Qatar Foundation for Social Work* (accessed: 22 June 2023).

⁵⁷⁹ "Kuwait must reject proposed homophobic 'medical tests' on migrant workers", *Amnesty International*, 11 October 2013; "Ban on homosexuals working in Gulf countries 'just a proposal': Kuwaiti official", *Big News Network*, 22 October 2013; "Qatar 2022: Gulf States' 'Gay Tests' Trigger World Cup Boycott Call", *International Business Times*, 8 October 2013 (updated 1 July 2014).

⁵⁸⁰ "2022 World Cup: Qatar to allow LGBTQ displays, rainbow flags in stadiums", *ESPN*, 10 December 2020.

⁵⁸¹ "Under World Cup spotlight, Qataris crack down on LGBT news coverage", *ABC News*, 20 July 2018.

⁵⁸² Information supplied by the Alwan Foundation.

⁵⁸³ "Qatar: Security Forces Arrest, Abuse LGBT People", *Human Rights Watch*, 24 October 2022.

⁵⁸⁴ "Qatar, ragazzo gay vittima di un'imboscata della polizia. 'Per un attimo ho pensato di lanciarmi dalla finestra'" [Qatar, gay boy victim of police ambush. "For a moment I thought about jumping out the window"], *Gay.it*, 5 November 2022; "World Cup 2022: 'I am very afraid', says Qatari transgender woman", *BBC News*, 2 December 2022.

⁵⁸⁵ UN Human Rights Council, *Replies of Qatar to the list of issues in relation to its initial report*, CCPR/C/QAT/RQ/1, 8 April 2021, para. 82.

Examples of Enforcement

In **1995** a US citizen was sentenced to six months' imprisonment and 90 lashes for alleged "homosexual activity", but further details are not known.⁵⁸⁶

It was also reported that in **October 1997**, 36 gay Filipino migrant workers were deported from the country on account of their sexual orientation.⁵⁸⁷

In **2002** a gay man—seemingly from Germany or Finland—was in the process of ending a work contract with his employer in Qatar and preparing to move home, when he was befriended by a local man. After getting to know each other the man invited him over to smoke hash, at which point 25 individuals barged into the house and arrested him. He was held for four months, ostensibly on drug-related charges, though he claims he was entrapped by authorities because of his sexual orientation. His country's ambassador bailed him out, but he was still required to pay a fine of 50,000 Rials (USD 13,700).⁵⁸⁸

In **2014** an individual appearing to be a gay man was arrested on allegations that he had engaged in same-sex conduct. It appears, though cannot be confirmed, that he was targeted as a result of police surveillance of his online presence. He was held for several weeks before being released, though in that time his head was shaved and he was subject to verbal and sexual harassment according to Human Rights Watch. Police allegedly scoured his phone to locate other people to target.⁵⁸⁹

On **27 June 2016** an 18-year-old gay social media influencer from Poland was arrested at Doha International Airport and jailed for almost two months. His arrest was not formally recorded for 10 days, leaving his family and Polish authorities entirely unaware of his location, nor was he afforded a lawyer in that time. Qatari officials deny that the arrest was as a result of his sexual orientation, and rather because of "money extortion, blackmail, and assault on a Qatari national's privacy online". The accused, however, denies this, and claims that he was briefly rearrested shortly after his release for wearing makeup on social media, with authorities telling him he looked like a "she-male". The accused further claims he has now been banned from all Gulf Cooperation Council (GCC) countries (United Arab Emirates, Saudi Arabia, Qatar, Bahrain, Kuwait, Oman) as a result of his arrest.⁵⁹⁰

In **October 2022**, Human Rights Watch published the accounts of six individuals who were arbitrarily arrested by Preventive Security Department forces between **2019** and **September 2022**. All six said that the security forces detained them in an underground prison in Al Dafneh, where they were denied access to legal counsel, family, and medical care. All detainees reported that the security forces forced them to unlock their phones and took screenshots of their private photos and chats, as well as contact information of other LGBT people. They were all

reportedly subject to verbal harassment, physical abuse and some were even sexually abused by security officers.⁵⁹¹

As part of those interviews, a bisexual woman from Qatar was reportedly detained and severely beaten sometime between **2019** and **2022**, though security forces did not formally arrest her, it seems. Rather, she was transported to an unknown private residence where she was forced to watch other people being beaten as a means, presumably, to discourage her from further "immoral" practices.⁵⁹²

One transgender Qatari woman reported in the **October 2022** Human Rights Watch report that she was arrested on the street when the Preventive Security officers accused her of "imitating women". While being arrested police violently assaulted her, allegedly saying "you gays are immoral, so we will be the same to you". She was detained for three weeks without charge, facing multiple instances of sexual assault during this time, and was only released after being forced to agree to attending sessions with a psychologist who "would make [her] a man again".⁵⁹³

The trans woman also indicated that while in detention, she noted several foreign citizens in custody. Detained at **unknown dates** for unknown durations, the imprisonment of these "two Moroccan lesbians, four Filipino gay men, and one Nepalese gay man" demonstrates the significant under-reporting of criminal enforcement in Qatar, and the particular targeting of migrants and foreigners.⁵⁹⁴

Another transgender Qatari woman reported in **2022** that she was arrested because she was wearing makeup in public. She was forced to wipe it off, with the officers taking photographs of her as she did so to use as evidence and shaving her hair. She was made to sign a pledge that she would not wear makeup ever again, as a condition for her release.⁵⁹⁵

A third trans woman interviewed by Human Rights Watch in **2022** alleged that she had been arrested in two separate incidents in Doha, for two months and for six weeks in a solitary cell underground. She alleges that on both occasions she faced daily beatings, had her hair shaved, and had officers photograph her breasts without her consent.⁵⁹⁶

A gay Qatari man also reported to Human Rights Watch in **2022** that the security forces surveilled his online activity and arbitrarily arrested him because of it, though details surrounding this case are not publicly available.⁵⁹⁷

The UK television channel, *iTV*, interviewed a transgender woman in **2022**, who claimed that police had interrogated her for wearing makeup. She shared that police, in order to make her confess, beat her genitals and slapped her, resulting in the temporary loss of her hearing. They shaved her head and told her that if she wanted to stay alive she would have to become an informant for them. To this end, she led them to an underground LGBT+ party, which they

⁵⁸⁶ "Qatar's Gay Rights Policy Under Scrutiny", *The Cornell Daily Sun*, 4 December 2002.

⁵⁸⁷ *Ibid.*

⁵⁸⁸ "Interview with a Gay Who Was Arrested in Qatar", *Gay Middle East* (accessed at GLAPN), 11 July 2003.

⁵⁸⁹ "LGBT Qataris Call Foul Ahead of 2022 World Cup", *Human Rights Watch*, 24 November 2021.

⁵⁹⁰ "Teen Instagram star jailed in Qatar for two months, claims it was for 'being gay'", *Daily Dot*, 29 August 2016.

⁵⁹¹ "Qatar: Security Forces Arrest, Abuse LGBT People", *Human Rights Watch*, 24 October 2022.

⁵⁹² *Ibid.*

⁵⁹³ *Ibid.*

⁵⁹⁴ *Ibid.*

⁵⁹⁵ *Ibid.*

⁵⁹⁶ *Ibid.*

⁵⁹⁷ *Ibid.*

subsequently raided, leading to the arrest of an unknown number of people.⁵⁹⁸ Given the similarity between this incident and those documented by *Human Rights Watch* above, it is unclear whether this testimony represents a distinct case.

In **June 2022** *RTL Sport* published an interview with a trans woman living in Europe who spoke of an incident that occurred when she flew back to Qatar. Security officials detained her, claiming she had brought an illegal “sex toy” into the country and forcing her to sign a fabricated confession to this end, though she denied bringing any such items into Qatar. On a separate occasion she was detained and had her head shaved by authorities for allegedly “dancing in the street”. The woman told *RTL Sport* that “anything could be illegal if they wanted it to be”.⁵⁹⁹

In **November 2022**, a young gay man from the Philippines had arranged to meet a potential partner at a hotel, but was instead met by six Qatari police officers. They arrested him immediately and allegedly raped him. They also confiscated his phone, taking screenshots of his chats with other men before being sent to spend the night in jail. He was later taken to the immigration office before being deported back to the Philippines.⁶⁰⁰

On **2 December 2022**, the *BBC* reported the story of a transgender woman who had also been detained on numerous occasions by Preventive Security forces for “imitating women”. She, like many other transgender women arrested in Qatar, had her head shaved and was referred to a doctor for so-called “conversion therapy”, despite Qatari officials denying that such practices take place in the country. Her breast tissue was also surgically removed, leaving behind visible scarring on her chest. The *BBC* article also identifies another transgender woman who fled to Europe after facing “conversion therapy”, though does not provide information on whether she was the victim of specific criminal enforcement.⁶⁰¹

On **13 May 2023** an Indonesian national and three of his friends were targeted by the authorities while out at a restaurant, celebrating his birthday. The group were approached by a security guard working at the venue to let them know that Criminal Investigation Department (CID) officers wanted to speak with them, and were taken to a security room. The officers wiped tinted moisturiser from their cheeks and foreheads. The officers apparently considered this to be makeup, in violation of Qatar’s dress code, and the four men were subsequently taken to an office building for police to investigate. They were questioned in separate rooms about their personal details and whether they were involved in sex work, and were denied the opportunity to phone their in-country sponsors for assistance. They were forced to sign documents in Arabic which they could not understand, but were told by officers that it was an acknowledgement of their violation of wearing makeup. On **4 June 2023**, the Indonesian national was notified that he would be deported, being given no reason or notice.⁶⁰²



Saudi Arabia

Criminalising Provisions

There is no codified Penal Law in Saudi Arabia. The Constitution (1992) upholds the primacy of the Qur’an and Sunnah as the basis for the law in Saudi Arabia, while Article 1 of the Law of Criminal Procedure (2001) stipulates that courts “shall apply Sharia principles to cases brought before them, as derived from the Qur’an and Sunnah”. This primarily takes the form of a Wahhabi interpretation of Sharia law, as read and ruled upon by various religious officials. All sexual relations outside of marriage are illegal and the penalty for a married man who engages in consensual same-sex intercourse is generally understood to be death by stoning.⁶⁰³

Enforcement Overview

ILGA World has identified more than 40 examples of criminal enforcement between 2000 and 2021. The total number of arrests, prosecutions and convictions remains largely unknown, however, due to the opaque nature of Saudi Arabian law enforcement, judicial proceedings, and restrictions on media reporting and freedom of expression.⁶⁰⁴ According to a 2012 report by Saudi newspaper, *Okaz*, the government had arrested over 260 people for “homosexuality” over a one-year period around 2012 alone, which highlights the significant degree to which stories go under-represented or entirely unpublicised.⁶⁰⁵

The Commission for the Promotion of Virtue and Prevention of Vice (CPVPV) is mentioned in some reports as having a leading role in known instances of enforcement. In April 2012, the Commission was reportedly asked to enforce new orders to bar the entry of “gays and tomboys” to government schools and universities until they “prove they have been corrected and have stopped such practices”. There are also reports of the use of forced anal examinations—a pseudo-scientific and ineffective method by which authorities search for presumed evidence of anal intercourse.⁶⁰⁶

Saudi Arabia’s legal system is largely based on the primacy of a Wahhabi interpretation of Sharia law, as read and ruled upon by various religious officials, making it often difficult to delineate exactly what the legal status of SOGIESC groups in the country is. Imams of the Hanbali school of thought—which is predominant in Saudi Arabia’s jurisprudence—have maintained that sodomy should be treated and punished in the same way as adultery (i.e., with death by stoning). Additionally, Saudi Arabian authorities have issued *fatwas* (religious edicts) delineating the death

⁵⁹⁸ “Qatar: State of Fear?”, *iTV*, 2022.

⁵⁹⁹ “FIFA World Cup 2022 | Queers in Qatar - red card instead of rainbow | Homosexuelle in Katar”, *RTL Sport*, 29 June 2022.

⁶⁰⁰ “Qatar, ragazzo gay vittima di un’imboscata della polizia. ‘Per un attimo ho pensato di lanciarmi dalla finestra’ [Qatar, gay boy victim of police ambush. ‘For a moment I thought about jumping out the window]”, *Gay.it*, 5 November 2022.

⁶⁰¹ “World Cup 2022: ‘I am very afraid’, says Qatari transgender woman”, *BBC News*, 2 December 2022.

⁶⁰² Information supplied by the Alwan Foundation.

⁶⁰³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Saudi Arabia* (accessed: 4 June 2023).

⁶⁰⁴ *Ibid.*; ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Saudi Arabia* (accessed: 12 April 2023).

⁶⁰⁵ “Saudi Arabia: 260 arrests for homosexuality in 1 year”, *Erasing 76 Crimes*, 6 June 2012.

⁶⁰⁶ “Saudi Arabia bans ‘gays, tom-boys’ from schools”, *Emirates* 24/7, 16 April 2012; “Three ‘effeminate’ men arrested at Saudi Arabia Starbucks”, *Washington Blade*, 18 October 2016; “Police kicked and tortured blogger to make him confess he is gay”, *Gay Star News*, 8 June 2020.

penalty for “corruption on Earth”, an offence primarily meant to target suspected terrorists, but which has reportedly been used arbitrarily by judges to punish illicit sexual acts.⁶⁰⁷

In 2013, during its second United Nations Universal Periodic Review Cycle Saudi Arabia accepted a recommendation from Italy to make efforts to increase transparency in legal proceedings contemplating the death penalty, but rejected all country recommendations relating to repealing the death penalty or the instituting of a moratorium on executions. It again rejected all such recommendations during its third cycle in 2018.⁶⁰⁸

In February 2021 the Saudi Arabian government indicated that it would be adopting a codified Penal Code, though it would not supplant Sharia law on matters already dealt with by religious bodies. According to Human Rights Watch, without a codified law “some Saudi judges have set out to prove that a defendant had engaged in a certain act, which they then classify as a crime, rather than proving that the defendant had committed a specific crime set out in the law. Previous court rulings do not bind Saudi judges, and there is little evidence that judges seek consistency in convicting or sentencing for similar crimes”. Some have, however, expressed concern that a new Penal Code would formally entrench abusive practices, such as torture or the death penalty, into law.⁶⁰⁹

Examples of Enforcement

On **16 April 2000**, nine young Saudi individuals reported to be men were each sentenced to more than 2,000 lashes and at least five years in prison for “deviant” sexual behaviour. Five of them were sentenced to six years in prison and 2,600 lashes. They were flogged 52 times in 50 sessions. The other four were sentenced to five years and 2,400 lashes. They were to be flogged 48 times in 50 sessions. Reports suggest that police started tailing the nine men after receiving complaints that they were acting strangely. Police found that the nine suspects were dressing in women’s clothes and engaging in “deviant sexual behaviour” with each other.⁶¹⁰

On **14 July 2000** three Yemeni nationals in Jizan province were beheaded for “homosexuality, transvestism, same-sex marriage and luring boys into sexual activity”. It is not clear what is meant by “luring” here, but three other people were executed under similar charges **three days prior**, and are not included in the tally of examples of criminal enforcement above as they had been charged with raping a minor as well.⁶¹¹

In **2001**, a Saudi teacher and playwright was sentenced to three years in prison and 300 lashes after he was accused of encouraging his students at an intermediate school in

Riyadh to “indulge in homosexuality and adultery”. After only serving two weeks, the teacher received a royal pardon.⁶¹²

On **1 January 2002**, three men in Asir province were executed. According to Amnesty International, the “Ministry of Interior issued a statement announcing that the three were convicted of homosexual acts, adding vaguely-worded charges of ‘luring Children’s rights and harming others’ without providing any further details”. The group’s court proceedings were also said to be “shrouded in secrecy”.⁶¹³ In response to the case, a representative of the Saudi Arabian Embassy in Washington D.C. claimed that the execution was for sexual assault and not the men’s sexual orientation, saying “I would guess there’s sodomy going on daily in Saudi Arabia [...] but we don’t have executions for it all the time”. An anonymous reporter from *Arab News*, however, told the American LGBTI+ news outlet, *Washington Blade*, that while the men were indicted for “molestation” they in fact “were executed for homosexuality”.⁶¹⁴

In **2004**, Saudi police raided an event described as a gay wedding party for two men from Chad at a hotel in the holy city of Medina. About 50 people were arrested. One of the Chadians later claimed that the party was a rehearsal for his wedding to a woman, and this was supported by a Saudi who said he had provided money to meet the marriage expenses. But according to the daily *Arab News*, investigators said that party invitations “indicated it was a gay function”. The investigators also found it suspicious that many of the guests had fled at the sight of the police and left their cars behind. It is not known whether anyone was prosecuted.⁶¹⁵

In **2005**, police arrested 92 people in a raid at a “gay party” in al-Qatif. Many were wearing women’s clothes, makeup and wigs, which sources reported as the reason for their arrest. No further details could be identified.⁶¹⁶

In **March 2005** dozens of Saudi men who were caught dancing and “behaving like women” at a party, were arrested and sentenced to a total of 14,200 lashes, after a trial held behind closed doors and without defence lawyers. They were arrested when police in Jeddah raided a party which was described by a Saudi newspaper as a “gay wedding”. It was reported that 31 of the men received prison sentences of six months to one year, plus 200 lashes each. Four were jailed for two years with 2,000 lashes. A further 70 men were released after the raid but summoned to a police station on **3 April**, where they were told they had been sentenced to one year’s imprisonment.⁶¹⁷

In **April 2005**, in Batha, Saudi police arrested five expatriates, including three Filipinos, for “sodomy”. It is unclear where the other two victims were from, and no

⁶⁰⁷ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Saudi Arabia* (accessed: 4 June 2023).

⁶⁰⁸ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saudi Arabia*, A/HRC/25/3 (2013); *Report of the Working Group on the Universal Periodic Review: Saudi Arabia*, A/HRC/25/3/Add.1 (2014); *Report of the Working Group on the Universal Periodic Review: Kingdom of Saudi Arabia. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/40/4/Add.1 (2019).

⁶⁰⁹ “Saudi Arabia announces new judicial reforms in a move towards codified law”, *Reuters*, 9 February 2021; “Saudi Arabia: Forthcoming Penal Code Should Protect Rights”, *Human Rights Watch*, 29 April 2022.

⁶¹⁰ “Nine Saudi Transvestites Jailed”, *Associated Press*, 16 April 2000.

⁶¹¹ “Saudi Gays Beheaded”, *Windy City Times*, 19 July 2000.

⁶¹² “Justice Served In Al-Suhaimi Case”, *Arab News*, 4 January 2006.

⁶¹³ “Saudi Arabia: ‘Sexual orientation’ executions condemned”, *Amnesty International*, 9 January 2002.

⁶¹⁴ “Saudi Official: Molestation Led to Beheadings”, *Washington Blade*, 11 January 2002 (archived at: GLAPN.org).

⁶¹⁵ “Arrests at Saudi ‘gay wedding’”, *The Guardian*, 18 March 2005.

⁶¹⁶ “Saudi Arabia: Police Break Up Gay Beauty Contest”, *Ahbab News*, 7 November 2005.

⁶¹⁷ “Saudis’ tough line on gays”, *The Guardian*, 9 April 2005.

further details on their fates are known.⁶¹⁸

In **November 2005**, Saudi police broke up a beauty contest for gay men on the east coast of the kingdom. It was reported that five men were previously arrested **six months prior** for the same offence. The men were preparing to stage the competition and were set to have an attendance of 80 people. Police found beauty products which were used as evidence in court. Four of the men were reported to be from other Asian countries and the fifth a Saudi national.⁶¹⁹

In **April 2006**, a court in Saudi Arabia sentenced two Saudis, one Yemeni and a Jordanian to two years in jail and 2,000 lashes after a police raid on an alleged gay party. No further details could be identified at the time of publication.⁶²⁰

In **August 2006** Saudi police in Jizan province raided an alleged ceremonial gay wedding with some 400 people in attendance in the south of the country. 250 people were detained but later released. 20 remained and were charged with possible prison time and flogging. No further details could be verified regarding their fates.⁶²¹

In **October 2007**, two men were publicly flogged after being found guilty of "sodomy". The men were sentenced to 7,000 lashes.⁶²²

In **June 2008**, 21 individuals were arrested for alleged homosexuality while at a farmhouse in Saihat. Some of those arrested were Filipino and Pakistani migrants living in Saudi Arabia. Many of them were reportedly wearing women's clothes and makeup at the party which was organised to celebrate the birthday of one of the group's members.⁶²³

On **26 July 2008**, 55 people were arrested after police raided a "gay party", also in the city of Saihat where the farmhouse documented above was raided. Police reported that among the 55 people, two young men were allegedly found wearing women's makeup and dancing on stage together.⁶²⁴

In **August 2008** two Filipino men were arrested by Saudi police on suspicion of participating in same-sex sexual activity. No further details could be identified.⁶²⁵

On **13 June 2009**, 67 people, including one Yemeni and numerous Filipinos, were arrested. Police reported that several men outside a private party, held in an east Riyadh neighbourhood, were celebrating the Philippines' Independence Day. The Police raided the party and told sources that the raid was due to "suspicious behaviour" because they saw men wearing women's clothing.⁶²⁶

On **16 March 2010** a gay man was arrested after posting a video online impersonating a police officer and flirting with the male friend who was filming the video. Sources reported that the man had been previously charged for homosexuality but was bailed out.⁶²⁷

49 people were arrested during a raid at a party sometime in **March 2012**. Police say that the arrested persons included six Yemeni and Sudanese migrants, as well as Saudi nationals. Police reportedly caught people dancing and hugging each other "indecently", with some wearing dresses that showed off parts of their body while others had tattoos on their hands and necks.⁶²⁸

In **October 2012** five men were arrested on suspicion of homosexuality. This came after local police were tipped off and began raiding suspected gay clubs. No further details could be identified regarding their fates.⁶²⁹

On **6 January 2013** Saudi police arrested six Filipino migrants who had allegedly used their massage centre at a hotel to engage in homosexual acts. A source said police caught one Filipino with another man "red handed practising obscene actions" in one room before raiding other rooms in the massage centre and arresting six staff members and one customer.⁶³⁰

In **June 2013**, Saudi Arabia's religious police raided a party at a well-known hotel where nearly 100 girls were allegedly participating in a contest for the most beautiful "tomboy". It is not clear how many were arrested in total, though it was reported that the two individuals responsible for organising the party were held and that most of the attendees were released.⁶³¹

It was reported on **20 August 2013** that authorities in Dammam arrested a "man caught cross-dressing as a woman in order to beg for money". Further details are unclear, but beyond "cross-dressing", street begging is also reportedly criminalised in Saudi Arabia.⁶³²

Police and agents from the Committee for the Promotion of Virtue and the Prevention of Vice (CPVPV) in **2014** arrested 35 people at a party in Jeddah, with many being said to have been "wearing women's clothing" at the time.⁶³³

In **July 2014**, a young Saudi man was arrested and sentenced to three years in jail and 450 lashes after he was caught using social media to arrange dates with other men. The man was arrested after an entrapment ploy by officials was set up, posing as a potential suitor online. When the man arrived, he was arrested and his phone confiscated,

⁶¹⁸ "Busloads Of Illegals Rounded Up In Riyadh Crime Swoop", *Arab News*, 9 April 2005.

⁶¹⁹ "Saudi Arabia: Police Break Up Gay Beauty Contest", *Ahbab News*, 7 November 2005.

⁶²⁰ "20 arrested at gay 'wedding' in Saudi Arabia", *Pink News*, 17 August 2006.

⁶²¹ *Ibid.*

⁶²² "Sentenced to 7,000 lashes for sodomy in Saudi Arabia", *Pink News*, 5 October 2007.

⁶²³ "Police in Saudi Arabia Raid 'gay Party' and Arrest 55", *Towleroad*, 30 July 2008.

⁶²⁴ *Ibid.*; "Saudi security authorities arrest 55 young men in a perverse party", *Al Arabiya*, 30 July 2008.

⁶²⁵ "15 Held on Bootlegging, Gay Prostitution Charges", *Arab News*, 11 August 2008.

⁶²⁶ "Saudi Arabia: Drop 'Cross-Dressing' Charges", *Human Rights Watch*, 24 June 2009.

⁶²⁷ "Saudi Arabian gay man arrested after video goes viral", *Towleroad*, 16 March 2010.

⁶²⁸ "49 gays arrested in Saudi", *Emirates 24/7*, 18 March 2012.

⁶²⁹ "Gay club' raided and shut in Saudi", *Emirates 24/7*, 23 October 2012.

⁶³⁰ "Filipino vice ring busted at key Saudi hotel", *Emirates 24/7*, 6 January 2013.

⁶³¹ "Tomboy' pageantry raided; energy drinks seized", *Emirates 24/7*, 10 June 2013.

⁶³² "Cross-dressing beggar nabbed in Saudi", *Arabian Business*, 20 August 2013.

⁶³³ "Three 'effeminate' men arrested at Saudi Arabia Starbucks", *Washington Blade*, 18 October 2016.

which revealed “indecent images” and other evidence that allegedly proved his “homosexuality”.⁶³⁴

A man in the port city of Dammam was arrested in **November 2014** for allegedly posting nude pictures of himself on social media and offering to have sex with other men. He was sentenced to three years’ imprisonment and a fine of 100,000 riyals (more than USD 26,000) for “immoral acts”.⁶³⁵

In **2015** authorities in Saudi Arabia arrested several people on suspicion of homosexuality in raids on two parties in the city of Jeddah. The raids led to the arrest of several people, mainly gay men, a source connected to the raids reported, though no further details could be verified regarding this incident.⁶³⁶

Sometime in **June 2015** police raided a party in Jeddah and arrested several suspected gay individuals. Before storming the venue, they meticulously recorded the licence plates of all vehicles present to ensure anyone who escaped could be tracked down. Saudi Arabian officials denied media claims the **following year** that further raids on parties had taken place.⁶³⁷

Saudi police arrested a famous social media “influencer” in **October 2015** and accused them of cross-dressing online. It is alleged that video clips of the individual dressed like a woman made the rounds online before citizens had complained about them dressing “inappropriately” and reported the situation to officials.⁶³⁸

A “cross-dresser” wearing a traditional women’s *abaya* (a black coverall traditionally worn by women in the Gulf) was arrested at a shopping mall in the town of Taef in **December 2015**. A woman in the mall became suspicious and alerted members of the CPVPV, who handed the accused over to police. The accused was then referred to the public prosecutor for further questioning and possible legal action, the result of which could not be determined at the time of publication.⁶³⁹

It was reported on **26 January 2016** that religious police in Riyadh arrested four “gay men”, though at least two may have been transgender women, given that they were trying to “get rid of the fake breasts they were wearing” when their home was being raided. The four claimed to be living as two married couples. No further details of what transpired after the arrest could be ascertained.⁶⁴⁰

On **13 October 2016** three “effeminate men” under the age of 20 were arrested by CPVPV officials at a coffee shop in Riyadh. Further details are not known.⁶⁴¹

On **18 October 2016** it was reported that police in Qassim arrested a social media “influencer” who had uploaded videos of themselves wearing makeup and women’s

clothing. The accused was charged with “producing and distributing material insulting to public order”.⁶⁴²

In **March 2017** Saudi Arabian media reported that police had arrested around 35 people—identified as transgender women in some reports—from Pakistan. Police raided a party in Riyadh, where they claimed to have arrested “men dressed as women” and wearing makeup. Pakistani activists claimed that two of the suspects were beaten to death with sticks by police—a claim denied by Saudi officials. Authorities did later admit that one detainee had died, though this was claimed to be due to a heart attack.⁶⁴³

In **2018** a young gay man was charged with “parental disobedience” under a Saudi Arabian provision allowing parents to hold their children in contempt. In the young man’s case, he was charged and held when his parents discovered that he was gay, but was released after learning the Quran by heart and was permitted to study in the United States. While abroad, he posted photos on social media of himself wearing “short-shorts” at the beach, and spoke openly about his sexual orientation online. As a result, his family arranged for him to return home under the false pretence that his mother was unwell. Upon his return, on **6 October 2019**, he was arrested and sentenced to three years’ imprisonment and 800 lashes for “violating public taste”, “appearing as a woman”, and “cyber-crimes”. While in prison, Saudi officials have refused anyone access to the young man and have allegedly tortured him.⁶⁴⁴

In **April 2019** a coordinated mass-execution took place in public spaces across the country and saw 37 men put to death. Most were accused of being spies or terrorists working for Iran (an accusation that seems to have stemmed from their presence at an anti-government protest in 2012), but five people were also convicted of same-sex sexual activity after one of the men was tortured into confessing.⁶⁴⁵

In **October 2019**, a gay Saudi social media personality posted a video online saying that he was facing a potential prison sentence after posting a photo of him wearing shorts at the beach. He announced that he was charged with “spreading nudity online” after the country had introduced 19 new public decency laws earlier in **September**, which explicitly warned men not to wear shorts. He was reportedly arrested for wearing shorts on **6 October 2022**. The influencer was known to be open about his sexuality on his social media accounts, posting makeup tutorials and dance videos. It was reported later the same month that he was released from prison.⁶⁴⁶

In **April 2020** a Saudi court sentenced a Yemeni blogger to 10 months in prison, a fine equivalent to USD 2,700, and deportation to Yemen at the end of his sentence. This was in response to a social media post supporting LGBTQ+

⁶³⁴ “Gay Saudi Arabian man sentenced to three years and 450 lashes for meeting men via Twitter”, *The Independent*, 25 July 2014.

⁶³⁵ “‘Married’ gay couples arrested in Saudi raid”, *Gulf News*, 26 January 2016.

⁶³⁶ “‘Gay Parties’ Raided in Saudi Arabia; Religious Police Arrest Several People on Suspicion of Homosexuality”, *International Business Times*, 15 June 2015.

⁶³⁷ “‘Married’ gay couples arrested in Saudi raid”, *Gulf News*, 26 January 2016.

⁶³⁸ “Snapchat cross-dresser arrested in Saudi Arabia”, *The National News*, 18 October 2016.

⁶³⁹ “Dude looks like a lady: Saudi man arrested for crossdressing in mall”, *Al Bawaba*, 30 December 2015.

⁶⁴⁰ “‘Married’ gay couples arrested in Saudi raid”, *Gulf News*, 26 January 2016.

⁶⁴¹ “Three ‘effeminate’ men arrested at Saudi Arabia Starbucks”, *Washington Blade*, 18 October 2016.

⁶⁴² “Saudi police arrest ‘online cross-dresser’”, *Middle East Eye*, 18 October 2016.

⁶⁴³ “Saudi Arabia denies Pakistani reports transgender women killed by police”, *Reuters*, 6 March 2017; “Pakistani trans women ‘beaten to death’ by Saudi police”, *Bangkok Post*, 7 March 2017.

⁶⁴⁴ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁶⁴⁵ “Saudi Arabia beheaded 5 men ‘proven’ to be gay under torture”, *LGBTQ Nation*, 28 April 2019.

⁶⁴⁶ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

rights in Saudi Arabia. It is reported that the accused's gender expression was one of the reasons he initially fled Yemen, given the threats of violence he faced there. It is impossible here to assume the pronouns of the accused given this history of gender-nonconformity, though all media outlets and reports seem to identify him as a man. The accused was held in solitary confinement for six weeks before the trial, with no windows or air-conditioning in the harsh Saudi Arabian climate, and was denied access to legal representation in court. Officers also gave a forced anal examination to seek "proof" that he was queer and repeatedly beat him since the day of his arrest. The court charged the blogger with "violating public morality by promoting homosexuality online", and "imitating women".⁶⁴⁷ The case was formally decried by multiple UN Special Procedures mandates and Rapporteurs, who expressed concern at the arbitrary arrest and reports of torture. Though in two official responses to their queries, Saudi Arabia stated that the "allegations and claims [...] are inaccurate and based entirely on unfounded and unsubstantiated information", and justified the incident on the basis that the blogger had been "charged with committing offences that are punishable under the laws of Saudi Arabia".⁶⁴⁸ It was reported later in **October 2022** that the Yemeni blogger was granted political asylum in a European country.⁶⁴⁹

An activist was arrested in **2021** and sentenced to one year in prison and a fine of 10,000 riyals (USD 2,665) for advocating for LGBTQ+ rights on social media. His phone was also confiscated and searched for intimate content, whereafter he was also prosecuted for "deviant materials".⁶⁵⁰

Five people in Northern Borders province were arrested for "cross-dressing" in **October 2021**. The group reportedly walked the streets in women's clothing and uploaded a video of them doing so to social media.⁶⁵¹

In **July 2022**, a popular Egyptian social media influencer was reportedly arrested by Saudi Arabian authorities. This followed a video she uploaded to social media in which she talks to a female Saudi friend. Some remarks made in the video were perceived to be "sexually suggestive" by online viewers. The clip went viral, sparking an online campaign against her for "offending society" due to the video's alleged "lesbian undertones". The local police in Riyadh later announced that they had arrested a local "who appeared in a broadcast talking to another woman with sexual content and suggestiveness that could have a negative impact on public morality". Police did not expressly name the Egyptian influencer, but included a clip from her video in their statement. Her detention was reported to be extended for at least five days by the Saudi

Arabian public prosecutor. She may have been subject to a fine and imprisonment, with possible deportation from Saudi Arabia, though as of March 2023 her fate remains unclear.⁶⁵²

Sri Lanka

Criminalising Provisions

Article 365 (Cap.19) of the Penal Code (1885), as amended by the Penal Code (Amendment) Act (Act No. 22) (1995), punishes "unnatural offences" (defined as "carnal intercourse against the order of nature with any man, woman or animal") with imprisonment for up to 10 years. Prior to this revision, consensual same-sex acts between women were not explicitly criminalised.⁶⁵³

Moreover, Article 365A of the Code criminalises "acts of gross indecency" in public or private with imprisonment of up to two years and/or a fine.⁶⁵⁴

Section 399 of the Penal Code ("cheating by personation") has further been said to be used in targeting persons of diverse gender identities and expressions. Section 399 states that "a person is said to 'cheat by personation' if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is".⁶⁵⁵

Enforcement Overview

On 3 August 2021 the Sri Lankan Cabinet co-spokesperson, Keheliya Rambukwella, reportedly said that discussions within government about the expansion of rights for people of diverse SOGIE in Sri Lanka were in the works, but claimed also to be unaware of any police action against queer communities.⁶⁵⁶ Looking at the two decades preceding, however, completely belies the idea that persons of diverse sexual orientations and gender expressions are not targeted.

Between 2000 and the time of publication ILGA World has noted around 23 examples of apparent criminal enforcement in Sri Lanka, including cases of prosecution. Official statistics from the Sri Lanka Police indicate at least 26 additional cases between 2016 and 2018 (involving a total of 48 people), the details of which could not be further discerned.⁶⁵⁷ As Sri Lankan authorities appear to

⁶⁴⁷ *Ibid.*

⁶⁴⁸ OHCHR, *UA SAU 10/2020* (2020); *Id.*, *UA SAU 2/2021* (2021); Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office at Geneva, *HRC/NONE/2020/SP/72* (2020); *Id.*, *HRC/NONE/2021/SP/18* (2021).

⁶⁴⁹ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁶⁵⁰ *Information supplied by the Alwan Foundation.*

⁶⁵¹ "Five 'arrested for cross-dressing' in Saudi Arabia: report", *Al Araby*, 25 October 2021.

⁶⁵² *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁶⁵³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Sri Lanka* (accessed: 14 June 2023).

⁶⁵⁴ *Ibid.*

⁶⁵⁵ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 103.

⁶⁵⁶ "LGBT rights still under discussion", *MENAFN*, 6 August 2021.

⁶⁵⁷ Sri Lanka Police, *Performance Report* (2018), 36; *Arrests and Harassment of LGBTIQ Persons*, *Groundviews*, 22 October 2020.

only disaggregate cases of rape and sexual assault where women and minors are involved, it cannot be said how many of the cases in the police report represent consensual same-sex activity. Regardless, even the combined tally of 46 examples likely falls short of the real figure, as several detainees have alleged multiple arrests each. A local civil society organisation even estimated that in 2019 alone, around 800 arrests were made with police citing “unnatural sex” as justification.⁶⁵⁸ Further, human rights defenders in Sri Lanka have informed ILGA World that at least seven additional court cases were ongoing as of the end of 2021.⁶⁵⁹

Specific details of cases or more accurate statistics are often difficult to come by as police regularly merge cases of consensual same-sex sexual acts with “unnatural offenses” and “sexual abuse” in their official reporting.⁶⁶⁰ Documentation of cases in lower courts is also sporadic, and lawyers and activists regularly intervene to secure a victim’s release before charges are filed as this is reportedly the only way to prevent prosecution in court, meaning that a majority of cases of State-targeting have no formal record at all.⁶⁶¹

Numerous abuses at the hands of police have been documented, in part due to negative social attitudes against persons of diverse SOGIE, but also due to an apparent lack of standard operating procedures for police.⁶⁶² This means that “anal examinations” and “virginity tests” remain common practice. Both procedures have long been discredited as meaningful ways of gathering evidence of same-sex intercourse, and have been decried as human rights abuses. Between 2017 and 2020 authorities in Sri Lanka subjected at least seven people to forced anal examinations, with one defence lawyer claiming every single client he worked with was made to undergo the procedure by State actors. Beyond prosecutors regularly submitting the findings of these procedures to courts as so-called “evidence”, courts themselves also often impose similar harmful tests on detainees, such as mandatory HIV/AIDS testing.⁶⁶³

It must be noted that those suspected of engaging in consensual same-sex acts are not the only ones targeted under Sri Lankan law. Trans and gender-diverse people are regularly targeted under laws against vagrancy, sex work and “impersonation”, or under the same anti-homosexuality legislation by officers who presume persons of diverse gender expressions are engaged in same-sex acts.⁶⁶⁴

On the occasions that cases do go to trial and are presided over by sympathetic judges, Sri Lankan courts have no power of judicial review over enacted laws, and as such even judgments in favour of defendants do not typically set

any precedent for future cases. The restrictions within which the judiciary must operate, and thus uphold criminalising legislation, can be plainly seen in the 2016 Supreme Court case of *OIC Maradana v Wimalasiri*, in which the judge acknowledged that the accused’s crime of “gross indecency” was a 19th century colonial relic and that imprisoning the accused was unwarranted, yet still noted in his ruling that:

I see no reason to interfere with the finding of guilt of the Appellant [...] The contemporary thinking, that consensual sex between adults should not be policed by the state nor should it be grounds for criminalisation appears to have developed over the years and may be the rationale that led to repealing of the offence of gross indecency and buggery in England. The offence however remains very much a part of our law.⁶⁶⁵

A more recent case similarly demonstrated the reticence of some judges to impose penalties under Articles 365 and 365A of the Penal Code of Sri Lanka. In August 2022 it was reported that the Wattala Magistrate’s Court dismissed a case filed against a 22-year-old lesbian from Welisara, Mahabage. The parents of the woman had filed a motion in court, with the help of the police, seeking a psychiatric declaration that she was mentally ill. An interim magistrate had ordered the victim to go before a Judicial Medical Officer (JMO) for examination before the next hearing. Her lawyers argued against this order, filing a revision application at the High Court of Negombo. The Wattala court thus reconvened, where a Magistrate reportedly ruled that there was a lack of evidence of mental illness and that no offence had been committed. The judge accepted the defence’s arguments that homosexuality is neither a “disease of the mind nor an offence”.⁶⁶⁶

2022 also saw moves from the Executive and Legislative branches to work toward decriminalisation. In June the “One Country, One Law” Presidential taskforce reportedly submitted recommendations to President Gotabaya Rajapaksa that Articles 365 and 365A of the Penal Code be repealed.⁶⁶⁷ In September his successor, Ranil Wickramasinghe, stated that the government would not oppose a motion to decriminalise homosexuality provided there was public support for it. A “Penal Code (Amendment) Bill” to repeal the relevant legislation had been submitted to Parliament the previous month by MP Premnath Dolawatte, and the Sri Lankan Supreme Court declared the bill to be constitutional in May 2023. At the time of publication, however, it had not yet been voted on in Parliament.⁶⁶⁸

⁶⁵⁸ “LGBTQ: A marginalised community in Sri Lanka”, *MenaFN.com*, 27 September 2020.

⁶⁵⁹ Information supplied by the Community Welfare and Development Fund.

⁶⁶⁰ Sri Lanka Police, *Crimes Statistics webpage* (2020).

⁶⁶¹ Information supplied by the Community Welfare and Development Fund.

⁶⁶² Information supplied by the Community Welfare and Development Fund.

⁶⁶³ “Sri Lanka: Forced Anal Exams in Homosexuality Prosecutions” *Human Rights Watch*, 20 October 2020; ILGA Asia, *Living without legal protection: constant fear from stigma, discrimination and violence against LGBTIQ community in Sri Lanka* (2021), 19.

⁶⁶⁴ Women’s Support Group, Sri Lanka, *The Status of Lesbians, Bisexual Women and Transgendered Persons in Sri Lanka NGO Shadow Report to the Committee on the Elimination of All Forms of Discrimination Against Women* (2011), 4.

⁶⁶⁵ District Court of the Democratic Socialist Republic of Sri Lanka, *OIC Maradana v Wimalasiri*, 30 November 2016.

⁶⁶⁶ “Homosexuality neither a disease of the mind nor an offence, says court”, *The Island*, 7 August 2022; “Lesbian victim of police discrimination files historic FR case”, *News Wire*, 13 January 2023.

⁶⁶⁷ “ජනාධිපති ඔකම්සමක් සමලිංගික අයිතිය පිළිගනී!” [Presidential commission recognizes gay rights!], *TheLeader*, 26 June 2022.

⁶⁶⁸ “Dolawaththa to present private members bill to amend penal code to protect LGBTQ+ community”, *ft.lk*, 24 August 2022; “President of Sri Lanka won’t oppose repeal of anti-gay law – maybe”, *Erasing 76 Crimes*, 15 September 2022; “Sri Lanka government announces support for decriminalization bill”, *Washington Blade*, 10 February 2023; “Bill To Empower LGBTQI Community Presented To Parliament”, *MENAFN*, 6 April 2023; “Sri Lanka Supreme Court clears path for decriminalisation of homosexuality”, *Reuters*, 9 May 2023.

Even given these positive steps from the Sri Lankan government and courts, every day that criminalising legislation remains on the books contributes toward the legitimised targeting of persons of diverse sexual orientations, gender identities and gender expressions, as outlined above, and in the Examples of Enforcement below. In March 2022 the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) found that the Sri Lankan government had violated the rights of a lesbian activist who was subjected to discrimination, threats and the constant risk of arbitrary arrest due to the country's Penal Code.⁶⁶⁹ This, despite the continued claims of the government that the criminalising provisions of the Penal Code are not enforced. It serves as a clear demonstration of the negative social impact that legislation can have—normalising exclusion or mistreatment—by merely existing in the statute books.

Examples of Enforcement

In **2000** a trans woman from Ambalangoda was allegedly detained by police while waiting at a bus stop. They took her away in the police vehicle, letting her go after raping her. She was 17 at the time.⁶⁷⁰

In **2006** two men in the Colombo Fort area were accused of having sex in a public bathroom and were arrested. They were released after paying a bribe.⁶⁷¹

In **2008** an anonymous call to EQUAL GROUND, a local LGBTQI+ organisation, reported that two gay men had been arrested in a guest house near the capital city, Colombo, which police knew to be frequented by LGBTQ+ people. They barged into a room being used by a local man and a Belgian national, allegedly forcing them to put their fingers into unused condoms so that they could be planted at the scene. In order to secure release from detention, the Sri Lankan accused had to agree to turn State's-witness against the Belgian man, who in turn had to pay a fine.⁶⁷²

In **December 2011** an anonymous gay activist reported that he had been arrested twice for his sexual orientation, leading him to leave the country.⁶⁷³

In **December 2012** a gay man engaging in sex work was arrested and beaten in a suburb of Colombo. He claims it was but one of four arrests he had faced.⁶⁷⁴

In **2014** a gay teenager, also from Ambalangoda, was arbitrarily arrested and taken to a police station where officers demanded he have sex with them under threat of being arrested again. He resisted and was eventually released, but claims that a year later police picked him up at night and raped him in their vehicle.⁶⁷⁵

Sometime in **2015** a trans man from Galle was being sued for marrying a woman under provisions against "cheating

by impersonation", though the outcome of the case is unclear.⁶⁷⁶

In **January 2015** a young trans woman studying at the University of Colombo was arrested. Police had started by harassing her friends—also trans women—while they waited for a bus. When one of her friends called the young trans woman to help, police turned their attention to her as well. They grabbed her by the hair, kicking and dragging her on the ground. She told them that they could not do that as it was a violation of her human rights, to which one officer allegedly responded, "how dare you talk to me about the rules?" He wrote up a formal complaint against her and ensured that she and her friends were detained. She was released when a high-profile family contact intervened, but has suffered chronic back pain since her assault.⁶⁷⁷

She and a group of friends were arrested again in **May 2015** when a group of police officers saw them walking home one evening and demanded they get into their vehicle. When the group refused, they were forcibly taken to a nearby police station and asked invasive questions about their sex lives. When she insisted that they had done nothing wrong, one officer attempted to hit her. The group spent the night in a men's prison cell without food or water and were taken the next day to a court in Maligawatta. On the advice of a lawyer they pleaded guilty to being caught in a sexual act to avoid a 14-day prison sentence, instead paying a fine of 1,500 Sri Lankan rupees (USD 10).⁶⁷⁸

In **October 2015** a trans sex worker reported in an interview with Human Rights Watch that she had been arrested at least three times—sometimes under provisions against "vagrancy" which are often used to target trans women and sex workers in the streets, but also for "cheat[ing] by impersonation."⁶⁷⁹

In **October 2015** a man from Colombo was arbitrarily arrested for "looking gay"—and alleges multiple such arrests over the years. He complained to the officers that he loses work every time they arrest him without reason, to which they responded "that is not our concern; take it up with the courts".⁶⁸⁰

On **30 November 2016** the Supreme Court ruled to reaffirm the guilty verdict against two men for "gross indecency" under Article 365A of the Penal Code. Details of the incident, which took place thirteen years prior (in **2002** or **2003**), are unclear, as both the defendant and police testimonies were found by the judge to be unreliable. It appears the men were arrested for performing oral sex in a van and refused to pay a bribe to the officers. They were sentenced to one year in prison by a Magistrate's Court and a fine of 1,500 Sri Lankan rupees (USD 10), though one of the defendants appealed the decision. The Supreme Court found the punishment to be unwarranted and ordered a two-year suspended sentence

⁶⁶⁹ CEDAW, *Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 134/2018, CEDAW/C/81/D/134/2018*, 24 March 2022; "Criminalisation of same-sex sexual activity in Sri Lanka breached rights of a LGBTI activist, UN women's rights committee says", *The Island*, 26 March 2022.

⁶⁷⁰ Human Rights Watch, *All Five Fingers Are Not the Same: Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka* (2016), 31.

⁶⁷¹ *Id.*, 10-11.

⁶⁷² ILGA Asia, *Living without legal protection: constant fear from stigma, discrimination and violence against LGBTIQ community in Sri Lanka* (2021), 10-11.

⁶⁷³ *Id.*, 10.

⁶⁷⁴ Human Rights Watch, *All Five Fingers Are Not the Same: Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka* (2016), 33-34.

⁶⁷⁵ *Id.*, 32.

⁶⁷⁶ Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 28.

⁶⁷⁷ Human Rights Watch, *All Five Fingers Are Not the Same: Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka* (2016), 32-33.

⁶⁷⁸ *Id.*, 33.

⁶⁷⁹ *Id.*, 30.

⁶⁸⁰ *Id.*, 30-31.

instead, observing that the defendants should be given an opportunity to “reform”. Notably, the judge seemed to acknowledge that Article 365A was a remnant of British colonial law, and that same-sex sexual activity was no longer criminalised in Great Britain due to a global shift toward decriminalisation, but added: “I see no reason to interfere with the finding of guilt [...] There is no question that the individuals involved in the case are adults and the impugned act, no doubt was consensual [...] The offence however remains very much a part of our law”.⁶⁸¹

A lesbian couple were arrested in 2016. The pair were waiting at a bus stop in Avissawella when a “trishaw” driver tipped off the police. Police detained them, questioning their relationship, and apparently held them under provisions banning indecent acts in public, though it is not clear if they were charged.⁶⁸²

Beyond the lesbian women targeted by police above, a Sri Lanka police performance report from 2018 indicated that the year 2016 saw 17 arrests on charges of “homosexuality”, with all cases being prosecuted. Details of the cases and their outcomes were not disclosed, however it appears that the 17 cases represent 33 individual detainees.⁶⁸³

The same police performance report noted four raids and arrests for six individuals suspected of “homosexuality” in 2017, of which three cases were prosecuted.⁶⁸⁴

The report further indicates that nine suspected gay men were arrested in five raids across the country in 2018,⁶⁸⁵ though details of the individual cases are not known except for the fact that three men were ordered by courts to undergo HIV tests without their consent.⁶⁸⁶

According to Human Rights Watch, police arrested a trans man in 2019 on charges of same-sex sexual activity with his cisgender wife, and allegedly subjected him to an invasive and ineffectual “virginity test” to prove it. A magistrate dismissed the case as the man had legally amended his gender marker already.⁶⁸⁷

In 2020 a local activist reported that three men had been arrested in a police raid of their hotel room in Colombo in 2019. They were charged with engaging in same-sex sexual activity despite there being no evidence of this, on account of the fact that police found condoms in their wallets.⁶⁸⁸

In September 2020 it was reported that two men were due to be sentenced for same-sex sexual activity by the Colombo Fort Magistrate’s Court, though further details could not be identified at the time of publication.⁶⁸⁹

In March 2022 two young women in Welisara Mahabage were found by their families to be in a relationship, resulting in one of the women’s parents illegally holding her captive. She made contact with a friend who laid a complaint with police about the issue, but rather than

intervening on her behalf the authorities confiscated her cellphone and laptop to “find evidence of homosexuality”. Though police would later go on to say there was no evidence of wrongdoing on the young woman’s part, she has claimed that they attempted “vaginal testing” multiple times because of her sexual orientation. An interim magistrate at the Wattala Magistrate’s Court ordered on 21 March 2022 that she undergo psychiatric evaluation. It was reported on 7 August 2022 that the Court threw the case out after the young woman’s lawyers argued that homosexuality is not a mental illness and that there were thus no grounds for psychiatric evaluation or restrictions on her freedom. In January 2023 it was reported that the woman had filed a lawsuit against the Welisara Mahabage police for discrimination, arguing that several of her fundamental human rights had been violated by the State.⁶⁹⁰

A similar case was reported in June 2022. Two women were arrested by the Akkaraipattu police for having an “abnormal relationship”. The relationship between a local Sri Lankan woman and an Indian woman was objected to by the Sri Lankan father to the point where he lodged a report with the police. After being interrogated at the police station, the couple was brought before the Akkaraipattu Magistrate’s Court where they were ordered to undergo psychiatric evaluation at a nearby hospital, the results of which would be used in the final judgement.⁶⁹¹



Criminalising Provisions

Article 520 of the Penal Code (1949) criminalises “unnatural sexual intercourse” with a potential imprisonment of up to three years. Additionally, Article 517 criminalises any “act against public decency” carried out in a public or open area. Such acts are punishable with imprisonment of up to three years.⁶⁹²

Enforcement Overview

Given the opaque nature of Syrian law enforcement and legal procedures, as well as the widespread instability and disruption caused by the Syrian revolution in 2011 and subsequent civil war and armed conflict with Islamic State militants, it remains incredibly challenging to identify examples of enforcement, and to distinguish such enforcement from prejudice or personal abuses of power by members of the military or security forces. ILGA World has identified several potential cases, however, and

⁶⁸¹ District Court of the Democratic Socialist Republic of Sri Lanka, *OIC Maradana v Wimalasiri*, 30 November 2016.

⁶⁸² ILGA Asia, *Living without legal protection: constant fear from stigma, discrimination and violence against LGBTIQ community in Sri Lanka* (2021), 15.

⁶⁸³ Sri Lanka Police, *Performance Report* (2018), 36.

⁶⁸⁴ *Id.*, 36.

⁶⁸⁵ *Id.*, 36.

⁶⁸⁶ “Sri Lanka: Forced Anal Exams in Homosexuality Prosecutions”, *Human Rights Watch*, 20 October 2020.

⁶⁸⁷ *Ibid.*

⁶⁸⁸ “Arrests and Harassment of LGBTIQ Persons”, *Groundviews*, 22 October 2020.

⁶⁸⁹ *Ibid.*

⁶⁹⁰ “Homosexuality neither a disease of the mind nor an offence, says court”, *The Island*, 7 August 2022; “Lesbian victim of police discrimination files historic FR case”, *News Wire*, 13 January 2023.

⁶⁹¹ “Sri Lanka: Indo-Lankan lesbian lovers arrested for having ‘abnormal relationship’, threaten to kill self if not allowed to go India”, *Mirror Now Digital*, 27 June 2022.

⁶⁹² ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Syria* (accessed: 5 June 2023).

reporting from several other organisations further indicates that arrests and State-targeting of persons of diverse SOGIE has taken place, even where individual instances could not be readily disaggregated.

The parameters of criminalisation have at times expanded beyond the writ of the law, as a result of several armed conflicts having taken place in Syria since 2011. Human Rights Watch noted in 2020 that since the start of the armed conflict in Syria in 2011 persons of diverse SOGIE, especially men, boys and trans women who look “soft”, have faced extreme abuse and sexual violence at the hands of police and military personnel at checkpoints, and in detention centres.⁶⁹³ A recent report published in June 2021 by the Center for Operational Analysis and Research (COAR Global) found that, given that the risk of arbitrary detention is “omni-present” in government-held areas, “LGBTQ+ status is a pronounced factor affecting personal safety and protection status”. Documented abuses include forced nudity rape, and anal or vaginal “examinations” carried out by Syrian Government forces and militia groups.⁶⁹⁴ A submission to the 2016 UN Universal Periodic Review cycle by AWUSAR noted that:

LGBT identified individuals are persecuted [...] by the law through security trailing and detention, where many men have been beaten, tortured, and raped—individually and in groups—at checkpoints due to their sexual orientation.⁶⁹⁵

This threat has apparently not abated, with reports of authorities targeting and sexually harassing LGBT individuals into 2020.⁶⁹⁶ Additionally, as stated by COAR Global:

Perhaps the most visible security risk pertains to transgender persons. Acute danger arises when individuals pass through army and security service checkpoints, where they are forced to provide ID cards that often do not match their current physical appearance, which frequently leads to humiliation, verbal abuse, assault, and arbitrary arrest.⁶⁹⁷

At the height of Syria’s conflict, numerous individuals were violently and publicly executed by members of the Islamic State in Iraq and the Levant (ISIL), which held *de facto* legislative and judicial control over a large part of Syria and Iraq’s territories for several years. Between 2013 and 2016 the Islamic State claimed to have executed at least 16 persons in Syria for various forms of “sodomy” or “indecent behaviour”, which included same-sex activity, with a preferred mechanism for execution being to throw suspected homosexuals from tall buildings.⁶⁹⁸ Executions

carried out by ISIL have not been included in the Examples of Enforcement section below.

In 2018, the UN Independent International Commission of Inquiry on the Syrian Arab Republic declared that “by targeting sexual minorities on grounds universally recognised as impermissible under international law, and severely depriving sexual minorities of their fundamental rights, ISIL’s treatment of sexual minorities constitutes the crime against humanity of persecution”.⁶⁹⁹

Local organisations have documented extrajudicial killings from separate militant groups as well, with at least one such case being perpetrated by the Syrian armed forces, though many of the details remain unclear. The Syrian government reportedly maintains a staunchly anti-LGBT stance even into 2023, conducting raids and targeting gender-nonconforming individuals who are visible in public as part of a campaign against “immorality” and the degradation of “family values”.⁷⁰⁰

Examples of Enforcement

Two gay Iraqi men were reportedly arrested in **December 2006** in the Syrian Capital, Damascus, with police demanding to know whether they were “boys or girls” and pulling down their pants in the street to check their genitals. The pair were beaten and then transferred to a local police station. After a day in custody, they were taken to a hospital to undergo anal examinations, and upon the doctor’s assessment that they had engaged in same-sex intercourse were tried and sentenced to six months in prison. In the lead-up to the trial, the pair were allegedly beaten and electrocuted regularly, and denied access to a lawyer. It was only after their sentencing that they managed to appeal and were thus released in **February 2007**. However, the ordeal resulted in their deportation from Syria back to Iraq. The men alleged that the authorities simply dumped them at the border.⁷⁰¹

In **June 2011** intelligence officials detained a heterosexual man for 18 days, in which time they beat him on his genitals and burnt him with a candle. He was released when it was discovered that they had arrested the wrong person in a case of mistaken identity.⁷⁰²

In **2012** a gay man and his friend were arrested after attending an anti-government protest in Damascus. Police found evidence on their phones that they were gay, and at this point the violence and interrogations reportedly increased significantly, even though they were not initially detained for their sexual orientation. One of the men told Human Rights Watch that they had been raped by police using sticks or other such objects. Police also threatened to “out” the man to his family.⁷⁰³

⁶⁹³ Human Rights Watch and Helem, “*They Treated Us in Monstrous Ways*”: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict (2020), 2.

⁶⁹⁴ COAR Global, *LGBTQ+ Syria: Experiences, Challenges, and Priorities for the Aid Sector* (2021), 5.

⁶⁹⁵ AWASUR, *PHRO Joint Submission* (2016).

⁶⁹⁶ “اخر اخبار لبنان : قطاع المخابرات السورية ضد المثليين.. ودعم ناقص في لبنان”, [Lebanon’s latest news: Syrian intelligence’s atrocities against homosexuals... and incomplete support in Lebanon], *Adramout*, 29 July 2020.

⁶⁹⁷ COAR Global, *LGBTQ+ Syria: Experiences, Challenges, and Priorities for the Aid Sector* (2021), 13.

⁶⁹⁸ Human Rights Council, “*I lost my dignity*”: Sexual and gender-based violence in the Syrian Arab Republic, A/HRC/37/72/CRP.1, 8 March 2018, paras. 65, 72, 77; “IS bắn vào đầu 10 người với cáo buộc đồng tính” [IS shoots 10 people in the head on accusations of being gay], *Bao Quang Ninh*, 22 September 2015; “Timeline of publicized executions for “indecent behavior” by IS militias”, *Outright Action International*, 2 April 2016; Human Rights Watch and Helem, “*They Treated Us in Monstrous Ways*”: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict (2020), 28-29; *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, A/HRC/31/68, para. 113.

⁶⁹⁹ Human Rights Council, “*I lost my dignity*”: Sexual and gender-based violence in the Syrian Arab Republic, A/HRC/37/72/CRP.1, 8 March 2018, para. 128.

⁷⁰⁰ Information supplied by SEEN.

⁷⁰¹ Human Rights Watch, “*They Want Us Exterminated*”: Murder, Torture, Sexual Orientation and Gender in Iraq (17 August 2009).

⁷⁰² Human Rights Watch and Helem, “*They Treated Us in Monstrous Ways*”: Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict (2020), 45.

⁷⁰³ *Id.*, 34.

In **2012** a trans woman was detained for three months in Damascus. She was made to strip and subjected to corporal punishment in a crowded cell.⁷⁰⁴

A trans woman was arrested twice in **2013** for participating in anti-government protests, though police also found pamphlets in her home about gender identity. They placed her in a cell with multiple men during her second arrest and refused to intervene as she was raped. She was then transferred to a different cell with police telling her the reason was that the first cell's occupants "took what they wanted" (in other words, police were allegedly now giving her to a new group of assailants as a punishment for her identity).⁷⁰⁵

In **2014** a non-binary teenager, aged 15, was arrested after police at a checkpoint saw pictures of her on her sister's phone (Human Rights Watch indicates she/her pronouns). She was held for 10 days and raped multiple times. The officer who raped her continued to call her for sex after she was released, threatening to provide her personal details to all checkpoints in the country if she refused.⁷⁰⁶

In **2019** Human Rights Watch was told that a queer individual was detained by intelligence officials after her family complained to them of her sexual orientation and gender expression. She was held in a central prison from the age of 13 until she was 17, suffering regular abuse and rape from other inmates.⁷⁰⁷

In **January 2022**, it was reported that a wedding ceremony in Latakia between a man and a second person, likely a trans woman, was shut down by the authorities. Sources state that security forces arrived after receiving a report about a "suspicious wedding party", at which point they reportedly arrested a number of those present and sealed the premises off from the public.⁷⁰⁸



Tajikistan

Criminalising Provisions

While Tajikistan does not expressly criminalise diverse gender expressions or consensual same-sex sexual acts, ILGA World has noted around 10 cases of possible *de facto* enforcement by State actors between 2010 and the time of publication. Additional incidents, largely of police attempting to extort suspected gay men—knowing that negative social attitudes prevent many of them from coming out safely—have been noted as widespread in Tajikistan, but do not fall within the scope of this report.

Tajik authorities have on several occasions in recent years

denied that any person of diverse SOGIE is wrongfully targeted or prosecuted, often citing a lack of formal complaints laid by LGBT+ individuals as evidence against the prevalence of hate crimes, discrimination, or blackmail. The testimonies of LGBT+ individuals and advocacy groups, however, indicate that fear of being "outed", physically harmed, losing work or otherwise revictimised by police is a more likely reason for the dearth of such cases. One gay man interviewed by Novostan in 2017 spoke of the difficulties many LGBT+ individuals face in seeking asylum, due to the lack of publicly available information on rights violations.⁷⁰⁹

In October 2017 it was reported that the Prosecutor-General's office had compiled a list of "proven" gay and lesbian individuals in the country—319 gay men and 48 lesbian women. The individuals were identified under government initiatives titled "Operation Morality" and "Operation Purge", officially "due to their vulnerability in society and for their safety and to prevent the transmission of sexually transmitted diseases". It is not known how the list would be used to prevent the spread of illness, but people of diverse SOGIE in the Central Asia region are believed to face significant levels of State targeting and harassment under the presumption that they are "carriers of AIDS" and other diseases.⁷¹⁰

In 2018, the UN Human Rights Committee expressed concern about reports that individuals suspected of being lesbian, gay, bisexual or transgender were identified following Operations "Morality" and "Purge" and placed on a registry, which could exacerbate their social stigmatisation, though the Tajikistan government formally denied this. The Committee also showed concern for reports of arbitrary arrest and harassment by police and security forces.⁷¹¹ The Committee recommended that the State "investigate law enforcement practices to ensure that lesbian, gay, bisexual and transgender individuals are not registered and end any such practices that unduly interfere with their rights, including to privacy and to liberty and security".⁷¹²

In February 2023 the head of the Ministry of Internal Affairs of Tajikistan, Ramazon Rahimzoda, seemingly contradicted the 2018 denial of a "registry" of an LGBT registry. After around 10 people were arrested for "infecting others with HIV", Rahimzoda told media: "The Ministry of Internal Affairs does not carry out special raids against gays and lesbians. However, they are constantly under our supervision".⁷¹³

Examples of Enforcement

In **July 2010** police allegedly began rounding up gay, bisexual and other MSM who were believed to have had sex with a prominent politician. One man who was

⁷⁰⁴ *Id.*, 40-41.

⁷⁰⁵ *Id.*, 36-37.

⁷⁰⁶ *Id.*, 38-39.

⁷⁰⁷ *Id.*, 35.

⁷⁰⁸ "حفل زواج بين شابين مثلي الجنس يثير ضجة في سوريا" [A marriage ceremony between two gay men causes a stir in Syria], *Al Bawaba*, 25 January 2022.

⁷⁰⁹ "Правозащитники хотят помочь геям Центральной Азии" [Human rights activists want to help gay people in Central Asia], BBC News Russian Service, 5 April 2011; "Homosexuelle in Tadschikistan: Es ist leichter drogenabhängig zu sein, als schwul" [Homosexuals in Tajikistan: It is easier to be a drug addict than to be gay], Novostan, 24 May 2017; "В Душанбе геи подозреваются в заражении ВИЧ более 80 человек" [In Dushanbe, gay men are suspected of infecting more than 80 people with HIV], *Radio Ozodi*, 15 February 2023.

⁷¹⁰ "Tajikistan Creates Registry Of 'Proven' LGBT People, Official Journal Says" *Radio Free Europe - Radio Liberty*, 17 October, 2017; "Tajikistan authorities draw up list of gay and lesbian citizens", *The Guardian*, 17 October 2017.

⁷¹¹ Human Rights Committee, *Concluding observations on the third periodic report of Tajikistan*, CCPR/C/TJK/CO/3 (2019), para. 15.

⁷¹² *Id.*, para. 16(c).

⁷¹³ "В Душанбе геи подозреваются в заражении ВИЧ более 80 человек" [In Dushanbe, gay men are suspected of infecting more than 80 people with HIV], *Radio Ozodi*, 15 February 2023.

detained was severely beaten when he said he had never met the politician in question and thus could not offer any information on the case or other detained men.⁷¹⁴

According to a report issued in **2018** by the Helsinki Foundation for Human Rights and International Partnership for Human Rights (IPHR), police regularly target individuals of diverse SOGIE for blackmail. In **March 2011** two men had arranged to meet up at a hotel, but were detained by three police officers who barged into their room and accused them of prostitution. Police threatened to perform anal examinations (an invasive and disproven method for gathering so-called evidence of anal intercourse) and to "out" the men to their families if they did not pay a USD 200 bribe each. They did not have the money but were taken back to their hotel room after paying USD 100 and giving the police their phones.⁷¹⁵

In **2014** police also detained a gay man doing community outreach and handing out safe-sex packs to community members. Police detained him and another man, taking them to the Ministry of Internal Affairs and demanding the names of other gay people under threat of being beaten.⁷¹⁶

Another case outlined in the IPHR report, though of **uncertain date**, is that two men who were detained by police after a third "outed" one of them, possibly to secure his own release. One of the men asked if they have a warrant for their arrest, but police scoffed, indicating that "a gay man has no right to demand a warrant". They said that homosexuality is illegal in Tajikistan, despite no provision against same-sex sexual activity actually existing, and so when one of the detained men asked them to cite the legal provision against homosexuality they showed him provisions criminalising rape instead. The man claimed his family already knew he was gay, and so apparently with no power to blackmail him and his friend, the police released the pair after five hours.⁷¹⁷

In **June 2015** police allegedly arrested up to 500 individuals, some being sex workers while others were claimed to have been expressly targeted for their SOGIE status, as part of a nationwide crackdown on "immoral behaviour". Those arrested, as well as others, were forced to undergo tests to check them for sexually transmitted diseases, and are said to have faced beatings, abuse and extortion by police. While it is not known how many of those detained were specifically queer, the Ministry of Internal Affairs stated that three people were taken to agencies which would "take the necessary measures for homosexual behaviour".⁷¹⁸

Sometime in **2015** a gay man and several friends went to a police station to assist his young cousin who had been in a

car accident. The cousin was released, but police suspected the group of men were gay, and so detained the man and one of his friends for six hours. They told the pair that if they did not confess that they would be subjected to an anal examination, and that if they cooperated with the officers they would have a "quiet life".⁷¹⁹

One gay man interviewed in the IPHR report claimed to have been arrested three times in **2015** and again in **2016**, with police making sure to "register" him each time.⁷²⁰

In **2017** police detained a gay man, allegedly as part of "Operation Purge" which was aimed at compiling a list of known or suspected homosexuals. Police recorded all contacts in his cell phone and told him they had to record his details and those of other alleged gay men as they were vectors for the spread of HIV/AIDS.⁷²¹

A **2020** article makes mention of a case from an **unknown date** in which police arrested two men at a Dushanbe bus stop when they noticed one of the pair crying. At the police station the men were accused of homosexuality and prostitution, with officers pinching their buttocks in a mocking fashion. They were released when they paid a bribe.⁷²²

Based on a **2022** report launched by the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM), law enforcement officials arrested three people staying together in an apartment, accusing them of being gay. After initially blackmailing the detainees, the officers took them to a police station later that night where they were subjected to physical abuse. One of the detainees was released, though officers informed their relatives that they were found "dressed up as a woman and engaging in prostitution". The fate of the other two detainees is not known.⁷²³

According to the **2022** ECOM report, on **9 August** an MSM man was summoned to the Khujand police station without any explanation. Initially refusing to comply, he was abducted some days later and taken to the station, where he faced physical abuse during 10 hours of interrogation. Police wanted information about his contacts and other LGBT+ individuals he had contact with. They confiscated his phone to search for additional contacts he might have, and extorted money from him.⁷²⁴

In **February 2023** around ten men were arrested by in Dushanbe on suspicion of "having infected others with HIV". The head of the Ministry of Internal Affairs told media that the government "does not carry out special raids against gays and lesbians. However, they are constantly under our supervision".⁷²⁵

⁷¹⁴ IPHR and Helsinki Human Rights Foundation, "We just want to be who we are!": LGBT people in Tajikistan: beaten, raped and exploited by police (2018), 46.

⁷¹⁵ *Id.*, 43.

⁷¹⁶ *Id.*, 45.

⁷¹⁷ *Id.*, 44.

⁷¹⁸ "Eye on LGBT Human Rights in Tajikistan", *Human Rights First*, 12 January 2016; IPHR and Helsinki Human Rights Foundation, "We just want to be who we are!": LGBT people in Tajikistan: beaten, raped and exploited by police (2018), 37-39.

⁷¹⁹ *Id.*, 44.

⁷²⁰ *Id.*, 47.

⁷²¹ *Id.*, 48.

⁷²² "Tajikistan's LGBT Community: Struggling For Recognition 'As People'", *Current Time*, 22 June 2020.

⁷²³ ECOM, *Национальный Отчет О Нарушении Прав Геев, Других МСМ И Транс* Людей В Таджикистане [National Report on Violations of the Rights of Gay Men, Other MSM and Trans* People in Tajikistan]* (2022).

⁷²⁴ "В Душанбе геи подозреваются в заражении ВИЧ более 80 человек" [In Dushanbe, gay men are suspected of infecting more than 80 people with HIV], *Radio Ozodi*, 15 February 2023.

⁷²⁵ *Ibid.*



Turkmenistan

Criminalising Provisions

Article 135 of the Criminal Code (1997), as amended in 2019, punishes sodomy—defined as “sexual intercourse between men”—with imprisonment of up to five years. Before the 2019 amendment, the legally prescribed punishment was two years’ imprisonment. In the case of repeated acts, or acts committed by a group more than two persons, the punishment is imprisonment between two and five years with obligatory living in a certain place for five to 10 years.⁷²⁶

Enforcement Overview

Between 2012 and 2023 ILGA World has identified at least eight examples of enforcement, though the country remains relatively isolated, with strict controls on media and free expression, making it challenging for researchers to attain clarity on the number of cases of enforcement, or the situation on the ground more generally.

The law criminalising same-sex sexual acts appears to be enforced selectively. While there are reports of arrests, prosecutions are either relatively rare or remain largely unpublicised. “Homosexuality” is widely considered a mental disorder in the country, including by law enforcement, medical institutions, and judicial officials, and so punishment for perceived “homosexual” behaviour can also include forced placement into psychiatric institutions.⁷²⁷

In 2016 in its concluding observations to Turkmenistan’s second periodic report, the UN Human Rights Committee stated that it was “concerned about discrimination against and social stigmatisation of lesbian, gay, bisexual and transgender persons, including violence, arbitrary arrests and detention and other abuses perpetrated on the basis of sexual orientation and gender identity with total impunity”.⁷²⁸

In October 2021 widespread media reports surfaced—in stark contrast to the aforementioned norm of cases going unnoticed and unpublicised—indicating that police in the Eastern Region of Lebap had arrested around 30 men and threatened even those who merely sat next to each other in public, as part of a coordinated campaign to “expose” homosexuals in the area. Even visiting performers from another part of the country were warned that if any man entered the hotel room of another, he would be arrested.⁷²⁹

Those arrested often encounter heightened discrimination or violence once in prison, as reported by former inmates. Authorities are known to regularly subject LGBTQ+ prisoners to perilous situations, such as instigating confrontations to allow other prisoners to demonstrate their “honour”.⁷³⁰

Examples of Enforcement

In 2012 a gay man was arrested by police after being “outed” by another gay man who had himself been targeted and blackmailed. He was made to pay a bribe “approximately 10 times the average monthly wage in Turkmenistan” to avoid prison. This is but one of numerous cases, according to persons interviewed by Amnesty International, but further details were not disclosed due to fear of reprisal from State actors.⁷³¹

In January 2013 police arrested an 18-year-old gay man after he was reported by an informant. He was held for 11 days alongside around 20 other people suspected of being gay, then subjected to a forced anal examination, with the medical examiner making derisive comments about his rectum and sex life the whole time, as well as saying that he “should be burned”. It is important to note that such anal examinations have been proven to have no value in determining whether a person has engaged in anal sex and have been defined as a human rights abuse in and of themselves. Before he was removed from an examination room, he claims, another suspected gay man was brought in and subjected to the same treatment. All of the detainees were reportedly tried together in March under charges of violating Article 135, and subsequently sentenced to two years’ imprisonment. The prosecution is said to have used the results of the anal examinations as evidence in the case. In May 2014, after one year and three months behind bars the group was pardoned and released by Presidential decree, alongside more than two thousand others who were convicted of various crimes. Notably, this was not a shift in Turkmen policy but merely part of the government’s celebrations of the “Day of Revival, Unity and Poetry of Makhtumkuli Fragi”.⁷³²

In May 2017 a video began circulating online showing a trans woman in detention with a group of police officers, apparently in the capital city of Ashgabat. They verbally and sexually harassed her, and threatened to kick her in the groin to verify her gender. She was later made to strip in the video and bend over for them to check her genitals. Further details of her fate are not known.⁷³³

In October 2019, a 24-year-old gay doctor disappeared for several days after being summoned to a police station in Ashgabat, having shared with a local media outlet his experience of being entrapped by an undercover police officer, arrested, humiliated, and tortured the previous year.⁷³⁴ The doctor reappeared a few days later and

⁷²⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Turkmenistan* (accessed: 5 June 2023).

⁷²⁷ Labrys and Sexual Rights Initiative, *Submission on Turkmenistan - Third Round of the Universal Periodic Review* (2008), para. 33; Human Rights Watch, *United Nations Human Rights Committee Review of Turkmenistan* (2016), 3.

⁷²⁸ Human Rights Committee, *Concluding observations on the second periodic report of Turkmenistan*, CCPR/C/TKM/CO/2 (2017), para. 8.

⁷²⁹ “В Лебапе полиция допрашивает сидящих вместе мужчин, подозревая их в гомосексуализме” [In Lebap, police interrogate men sitting together, suspecting them of homosexuality], *Radio Liberty (Turkmenistan)*, 2 October 2021.

⁷³⁰ Freedom Now, *Submission to the United Nations Human Rights Committee List of Issues - Turkmenistan 134th session* (2022), 4.

⁷³¹ Amnesty International, *Turkmenistan: An “era of happiness” or more of the same repression?* (2013), 25, 40.

⁷³² “Another amnesty announced in Turkmenistan”, *Turkmen Inform*, 17 May 2014; Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016), 10, 48-49.

⁷³³ “Video Appears To Show Turkmen Police Shaming Transgender Woman”, *Radio Free Europe: Radio Liberty*, 17 May 2017.

⁷³⁴ “Gay man in Turkmenistan goes missing after posting heart-breaking video fearing he might be ‘forcibly taken away’”, *Pink News*, 1 November 2019.

retracted all of his previous statements.⁷³⁵ The Turkmen authorities then demanded all medical personnel get tested for STIs, after deeming the doctor to be immoral and a dishonour to the medical profession.⁷³⁶

In May 2020, local media reported that in mid-March a well-known showman in Ashgabat had been arrested on charges of homosexuality. Along with the young man, about a dozen other people, including well-known personalities in the country's showbusiness and modelling industry were arrested. The young showman was sentenced to two years' imprisonment. It was hoped that he would be pardoned at an upcoming cultural festival, but anonymous sources told reporters that gay people are no longer considered eligible for amnesty.⁷³⁷

In August 2021 police in Turkmenabat arrested a well-known hairdresser and charged him with "sodomy". They severely beat and tortured him, and forced him to disclose the names of other MSM in the city. The most recent reporting on the matter indicated that he was being detained in an "isolation ward".⁷³⁸

In September 2021 police in the city of Turkmenabat, as part of a "crackdown on homosexuality" throughout the region of Lebap, arrested between 20 and 30 men suspected of being gay in a raid. Details are unclear, but the accused were reportedly transferred to an "isolation ward" for pre-trial detention. Many in the group were allegedly members of the Turkmenabat fire department.⁷³⁹

United Arab Emirates

Criminalising Provisions

The United Arab Emirates maintains a complex and interconnected set of legal frameworks at subnational and federal levels. Each of the seven Emirates can follow Federal law directly or maintain their own penal codes, with the Emirates of Abu Dhabi, Dubai and Sharjah currently opting for the latter arrangement. Local laws, however, are subordinate to Federal law and deal primarily with issues not addressed by the State. In addition to their

respective civil and criminal courts, each Emirate maintains its own parallel system of locally organised and supervised Sharia courts, though the role and authority of these courts varies across the country and remains a topic of debate among legal scholars. Codified Federal law is also largely informed and inspired by Sharia principles.⁷⁴⁰

Article 354 of the Federal Penal Code (1987) prescribes the death penalty for "whoever used coercion in having sexual intercourse with a female or sodomy with a male". This peculiar wording has resulted in extensive debate among legal scholars, political groups, and civil society, as to whether the provision against "sodomy" follows on from the prohibition on "coercive" sex, or whether it should be interpreted as a new clause encompassing all sodomy between men. Should the latter interpretation prevail, consensual same-sex sexual acts could be punished with execution. Additionally, Sharia courts could in theory punish the crime of "zina" (adultery; sex outside of marriage) with death, which would include all same-sex sexual acts on the grounds that same-sex marriage is prohibited in the UAE.⁷⁴¹

In addition, Article 356 of the Federal Penal Code has been interpreted by various scholars to criminalise consensual same-sex sexual activity. The original Arabic-language provision in this article is "هتك العرض" (hatk al-'arD), which literally translates to "disgrace to honour", but has also been translated as "voluntary debasement", "indecent assault", "indecenty", or "carnal knowledge" by different sources. In 2016, Federal Decree-Law No. 7 (2016) also amended Article 358 to establish that any person who publicly commits a "disgraceful act" would be punished by imprisonment for no less than six months. The same penalty applies to any person who says or commits any "act against the public morals".⁷⁴²

At the subnational level, Article 80 of the Abu Dhabi Penal Code (1970) punishes "consensual sodomy" with a penalty of up to 14 years' imprisonment.⁷⁴³

Article 177 of the Dubai Penal Code (1970), as amended in 1994, punishes "unnatural crimes (sodomy)"—defined as "sexual intercourse with another person in contravention of the laws of nature"—with a penalty of up to 10 years' imprisonment.⁷⁴⁴

And Article 176 of the Sharjah Penal Code (1970) punishes "unnatural crimes (sodomy)"—defined as "sexual intercourse with another person in contravention of the laws of nature" or "allowing a male to have intercourse

⁷³⁵ "Turkmenistan: Gay Man Summoned by Police and Disappeared: Kasymerdi Garaev", *Amnesty International*, 6 November 2019, Index number: EUR 61/1363/2019; "Gay man missing in Turkmenistan establishes contact and denies his statements", *Chronicles of Turkmenistan*, 8 November 2019; "Gay Turkmen Doctor Who Vanished Returns Home, Recants", *Radio Free Europe: Radio Liberty*, 6 November 2019.

⁷³⁶ "После скандала с врачом-геем, медиков отправили сдавать анализы на венерические болезни" [After scandal with a gay doctor, doctors were sent to be tested for sexually transmitted diseases], *Chronicles of Turkmenistan*, 2 November 2019.

⁷³⁷ "Aşgabatda 'gomoseksuallykda aýyplanyp belli şoumen tutuldy" [Showman arrested for homosexuality] arrested in Ashgabat], *Azathabar*, 16 April 2020; "Two Years in Prison for Gay Sex in Turkmenistan", *Human Rights Watch*, 26 May 2020; "В полицейском изоляторе в Туркменабаде содержатся около 30 обвиняемых в гомосексуальных связях" [About 30 accused of homosexual relations are held in a police detention center in Turkmenabat], *Turkmen News*, 24 September 2021.

⁷³⁸ "По подозрению в гомосексуальности в Туркменабаде задержали известного парикмахера и стилиста" [Famous hairdresser and stylist detained on suspicion of homosexuality in Turkmenabat], *Turkmen News*, 9 August 2021; "В полицейском изоляторе в Туркменабаде содержатся около 30 обвиняемых в гомосексуальных связях" [About 30 accused of homosexual relations are being held in a police detention facility in Turkmenabat], *Turkmen News*, 24 September 2021.

⁷³⁹ "В полицейском изоляторе в Туркменабаде содержатся около 30 обвиняемых в гомосексуальных связях" [About 30 accused of homosexual relations are being held in a police detention facility in Turkmenabat], *Turkmen News*, 24 September 2021; "В Туркмении полиция устроила облаву на геев и подвергла их пыткам" [In Turkmenistan, police raided and tortured gay men], *Lenta*, 29 September 2021; "Полиция Туркмении задержала 30 мужчин по статье о мужеложстве. Их избивают и требуют выдать других геев" [The Turkmen police detained 30 men under the article on sodomy. They are beaten and demanded to betray other gays.], *Snob*, 29 September 2021; Туркменстанда ондогон адам кумсалыкка шектелип кармалды" [Dozens of people have been arrested in Turkmenistan on suspicion of homosexuality], *Azattyk Unalysy*, 6 October 2021; "Радио Свобода: в Туркменабаде задержали около 25 человек, подозреваемых в гомосексуальных связях" [Radio Liberty: about 25 people suspected of homosexual relations were detained in Turkmenabat], *Current Time*, 7 October 2021.

⁷⁴⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - United Arab Emirates* (accessed: 30 June 2023).

⁷⁴¹ *Ibid.*

⁷⁴² *Ibid.*

⁷⁴³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Abu Dhabi (United Arab Emirates)* (accessed: 30 June 2023).

⁷⁴⁴ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Dubai (United Arab Emirates)* (accessed: 30 June 2023).

with them in contravention of the laws of nature”— with imprisonment of up to 10 years.⁷⁴⁵

In terms of diverse gender expressions, *de facto* criminalisation exists through Article 359 of the Federal Penal Code, which states that “any male disguised in a female apparel and enters in this disguise a place reserved for women or where entry is forbidden, at that time, for other than women. Should the male perpetrate a crime in this condition, this shall be considered an aggravating circumstance”.⁷⁴⁶

Enforcement Overview

Between 2004 and 2023 ILGA World has identified at least 21 examples of criminal enforcement in the UAE, though this likely does not represent a totality of cases and does not account for broader ways in which Emirati society and State officials discriminate against or sideline persons and groups based on their sexual orientation, gender identity or gender expression. Though the legal potential exists for the adoption of the death penalty for consensual same-sex acts—as Islamic Sharia is considered the main source of UAE law when it comes to civil and criminal cases—ILGA World has found no evidence of such a punishment being meted out in recent years. A 2008 report by Amnesty International states that the UAE “does not carry the death penalty for same-sex consensual sexual relations” and has indicated that Article 354 addresses “rape, not consensual same-sex sexual relations”. However, in the same report, the organisation considers that, depending on each case, it is still “theoretically possible” that consensual same-sex sexual activity would be punishable by death if considered a form of *zina* (extramarital sexual activity).⁷⁴⁷

Other forms of criminal enforcement or abuse are explicitly documented, however. In 2008 police asked the government to “carry out research into the trend” of *boyat*, or “tomboys” (trans men, butch lesbian women and other gender-diverse individuals). In a 2011 official statement, the Dubai Police Security Awareness Administration formally announced that it was planning the launch of campaigns targeting “transsexuals” and *boyat*. Officials from the Community Development Authority stated they would work together with the police on plans to combat *boyat* and other “cross-dressers” for “indulging in a dangerous practice”.⁷⁴⁸

Official support for criminal enforcement against so-called “immoral” practices had not abated by 2021. In that year the Public Prosecution (PP) office stated on social media that “whoever publicly performs an indecent act shall be subject to a fine of not less than AED 1,000 and not more than AED 50,000” (approx. USD 270 to USD 13,600), and further indicated that “any repeated incident of public

indecency shall be punishable by imprisonment for a period of not less than three months and a fine not more than AED 100,000” (approx. USD 27,200).⁷⁴⁹

For those who are incarcerated, there have been reports of anal examinations—a long-debunked practice aimed at gathering presumed evidence of same-sex intercourse—being used against multiple detainees. The “evidence” gathered by these procedures is known to be used in the sentencing of suspects to prison for homosexuality and “obscene acts” under Sharia law, according to the UN Special Rapporteur on torture⁷⁵⁰ and Human Rights Watch.⁷⁵¹

Examples of Enforcement

In **2004** reports claimed that a “gay wedding” was raided in Sharjah. Two dozen men were apparently arrested, lashed and released according to a prominent lawyer. Details of the case remain unclear.⁷⁵²

In **November 2005** police arrested 26 individuals in a hotel in Ghantoot. Details surrounding the case are unclear, but it was reported that half of the group, including both UAE nationals and migrants from other Gulf and Asian countries, were “dressed as women” with make-up and feminine hairstyles. Reports stated that the group were allegedly preparing for a mass “homosexual wedding”. It was reported that the individuals underwent psychological evaluations and invasive “medical examinations”. It was further claimed that the Interior Ministry’s department of social support would attempt to dissuade those detained from future “homosexual behaviour” by various means, including forced treatment with male hormones, though the government denied this. In **February 2006** it was reported that 11 of the 26 confessed in court to “practicing homosexuality” and were sentenced to 5 years in jail and an additional year for obscenity, with a 13th given a “lesser sentence” and the rest acquitted.⁷⁵³

In **2007** a French boy, aged 15, was raped in the UAE by three men at knifepoint in a secluded part of the desert. He was threatened and told that his family would be killed if he reported the incident. Regardless, the men were arrested by police and pleaded not guilty. The doctor who examined the boy after he was raped would go on to claim that there was supposed evidence of a history of anal intercourse and that he did not believe force was used. As such, the boy was discouraged by the police from pressing charges and was told he even faced the possibility of being charged with criminal homosexual activity himself.⁷⁵⁴

In **2008** it was reported that 17 individuals were arrested and deported for alleged same-sex sexual activity and cross-dressing. No further details could be identified.⁷⁵⁵

⁷⁴⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ash Shariqah [Sharjah] (United Arab Emirates)* (accessed: 30 June 2023).

⁷⁴⁶ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 107.

⁷⁴⁷ Amnesty International, *Love, Hate and the Law: Decriminalizing Homosexuality* (2008), 48.

⁷⁴⁸ “Cross-dressing women targeted in Dubai campaign”, *The National News*, 1 June 2011.

⁷⁴⁹ “PP explains punishment for public indecency offences”, *Sharjah* 24, 25 May 2021.

⁷⁵⁰ Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak. Addendum: Summary of information, including individual cases, transmitted to Governments and replies received*, A/HRC/4/33/Add.1, 20 March 2007, para. 317.

⁷⁵¹ Human Rights Watch, *Audacity in Adversity: LGBT Activism in the Middle East and North Africa* (2018), 20. See also: “UAE sentences 11 men to five years in jail for homosexuality”, *Khaleej Times*, 13 February 2006.

⁷⁵² “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵³ “Gay party men may be given hormone treatment”, *Khaleej Times*, 27 November 2005; “US condemns UAE gay men arrests”, *BBC News*, 29 November 2005; “UAE sentences 11 men to five years in jail for homosexuality”, *Khaleej Times*, 13 February 2006; Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak - Summary of information, including individual cases, transmitted to Governments and replies received*, A/HRC/4/33/Add.1 (2007), para. 317; “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵⁴ “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵⁵ *Ibid.*

In **April 2008** a lesbian couple—a 30-year-old Lebanese national and a 36-year-old Bulgarian—were charged with kissing, and “indecent acts” in public near Al Mamzar beach. The couple pleaded “not guilty” to the accusations, but the court upheld the charges and stated that they would be deported after serving their sentence of one month in prison.⁷⁵⁶

In **2009** a Canadian couple was detained for 28 days in Dubai. The couple felt that they were targeted for being gay. They were detained for carrying prescription arthritis medication, the specific brand of which had been banned in the UAE. The couple had been together for almost 20 years before the arrest and only stopped in Dubai for a day in transit before returning to Toronto from their vacation in India. They claim that the airport security was targeting young people coming from or heading to the “West”. It was suspected they were looking for party drugs. The couple was given little information regarding their detention and were not given the opportunity to contact a lawyer or consular officials. Instead, one of the detainees was able to contact some friends on his cell phone, who provided him the emergency contact number for the Canadian embassy in Abu Dhabi, which he called before his phone was confiscated. They were taken to the detention centre and forced to provide urine samples for drug testing. They were held for 10 days with around eight other prisoners before they were sent to separate prisons; their only means of communication was through the Canadian consular office. While it is unclear to what degree the pair were explicitly targeted for their perceived sexual orientation, later years would show that individuals do regularly face targeting based on their SOGIE when transiting through Emirati airports.⁷⁵⁷

On **20 July 2009**, a 22-year-old Emirati student was arrested and convicted of public indecency, cross-dressing, insulting a religious creed and committing same-sex acts. The student had their sentence reduced from three years to one after an appeal. It is reported that the student was travelling to Europe with a male partner, another Emirati who had been convicted of homosexuality and sentenced to a year in jail. The defendant’s lawyer told the Dubai Court of Appeals that the procedures of the arrest were illegal, given the undated warrant. Police reported that they had found pornographic material at the defendant’s home. Prosecutors also accused the student of posing dressed in a hijab while reading the Quran. The nature of the accusations was such that the student asked to be isolated from the general prison population if their sentence was upheld for their own safety. It is not known if this request was granted.⁷⁵⁸

In **March 2010** a male student was sentenced to one year’s imprisonment for prostitution. The student’s laptop was seized as it was alleged that he was luring men to have sex with him in exchange for money via the internet. The 18-year-old was caught when he unknowingly began engaging online with a police sergeant. The sergeant claimed he was conducting a “security patrol” on the internet and had a chat with the accused.⁷⁵⁹

In **July 2010** police arrested two migrants from East Asia in a raid at the Ras al Khaimah hotel. They were arrested for “cross-dressing” after someone tipped off police, stating that they were offering women dance classes and make-up advice. A police official stated that one of the suspects had confessed to having been a cross-dresser since childhood. The pair were referred to prosecutors and immigration officials for further investigation. It is impossible here to assume the gender identity of the accused given the common conflation in criminalising countries of sexual orientation, gender identity and gender expression, though media outlets reporting on the case seem to identify them as men.⁷⁶⁰

On **9 April 2012** it was reported that two men were allegedly spotted fondling each other in a parked car. News reports claim that the pair were reported by a member of the public who saw what they were doing after becoming suspicious of the car parked in front of her house. Reporting by *The National News*, a local news site, seems to be contradictory, however, and it is unclear if there are indeed any witnesses to the alleged “fondling”. The two men, one Filipino and the other Omani, had been friends for about five months after meeting on the internet, and were both sentenced to three months in prison to be followed by deportation.⁷⁶¹

It was reported on **8 June 2012** by *Gulf World News* that a man from Belgium was arrested after his Filipino host had jumped out of their apartment to his death after being stood up on a date with a third party. The Belgian claimed the Filipino had become depressed and committed suicide, though the last words of the dying man seemed to accuse the Belgian of pushing him. Police dropped the murder charges as there was not enough evidence to pursue the case, though the Belgian man was still sentenced to a year in jail followed by deportation by the Dubai Misdemeanour Court, as he had confessed to police that he and the deceased had been sexually intimate.⁷⁶²

In **July 2012** a Filipino migrant—possibly a trans woman—was charged for “cross-dressing”, “pretending to be a woman”, tricking a woman into undressing in front of her, assault, and practicing medicine without a proper permit. An undercover health inspector had gone to a nearby apartment where cosmetic treatments were said to be carried out. The salon worker then took the inspector to the laser-treatment room and asked her to take off her clothes. The salon worker then proceeded to use a laser treatment device to remove hair from the inspector’s armpits but burnt her in the process. It was only after this, when the health inspector complained and reported the salon to the police, that they uncovered the salon worker’s identity. It does not appear that the accused intended to “trick” anyone into undressing and was rather carrying out expected duties as a laser hair removal technician. The period of incarceration to which the accused was sentenced is unclear, though it was ruled that deportation

⁷⁵⁶ “Lesbian couple jailed for kissing on beach in Dubai”, *London Evening Standard*, 2 September 2008; “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵⁷ “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵⁸ “Cross-dressing student has sentence reduced by appeal court”, *The National News*, 20 July 2010; “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁵⁹ “Homosexuality in the UAE”, *Detained in Dubai (website)*. Accessed on 23 October 2020.

⁷⁶⁰ “Transvestites offering make-up advice at RAK hotel arrested”, *The National News*, 9 July 2010.

⁷⁶¹ “Jail terms for men caught fondling in car”, *The National News*, 15 May 2012; “UAE: Two men jailed for alleged public gay ‘fondling’ highlight privacy issues”, *Pink News*, 16 May 2012.

⁷⁶² “Gay partner jailed for one year for having consensual sex with victim”, *Gulf News*, 8 June 2012

back to the Philippines would follow.⁷⁶³

In **December 2012** an individual from the Philippines was arrested at a mall in Abu Dhabi for “causing a disturbance” on account of their being allegedly dressed in women’s clothing. Staff at one of the stores called the police, who searched the accused’s handbag and found makeup. The accused was charged with “imitating a female”, but denied the accusation of being dressed as a woman.⁷⁶⁴

In **March 2014**, a court in the UAE upheld a six-month jail term handed down to two men who allegedly had been caught for “sodomy”. The details surrounding the case are unclear but according to reports the prosecution stated that there was “forensic evidence” that the men had slept together. The pair deny the claims and state that they were coerced by police into confessing. After serving their six-months they were to be deported.⁷⁶⁵

On **9 March 2016**, UAE police denied claims that they had arrested 30 gay men at a private party held at the Shangri-La Hotel in Dubai. However, a local group collected first-hand witness accounts that they insist prove that arrests and even deportations did take place. Further details remain unclear.⁷⁶⁶

On **9 August 2016**, Canadian transgender model and social media influencer, Gigi Gorgeous, reported that she had been detained and questioned at the Dubai airport for five hours because she is transgender. She had previously amended her legal gender marker and passport to reflect her gender identity and expression, so it must be presumed that some form of prejudice informed her detention rather than any obvious issue with her travel documents. She was later released and stated on her social media accounts that she was safely on her way “to somewhere much more accepting”.⁷⁶⁷

On **9 August 2017** Emirati police arrested two Singaporean nationals, a presumed cisgender man and a trans woman, in Abu Dhabi’s largest shopping mall, which is not a place “reserved for women”. Both were sentenced to a year in prison for “being disguised in women’s dress”, “attempting to resemble women” and “violation of public morals by being in a public place appearing as women” under Article 359 of the Penal Code which criminalises men who dress in women’s clothing and enter women-only spaces. The language used in the judgement suggests that the law is being abused to target people of diverse gender identities and expressions even when they are in mixed-gender public places, and that vague laws on “public morals” are also being misused to limit gender expression. The accused believed to be a cisgender man stated at the time of his arrest that he wore a chain around his neck, an ear piercing and a nose piercing, which authorities used to justify the charges against him, while the trans woman, who works as a model, simply had long hair. The pair later had their sentence reduced to a fine and the court had them

deported on **28 August 2017**.⁷⁶⁸

A number of the other detainees, held in **2017** with the Singaporean nationals identified above, told them of the reasons for their arrests and detention. These detainees included Emirati nationals as well as migrants from Morocco and the Philippines, most of whom said that they had been arrested solely for “looking feminine”. Two men said they were arrested while in line at a movie theatre; another man said he was arrested at Yas Mall; a transgender woman said she was arrested while wearing a work uniform because of her feminine-looking face; and another transgender woman said that she, like the trans Singaporean, was arrested for having long hair but was wearing men’s clothing when arrested. Another detainee claimed that he had been charged with “sodomy” and had been subjected to a forced anal examination.⁷⁶⁹



Uzbekistan

Criminalising Provisions

Article 120 of the Criminal Code (1994) criminalises *besoqolbozlik* (homosexual intercourse), defined as “voluntary sexual intercourse of two male individuals”, with imprisonment up to three years.⁷⁷⁰

Other elements of the Criminal Code are also regularly invoked by authorities, such as Article 113 (which makes it an offense for someone who is knowingly HIV-positive to put another at risk of infection), and Article 130 (which prohibits the production, import, or dissemination of “pornographic” products).

Enforcement Overview

ILGA World has been able to collect information on at least 24 examples of criminal enforcement in Uzbekistan between 2009 and 2023. However, information released by the government shows that this is only a fraction of the actual number of cases. In effect, Uzbekistan’s Ministry of Internal Affairs reported in April 2021 that there were least 49 individuals detained in penal colonies across the country for “sodomy” under Article 120 of the Criminal Code. The Ministry stated that between 2016 and 2020 at least 44 individuals had been prosecuted on that basis—six in 2016, 15 in 2017, seven in 2018, seven in 2019, and nine in 2020.⁷⁷¹ Furthermore, a report published by the International Partnership for Human Rights (IPHR) in 2021 informed that a total of 36 people were convicted under Article 120 that year. 16 of those convicted were sent by the court to “general regime prisons”, five to “strict regime

⁷⁶³ “Cross-dresser jailed for tricking health inspector into stripping”, *The National News*, 25 July 2012.

⁷⁶⁴ “Abu Dhabi police arrest man for allegedly cross-dressing”, *The National News*, 19 December 2012.

⁷⁶⁵ “UAE: Court upholds men’s 6-month jail term for ‘sodomy’”, *Pink News*, 25 March 2014.

⁷⁶⁶ “Dubai Police Chief Denies Reports That Gay People Were Arrested at Party”, *HuffPost*, 21 March 2012.

⁷⁶⁷ “Model Gigi Gorgeous says she was detained at Dubai airport for being transgender”, *TIME*, 12 August 2016.

⁷⁶⁸ “UAE court sentences two Singaporeans to jail for cross-dressing”, *The National News*, 25 August 2017; “Two Singaporeans convicted of cross-dressing in Abu Dhabi have jail sentences reduced”, *The National News*, 27 August 2017; Human Dignity Trust, *Injustice Exposed - The Criminalisation of Transgender People and its Impacts* (2019), 24; “UAE Jails Two Singaporeans for Dressing ‘Feminine’”, *Fridae Asia*, 29 August 2017; “Singaporeans in UAE Have Sentence Reduced”, *Fridae Asia*, 30 August 2017.

⁷⁶⁹ “UAE: Stop Policing Gender Expression”, *Human Rights Watch*, 7 September 2017.

⁷⁷⁰ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uzbekistan* (accessed: 21 June 2023).

⁷⁷¹ “Rasman: O‘zbekistonda besoqolbozligi uchun qamalangan qanchaligi o‘chiqlandi” [Official: How many people have been imprisoned in Uzbekistan for homosexuality?], *Qalampir*, 22 April 2021.

prisons”, and four to “correctional prisons”. The remaining 11 were put on probation by the Ministry of Internal Affairs where they were banned from leaving their homes after dark. For some of them, they were banned from drinking alcohol, talking to certain individuals, using the internet and changing their place of residence.⁷⁷² It has further been reported that authorities have subjected six men to forced anal exams between 2017 and 2021.⁷⁷³ Moreover, a 2022 report published by ECOM, stated that the Ministry of Internal Affairs reported in 2021 that at least 13 adult men had been convicted of engaging in same-sex sexual acts and that they were serving prison sentences and undergoing “conversion therapy” or psychological treatment to “eliminate recurrent crimes and offenses”. According to the government, prisoners convicted of same-sex sexual relations must undergo psychological counseling to “protect them from repeating such offenses”.⁷⁷⁴ ECOM has claimed that five of these convictions have been made “solely on the grounds of “exchange of information between the Ministry of Health and the Ministry of Justice”, allowing the latter to “keep track” of HIV-positive men”.⁷⁷⁵

In 2019 a local activist informed ILGA World that even though only sex between adult men is explicitly criminalised, women who have sex with women are also targeted under Article 120 of the Criminal Code. This is due to the social effect of this provision, which condemns “homosexuality” in general without distinction of the involved person’s gender. In 2022 a report by the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) indicated that the extrajudicial targeting and stigmatisation of women who have sex with women remains a significant issue.⁷⁷⁶ Additionally, as in other parts of the world, criminalising provisions allow law enforcement agents to blackmail, extort, threaten and physically and sexually assault people of diverse SOGIE with impunity. Article 120 is also reportedly utilised for political ends, or as a form of extortion, with authorities utilising this provision against the protestations or demand for the protection of rights of those they target.⁷⁷⁷

SOGIE-based social stigma remains widespread as well, and conservative elements of Uzbekistani society broadly enforce social shaming on men who have sex with men, punishing them if their masculinity is “damaged” or their family’s reputation is “tarnished”. Consequently, many gay, bisexual, and transgender individuals hide their true identities for fear of persecution or discrimination. Families often force their children to conform to gender norms, seek “conversion therapies,” or confiscate passports to

prevent them from leaving the country.⁷⁷⁸ Stigma and discrimination exists even within ostensibly progressive spaces, with ECOM reporting in 2022 that at least two human rights defenders had endangered LGBTQ+ individuals seeking their help, either by outing them directly or publicly calling for such persons to be reported to the police.⁷⁷⁹

Access to justice in these cases is limited due to the repressive effect of Article 120. Victims of discrimination or violence often do not go to the police for assistance for fear of being re-victimised or outright arrested for their identities. It is further reported that access to justice for victims of hate crimes and for those charged under Section 120 remains elusive as lawyers are often reluctant to take up their cases for fear of public retaliation. It is said that lawyers who make a habit of taking on “sensitive” cases even risk disbarment.⁷⁸⁰ As such, in January 2022 the Uzbekistani Ombudsperson’s Office informed International Partnership for Human Rights (IPHR) that law enforcement agencies did not investigate any cases involving violence or discrimination against individuals based on their sexual orientation or gender identity in 2021.⁷⁸¹

Section 113 of the Criminal Code makes it an offense for someone who is knowingly HIV-positive to put another at risk of infection,⁷⁸² and multiple instances have been documented in which suspects have been subjected to forced HIV/AIDS testing and have had their charges aggravated through an apparently broad reading of this provision. Uzbekistan’s delegation to the United Nations Committee on Economic, Social and Cultural Rights (CESCR) went so far as to indicate in September 2020 that decriminalisation of consensual same-sex acts between adults would not be considered in the country, “owing to the pressing need to combat the spread of HIV”.⁷⁸³

This is far from the only instance in recent years in which UN bodies have called for reform in Uzbekistan. In 2018, the Regional Office for Central Asia of the UN Office on Drugs and Crime (UNODC) had recommended Uzbekistan to “exclude the criminalization of homosexuality, thereby bringing the term of inadmissibility of discrimination in the national law into accordance with international standards”.⁷⁸⁴

In January 2020 as part of its concluding observations to the fifth periodic report on Uzbekistan, the UN Committee against Torture (CAT) expressed concern at:

Reports that lesbian, gay, bisexual and transgender persons are subjected to violence

⁷⁷² “36 узбекистанцев были осуждены в 2021. году по статье о мужеложестве Источник: Международное партнерство по правам человека” [36 Uzbeks were convicted in 2021 under the article on sodomy. Source: International Partnership for Human Rights], *Mediazona*, 8 June 2022.

⁷⁷³ “Uzbekistan: Forced Anal Testing in Homosexuality Prosecutions”, *Human Rights Watch*, 5 August 2021.

⁷⁷⁴ ECOM, *Uzbekistan 2022- Homophobia and Persecution Encouraged In Society* (2022), 3-10.

⁷⁷⁵ ECOM, *Uzbekistan 2022- Homophobia and Persecution Encouraged In Society* (2022), 3-10.

⁷⁷⁶ “The Human Rights Situation in Uzbekistan” in ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva; ILGA, March 2019), 484; ECOM, *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 8.

⁷⁷⁷ “The Human Rights Situation in Uzbekistan” in ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva; ILGA, March 2019), 484.

⁷⁷⁸ ECOM, *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 6.

⁷⁷⁹ ECOM, *Uzbekistan 2022- Homophobia and Persecution Encouraged In Society* (2022), 7.

⁷⁸⁰ Estonian Network of People Living with HIV (EHPV), *NGO Submission In Connection with Uzbekistan’s Mid-Term Reporting On the Implementation of the 2018 UPR Recommendations* (2020), para. 50-52.

⁷⁸¹ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 18.

⁷⁸² Estonian Network of People Living with HIV (EHPV), *NGO Submission In Connection with Uzbekistan’s Mid-Term Reporting On the Implementation of the 2018 UPR Recommendations* (2020), para. 47.

⁷⁸³ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 21.

⁷⁸⁴ UNODC, *Criminal justice reforms in Uzbekistan: Brief analysis and recommendations* (2018), 17.

and torture while in detention; persecution by the police, including through entrapment schemes carried out using websites, threatening videos and extortion; and violence by private persons.⁷⁸⁵

Further, the Committee was:

Concerned that the State party indicated that it has no cases open involving violence against lesbian, gay, bisexual or transgender persons [and] about reports that the criminalization of same-sex sexual relations in Article 120 of the criminal procedure code renders lesbian, gay, bisexual and transgender persons particularly vulnerable to violence by both law enforcement officials and private persons. This is because lesbian, gay, bisexual and transgender persons are reluctant to contact the authorities to seek protection from violence for fear of being arrested.⁷⁸⁶

In March 2022, as part of its concluding observations on the third periodic report of Uzbekistan, the UN's CESCR expressed its concern about:

The criminalisation of sexual relations between consenting male adults, under Article 120 of the Criminal Code, and the prevalence of intimidation, harassment, violence and stigma against lesbian, gay, bisexual, transgender and intersex persons, which hinder their enjoyment of economic, social and cultural rights.⁷⁸⁷

Decriminalisation remains “off the table” at present, however. February 2021 saw the publication of a draft of a new Criminal Code which reportedly retains Article 120's criminalising provisions largely unchanged—under the new Article 154.⁷⁸⁸ The retention of such a provision has been defended by several government officials. By February 2022 Uzbekistan's Ombudsperson for Human Rights stated that “consensual sexual relations between men cannot be decriminalised because they contradict national values, which have evolved over centuries”, while the National Centre for Human Rights has also considered the “propaganda of homosexuality” to be a serious threat to Uzbekistani society, as of February 2022.⁷⁸⁹

In June 2021 the Chair of the Uzbekistan National Revival Democratic Party—one of the country's five “officially sanctioned” political parties—suggested the mass-expulsion of citizens of diverse SOGIE from Uzbekistan rather than arresting them and “forc[ing] them to live in a society where they are not recognised”. He claimed that dozens of

LGBT persons had thanked him for the proposal to deport them.⁷⁹⁰

Examples of Enforcement

In **January 2009** a human rights campaigner promoting HIV/AIDS awareness was arrested after authorities deemed the educational booklets on HIV-prevention he was distributing to be “incompatible with local traditions”. The booklet was not LGBT-specific but seems to have included information regarding MSM. He was convicted in **July** and sentenced to seven years in prison for “embezzlement of funds, involving minors in antisocial behaviour, molesting individuals, involving individuals with drugs, and tax evasion”. The court declared the booklet's contents “illegal” and ordered all copies seized by police and immediately destroyed, and the activist's NGO, IZIS, was further struck off the roll of legally registered organisations. It was not until **February 2010** that news of the arrest became internationally known. In **May 2010** the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that the booklet had been funded by UNAIDS and UNICEF and expressed concern that a human rights defender would be arbitrarily detained for peaceful advocacy work. A response from Uzbek officials was recorded in a **May 2011** report, in which they defended the judgement and noted the activist's “vile beliefs”. Nevertheless, the accused was released the **following month** for unknown reasons (though news only broke in **August**). He was thereafter still required to report to officials on a daily basis, stay home when not at work, and give a significant portion of his salary to the State.⁷⁹¹

In **October 2015**, a teacher from the city of Andijan complained about the lack of electricity and was threatened with being arrested for protesting. A month later he was accused of “homosexuality” by the authorities.⁷⁹²

It was reported in **December 2017** that two men living together in Tashkent had been arrested. They were subjected to invasive anal examinations to “prove” that they engaged in same-sex acts regularly, but details on their charges or sentencing could not be identified at the time of publication.⁷⁹³

In **July 2018** local organisations reported that police arrested a bisexual man after they burst into his apartment and filmed him having sex with his male partner. Police officers subjected the victim to physical abuse and threatened him with imprisonment under Article 200 of the

⁷⁸⁵ Committee against Torture, *Concluding observations on the fifth periodic report of Uzbekistan*, CAT/C/UZB/CO/5 (2020), para. 63.

⁷⁸⁶ *Ibid.*

⁷⁸⁷ Committee on Economic, Social and Cultural Rights, *Concluding Observation of the Committee on Economic, Social and Cultural Rights on Uzbekistan*, E/C.12/UZB/CO/3 (2022), para. 20.

⁷⁸⁸ “Uzbekistan: Gay Men Face Abuse, Prison”, *Human Rights Watch*, 23 March 2021.

⁷⁸⁹ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 21.

⁷⁹⁰ “Алишер Кадыров заявил, что представители ЛГБТ-сообщества десятками благодарили его за предложение по их выссылке из Узбекистана” [Alisher Kadyrov said that dozens of LGBT community representatives thanked him for the offer to expel them from Uzbekistan], *Podrobno*, 9 June 2021.

⁷⁹¹ “Anti-AIDS Campaigner Serving 7-Year Sentence In Uzbekistan”, *RFE-RL*, 24 February 2010; “Sex Education Deemed Illegal in Uzbekistan”, *Civicus*, 9 May 2011; Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Frank La Rue: Addendum: Summary of cases transmitted to Governments and replies received, A/HRC/17/27/Add.1 (2011), 315-320; “Uzbek AIDS Activist Freed From Jail”, *RFE-RL*, 31 August 2011.

⁷⁹² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷⁹³ “Uzbekistan: Gay Couple Arrested for Engaging in Illegal Relations”, *Eurasianet*, 4 December 2017.

Criminal Code unless he paid a substantial amount of money. He paid the bribe and was released without any charges. He later discovered that his partner had cooperated with the police and set him up, possibly to avoid facing charges and imprisonment himself.⁷⁹⁴

In **August 2019** a human rights activist published a video to social media urging the President of Uzbekistan to repeal Section 120 criminalising same-sex sexual activity. As a result, police tracked down a friend of the activist and blackmailed him into revealing his whereabouts. The activist was arrested and beaten severely in detention. He paid a fine of around USD 2,000 to have an investigation against him closed, whereafter he fled the country.⁷⁹⁵

In late **2019** two teenage boys were arrested after they were reported to police for kissing in a public park. Police searched their phones for incriminating evidence and threatened them with charges under Section 120, though the mother of one of the boys paid a bribe to secure their release.⁷⁹⁶

A young man was apprehended in **2020** in Tashkent, Uzbekistan's capital, for allegedly providing sexual services in exchange for money, and was subsequently subjected to a colonoscopy procedure and forced HIV and STI testing. He was charged under Articles 120 and 113 of the Criminal Code and sentenced to one and a half years of house arrest by the Yunusabad District Court. He was released early, on **21 March 2021**, as part of Uzbekistan's *Navruz* Spring Equinox celebrations.⁷⁹⁷

In **2020** a man stated that in an **undisclosed year** he was charged and sentenced to several years' imprisonment under Article 120 and other Articles of the Criminal Code. During his pre-trial detention he suffered from harsh physical and sexual abuse by other detainees and police officers. He also reported that individuals of diverse SOGIE were segregated from other prisoners and, as a result, subjected to all kinds of violence and mistreatment. The man was released early, after serving only part of his sentence. Further details are not known.⁷⁹⁸

According to local sources, in **2020** police arrested a man after he was accused of stealing a piece of jewellery from his same-sex partner. During interrogation, officers questioned the accused about his sexual orientation and threatened him with undergoing a medical examination to prove that he had engaged in same-sex acts. He eventually confessed and resorted to bribing the officers, after which he was released, and no further charges were brought against him.⁷⁹⁹

In **December 2020** a gay man encountered another man through social media and arranged a meeting in the town centre. Unbeknownst to him, the man he met was a law enforcement officer. During their encounter, the officer

confiscated the individual's phone with the intention of seeking evidence pertaining to his sexual orientation. Despite finding nothing incriminating, the officer then resorted to blackmail and threatened to initiate a criminal case against him under Article 120 of the Criminal Code unless he paid him USD 300. The man complied, though this did not put an end to the abuse, as the police officer subsequently subjected the individual to ongoing harassment, extorting more money from him under constant threat of outing. No further information is known.⁸⁰⁰

In **2021**, according to local sources, police arrested three men in a café, suspecting them of being gay. They were threatened and subjected to physical and psychological abuse. The officers confiscated one of the men's phones to search for incriminating evidence related to his sexual orientation. Following this, the police threatened to open a criminal case against him and expose his sexual orientation to his wife unless he paid them a substantial amount of money, which he ultimately did. He was released and the police informed him that they would not press charges against him. The fate of the other two men remains unknown.⁸⁰¹

In **January 2021** a young gay man was detained by the police under Article 131 of the Criminal Code. He was accused of running a brothel; however, his friends insist that the real reason for his detention was that he had in the past attempted to help other LGBTQ+ people who were in trouble with the police. No further details are known.⁸⁰²

On **19 February 2021** an individual, reported as being a man, was entrapped online by a police officer who came to his apartment under the pretence of wanting to have sex, but instead arrested him and seized his phone, a wig and makeup. He was charged under Article 120, but charges under Article 113 were added when it was found that he was living with HIV. Over a two-month period he was routinely summoned for interrogations, anal exams, and other cruel and degrading treatment, which included being outed to his friends and family. In a closed trial on **26 May** the accused was sentenced to two years' house arrest under Article 120, and prohibited from leaving the city of Tashkent, using the internet, and leaving home after 22:00. Sexually explicit videos on his phone were reportedly used as evidence in court and to target his boyfriend.⁸⁰³

On **19 February 2021** another man—seemingly the boyfriend of the accused listed above—was called to a police station at lunch time and informed that his boyfriend had been arrested “on suspicion of prostitution and sodomy”, and that sexual videos on his phone identified the man as an additional suspect. The man was subjected to the same degrading treatment over the next two months, which included HIV testing, anal examinations, and

⁷⁹⁴ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 10.

⁷⁹⁵ Estonian Network of People Living With HIV (EHPV), *NGO Submission In Connection with Uzbekistan's Mid-Term Reporting On the Implementation of the 2018 UPR Recommendations* (2020), para. 53.

⁷⁹⁶ “Uzbekistan: Gay Men Face Abuse, Prison”, *Human Rights Watch*, 23 march 2021.

⁷⁹⁷ Information supplied by the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM).

⁷⁹⁸ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 12.

⁷⁹⁹ *Ibid.*

⁸⁰⁰ *Id.*, 13.

⁸⁰¹ *Id.*, 10.

⁸⁰² *Id.*, 11.

⁸⁰³ Information supplied by the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM); “Anal tests forced on men accused of homosexuality”, *Mamba Online*, 6 August 2021.

interrogations of his friends and family. Being outed publicly caused him to lose his job. He was allegedly further threatened to give up the names of other gay men and MSM residing in Tashkent. On **26 May** he was also sentenced to two years under house arrest, but at a location over 500 km from that of his boyfriend.⁸⁰⁴

In **March 2021**, widespread and conflicting reports from both local and international media indicated that a group of anti-LGBT protestors had gathered in Tashkent to disrupt a group of activists calling for the easing of criminalising legislation—as well as a group which had gathered to celebrate Japanese anime and K-Pop (Korean pop music). During this, members of the group assaulted a blogger and SOGIESC rights activist. The attackers were detained and legal proceedings were initiated on the grounds of “hooliganism”, with four of them later placed under house arrest, but despite calls from the United Nations and other international stakeholders the authorities have refused to investigate the incident further, implying strongly that if the victim had not been an advocate for SOGIESC rights, he would not have been targeted, and that the anime and K-Pop fans may have been a sign of “homosexual influence” in the country. While recovering in hospital, police reportedly searched the blogger’s home and computer, and after he recovered placed him under house arrest for “slander with malice or malicious intent”.⁸⁰⁵ In **January 2022**, he was sentenced by the Mirabad District Court in Tashkent to three years’ “restricted liberty” on charges of “slander for selfish or other base motives,” likely for his criticism of the government’s policies. While able to leave his home, he remains subject to a daily curfew and may not access the internet. The authorities have also refused to return his passport, effectively trapping him within the country’s borders.⁸⁰⁶

Local sources claimed that in **April 2021** a man was taken to the police station by two individuals after he was accused of sodomy. One of them identified himself as a senior officer at the local Department of Internal Affairs branch. The Internal Affairs officer alleged that he knew of correspondence between the victim and another man, which included intimate photographs and sexually explicit messages. The police threatened to expose the victim’s sexual orientation to his colleagues and family, and so he decided to confess to engaging in same-sex acts. Consequently, the police threatened to charge him under Article 120 of the Criminal Code. While he was initially released, a few days later he was summoned to the police station again, where the inspector informed him that “a bribe of 5,000 US dollars could resolve the issue”. He agreed to pay, and so no criminal case was initiated.⁸⁰⁷

In **June 2021** law enforcement officers in Samarkand detained a person on the street because “they were dressed in female clothes”. During the arrest, the officers subjected the individual to insults and degrading treatment before taking them to the local police station. The entire ordeal was filmed and disseminated on a Telegram Channel with around 300,000 subscribers, exposing the detained person to a vast audience. At time of publication, the whereabouts and condition of the victim remains undisclosed, raising concerns from local activists about their wellbeing and safety.⁸⁰⁸

On **26 December 2021** a local news channel reported that in Tashkent, traffic police stopped and detained two transgender persons. The report disclosed the identities of both individuals to the public. One of the officers told media: “The citizen who introduced herself as a woman turned out to be a man. This is why we are now taking measures to address the situation, administrative records will be drawn up, and an investigation is being conducted”. No further details of this case are known at present.⁸⁰⁹

According to a report by ECOM, a transgender individual was sentenced in **December 2021** to a five-year period of “restricted mobility”. This sentence prohibits the individual in question from venturing out after sunset or leaving the city of Tashkent unless granted authorisation from the police. On **22 February 2022** the Tashkent City Court rejected the accused’s appeal against the sentence.⁸¹⁰

In **February 2022**, police in the Dzhizzak region of Uzbekistan launched a crackdown on gay and bisexual men, targeting two social media groups that served as meeting platforms for the community. The police accused the groups of “conducting propaganda for homosexuality”, citing laws against “sodomy” (Article 120), “spreading a venereal disease or HIV/AIDS” (Article 113) and “production, import, dissemination, advertising and presentation of pornographic products” (Article 130). An official letter signed by the head of the Dzhizzak Regional Department of the Ministry of Internal Affairs demanded that the active participants of the group and their private details, including HIV/AIDS diagnoses, be handed over within ten days. More concerning, the letter also called for the monitoring of participants’ whereabouts through GPS tracking.⁸¹¹

On **1 February 2022**, videos of police detaining and interrogating two young gay men in the Mirzo Ulugbek District of Tashkent were disseminated on social media. In the videos, the police aggressively questioned the pair, whose faces are minimally blurred and thus still recognisable. Their names and other personal details were

⁸⁰⁴ *Ibid.*

⁸⁰⁵ “БМТ Тошкентдаги “ташвишли воқеалар”ни холис текширишга чақирди - video O'zbekiston ...” [UN calls for impartial investigation of “disturbing events” in Tashkent - video Uzbekistan ...], *BBC News*, 31 March 2021; “Toshkent markazida LGBT vakillari deb o'ylab, yosh yigit va qizni kaltaklashda ayblanayotganlarning 4 nafari uy qamog'iga olindi” [Four people accused of beating a young man and a girl have been placed under house arrest in central Tashkent on suspicion of being LGBT people.], *Daryo*, 1 May 2021; “LGBT targ'ibotchisi Miraziz Bozorov qamaldimi?” [Was LGBT propagandist Miraziz Bozorov imprisoned?], *Qalampir*, 2 May 2021; OHCHR, *AL UZB 3/21* (2021).

⁸⁰⁶ “Uzbekistan: Miraziz Bazarov charged with slander in blatant violation of Uzbekistan’s international obligations to respect the right to freedom of expression”, *IPHR Online*, 27 September, 2021.

⁸⁰⁷ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 13.

⁸⁰⁸ *Id.*, 14.

⁸⁰⁹ *Ibid.*

⁸¹⁰ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Uzbekistan 2022- Homophobia And Persecution Encouraged In Society* (2022), 3.

⁸¹¹ Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR), *Like living on a different planet: Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan* (2022), 8.

also publicised. Their current whereabouts or whether any charges were brought against them remain unknown.⁸¹²

According to information outlined in a 2022 report launched by ECOM, a man was accused by a police officer of intending to engage in same-sex activities in a park when the officer discovered condoms and lubricant in his possession. The officer initially stopped the man on the grounds that he looked like a wanted person. Subsequently, the police stole the victim's money and told him "not to get caught again".⁸¹³

According to the 2022 ECOM report, a gay sex worker was charged under the Articles 120 and 113 of the Criminal Code. The victim had been entrapped by police officers who are alleged to have physically abused him, filmed him during his interrogation, forced him to disclose a list of his sexual contacts and other LGBTQ+ acquaintances, and subjected him to a forced anal examination and STI tests. He was forced to accept a State-appointed public defender during his trial, and was sentenced to three years at a "general regime colony".⁸¹⁴

Based on the findings of ECOM's 2022 report, police officers threatened a same-sex couple with charges under Article 120 of the Criminal Code unless they paid a substantial amount of money "to settle the matter". Neighbours had called the police after they heard the couple arguing.⁸¹⁵



Criminalising Provisions

Article 264 of the Penal Code (1994) criminalises *liwat* (sodomy), which is defined as "the contact of one man to another through his posterior", and determines that "both sodomites whether males or females are punished with whipping of one hundred strokes if not married". The Article further states that it is "admissible to reprimand it by imprisonment for a period not exceeding one year, punishment by stoning to death if married".⁸¹⁶

Article 268 also criminalises *sihaq* (lesbianism), which is defined as "intercourse between one female and another". This carries the potential punishment of imprisonment for a period not exceeding three years.⁸¹⁷

Articles 270 and 271 also outline punishments relating to "honour" and "disgrace", and Article 279 similarly criminalises "immorality or prostitution".⁸¹⁸

Furthermore, Article 58(2) of the Decree Issuing the Executive Regulations for Law No. 48 of 1991 Regarding the organisation of Prisons (1991), people arrested for "homosexuality charges" are kept in separate cells, whose conditions, according to the United States Institute for Peace, are "extremely poor, bordering on inhumane".⁸¹⁹

Enforcement Overview

ILGA World has identified 13 individual examples of criminal enforcement between 2011 and 2023, however, this number surpasses 360 cases when instances of enforcement that could not be entirely disaggregated into individual stories are taken into account. ILGA World also notes at least four instances of enforcement of the death penalty between 2012 and 2014 by radical religious militia groups holding *de facto* control over parts of the country.

Criminalising provisions in Yemen are enforced variously by the internationally recognised Government of Yemen and numerous separatist or insurgent forces. These include the Houthi, the Southern Transitional Council, Al Qaida, and myriad smaller groups which each maintain some level of *de facto* control over part of the territory of Yemen.⁸²⁰ With the country's civil war and resulting humanitarian crisis ongoing but ever-shifting, providing an up-to-date and detailed account of the conflict falls well outside of the scope or capacity of this report. It must be noted, however, that ILGA World's findings indicate that all belligerents in this conflict have meted out violence or criminal sanction against persons of diverse SOGIE in the territory they control, and the United Nations found in 2017 that all parties have more broadly breached international humanitarian law at various points.⁸²¹

Survivors of the conflict who later fled Yemen report that both sides work to target people based on their sexual orientation, gender identity or gender expression, detaining or otherwise abusing them, but claim that they felt more at risk of persecution from Houthi authorities, which seem to have been more proactive in their criminal enforcement efforts.⁸²² Further, in 2019 the UN Group of Eminent International and Regional Experts on Yemen⁸²³ expressed concerns about the impact of a "resurgence of oppressive gender norms as a result of the conflict on persons with

⁸¹² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸¹³ Irina Federovich: Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM), *Uzbekistan 2022- Homophobia and Persecution Encouraged In Society* (2022), 9.

⁸¹⁴ *Id.*, 10.

⁸¹⁵ *Id.*, 11.

⁸¹⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Yemen* (accessed: 18 June 2023).

⁸¹⁷ *Ibid.*

⁸¹⁸ *Ibid.*

⁸¹⁹ United States Institute for Peace, *Prisons in Yemen* (2015), 53; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Yemen* (accessed: 18 June 2023).

⁸²⁰ "Yemen | The World's Worst Civil War?", *Prof James Ker-Lindsay (YouTube)*, 5 February 2021; "What's going on in Yemen and is the war getting worse? | Start Here", *Al Jazeera English (YouTube)*, 14 February 2022; ACLED, *Mapping Territorial Control in Yemen*, (accessed 16 May 2023).

⁸²¹ United Nations Security Council, *Letter dated 27 January 2017 from the Panel of Experts on Yemen addressed to the President of the Security Council*, S/2017/81.

⁸²² Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014: Detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/CRP.7, paras. 217 - 221.

⁸²³ This Group of Eminent International and Regional Experts was in operation between 2017 and 2021. In September 2017, the Human Rights Council requested the High Commissioner (through Resolution A/HRC/RES/36/31) to "establish a Group of Eminent International and Regional Experts on Yemen. The Group came to an end after a negative vote to renew its mandate at the Human Rights Council and was terminated at the close of its 48th session in October of 2021. For more information see: OHCHR, *Statement by Group of Experts on Yemen on HRC rejection of resolution to renew their mandate* (2021).

non-conforming sexual orientations and gender identities".⁸²⁴

Between 2016 and 2020, the Group documented several instances of arbitrary arrests carried out by police forces and the Criminal Investigation Department (CID) of the *de facto* Houthi government in Sana'a (during a so-called "campaign against immorality") and by the internationally-backed Security Belt forces. Victims interviewed by the Group included trans men, trans women, gay men and non-binary people. These arrests were usually followed by a plethora of human rights violations, including torture, sexual violence, forced anal or genital examinations (a pseudo-scientific means to "confirm" their sex or whether they had been penetrated in their anus), and being raped with bottles. During interrogations, victims were subject to beatings, electrocution, whipping with cables, hanging for long periods of time, dousing in cold water, burning with cigarettes, beating their sexual organs, interfering with their buttocks, and forced nudity. Among the charges brought against victims were "spreading immorality and homosexuality", "corrupting society", and "prostitution", among others.⁸²⁵

Examples of Enforcement

Between 2011 and 2012, as many as 316 gay men across 18 of Yemen's provinces were reportedly arrested on charges of homosexuality, with 95 cases in 2011 and 63 in 2012, though the specific details of many of these incidents remain unknown.⁸²⁶

Two men in the city of Huta were summarily executed in two separate incidents in **June** and **July 2013**, on suspicion of being gay by members of the Ansar al Sharia militant group (a local affiliate of al Qaeda). The group held *de facto* control over Huta at the time and imposed a form of Sharia law.⁸²⁷

In **January 2014** another suspected gay man was summarily executed by members of Ansar al Sharia in the province of Lahj. Reportedly, at least 35 such killings had taken place between 2012 and 2014.⁸²⁸

In 2015 it was reported that four gay men were executed in the city of Aden, after Ansar al Sharia took over parts of the city.⁸²⁹

According to the UN Group of Eminent International and Regional Experts on Yemen, 17 people were arrested in Sana'a by members of the Houthi police and Criminal Investigation Department (CID) between 2016 and 2020. The 17 people reportedly comprised of 11 gay men, two trans women, one trans man, and three non-binary individuals. Details of individual incidents are unclear

except for reports that all of the people involved were arbitrarily arrested and held for extended periods without charge, with some made to undergo anal and vaginal examinations and others subjected to electric shocks as a means to "cure" them.⁸³⁰

In **June 2019** a Yemeni blogger fled to Saudi Arabia after facing threats and violence from armed groups of uncertain affiliation, but was shortly arrested again in Saudi Arabia after posting online in support of SOGIESC rights. The Saudi court claimed that the accused confessed to fleeing Yemen for "dressing as a woman". The blogger was due to be deported back to Yemen where further extrajudicial violence surely awaited. It is unclear if this had occurred by the time of publication.⁸³¹

On **10 April 2020** it was reported that four individuals (reported as being men) were arrested in Ibb Governorate (seemingly under Houthi control at the time). They were accused of wearing women's clothing, though this was allegedly only to put on a performance at a relative's wedding. The East Ibb Court sentenced one of the accused to two years' imprisonment, and two others to a year and a half each. The fourth was only sentenced to the time which had elapsed during pretrial detention and seems to have not spent any further time behind bars.⁸³²

In **August 2020** the story of a trans woman was publicised. At an unknown date she was apprehended by police for "the mere shape of her eyebrows" and was tortured during a 10-day detention period in an attempt to get her to confess to being a sex worker and engaging in same-sex sexual activity. She was then transferred to the Criminal Investigation Department (CID) where she was similarly tortured, by means which included waterboarding, for 10 days. Her family paid a bribe of 300,000 Yemeni rials (about USD 1,200) to put an end to her torture and have her case formally forwarded to the Public Prosecution office. The family, however, did not approve of her gender identity and severely abused her because of it. She spent 60 days in pretrial detention before a court sentenced her to one year in prison plus 100 lashes, which were implemented immediately in the courtroom. The judge allegedly also berated her lawyer for being willing to defend her in the first place. By **June 2021** she had managed to flee the country.⁸³³

In early **October 2020** it was reported that a "gay wedding" in the Crater region of Aden (an area under the control of the Central Government / Southern Transitional Council) had led to a brawl with angry community members. The two grooms were reportedly then detained by police, though authorities would later state that the so-called wedding was just a party and that they would be searching

⁸²⁴ Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014: Detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/CRP.7, para. 214.

⁸²⁵ *Id.*, para. 217-221.

⁸²⁶ "No Place for Gays in Yemen", *IPS News*, 16 August 2013.

⁸²⁷ "Man accused of being homosexual shot dead in Yemen", *The National News*, 16 June 2013; "Al Qaida suspects attack 'gay' man in Yemen", *Gulf News*, 20 July 2013.

⁸²⁸ "Al-Qaida kills another Yemeni man suspected of being gay", *LGL*, 8 January 2014; Ahmed Al-Haj, "Yemen: Gunman kills man suspected of being gay", *AP News*, 7 January 2014.

⁸²⁹ "4 Murders of Gay Men in Yemen", *Huffington Post*, 11 September 2015.

⁸³⁰ Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014: Detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/CRP.7 (2020), para. 216-222.

⁸³¹ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁸³² "هذا مصير شبان مثليون باليمن اعلنوا زواجهم بالعلن" [This is the fate of gay men in Yemen who announced their marriage in public], *SA 24*, 10 April 2020.

⁸³³ "This body does not represent me: A Yemeni transwoman's story", *My Kali*, 1 August 2020; "Fleeing persecution: Transgender Yemeni woman speaks out", *France 24*, 30 June 2021.

for the instigators of the rumour which had led to the wrongful arrest.⁸³⁴

In **October 2020**, a newspaper reported that a man had been punished with 100 lashes in a public square after the Specialised First Instance Criminal Court of Sana'a (a court reportedly run by Houthi forces) found him guilty of practising "sodomy" with another man (who was himself sentenced to death for other crimes).⁸³⁵

On **13 September 2021** it was reported that the Public Prosecutor of Sana'a referred 25 individuals to court for "imitating women and inciting others to practise it". The judge claimed that the accused were part of "an organised cell to commit immoral crimes" such as "sodomy", and formed part of a "soft war" against conservative Yemeni society. Reporting at the time indicated that only four people were in custody, with the remaining 21 being declared fugitives.⁸³⁶

On **19 February 2022** the security services of the city of Mukalla (a city under the authority of the Southern Transitional Council) announced the arrest of two young

men who had posted a video of themselves kissing on social media. The Criminal Investigation Department of the city indicated that they had investigated the content and subsequently arrested them for further investigation. The incident was described as "violating public morals [and] forbidden by law".⁸³⁷

It was reported on **5 November 2022** that authorities had "thwarted" a "gay party" in Mualla at some point, though further details are not known.⁸³⁸

On **1 January 2023** it was reported that four men were arrested in the Al-Zahra Directorate of Al-Hodeidah for "attempts to spread the phenomenon of homosexuals". Local media reported two of the men as being the "first" same-sex married couple in Yemen. Al-Hodeida is under the de facto control of the unrecognised Houthi government, the Interior Ministry of which confirmed the arrest in a statement. Details on the prosecution and punishment have not been disclosed, however there has been an influx of calls for the death penalty from members of the public.⁸³⁹

⁸³⁴ عاجل اول زواج مثليين في عدن والامن يعقل " [The fact that a "gay" marriage was established in Aden], *Al Mashhad Al Yameni*, 2 October 2020; "العروسين تفاصيل خاصة" [Urgent first gay marriage in Aden, security forces arrest the newlyweds, private details], *Yemen Vibe News*, 2 October 2020.

⁸³⁵ "صنعاء... الإعدام لمدان بحطف واغتصاب 92 شخصا واستخدامهم في وقائع نصب" [Sanaa... the execution of a convict of kidnapping and raping 92 people and using them in fraud cases], *Ansar Allah*, 11 October 2020.

⁸³⁶ "Referring 25 accused of immoral crimes to trial", *26 September net*, 13 September 2021.

⁸³⁷ "TikTok أمن المكلا يلقى القبض على شابين نشرا مقطع فيديو منادى للادب على برنامج تيك توك" [Mukalla security arrests two young men who posted an immoral video clip on TikTok], *Al Masdar Online*, 20 February 2022.

⁸³⁸ "ضبط شحنة ألعاب تروج للمثلية في عدن" [A shipment of games promoting homosexuality seized in Aden], *Yemen Vibe News*, 5 November 2022.

⁸³⁹ "المليشيا تقر بحدوث زواج مثليين في منطقة خاضعة لسيطرتها غرب اليمن وتزعم القبض على مرتكبيه" [The militia acknowledges the occurrence of same-sex marriage in an area under its control in western Yemen and claims to have arrested the perpetrators], *News Line*, 2 January 2023. "شاهد.. يمنيون غاضبون يطالبون الحوثيين بإقامة الحد على رجلين اعلنا زواجهما (فيديو)" [Watch .. Angry Yemenis demand the Houthis to impose the death penalty on two men who announced their marriage (video)], *Press Bee*, 1 January 2023.



Europe

While no UN Member States in Europe have legal frameworks explicitly criminalising consensual same-sex sexual acts, state-sponsored targeting of LGBTQI+ persons—trans gender gender-diverse persons in particular—has been noted in four countries to the point where they have been included in this report.

Given the complexity of the situations on the ground, many of the cases outlined in this chapter exist within a grey area which might not otherwise fall within the scope of this publication. These entries highlight the myriad ways in which the very concept of legislative “criminalisation” may be read or problematised.

In the first edition of this report, the Chechen Republic (Chechnya) was included as a standalone entry in Europe, despite the growing legal restrictions on sexual and gender diversity in the rest of Russia. Legislation in Russia is now progressively resulting in the deprivation of liberty of several human rights defenders and persons of diverse sexual orientations, gender identities and expressions. This entry has thus been expanded to better reflect the situation in the Russian Federation, which, despite the

increasing restrictions and shrinking civic space, technically remains a “non-criminalising” country.

A notable exclusion from the country entries in this chapter is Belarus, which has a documented history of targeting and sometimes detaining activists working on issues related to sexual and gender diversity,¹ and has sought of late to emulate Russia’s legislation banning “propaganda of non-traditional relationships”.² In effect, the exclusion of Belarus and other jurisdictions from this report does not reflect a lack of State-sponsored persecution.

Many other countries in Europe not included here are also currently seeing a rise in detractor activities, and the passing of regressive legislation. The targeting of individuals for their real or perceived sexual orientations, gender identities and gender expressions continues to be an issue of concern in several countries, notably through legislative, religious and media attacks on freedom of expression, freedom of assembly, and legal gender recognition. While these developments are gravely concerning, they fall outside the thematic scope of this report.



Azerbaijan

Enforcement Overview

Though Azerbaijan does not expressly criminalise consensual same-sex sexual acts, several provisions from the Code of Administrative Offences appear to be used to *de facto* criminalise trans people: Article 308 (prostitution), Article 510 (hooliganism), and Article 535(1) (resisting police orders).

The Nafas LGBT Azerbaijan Alliance has observed a discernible pattern in the detention of trans people. Authorities tend to invoke Article 308, which pertains to prostitution, as the rationale for the arrests. However, it is noteworthy that upon closer examination in subsequent official charges, there is no reference to sex work. Instead, alternative transgressions under the Code of Administrative Offences, particularly under Articles 510 and 535(1), are documented. The broader public perception maintains a hostile stance toward sex work, perceiving it as detrimental to public health. Consequently,

it becomes more expedient for law enforcement authorities to justify their actions by citing concerns related to public health, rather than invoking offenses such as “obeying the lawful demand of an officer.”³

The violent crackdowns against persons of diverse sexual orientations, gender identities, and gender expressions on the presumption of sex work or other “immoral practices” documented below seem to be only one form of political action taken against the already stigmatised group, with government officials and political leaders espousing anti-SOGIE views and policies.

In 2020, for example, a video conference between several opposition-party politicians leaked in which some espoused a wish that gay people had been exterminated in the holocaust.⁴ In the same line, one parliamentarian reportedly stated in May 2022 that “society should completely isolate LGBT representatives and feminists”, and another saying that “they must be either disciplined or expelled from the

¹ See, *inter alia*: Immigration and Refugee Board of Canada, *Belarus: Attitude towards homosexuals and lesbians in Belarus; state protection available to non-heterosexuals in Belarus with special attention to Minsk (2000-2005)* (2006); “Belarus: Gay pride march dispersed, participants arrested and fined”, *Human Rights House Foundation*, 21 May 2010; “Better a dictator than gay,” Belarus President Alexander Lukashenko says”, *NBC*, 5 March 2012; “Statement on LGBT Harassment and Political Prisoners in Belarus”, *US Mission to the OSCE*, 14 February 2013; “Gays in Belarus face reprisals for activism”, *San Diego Union-Tribune*, 15 February 2013; “Belarus: beaten up by police for being gay”, *Amnesty International*, 24 June 2014; “Gay men reportedly being detained in Belarus after police raid clubs”, *Attitude*, 26 October 2017; “Police raid gay bars in Belarus, detain patrons”, *SBS*, 27 October 2017; “Crackdown on human rights defenders and organisations”, *Frontline Defenders*, 14 July 2021; “The Stark Situation for LGBTI Rights in Eastern Europe and Central Asia”, *ILGA-Europe*, 17 September 2021; *ILGA-Europe, Annual Review: Belarus (2022)*.

² *ILGA World, ILGA World Database: Legal barriers to freedom of expression - Belarus* (accessed: 5 June 2023); *ILGA World, ILGA World Database: Legal barriers to freedom of association - Belarus* (accessed: 5 June 2023).

³ *ILGA World: Zhan Chiam et al., Trans Legal Mapping Report 2019: Recognition before the law* (2020), 118-120.

⁴ “Leaked Zoom meetings reveal homophobia and discord among Azerbaijan’s opposition”, *OC Media*, 18 May 2020.

country”.⁵

Towards the end of 2021, the State Committee for Family, Women and Children and Social Research Centre—both established by Presidential Decrees—published a joint report on “family relations” in Azerbaijan, which claimed that

“family values are in decline, countermeasures are lacking, or the necessary scale and intensity are not provided, and the regulatory mechanisms of the State in the field of family stability, demography and generation growth are destroyed”.

For this, the report blames the so-called expansion of radical social-gender and anarcho-feminist movements”, “large-scale propaganda of sexual minorities, the LGBTIQ movement”, and “centres directed from Western countries allocating millions of funds to this cause”.⁶

In November 2022 Türkiye and Azerbaijan signed a joint “Action Plan on Cooperation in the field of policy on family, women and children”, which sets out a series of cooperative measures between both countries aimed at strengthening “family values”.⁷

In 2023 some lawmakers also pushed for the adoption of legislation akin to Russia’s “anti-propaganda” law, which would limit not only events, advocacy and publications related to sexual and gender diversity, but possibly also serve to justify the arrest of visibly trans or gender-diverse persons.⁸

Of further concern is the prevalence of extortion and blackmail from police, and surveillance of LGBTQI+ individuals and activists by intelligence officials. Reporting indicates that the government of Azerbaijan has gone so far as to use Israel’s “Verint” spyware to identify the sexual orientations of suspected dissidents on social media.⁹

With the government and police either contributing directly to the crackdown or turning a blind eye to the rising extrajudicial violence against persons of diverse sexual orientations, gender identities and gender expressions, human rights defenders and journalists, the Parliamentary Assembly for the Council of Europe passed a resolution in May 2022 voicing its concern. In June 2023 the Parliament of the European Union followed suit, calling on Azerbaijan to take action to stem the violence and protect the LGBTQ+ community.¹⁰

Examples of Enforcement

Throughout **September 2017** Azeri authorities engaged in a mass-crackdown of suspected gay and bisexual men, as well as transgender women. Human Rights Watch verified the accounts of 45 individuals at the time, while other

sources alleged up to 100 detainees. On **2 October**, by which time most detainees had been released, a joint statement by the Interior Ministry and Prosecutor General’s Office indicated 83 people had been arrested for “petty hooliganism” and “disobeying police orders”. One of the lawyers interviewed by Human Rights Watch said that despite the official charges, “[i]n some written official materials [...] police had written that these individuals were gay or transgender” or were engaging in sex work. The sheer scale of the arrests meant verifying details of individual cases remained difficult, and many were denied access to legal representation as a result of the pace of court proceedings. Some were sentenced to up to 15 days in jail and others were fined. Many victims have alleged beatings, electric shocks, and attempts to extort bribes while in police custody.¹¹

11 gay and transgender individuals were also reportedly arrested in **October 2017**, possibly as part of the crackdown highlighted above, though all appear to have been released after a few hours in detention.¹²

In **April 2019** four transgender women were detained in an apparent crackdown in the capital, Baku, though it is unclear how many individual instances of enforcement occurred. At least one trans woman was arrested when she went to a local hotel to meet a client, but found police waiting for her there instead. Local activists and human rights lawyers have indicated that transgender sex workers are disproportionately targeted, and that the detainees in these incidents were verbally abused by police and forced to undergo STI testing. Activists also claimed that perhaps another dozen trans women were being held at the time, though details are unclear. Two of the trans women in question were fined, while the other two were sentenced to 15 days behind bars for “hooliganism” and “resisting police orders”.¹³

Around **March 2020** police arrested 10 people at an International Women’s Day rally, which State-sponsored media had called “prostitution and LGBT rights in the name of feminism” and calling the participants “immoral AIDS viruses in the streets of Baku”. The detainees were transported over 100km away from the city and released without being charged.¹⁴

In **March 2020**, the Baku Head Police Department shared that it detained a number of sex workers and “sexual minorities” in Sabunchu, and subjected them to forced “medical examinations”.¹⁵

According to Human Rights Watch, in **April 2020** police detained around 14 gay men and transgender women, claiming they engaged in illegal sex work. At least some were entrapped online by police pretending to be clients, and then subjected to HIV and STI testing. They were also charged with “hooliganism” and “disobeying police orders”, with some fined and others sentenced to 15 days’

⁵ Nafas LGBTI Azerbaijan Alliance & ECOM, *Shadow Report: Universal Periodic Review Fourth Cycle Azerbaijan* (2023), 9-10.

⁶ *Id.*, 4.

⁷ ILGA-Europe, *Country Profile: Azerbaijan* (2023).

⁸ “In Azerbaijan, violence against LGBTQ+ people continues unabated”, *Global Voices*, 27 May 2023.

⁹ Nafas LGBTI Azerbaijan Alliance & ECOM, *Shadow Report: Universal Periodic Review Fourth Cycle Azerbaijan* (2023), 4-5; 10-11.

¹⁰ ILGA-Europe, *Country Profile: Azerbaijan* (2023); “Avropalı parlamentarlar Azərbaycan hakimiyyətini LGBTİ icmasına qarşı təzyiqləri araşdırmağa çağırırlar” [European parliamentarians call on the Azerbaijani authorities to investigate the oppression of the LGBTI community], VOA, 8 June 2023.

¹¹ “Outcry as Azerbaijan police launch crackdown on LGBT community”, *The Guardian*, 28 September 2017; “Azerbaijan: Anti-Gay Crackdown”, *Human Rights Watch*, 3 October 2017.

¹² ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 120.

¹³ “Fresh arrests evoke chilling memories for Azeri LGBT+”, *Reuters*, 3 April 2019.

¹⁴ Information supplied to ILGA World by Nafas LGBTI Azerbaijan Alliance.

¹⁵ Nafas LGBTI Azerbaijan Alliance & ECOM, *Shadow Report: Universal Periodic Review Fourth Cycle Azerbaijan* (2023), 12.

imprisonment, though those who were jailed were released and fined instead upon appeal. Given the similarities between this case and the reports of a crackdown one year prior, it is not entirely clear if both indeed represent separate incidents.¹⁶

In **July 2020** police detained several transgender persons in Baku, alleging that they were promoting drug use on social media. The police filmed the testimony of the detainees, streaming it on State media. Activists have alleged this was done as a deliberate attempt to villainise the LGBTQI+ community in Azerbaijan.¹⁷

Ahead of the Women's Day march in **2021** police allegedly detained two LGBTQI+ activists in a coffee shop before any gatherings for the event had even taken place. The authorities are said to have ultimately detained up to 20 protestors at the event, using disproportionate force to do so.¹⁸

An LGBTQI+ rights activist was threatened with arrest in **March 2022** at an International Women's Day rally for wearing a rainbow facemask. When he asked police why he had to remove the mask, they replied: "You know why, but if you insist, we can provide an answer at Police Station No. 9".¹⁹

On **24 August 2022** two transgender women were arrested in Baku and sentenced to 10 days' administrative detention for "making noise". While imprisoned, authorities shaved their heads.²⁰

A trans woman's testimony, reported on **1 December 2022**, revealed the possible scope of targeting and incarceration of persons of diverse sexual orientations, gender identities, and gender expressions in Azerbaijan. Hearing that a number of her friends had been arrested for reasons not disclosed, she went to the police station to get answers. When the officers realised that she was transgender, they detained her with her friends and charged her with "resisting police". The following day she and the rest of the group were sentenced to between 20 and 30 days' imprisonment, without being given access to legal representation or the chance to speak in court. The woman claimed that prison guards mistreated her, threatening to shave her head, and that sexual violence from other inmates was pervasive. The article in which these claims were made also contained the testimony of other trans women alleging similar mistreatment, being forced into male prisons even after having undergone gender-affirming surgeries, and severe overcrowding in cells designated for trans women and gay men. Their cases have not been individually disaggregated here, as the details of their arrest and charges against them are largely unclear.²¹

On **20 February 2023** police arrested a group of protestors outside the Baku Court of Appeal who had gathered to demand the release of a detained activist. Noticing one of the protestors had colourfully dyed hair, and associating

that with homosexuality, officers began threatening him with sexual violence and exposing their genitals to him.²²

On **22 May 2023** police in Baku arrested three trans women when a fight broke out in response to verbal harassment against them. The Interior Ministry told local media that the trans women had been detained "for beating up an individual and causing material damage in a hotel". It is thus unclear, as with so many cases of police targeting in Azerbaijan, whether this can be counted an act of criminal enforcement on the basis of gender identity and expression. However, several activists gathered the following day, **23 May**, at the police station where the women were held to protest their detention, resulting in at least four being arrested. The Interior Ministry later said that "due to the fact that the activists created a controversial situation with the police officers by making noise in protest against the detention of the acquaintances of the activists, they were sent to the court on the administrative offense protocol with the article of minor hooliganism". On **24 May** the activists were sentenced at the Khatai District Court to 15 days' administrative detention, with one of the group also being fined 70 manat (approximately USD 41), and another being fined 300 manat (approximately USD 180) on hooliganism and drug charges. The activists alleged physical and verbal abuse from the authorities during their time in detention.²³



Georgia

Enforcement Overview

While Georgia does not explicitly criminalise consensual same-sex sexual acts, ILGA World notes several concerning incidents of State actors targeting persons of diverse sexual orientations, gender identities and gender expressions.

In 2017, the Women's Initiatives Supporting Group (WISG) reported on at least six cases where transgender women were arrested under Article 166 (disorderly conduct) and Article 173 (resisting police orders) of the Administrative Offences Code. Reported instances include trans women who were victims of crimes and were arrested upon trying to report those crimes to the police. Several victims claimed in the report that their arrests occurred purely on the basis of the transphobic and homophobic prejudices of the police rather than their actions. Illegal detention or arrest, which is a crime according to Georgian law, was revealed in a number of cases litigated by the organisation in 2017. However, in all cases the victims did not want to take further action because the police "may treat them worse".²⁴

¹⁶ Human Rights Watch, *Country Profiles: Sexual Orientation and Gender Identity - Azerbaijan* (2021).

¹⁷ Nafas LGBTI Azerbaijan Alliance & ECOM, *Shadow Report: Universal Periodic Review Fourth Cycle Azerbaijan* (2023), 12.

¹⁸ *Id.*, 13.

¹⁹ Information supplied to ILGA World by Nafas LGBTI Azerbaijan Alliance.

²⁰ "Breaking News: Trans women were detained", *Minority Azerbaijan*, 25 August 2022.

²¹ "A prison within a prison: trans women behind bars in Azerbaijan", *OC Media*, 1 December 2022.

²² Nafas LGBTI Azerbaijan Alliance & ECOM, *Shadow Report: Universal Periodic Review Fourth Cycle Azerbaijan* (2023), 14.

²³ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

²⁴ Women's Initiatives Supporting Group (WISG), *Unidentified Violence: Litigation Report* (Tbilisi, 2017).

Negative social attitudes are prevalent not only in the police forces, but in society at large, with several homophobic and transphobic attacks and protests documented in recent years, in which authorities have often been unable or unwilling to intervene. Further, homophobic statements and possible incitement to violence has been seen from several prominent political figures.²⁵ To this end, the United Nations Independent Expert on Sexual Orientation and Gender Identity (IESOGI) noted in a 2019 country visit report to Georgia that progress in establishing a legal framework to protect LGBTI+ persons has been hampered by “major gaps in effective implementation” of national and international human rights standards.²⁶

Examples of Enforcement

On **14 April 2016**, a trans woman and a friend were viciously attacked in central Tbilisi—Georgia’s capital. Upon the arrival of the police, the trans woman got arrested under Article 173 of the Administrative Offences Code (disorderly conduct). A few days later she was found guilty and sentenced to five days jail.²⁷

On **13 June 2016**, two trans women were attacked in central Tbilisi by a group of several men. The men tried to set them on fire by pouring petrol on them, but they both managed to escape and called the police, only to be immediately arrested, detained, and referred for prosecution. On the second day of proceedings, the court found the trans women guilty based on Article 166 of the Administrative Offences Code (disorderly conduct) and they were ordered to pay a fine.²⁸

On **25 June 2016** two trans women were arrested after calling police to deal with a separate crime. They were made to sign a confession of “disorderly conduct” without having the chance to read it. In court, the judge issued the women with a verbal warning on the basis that they “may have committed an administrative offence”, but did not violate the rights or privacies of any other person, and did not hinder police activities.²⁹

On **13 July 2016** three trans women in Tbilisi were being verbally harassed by an unknown man, and as such called

the police. Police arrested them and charged them under Article 166 of the Administrative Offences Code, though this was later thrown out of court for lack of evidence and the aggressor was fined instead.³⁰

On **2 August 2016** another trans woman was arrested in Tbilisi after calling the police to intervene when a man in the street started abusing and harassing her. She was charged under Article 166 and made to sign a declaration of guilt even though she contended that the document’s contents were inaccurate. Despite the interventions of a lawyer, the woman was found guilty and fined 100 lari (approximately USD 38). Her attacker was also found guilty of “disorderly conduct” under Article 166 and fined the same amount.³¹

On **13 November 2016** a trans woman experienced discrimination at a bakery when she was denied service. In response, she contacted the police seeking their intervention. However, she was promptly arrested and subsequently charged with “petty hooliganism” by the authorities. A few weeks later, on December 6, her case was archived by the court due to insufficient evidence for prosecution.³²

On **25 August 2017** two gay activists were reportedly subjected to a violent assault by a group of unidentified assailants. According to the legal representation of the two individuals, law enforcement officers present at the scene purportedly restrained them while they were being assaulted by the attackers. Subsequently, the police detained the victims, charging them with offenses of “hooliganism” and “civil disobedience.” The court later ordered the release of the two individuals from detention.³³

On **30 April 2020**—during the height of COVID-19 lockdown restrictions—a trans woman and some of her friends were arrested by police for violating curfew. The trans woman had left her apartment to collect medication at a local pharmacy after she began to feel unwell but was beaten by police and dragged on the ground for several meters. Upon their arrest the group were charged with “disobeying police” and petty hooliganism” and were forced to delete video footage of the incident, though an investigation into a possible abuse of police powers was opened.³⁴

²⁵ *Report of the Independent Expert on his visit to Georgia*, A/HRC/41/45/Add.1, 15 May 2019, para. 39-52; “Anti-Gay Riot In Tbilisi Tests Balance Between Church, State”, NPR, 30 July 2013; “Georgian Pride to Rally Without State Security Commitments”, VOA, 21 June 2019; Parliamentary Assembly of the Council of Europe (PACE), *Report: Alleged violations of the rights of LGBTI people in the Southern Caucasus*, Doc. 15429, 10 January 2020, para. 48; “Study: Homophobic Hate Speech on the Rise in Georgia”, *Civil Georgia*, 10 September 2020; “Lesbian couple ‘attacked outside their home’ in Tbilisi”, OC Media, 22 April 2021; “თბილისში თავს დაესხნენ ტრანსგენდერ ქალს” [A transgender woman was attacked in Tbilisi], *Radio Liberty*, 11 June 2021; “Chairman of ruling Georgian Dream party: holding Tbilisi Pride week is unreasonable”, *Jam News*, 19 June 2021; “ზოლო წლებია ლგბტ თემს და მის მხარდამჭერებს...” [In recent years, the LGBT community and its supporters have been hindered from exercising their constitutional rights - Public Defender], *PTN*, 19 June 2021; “В Тбилиси на акции против ЛГБТ закидали камнями журналистов” [Journalists were stoned at anti-LGBT rally in Tbilisi], *Lenta*, 2 July 2021; “პოლიციამ დაკავებული მალადობრივი ჯგუფის 20 წევრი ხელწერილით გაათავისუფლა” [Police released 20 members of the arrested violent group with a handwriting], *Radio Liberty*, 2 July 2021; “Georgia: The authorities’ failure to protect Tbilisi Pride once again encourages violence”, *Amnesty International*, 5 July 2021; “თავდასხმა ჰომოფობიური მოტივით - არსებული ინფორმაციით, თბილისში ტრანსგენდერ ქალს დაზიანებები მიაყენეს” [Homophobic attack - Transgender woman reportedly injured in Tbilisi], *TV Priveli*, 3 August 2021; “სუბიმილი ჰომოფობიურ განცხადებას აკეთებს და ამბობს, რომ ქართული ეკვპა ჰომოსექსუალებისთვის “მასკულიზურია”” [Sukhishvili makes homophobic statement and says Georgian dance is “masculine” for homosexuals], *On*, 26 September 2021; “ცისარტყელას დროშა ჰომოფობიური პროტესტის თავზე” [Rainbow flag on top of homophobic protest], *Newposts*, 10 October 2021; “ღარიბაშვილის ჰომოფობიური გამოსვლა CPAC-ის კონფერენციაზე” [Gharibashvili’s homophobic speech at CPAC conference], *Netgazeti*, 6 May 2023.

²⁶ *Report of the Independent Expert on his visit to Georgia*, A/HRC/41/45/Add.1, 15 May 2019, para. 86.

²⁷ Women’s Initiatives Supporting Group (WISG), *Unidentified Violence: Litigation Report* (Tbilisi, 2017), 132.

²⁸ *Id.*, 132.

²⁹ *Id.*, 133-134.

³⁰ *Id.*, 130-131.

³¹ *Id.*, 133.

³² *Id.*, 131.

³³ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

³⁴ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*



Russia

Enforcement Overview

Though the Russian Federation does not criminalise consensual same-sex activity between adults, recent years have seen a troubling increase in state-backed targeting of persons with diverse sexual orientations, gender identities and gender expressions, as well as an apparent *de facto* policy of persecution in the semi-autonomous Chechen Republic (Chechnya).

Between 1994 and 2000, the Chechen Republic claimed to be independent from the Russian Federation, especially after the August 1996 Peace Accords which ended a 20-month armed conflict with Russia and deferred a decision on the final political status of Chechnya for five years. Although it was always regarded by the international community as part of Russia, the Chechen leadership insisted that the region was independent from Russian legal and governmental institutions. During this period, a new Sharia Criminal Code (1996) was enacted and secular courts were abolished in favour of a Supreme Sharia Court. The new Criminal Code punished consensual "sodomy" between men with flogging, caning and even death by stoning under Article 148. Other relevant provisions criminalised "indecent conduct" (Article 151), "insulting public morality" (Article 152), and "debauchery" (Article 154).³⁵ Though these provisions have largely been removed under the current pro-Russian government of Chechnya, widespread repression, police targeting, and extrajudicial attacks have been reported in recent years.

Prior to early 2017, very little was known or written about LGBT+ people's lives in the North Caucasus region—including by Russian SOGIE-related groups—although there had been some reports of transgender people fleeing family and police violence and death threats.³⁶ Since then, Chechen officials have been documented not only targeting people of diverse sexual orientations, gender identities, and gender expressions in isolated incidents, but also through concerted campaigns to systematically eradicate SOGIE identities from Chechen society.

In March and April 2017, a "purge" of suspected gay men occurred in the region, with the apparent support of the Speaker of Chechnya's Parliament. According to the Russian LGBT Network, up to 79 people had been evacuated from Chechnya between April and October 2017 after seeking help through the organisation's hotline. They included somewhere between 27 and 52 men who had been detained and tortured, as well as relatives and partners of detainees who also feared for their safety. A

majority of those seeking help, around 75, made contact within two and a half weeks of the hotline's launch at the height of the attacks.³⁷

In response to international outcry and allegations that Chechen authorities were rounding up LGBT people, the leader of the region, Ramzan Kadyrov, declared: "There are no LGBT at all in the Chechen Republic. To be honest, I'm not sure what the acronym stands for, but I know it's something bad. And no such community exists in Chechnya". A spokesperson for Kadyrov also stated that: "If there were such people in Chechnya, law enforcement agencies wouldn't need to have anything to do with them because their relatives would send them somewhere from which there is no returning. Indeed, negative social attitudes are prevalent throughout the public, and "honour-killings" by relatives of gay men and lesbian women have been documented. While such killings are not necessarily perpetrated by Chechen authorities, some have reportedly encouraged family members to carry them out."³⁸

Such familial violence often overlaps with police abuses, and the latter have not abated since the end of the "purge". In 2022 and 2023, North Caucasus SOS registered 21 cases of unlawful arrests of gay individuals across the North Caucasus (including, but not limited to, Chechnya). Victims were reportedly tortured in 11 of these cases. Police action against the victims was instigated by their own relatives in at least nine of the cases, though up to 31 attempts by families to get police to act against LGBTQ+ persons were documented in total. The organisation notes: "There is no possibility to gather general statistics as there is no access of human rights defenders in the region, and victims are unlikely to file complaints". Complaints are rarely filed due to a fear of revictimisation from the authorities, as well as a pattern of non-action when it comes to investigating attacks. In 2022 North Caucasus SOS "filed three crime reports and 40 appeals to law enforcement authorities regarding incidents of police and family violence", but none resulted in criminal cases being opened against the perpetrators.³⁹

Since Russia's invasion of Ukraine in February 2022, allegations have also been made that Chechen authorities have pressured suspected gay men into fighting on the frontlines as an alternative to incarceration or being outed to their relatives. A spokesperson for the North Caucasus SOS Crisis Group, which works to assist those seeking to flee Chechnya, claimed in June 2023 that the number of people getting in touch for support had doubled over the preceding year.⁴⁰ He noted that people complain they are being detained and given three options. The first, according to long-standing practice, is to face a fabricated criminal case. The second is paying a ransom: Since the start of the war, the amounts have increased and now average about a million Rubles (approximately USD 12,000). The third is being sent to the territory of Ukraine as a 'volunteer'. Though North Caucasus SOS has informed ILGA World

³⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Russia* (accessed: 10 June 2023).

³⁶ Ekaterina Petrova, "Banishing Devils - Chechen Authorities against Laws of Life?" in ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva: ILGA, March 2019), 155.

³⁷ "В Чечне идут профилактические работы" [Preventive work is underway in Chechnya], *Fraza*, 24 April 2017; "Victim of Chechnya's 'gay purge' calls on Russia to investigate", *The Guardian*, 17 October 2017; Human Rights Watch, *"They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic* (2017), 15-16; Mai Sato and Christopher Alexander, "State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty" (February 2021), 52-55.

³⁸ *Ibid.* An additional source that contains personal names or images has been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

³⁹ Information supplied to ILGA World by North Caucasus SOS.

⁴⁰ North Caucasus SOS, «Людей просто ставили перед выбором: или огромный срок, или езда в Украину». Как Кадиров отправляет чеченцев на войну ["People were simply faced with a choice: either a huge term, or go to Ukraine." How Kadyrov sends Chechens to war], 8 June 2023; "Chechens Pressured By Authorities to Fight in Ukraine - Rights Group", *The Moscow Times*, 9 June 2023; "Inside Chechnya's gulag for gay men", *Politico*, 21 June 2023.

that there is no way of proving that the war in Ukraine is directly correlated to an increase in men reaching out for assistance, it is worth noting that the war itself has become something of a flashpoint for geopolitical debates around SOGIESC issues.⁴¹ Indeed, in May 2023 the Deputy Speaker of the State Duma proposed an “international convention for the protection of the traditional family” among countries which criminalise consensual same-sex sexual acts or otherwise oppose the expansion of rights to persons deemed a threat to “family values”.⁴²

At the national level, the Federal government has done little to intervene in Chechnya, and has in recent years adopted a range of laws designed to curtail freedom of expression, freedom of assembly and association, protection from discrimination, and access to services for persons of diverse sexual orientations, gender identities and gender expressions.

In 2013 the State Duma passed Law No. 135-FZ which expanded the types of content deemed unsuitable for children to include anything that “promotes non-traditional sexual relationships”. In addition, the Code of Administrative Offenses was updated to include Article 6.21, punishing “propaganda of non-traditional sexual relations between minors”. Article 6.21 prohibited the dissemination of information “aimed at the formation of non-traditional sexual attitudes among minors, the attractiveness of non-traditional sexual relations, a distorted idea of social equivalence of traditional and non-traditional sexual relationships or the imposition of information about non-traditional sexual relationships that arouses interest in those relationships”.

In 2022, Article 6.21 was amended by Law No. 479 to punish any “propaganda of non-traditional sexual relations and/or preferences or change of sex”, extending existing prohibitions to content distributed even among adults. Under this new version of the law, the mere abstract possibility that a minor may have come across the

prohibited content is often enough to result in a fine or additional penalties.⁴³

Since the expansion of this legislation, multiple instances of fines against individuals, cinemas and media companies have been documented.⁴⁴ Several individuals have also been detained, or deported from Russia on the grounds of “propaganda”.⁴⁵

Various additional efforts to further legally restrict the rights of LGBTQI+ people have also been documented.⁴⁶ In 2023 both legislative houses voted overwhelmingly to ban legal gender recognition and gender-affirming medical services for trans and gender-diverse persons.⁴⁷ Concerningly, the prohibition on “propaganda” towards minors has resulted in several gay and transgender parents having their children taken, or threatened to be taken, by the State. After news reports that the Investigative Committee was planning to arrest gay single fathers with adopted or surrogate children, some families fled in order to avoid losing custody.⁴⁸

Other measures aimed at marginalising and silencing persons of diverse sexual orientations, gender identities and gender expressions include the Justice Ministry announcing in November 2021 that it had added the Russian LGBT Network and its members—who had been working to advocate for SOGIE persons in the country and help those in regions such as Chechnya to flee—to a national list of “foreign agents”. This would mean increased State scrutiny, as well as potential limitations on the group’s ability to operate, promote their work and access funding.⁴⁹ Since then, multiple other groups have also been deemed “foreign agents”, including the North Caucasus SOS Crisis Group, the Boys Plus Project, and the Alliance for Heterosexuals and LGBT for Equality in 2023.⁵⁰

These aggravating developments, while clear human rights abuses in their own right, largely fall outside of the specific scope of this report. However, the status of the LGBTQI+ community in Russia has become so dire in recent years

⁴¹ “I will not be held prisoner: the trans women turned back at Ukraine’s borders”, *The Guardian*, 22 March 2022; “‘Danger everywhere’: War and transphobia create perfect storm for trans Ukrainians”, *NBC News*, 8 April 2022; “Ukraine’s ‘unicorns’ LGBTQ soldiers head for war”, *Reuters*, 31 May 2022; “Ukraine war fuels public support for same-sex marriage”, *The Japan Times*, 28 August 2022; “LGBTQ Russians Were Putin’s First Target in His War on the West”, *Foreign Policy*, 8 October 2022; “Ukraine more accepting of LGBTQ+ people since war began, KyivPride says”, *PinkNews*, 5 March 2023; “How Putin Inadvertently Boosted Support for LGBT Rights in Ukraine”, *Time*, 21 April 2023; “Russia, Homophobia and the Battle for ‘Traditional Values’”, *Human Rights Watch*, 17 May 2023; “War brings urgency to fight for LGBT rights in Ukraine”, *The Guardian*, 5 June 2023; “Transgender Russians are Putin’s latest victims: ‘We are clearly the enemy’”, *Le Monde*, 13 June 2023; “Ukraine war: how Putin’s anti-LGBTQ+ agenda is an attempt to build support for the invasion”, *The Conversation*, 16 June 2023; “Why is Russia ramping up attacks on LGBT rights during the Ukraine invasion?”, *Euronews*, 29 June 2023.

⁴² “Вице-спикер Госдумы Кузнецова предложила создать конвенцию по защите традиционной семьи” [Vice-speaker of the state Duma Kuznetsova proposed to create a convention on the protection of the traditional family], *Kommersant*, 12 May 2023.

⁴³ ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Russia* (retrieved: 27 June 2023).

⁴⁴ “В Москве мужчину оштрафовали за «ЛГБТ-пропаганду»” [In Moscow, a man was fined for “LGBT propaganda”], *Parni Plus*, 8 January 2023; “Russian publisher investigated by authorities under new anti-LGBT law – lawmaker”, *Reuters*, 10 January 2023; “Роскомнадзор впервые составил протоколы о «пропаганде ЛГБТ» на два онлайн-кинотеатра” [Roskomnadzor for the first time drew up protocols on “LGBT propaganda” for two online cinemas], *Mediazona*, 15 April 2023; “Жителя Якутска оштрафовали за «ЛГБТ-пропаганду»” [A resident of Yakutsk was fined for “LGBT propaganda”], *Parni Plus*, 7 May 2023; “Russian Activist Fined For Violating Anti-Gay ‘Propaganda’ Law”, *Metro Weekly*, 10 May 2023; “На блогеров Кореяку и Форкс заведено дело о пропаганде ЛГБТ” [Bloggers Koreyka and Forks filed a case of LGBT propaganda], *Regnum*, 24 May 2023; “Жителя Волгограда оштрафовали по статье о «пропаганде ЛГБТ» за анкету на сайте знакомств” [Resident of Volgograd was fined under the article on “LGBT propaganda” for a profile on a dating site], *Mediazona*, 25 May 2023; “Суд в Петербурге оштрафовал “Триколор Кино и ТВ” на 1 млн рублей за показ фильма с ЛГБТ” [A court in St. Petersburg fined Tricolor Cinema and TV for 1 million rubles for showing a film with LGBT], *Interfax*, 2 June 2023.

⁴⁵ “Суд в Казани постановил арестовать, а затем выдворить из России блогера Хаояна Сюя по новому закону о «пропаганде ЛГБТ»” [Court in Kazan decides to arrest and then expel blogger Naoyang Xu from Russia under a new law on “LGBT propaganda”], *Mediazona*, 6 April 2023; “Суд на Камчатке постановил оштрафовать и выдворить из России гражданина Германии по протоколу о «пропаганде ЛГБТ»” [The court in Kamchatka decided to fine and expel a German citizen from Russia under the protocol on “LGBT propaganda”], *Mediazona*, 7 April 2023.

⁴⁶ “653: законопроект приняла Госдума за 2022 год” [653: the bills adopted by the State Duma for 2022], *Mediazona*, 22 December 2022; “Russia, Homophobia and the Battle for ‘Traditional Values’”, *Human Rights Watch*, 17 May 2023.

⁴⁷ “Russian parliament begins legalising ban on same-sex marriage”, *Reuters*, 15 July 2020; “Putin formally bans same-sex marriages in Russia”, *Washington Blade*, 6 April 2021; “Transgender Russians are Putin’s latest victims: ‘We are clearly the enemy’”, *Le Monde*, 13 June 2023.

⁴⁸ “Gay Dads Flee Russia in Fear of Losing Their Children”, *Advocate*, 13 August 2019; “This Gay Single Dad Fleed Russia Overnight to Save His Baby” *The Daily Beast*, 9 October 2020; “We Don’t Know Where To Appeal: After Fleeing Russia, Gay Man Fights For Custody Of Adopted Son”, *RFE/RL*, 15 June 2021; “Russia violated rights of trans mother to see her children, European court rules”, *TimesLive*, 7 July 2021.

⁴⁹ “Russia labels an LGBTQ rights group and a lawyers association as ‘foreign agents’”, *Los Angeles Times*, 9 November 2021.

⁵⁰ “Минюст внес в реестр «иностранных агентов» Павла Чикова и Илью Варламова” [The Ministry of Justice added Pavel Chikov and Ilya Varlamov to the register of “foreign agents”], *Mediazona*, 23 March 2023; “Альянс heterosexualов и ЛГБТ за равноправие признали иноагентом” [Alliance of heterosexuals and LGBT for equal rights recognised as a foreign agent], *Parni Plus*, 31 March 2023; “Rusia nombra a un grupo de derechos humanos LGBTQ+ como agente extranjero” [Russia names LGBTQ+ human rights group as foreign agent], *Cromosoma X*, 9 May 2023.

that the inclusion of some of these developments was deemed necessary to highlight the severity of the situation there. Examples of Enforcement not relating to Chechnya, however, have been limited to those in which individuals have been arrested or otherwise deprived of liberty because of their identities. Fines or other sanctions under Russia's "propaganda" laws have largely been excluded due to the sheer number of cases needing to be tracked. Given the complexity of the situation in this country, readers are encouraged to consult additional external sources, for a fuller picture on the situation.

Examples of Enforcement

According to the Trans Legal Defence Project, as of 2019 at least three transgender individuals in Russia had been arrested due to their identity documents not aligning with their gender expressions. Details about these cases are opaque and likely represent only a fraction of such arrests occurring both before and after.⁵¹

On 20 November 2019 a woman in the city of Komsomolsk-on-Amur was detained by authorities accusing her of being a "lesbian, sex trainer and propagandist leader". She had published a series of images to social media aimed at promoting body positivity and supporting diverse families. She was fined once for being an administrator of an LGBTQI+ social media page and fined a second time for publishing a drawing of a same-sex couple with children. She was kept under house-arrest until 16 March 2020, though her trial only began a year later. The prosecution initially sought a sentence of three years and two months in a penal colony for her dissemination of "pornography", but she was acquitted in 2022. It was reported on 17 January 2023 that she and her mother had fled Russia the day after the acquittal due to ongoing harassment and threats made against her. On 28 March 2023 it was announced that the Ninth Court of Cassation in Vladivostok had overturned her acquittal.⁵²

On 23 August 2022 it was reported that two men in Moscow were arrested after two schoolchildren saw them shirtless through an apartment window and mentioned the incident to their mother. The men were charged with "sexual assault against children" under Article 132 of the Criminal Code, despite the men being within their own private dwelling, claiming to be heterosexual, and explaining that they had taken off their shirts to repair a burst water pipe. The pair were held in pre-trial detention for two months pending further investigation and a possible 20-year sentence, despite the mother of the children later attempting to retract the accusation.⁵³

Three transgender sex workers—charged with violating Article 6.21 against "propaganda of non-traditional sexual relations, preferences and change of sex" between 16 January and 3 February 2023—were found guilty by the Savelovsky District Court, fined, and deported to their respective home countries. A fourth transgender sex worker, charged on 24 January, was found guilty by the Timiryazevsky District Court. In addition to being fined and deported, she was sentenced to five days' imprisonment. All four were identified and charged by authorities as part of a concerted effort to search for illegal content on social media. In all cases the fact that they were "male" but presenting or referring to themselves in a "feminine manner" was cited as evidence of "propaganda" in police reports.⁵⁴

On 5 April 2023 it was reported that two young gay men—a Chinese and Georgian national—were arrested and charged with "propaganda of non-traditional sexual relations" for posting information about their relationship online. The Chinese citizen was detained first while at a fast-food establishment, with authorities demanding to see his passport and residency papers. He asked the Georgian to bring them to the police, at which point he was also detained. After a few hours, the Georgian national was released, but his partner was held overnight. On 6 April the Vakhitovsky District Court of Kazan sentenced him to seven days' imprisonment and deportation back to China. After his imprisonment he was held in a deportation centre at Naberezhnye Chelny, allegedly without food or clean water. He recorded a video of his situation, which was reportedly censored by Chinese officials when it began making the rounds in China. The young Georgian man is said to have left Russia with the help of local human rights defenders.⁵⁵

On 26 April 2023, four transgender sex workers were reportedly arrested in the city of Krasnodar and charged with "propaganda of non-traditional sexual relations, preferences and change of sex" as part of an effort by local police to scan the internet for illegal content. Two of the trans women—one from Kyrgyzstan and another from a region of Ukraine occupied by Russian military forces—were reportedly sentenced to one day in prison as well as a fine. The Kyrgyz woman was then deported. The outcome of legal proceedings for the two Russian women could not be determined at the time of publication.⁵⁶

Chechen Republic

In 2016 a gay university student made arrangements to meet up with another man online, who turned out to be an

⁵¹ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 157.

⁵² "Good News: Russian Activist Yulia Tsvetkova Is Free", *Amnesty International*, 27 July 2022; "Russia: Court upholds acquittal of feminist artist on trial for 'pornography'", *Amnesty International*, 22 November 2022; "Russian artist flees LGBTQ crackdown", *The Art Newspaper*, 17 January 2023; "Russian court overturns acquittal of LGBT rights activist and artist Yulia Tsvetkova", *Meduza*, 28 March 2023; "Суд в России отменил оправдательный приговор для художницы и ЛГБТ-активистки Юлии Цветковой" [A court in Russia overturned the acquittal of artist and LGBT activist Yulia Tsvetkova], *Current Time*, 28 March 2023.

⁵³ "Двум москвичам грозит до 20 лет тюрьмы за подсмотренный секс в их квартире" [Two Muscovites face up to 20 years in prison for spying on sex in their apartment], *Svoboda*, 24 August 2022; "Russian men face 20 years in prison after being accused of gay sex by neighbour's kids", *PinkNews*, 24 August 2022.

⁵⁴ "«Пишет о себе в женском роде, уточняя наличие члена». Московские суды выдворяют из России трансгендерных секс-работниц по новому закону о «пропаганде ЛГБТ»" [He writes about himself in the feminine gender, specifying the presence of a member. Moscow courts expel transgender sex workers from Russia under new law on 'LGBT propaganda'], *Mediazona*, 23 February 2023; "«The police is off the leash.» Transgender sex workers are being expelled from Russia for 'LGBT propaganda'", *Mediazona*, 28 February 2023.

⁵⁵ "ბლოგერები ჰაოიანი და გელა „ლგბტ პროპაგანდის“ ბრალდებით დააკავეს" [Bloggers Haoyan and Gela were arrested on charges of "LGBT propaganda"], *RFE/RL*, 5 April 2023; "Суд в Казани постановил арестовать, а затем выдворить из России блогера Хаояна Сюя по новому закону о «пропаганде ЛГБТ»" [Court in Kazan decides to arrest and then expel blogger Haoyang Xu from Russia under a new law on "LGBT propaganda"], *Mediazona*, 6 April 2023; "Учившийся в Казани блогер Хаоян Сюй покинул Россию после решения суда о его выдворении по закону о «пропаганде ЛГБТ»" [Blogger Haoyang Xu, who studied in Kazan, left Russia after a court decision on his expulsion under the law on "LGBT propaganda"], *Mediazona*, 24 April 2023.

⁵⁶ "В Краснодаре задержали двух иностранцев за пропаганду ЛГБТ" [Two foreigners detained in Krasnodar for promoting LGBT], *Kommersant*, 26 April 2023; "В Краснодаре задержали четырех трансгендерных секс-работниц: одну из них выдворили, а другую, с оккупированных территорий Украины, арестовали на сутки" [Four transgender sex workers were detained in Krasnodar; one of them was expelled, and the other, from the occupied territories of Ukraine, was arrested for a day], *Mediazona*, 9 June 2023; "В Краснодаре завели протоколы об «ЛГБТ-пропаганде» на четырех трансгендерных секс-работниц" [In Krasnodar, protocols on "LGBT propaganda" were opened against four transgender sex workers], *Parni Plus*, 11 June 2023.

informant working with the police. The student was driven out into a field, stripped naked and beaten by police officers while being filmed. The officials took the man's phone and found numerous intimate photographs and some of his correspondence with other gay men. They let him go on the condition that he return to them with money, using the video of him and threats of "outing" him to his family as a means of blackmail.

In **February 2017** police detained a man in Chechnya's city of Argun for allegedly being under the influence of narcotic substances. While searching his phone, they found evidence that the man was gay. They did not formally record his arrest or detention, but using information on his phone and details he disclosed under torture, they put together a list of several other suspected gay men. These men were in turn located, detained, and forced to hand over details of more men, resulting in an ever-proliferating and concerted "purge" of suspected homosexuals by Chechen police between **March and April**. *Novaya Gazeta*, the Russian news outlet which first began reporting on the situation, has claimed that far from it being a mere case of "police prejudice", officials went to Magomed Daudov, the speaker of the Chechen Parliament, with their initial list of suspects. Daudov appears to have formally approved the subsequent mass arrests and violence.⁵⁷ Those detained were held at "unofficial detention centres" in Argun and the capital, Grozny, which have been labelled "concentration camps" by some international media outlets.⁵⁸ Detainees would reportedly be held for anything from a few days to two weeks, though it is believed some were held even after the "purge" had ended. Authorities allegedly would torture and abuse detainees by beating them with pipes, subjecting them to electric shocks, and by making prisoners fight each other, before releasing them publicly into the custody of male relatives. At least two men were killed shortly after their release in familial "honour-killings", and a third died as a result of injuries sustained from police torture.⁵⁹ It is not known how many people were arrested or who died in all, though the Russian LGBT Network indicates at least 52 persons were arbitrarily detained, while some media reporting claimed the number to be around 100.⁶⁰ Chechen political leaders, for their part, have denied the presence of any LGBT persons in Chechnya at all, and publicly targeted media outlets reporting on the matter.⁶¹

On **16 March 2017** a young gay man, Maxim Lapunov,⁶² was abducted by Chechen officials in Grozny and held captive for 12 days as part of the region's "purge" of homosexuals. Once detained, he was shown messages he had sent to another man and forced to provide the contact details of his sexual partners. He claimed he had been beaten, threatened with rape (with one of his captors

actively trying to assault him) and insulted. After Lapunov laid a complaint with the Russian government, several official agencies and courts decided against opening a criminal investigation into the matter, arguing that there was no evidence of the arrest. After leaving the country, he filed a complaint against Russia at the European Court of Human Rights (ECHR).⁶³

The facts established in the above ECHR case also mention the abduction of at least two more men. First, Lapunov was forced by his torturers to provide the name of one of his sexual partners, who was allegedly abducted on **16 March 2017**. He was tortured alongside Lapunov for around four days before being taken away on **20 March**, allegedly to be summarily executed.⁶⁴

The second man mentioned in the ECHR case was already in detention when Lapunov arrived. On **31 October 2017** the Zavodskoy District Investigative Committee in Grozny opened a criminal case into the murder of this prisoner, with his phone data proving that he was in the vicinity of Chechen police headquarters between **14 and 16 March**. The outcome of the proceedings, which have been suspended and resumed on several occasions, is unknown.⁶⁵

On **8 August 2017** a well-known Chechen pop singer went missing after being abducted in Grozny when he returned home to attend his sister's wedding, reportedly by men wearing government uniforms. The Human Rights Commissioner of the Russian Federation visited the Chechen Republic on **21 September 2023**, after *Novaya Gazeta* started reporting on the abductions and killings of Chechen gay and bisexual men. Just three days later, a video of the singer appeared online, allegedly recorded in **mid-August**, in which he stated that he was at a friend's house in Germany. However, several inconsistencies were pointed out in the video by activists, media and the performer's friends. For instance, it was recorded in a room decorated in a distinct Caucasian way, the alcoholic drinks that appeared were not available in Germany, and the man was noticeably thinner and seemed to be behaving abnormally. This sparked accusations that the video had been fabricated by Chechen authorities. According to *Novaya Gazeta*, the singer was murdered in **January 2018** after being tortured for an extended period. His remains were reportedly handed back to his family, who were told to "bury him like a dog". North Caucasus SOS reported that he had been investigated by Chechen authorities to discover evidence of his sexual orientation, and after reports of his homosexuality reached Chechen Chief Ramzan Kadyrov, the order that he "be dealt with" was likely made. In the past, Kadyrov had publicly met and shaken hands with the singer, so it is alleged that the

⁵⁷ "Расправы над чеченскими геями" [Violence against Chechen gay men], *Novaya Gazeta*, 4 April 2017; "В Чечне идут профилактические работы" [Prophylactic work in Chechnya], *Novaya Gazeta*, 24 April 2017; Human Rights Watch, "They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic (2017), 15-16.

⁵⁸ "Chechnya opens world's first concentration camp for homosexual men since Hitler", *New Zealand Herald*, 10 April 2017; "Gay men sent to 'concentration camps' in Chechnya", *Washington Blade*, 11 April 2017; "Rights groups sound alarm over gay 'concentration camps' in Chechnya", *France 24*, 12 April 2017; Human Rights Watch, "They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic (2017), 17.

⁵⁹ Human Rights Watch, "They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic (2017), 17-26; Mai Sato and Christopher Alexander, "State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty" (February 2021), 52-55.

⁶⁰ "Chechnya opens world's first concentration camp for homosexual men since Hitler", *New Zealand Herald*, 10 April 2017; Human Rights Watch, "They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic (2017), 15.

⁶¹ Human Rights Watch, "They Have Long Arms and They Can Find Me": Anti-Gay Purge by Local Authorities in Russia's Chechen Republic (2017), 26-30.

⁶² While it is standard practice for this report to redact the names of criminalised persons for their safety, the prolific reporting by both international media and human rights defenders has mooted this. An exception has thus been made to allow readers a clearer understanding of the incident.

⁶³ **Note:** After the cutoff date of this report (30 June 2023), on 12 September 2023, the Third Section of the ECHR ruled against the Russian Federation, concluding that the applicant had been abducted by State agents and subjected to a level of mistreatment that amounted to torture, that the violence he suffered was based on homophobic grounds and that no effective investigation had been conducted by Russian authorities. See: European Court of Human Rights, *Lapunov v. Russia* (Application no. 28834/19), 12 September 2023; "Setting the Record Straight on Chechnya's Anti-Gay Purge", *Human Rights Watch*, 12 September 2023.

⁶⁴ European Court of Human Rights, *Lapunov v. Russia* (Application no. 28834/19), 12 September 2023.

⁶⁵ *Ibid.*

Chechen leader may have felt “personally insulted” by his sexual orientation. The news reports on his murder were deemed credible enough to be included in a report of the Parliamentary Assembly of the Council of Europe (PACE), which served as the basis for a PACE Resolution on the persecution of LGBTI people in the Chechen Republic.⁶⁶

According to the Russian LGBT Network, between **December 2018** and **April 2019** police in Chechnya rounded up and abused at least 23 men suspected of being gay in an apparent second “purge”, though the true scope of detentions was likely broader, according to the group, with representatives indicating to media around this time that they knew of as many as 40 detainees. Most of those arrested were held at various locations in Argun and Grozny, where they were shaved and brutally tortured through beatings and electric shocks. Most seem to have been released after between three and 20 days. It is not known if any persons were killed in this time, though survivor testimonies recorded by the Organisation for Security and Cooperation in Europe (OSCE) allege extrajudicial executions.⁶⁷

One of the men targeted in **2018** by Chechen authorities was reportedly assisted by the North Caucasus SOS Crisis Group to flee the country, and was allowed to relocate to the Netherlands. In **March 2022** his father passed away, and he returned to Chechnya to attend the funeral. His travel documents were confiscated by Chechen police, however, and he was unable to leave the region until the following year as a result. During this time, the man reported that he had been arbitrarily detained three times and had to avoid his relatives out of fear. On **15 February 2023** he travelled to Moscow’s Domodedovo Airport, where he was detained on Chechen-issued fraud charges and sent back to Chechnya. Chechen officials refused to disclose the man’s location or allow lawyers access to him for several days thereafter, prompting international outcry. A video recording was published shortly thereafter in which the man —allegedly under duress—claimed that he was not gay and did not want the support of any human rights defenders.⁶⁸

In **January 2020** a man was detained by authorities in Grozny and tortured into confessing that he was gay. It is alleged that they beat, choked, and electrocuted him. They forced him to sign blank documents that would later be used as a confession of homosexuality under threat of being charged with the illegal possession of weapons. When one of the man’s friends texted him to find out where he was, officers demanded he take them to the

friend’s home, where they arrested him on suspicion of being gay as well. After several days in detention an officer of Russia’s Federal Security Services (FSB) allegedly approached the man to make a deal. He offered to ensure his release in exchange for him working with Chechen authorities to identify and entrap more gay men in the area. Shortly after this, the man fled to Armenia with the intention of seeking asylum in Europe, but Russian authorities declared him a fugitive who was wanted for the illegal possession of weapons. As of **24 August 2023**, judicial proceedings in Armenia pertaining to his extradition to Russia remained ongoing.⁶⁹

In **April 2020** two Chechen siblings—one a gay man and the other occasionally reported as a trans woman—were arrested for criticising the government on social media. One of the two was not in Chechnya at the time of the arrest and was essentially kidnapped from St. Petersburg by security forces. They were held for two months along with 27 other political prisoners, where they were forced to recant their views, learn the Quran and national anthem by heart, and were regularly beaten. After their release, the siblings alleged that authorities justified their arrest and the violence they faced as being because of their SOGIE status, which was also subject to “correction” while in detention. On **4 February 2021**, as they were preparing to flee Russia, Chechen officials arrested them again and forced them to sign a confession, without access to legal representation, that they had been assisting an armed terrorist group.⁷⁰ A *Svoboda* article dated **22 February 2022** reported that the pair had been sentenced to eight and six years in a penal colony for their alleged affiliations to this group, though their lawyer has maintained that the sentencing is at least in part due to their sexual orientation and gender identity.⁷¹

On **10 June 2021** local security forces in the autonomous region of Dagestan raided a shelter for victims of domestic violence, apprehending all residents and taking them to a police station. Most were released shortly thereafter, but a young lesbian woman from Chechnya, and possibly her girlfriend as well, were handed over to Chechen police. The young woman had previously fled Chechnya due to the abuse she faced at the hands of her family because of her sexual orientation, and due to alleged persecution from local authorities. After she fled, her family reported her missing, and police thus began operations to bring her back to Chechnya, despite the Interior Ministry in Dagestan being informed by activists that she should be removed from the wanted list, as she left her family of her own free will. A human rights defender working at the domestic

⁶⁶ “В Грозном пропал 25-летний певец Зелимхан Бакаев” [25-year-old singer Zelimkhan Bakayev disappeared in Grozny], *Radio Liberty*, 16 August 2017; “Пропавший чеченский певец Бакаев “нашелся” в Германии. Его друзья говорят, что это не он” [The missing Chechen singer Bakayev has been “found” in Germany. His friends say it is not him], *Nastojashhee Vremja*, 25 September 2017; “«Это наш мужчина, наши дела, и мы сами разберемся», [“It’s our man, our business, and we’ll sort it out ourselves.”], *Novaya Gazeta*, 16 July 2018; “Persecution of LGBTI people in the Chechen Republic (Russian Federation). Rapporteur: Piet De Bruyin”, *Parliamentary Assembly of the Council of Europe*, 8 June 2018; “Рынок пыток и крови. Как «охота на геев» в Чечне превратилась в индустрию” [Torture and Blood Market. How the “hunt for gays” in Chechnya has become an industry], *North Caucasus SOS*, 25 July 2023; “Певец Зелимхан Бакаев был убит чеченскими силовиками. Его ориентация «лично оскорбила» Кадырова, который жал ему руку — СК SOS” [Singer Zelimkhan Bakayev was killed by Chechen security forces. His orientation “personally offended” Kadyrov, who shook his hand - SK SOS], *The Insider*, 25 July 2023.

⁶⁷ “Chechnya LGBT: Dozens ‘detained in new gay purge’”, *BBC News*, 14 January 2019; “Russia: New Anti-Gay Crackdown in Chechnya”, *Human Rights Watch*, 8 May 2019.

⁶⁸ “Russia Detains Gay Chechen Refugee at Moscow Airport”, *Moscow Times*, 16 February 2023.

⁶⁹ “Armenia To Consider Extradition Request for Chechen Accused of Homosexuality”, *Radio Free Europe*, 24 May 2023.

⁷⁰ This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷¹ “Какая судьба может ждать двух вывезенных в Грозный чеченских геев после вынесения приговора? Рассказывает брат одного из них” [What fate can await the two Chechen gays deported to Grozny after the verdict is passed? Says the brother of one of them], *Dozhd*, 5 February 2022; “Прокуратура Чечни запросила 6 и 8 лет двум геям, обвинённым в терроризме” [Prosecutor’s office of Chechnya requested 6 and 8 years for two gays accused of terrorism], *Radio Svoboda*, 12 February 2022; “В Чечне братья из ЛГБТ-сообщества получили сроки “за помощь боевикам”” [In Chechnya, brothers from the LGBT community received terms “for helping militants”], *Radio Svoboda*, 23 February 2022.

violence shelter was accused by police of “failing to comply with the demands of the security forces” during the raid, but a court twice dismissed their case against her. The whereabouts of the two young women, however, remained unclear at the time of publication.⁷²

In April 2022, four people—two men and two women—went missing after a video went viral online showing the group having sex with one another. It is alleged that high-ranking authorities ordered their arrest as a result of this—though one of the women was freed as she was not Chechen. On 3 June an article published by the *Caucasus Realities* news site accused Chechen security forces of executing the three detainees and burying them in the town of Dyshne-Vedeno sometime in May, per information from an anonymous police informant.⁷³

On 25 July 2022 a video was posted on social media by a Chechen police officer boasting of “having captured one”. The video seemed to show a young man being interrogated by police, who made him say on camera that he had been arrested for planning to meet another man for sex. The former Director of the Russian LGBT Network told media outlets in early August that he had tried to contact authorities in Chechnya to ascertain the whereabouts of the man, without luck, and added that he believed the man “may be in mortal danger”. According to the North Caucasus SOS Crisis Group, two friends of the young man went missing in the days after his arrest, with people close to the missing persons alleging that they were abducted by police because of their sexual orientations. As a result of this, some local activists have urged members of the LGBT community to refrain from meeting with strangers they may have met online.⁷⁴

cases of apparent State-targeting, especially between 2010 and 2023. In recent years, freedom of assembly and expression, as well as diverse gender expressions, have come under increased State repression. Hundreds of arrests of activists and transgender individuals over recent years have resulted the country’s inclusion in this report.

Many of those targeted are accused of breaching broad provisions in the Penal Code—such as Article 225, which prohibits “impudent acts”—and many of those arrested over this period have also been charged with violating the Law on Misdemeanours (2005), the Public Meetings and Demonstrations Law (1983), and the Law on Public Health (1930), also called the “General Hygiene Law.”⁷⁶

Between 2003 and 2014, annual Pride marches took place in the city of Istanbul, attracting thousands of participants. However, since 2015 Istanbul authorities have banned Pride-related activities, a decision that has been mirrored in recent years by the authorities of Ankara, Çanakkale, Datça, Eskişehir and Izmir, among others. Some of these decisions have been successfully challenged in court, yet Turkish authorities have only increased attempts to ban SOGIESC-related events, with a particular escalation in repression being noted since 2021.⁷⁷ One notable example can be seen in the government and police treatment of LGBTQI+ activists, who played a visible role in the mass student protests that took place at Boğaziçi University, Istanbul in 2021.⁷⁸ Elsewhere, Turkish police routinely target transgender and gender-diverse individuals at student, labour, or women’s rights demonstrations, as well as any participant who displayed Pride colours or symbols.⁷⁹

In total, the civil society organisation Kaos GL reports that up to 40 persons had been indicted for actions related to Istanbul’s 2021 Pride. As of 2023, all of them have been reportedly acquitted by different courts.⁸⁰

Moreover, religious leaders and high-ranking officials, including President Recep Tayyip Erdoğan, regularly publicly attack LGBTQI+ persons and activists. This was especially true in the lead-up to the country’s May 2023 presidential elections.⁸¹ In January of that year the anti-SOGIE backlash was proven to have broad, albeit not universal, cross-party support, when the Constitutional Committee of the Grand National Assembly approved a constitutional amendment to stipulate that “marriage shall consist only of the union of a man and a woman”.⁸²



Türkiye

Enforcement Overview

Consensual same-sex sexual activity between adults in private has not been criminalised in Türkiye or its predecessor, the Ottoman Empire, for more than a century and a half,⁷⁵ though ILGA World notes several concerning

⁷² This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.

⁷³ “В Чечне убили и тайно похоронили троих участников группового секса” [In Chechnya, three participants in group sex were killed and secretly buried] *Kavkaz*, 3 June 2022; “Chechens Involved In Group Sex Video That Went Viral Have Been Killed, Says Police Source”, *RFE/RL*, 1 August 2022.

⁷⁴ “В Чечне пропадают геи: к этому может быть причастна полиция” [Gays disappear in Chechnya: the police may be involved in this], *ESP*, 31 July 2022.

⁷⁵ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Türkiye* (accessed: 12 June 2023).

⁷⁶ ILGA World: Zhan Chiam et al., *Trans Legal Mapping Report: Recognition before the law* (2020), 169-172; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Türkiye* (accessed: 12 June 2023).

⁷⁷ “İstanbul’da kitlesel ‘Onur Yürüyüşü’”, [Massive Pride parade in Istanbul], *BBC News Türkçe*, 30 June 2014; “Turkey Has No Excuse to Ban Istanbul Pride March”, *Human Rights Watch*, 28 June 2018; OHCHR, *AL TUR 1/2020* (2020), 1; “Istanbul once again bans Pride march”, *The Washington Blade*, 21 June 2022.

⁷⁸ “Boğaziçi protests: Police detain 12 students for carrying rainbow flags”, *Bianet*, 25 March 2021.

⁷⁹ “Turkey: Student Protesters at Risk of Prosecution”, *Human Rights Watch*, 18 February 2021; “Kadına yönelik şiddetin son bulması için Kadıköy’de yapılan eylemde trans aktivistlere gözaltı” [Trans activists detained in a demonstration in Kadıköy to end violence against women], *Euro News*, 7 March 2021.

⁸⁰ “2021 İstanbul LGBTI+ Onur Haftası bilançosu: İkişi çocuk toplam 40 kişiye dava açıldı” [2021 İstanbul LGBTI+ Pride Week balance sheet: A total of 40 people, two of whom are children, were sued], *Yeşil Gazete*, 7 January 2022; “2021 İstanbul Onur Yürüyüşü davasında beraat kararı çıktı” [Judgment of acquittal in 2021 İstanbul Pride Parade case], *Bianet*, 22 February 2023.

⁸¹ “Turkey: Minister says LGBTQ+ rights are ‘terrorist propaganda’”, *PinkNews*, 13 November 2022; “Erdoğan attacks LGBTQ ahead of crucial vote”, *France24*, 4 May 2023; “Erdoğan calls opposition ‘pro-LGBT’ at election rally”, *Reuters*, 8 May 2023; “We’re against LGBT: Erdoğan targets gay and trans people ahead of critical Turkish election”, *The Guardian*, 12 May 2023; “Turkey’s LGBTQ community fears being exposed to homophobic hate under Erdoğan”, *Hindustan Times*, 29 May 2023; “Erdoğan rants against ‘LGBT forces’ as Biden congratulates him on Turkey election win”, *The Independent*, 31 May 2023.

⁸² “رسميًا وبشكل مفاجئ... دولة أوروبية تمنع زواج المثليين وتوافق على تقديم ضمانات دستورية للحجاب” [Officially and surprisingly, a European country bans same-sex marriage and agrees to provide constitutional guarantees for the veil], *News Line*, 26 January 2023.

In November 2022 Türkiye and Azerbaijan signed a joint “Action Plan on Cooperation in the field of policy on family, women and children”, which sets out a series of cooperative measures between both countries aimed at strengthening “family values”.⁸³

Beyond the targeting of persons and activists of diverse sexual orientations, gender identities or gender expressions, Turkish authorities have also displayed their disregard for the rights of migrants and asylum seekers coming from criminalising countries. There have been several alleged instances of trans women and other refugees of diverse sexual orientations, gender identities, and gender expressions being deported back to jurisdictions such as Syria, where they faced possible imprisonment or death.⁸⁴ These cases, and many others, fall well outside the scope of this report, though the developing situation in Türkiye warrants continued observation, regardless.

The examples of enforcement outlined below were not carried out based on provisions criminalising consensual same-sex sexual acts or diverse gender expressions explicitly, but their scale, ambiguity, and severity warrant inclusion in this report. In numerous instances, the informal verbal explanations given to detainees indicate that even in the absence of criminalising laws, law enforcement officers feel empowered or perceive it as their duty to apprehend individuals of diverse sexual orientations, gender identities, and gender expressions.

Examples of Enforcement

On **19 June 2010** three activists from Pink Life LGBTQTT Solidarity Association (Pembe Hayat) were arrested by police in Türkiye's capital, Ankara. Initially not given a reason for their arrest, the three were eventually told by officers that it was for “transvestism”. They were pulled from their vehicle and held for five hours at a local police station where they were verbally abused. Their formal complaint regarding their mistreatment was rejected by the Public Prosecutor. On **25 October 2011** the trio were found guilty of “resisting public officials and preventing them from performing their duty” and “insults” by the Ankara 15th Court of First Instance. One of the activists was sentenced to five months in prison, with the others receiving six and 18 month suspended sentences. The UN Special Rapporteurs on the situation of human rights defenders and the on violence against women, its causes and consequences, expressed concern at the arrest and convictions. The Turkish Permanent Representative in Geneva, in response, denied that the group were targeted

as a result of their “sexual orientation, gender identity or activities as human rights defenders”, claiming rather that they were arrested for “prostitution” and “creating a disturbance”.⁸⁵

On **28 June 2015** security forces charged against the crowd at a Pride demonstration in Istanbul, arrested at least three persons. That year, the Governor of Istanbul had banned Pride activities, which had taken place uninterrupted since 2003, for the first time.⁸⁶

On **2 July 2017** police dispersed a demonstration held as part of the Trans Pride Week in Istanbul, arresting at least seven participants.⁸⁷

On **2 July 2018**, Istanbul's Pride March encountered a forceful intervention by the police, who employed water cannons, tear gas, and rubber bullets to disperse the participants. This resulted in the arrest of at least 11 individuals by the authorities.⁸⁸

On **10 May 2019**, 22 persons were arrested while participating in Ankara's Middle Eastern Technical University's (METU) Pride march. Months later, 19 were indicted for violating the Public Meetings and Demonstrations Law. On **8 October 2021** it was reported that all of them had been acquitted.⁸⁹

Over the course of **April 2020**, 11 lawyers from the Ankara Bar Association were investigated and charged for their criticism of a homophobic speech delivered by the Ministry of Religious Affairs, facing up to two years of imprisonment.⁹⁰ The lawyers had published a statement against the Ministry and filed a lawsuit for incitement to hatred, as the official and cleric had targeted LGBTQI+ people and people living with HIV in a sermon.⁹¹ Later, the charges were extended to several members of the Bar Association of Diyarbakır.⁹² On **24 April 2023**, it was reported that they had been acquitted.⁹³

Several arrests of people of diverse sexual orientations, gender identities, and gender expressions were reported throughout **January 2021**, during the widespread student protests at Istanbul's Boğaziçi University against the appointment of a new rector by the government. On **5 January** it was reported that at least two activists who had protested against the appointment had been targeted by the police. Their houses were raided, and they were taken into custody, beaten, strip-searched, and threatened by the authorities.⁹⁴

Later, on **30 January 2021**, at least four Boğaziçi University students were arrested for displaying a poster depicting rainbow flags alongside an image of the Kaaba (a sacred

⁸³ ILGA-Europe, *Country Profile: Azerbaijan* (2023).

⁸⁴ “Trans refugee in danger of being deported to Syrian war zone amid Turkey's ‘illegal crackdown’”, *Pink News*, 6 August 2021; “Trans mülteci Sofia, Suriye savaş bölgesine sınır dışı edilme tehlikesiyle karşı karşıya” [Trans refugee Sofia faces deportation to Syrian war zone], *Pembe Hayat*, 9 August 2021; “5 kişi Onur Yürüyüşü'nde gözaltına alınmış: İran vatandaşına idam kararı riski” [5 people were detained in Pride Parade: Risk of death sentence for Iranian citizen], *Cumhuriyet*, 28 June 2023.

⁸⁵ OHCHR, *AL G/SO 214 (107-9) G/SO 214 (89-15) TUR 7/2011* (2011); Ambassador and Permanent Representative of Turkey, *2012/BMCO/3483193* (2012).

⁸⁶ “Onur Yürüyüşü'ne polis saldırısı!” [Police attack the Pride March!], *BirGün*, 28 June 2015.

⁸⁷ “LGBT yürüyüşünde 7 gözaltı” [7 detentions in LGBT march], *Yeni Çağ*, 2 July 2017.

⁸⁸ “Istanbul Pride: Eleven arrested as march goes ahead despite official ban”, *The Independent*, 2 July 2018.

⁸⁹ “Turkey's shocking Pride March trial: The story so far”, *ILGA Europe*, 4 December 2020; “ODTÜ Onur Yürüyüşü'ne katıldıkları için yargılanan 18 öğrenci ve 1 akademisyen beraat etti” [18 students and 1 academician on trial for participating in the METU Pride Parade were acquitted], *T24*, 8 October 2021; “Turkish court acquits students for attending Pride march”, *Reuters*, 8 October 2021.

⁹⁰ “Ankara Bar Association put on trial for criticizing President of Religious Affairs”, *Bianet*, 29 September 2021.

⁹¹ *Ibid.*

⁹² “Prosecutors' investigation widens to include Diyarbakır Bar Association after criticism of top cleric”, *Bianet*, 29 September 2021.

⁹³ “Diyaret İşleri Başkanı Erbaş'ın nefret söylemine karşı çıkan hukukçular beraat etti” [Lawyers who opposed the hate speech of the President of Religious Affairs, Erbaş, were acquitted.], *Gazete Duvar*, 24 April 2023.

⁹⁴ “Şiddet, çıplak arama, tecavüz tehdidi... Boğaziçi eyleminde gözaltına alınan LGBTQI+ aktivistlerine işkence!” [V Violence, naked search, threat of rape... Torture of LGBTQI+ activists detained in the Bosphorus protest!], *İler / Haber*, 5 January 2021.

black stone cube situated at the centre of the Masjid al-Haram mosque in Mecca, Saudi Arabia, which holds great religious significance in Islam). Displayed as part of an exhibition for the on-campus protest, it sparked hostile reactions from Turkish authorities, with the Ministry of Interior referring to the detainees as “four LGBT perverts”, and the Turkish President reportedly accusing LGBTI+ activists of “vandalism” in a public speech.⁹⁵ Two of the detainees were identified in a video of the exhibition, while the other two were presumed to be the organisers of sexual and gender diversity activities on campus. While they were released on **18 March**, ultimately up to seven persons were charged for the exhibition. They were reportedly accused of “degrading religious values” and “incitement to hate”, facing up to three years in prison. During the trial against the seven, the Ministry of Justice supported the charges on the basis that homosexuality was a “sin”.⁹⁶

On **1 February 2021** at least 15 activists of diverse sexual orientations, gender identities, and gender expressions were battered by the police and taken into custody in Izmir for protesting in support of the four detained in Boğaziçi University.⁹⁷

The following month, on **6 March 2021**, trans activists were reportedly targeted and detained by the police during protests marking the International Day Against Violence Against Women, in Kadıköy, Istanbul. Among at least nine detainees was one of the activists arrested during the Boğaziçi University demonstrations. A local NGO reported that the arrested activists were released, though on **9 February 2022** Turkish media reported that five of the detained trans activists had been fined for violating the Law on Public Health.⁹⁸

The aftermath of the Boğaziçi University protests also saw 12 persons arrested on **25 March 2021** for displaying rainbow flags during a demonstration. They were indicted on grounds of violating the Public Meetings and Demonstrations Law, although they were acquitted in

December 2022.⁹⁹ Around this time, dozens of persons were reportedly arrested for protesting the detention of the Boğaziçi University protesters. Although is not always clear which arrests were directly based on the sexual orientations or gender-identities and expressions of protestors. According to Human Rights Watch, LGBTIQI+ activists, who had been “playing a key role” in the on-campus demonstrations, were disproportionately and deliberately targeted by security forces.¹⁰⁰

On **28 April 2021** media reported a failed attempt by the police to arrest several activists who were trying to hold an “LGBTI+ picnic” in a public park of Eskişehir. However, it appears the activists managed to avoid detention.¹⁰¹

Following the repression of Istanbul Pride on **26 June 2021**, 19 persons that were arrested in the city for allegedly participating in the march were indicted for violating the Public Meetings and Demonstrations Law. During their trial, which started on **13 May 2022**, the accused claimed they had been severely assaulted during their detention.¹⁰²

On **22 June 2021**, one person was arrested in Istanbul’s Maçka park when a group of activists was trying to host a Pride picnic. Media also reported that other activists were beaten by the police. The activity had previously been banned by district authorities.¹⁰³

Also in Istanbul, on **26 June 2021**, Turkish police blocked and violently repressed a local Pride march. Although Pride activities had been forbidden by the Governor of the Beyoğlu district, activists had defied the ban. Security forces arrested at least 50 participants, although sources such as *Reuters* raise the number to over 100.¹⁰⁴ Among those arrested was a journalist who was strangled by police agents, sparking protests in several Turkish cities.¹⁰⁵ An MP from the opposition called for an investigation of the violence exercised by the police at Istanbul Pride, though apparently with little success.¹⁰⁶

⁹⁵ “Two Boğaziçi University students arrested, two placed under house arrest”, *Bianet*, 1 February 2021; “Son dakika... Bakan Soylu: 4 LGBT sapkını gözaltına alındı” [Last minute: Minister Soylu: 4 LGBT perverts detained], *Sozcu*, 30 January 2021; “Erdogan bezichtig türkische LGBTI* des „Vandalismus“” [Erdogan accuses Turkish LGBTI of “vandalism”], *Schwulissimo*, 3 February 2021.

⁹⁶ “Erneut Studierende in Istanbul festgenommen” [Another student arrested in Istanbul], *Blue Win (Switzerland)*, 3 February 2021; “Turkey: Student Protesters at Risk of Prosecution”, *Human Rights Watch*, 18 February 2021; “Turquie : trois ans de prison requis contre les étudiants turcs qui ont fait un montage montrant la Kaaba, un lieu sacré de l’islam avec un drapeau LGBT” [Turkey: three years in prison required for Turkish students who made a montage showing the Kaaba, a sacred place of Islam with an LGBT flag], *Fdesouche*, 28 February 2021; “Turkish court releases two university students on trial over protests”, *National Post*, 18 March 2021; “Boğaziçi exhibition case: Ministry of Justice defends arrests, cites ‘sin’”, *Bianet*, 24 August 2021.

⁹⁷ *This source contains personal names or images and has thus been redacted to protect the safety of those involved. If you require access to this source for corroboration or for COI Research purposes, please reach out to research@ilga.org.*

⁹⁸ “Kadına yönelik şiddetin son bulması için Kadıköy’de yapılan eylemde trans aktivistlere gözaltı” [Trans activists detained in a demonstration in Kadıköy to end violence against women], *Euro News*, 7 March 2021; “Kadıköyde Gözaltına Alınan LGBTI+ Aktivistleri Serbest -” [LGBTI + Activists Detained in Kadıköy Free -], *Hak eşitlik varoluş için Lezbiyen Gey Biseksüel Transeksüel İnterseksüel Derneği*, 8 March 2021; “5 trans kadına 8 Mart mitingi için para cezası” [5 trans women fined for March 8 rally], *Bianet*, 10 February 2022.

⁹⁹ “Boğaziçi protests: Police detain 12 students for carrying rainbow flags”, *Bianet*, 25 March 2021; “Boğaziçi Üniversitesi’nde gözaltına alınan 12 öğrenci serbest bırakıldı” [12 students detained at Boğaziçi University released], *İler Haber*, 26 March 2021; “Wieder Festnahmen wegen Regenbogenflaggen in Istanbul” [Again arrests for rainbow flags in Istanbul], *Mannschaft Magazin*, 26 March 2021; “Τουρκία: Συνελήφθησαν 50 διαδηλωτές που συμπαραστέκονταν στους συλληφθέντες φοιτητές” [Turkey: 50 Protesters Arrested in Support of Arrested Students], *Athena*, 26 March 2021; “Boğaziçi Üniversitesi eylemlerinde 12 şüpheliye 3 yıla kadar hapis istemi” [Up to 3 years in prison for 12 suspects in Boğaziçi University protests], *Milliyet*, 23 November 2022; “Boğaziçi eylemleri davasında 12 sanığa beraat kararı” [Acquittal of 12 defendants in Boğaziçi protests case], *Türkiye Gazetesi*, 29 December 2022.

¹⁰⁰ “Mehr als 150 Festnahmen bei Studenten-Protesten in Istanbul” [More than 150 arrests during student protests in Istanbul], *Salzburger Nachrichten*, 3 February 2021; “Turkey: Student Protesters at Risk of Prosecution”, *Human Rights Watch*, 18 February 2021.

¹⁰¹ “Eskişehir’de Kızıl Okyanus LGBTI+ pikniğine ‘özel’ engel” [‘Special’ obstacle to Red Ocean LGBTI + picnic in Eskişehir], *Yeşil Gazete*, 28 April 2021.

¹⁰² “Onur Yürüyüşü davasında beraat yok, bir sonraki duruşma 23 Aralık’ta” [No acquittal in Pride March trial, next hearing on 23 December], *Bianet*, 13 May 2022.

¹⁰³ “Onur Haftası pikniğine polis saldırısı: 1 kişi gözaltına alındı” [Police attack on Pride Week picnic: 1 person detained], *İler Haber*, 22 June 2021; “In Turkey, Pride Picnic draws police violence”, *Global Voices*, 24 June 2021.

¹⁰⁴ “Onur Yürüyüşü’nde engellemeye rağmen Beyoğlu’nun her yeri eylem alanına çevrildi” [Despite the obstruction in the Pride Parade, everywhere in Beyoğlu was turned into an action area.], *Evernsel*, 26 June 2021; “Polis, Onur Haftası Yürüyüşü’ne saldırı: En az 50 gözaltı var” [Police attack Pride Parade: At least 50 detentions], *Gazete Duvar*, 26 June 2021; “For transgender Turks, discrimination said to loom larger”, *Reuters*, 6 July 2021.

¹⁰⁵ “İstanbul’daki Onur Yürüyüşü’ne müdahale: AFP foto muhabiri Bülent Kılıç boğazına bastırılarak...” [Intervention in Pride Parade in Istanbul: AFP photojournalist Bülent Kılıç was pressed to his throat.], *BBC News*, 26 June 2021; “Gazetecilerden Polis Şiddetine Protesto” [Protest against Police Violence by Journalists], *MyNet*, 30 June 2021.

¹⁰⁶ “Oya Ersoy: Onur Yürüyüşü’ne müdahale eden polisleri derhal soruşturma açılmalı” [Oya Ersoy: An investigation should be launched immediately against the police who interfered with the Pride Parade], *Evernsel*, 30 June 2021.

In Ankara on **29 June 2021** at least 20 people were detained at a small Pride march that was violently dispersed by Turkish security forces.¹⁰⁷

On **30 June 2021** media reported that between 15 and 20 persons were arrested in Eskişehir for participating in a Pride march. Police reportedly blocked the action before it started and arrested people who were in the area deemed to be potential participants, regardless of whether or not they intended to participate. It has been reported that the detainees were acquitted later by a court.¹⁰⁸

It was reported in **June 2021** that at least three trans women were targeted in the Taksim area of Istanbul, with one being made to show her identity documents to local guards while sitting on a bench, and another detained right before getting into a taxi. It seems that the trans women were taken to local police stations on the grounds that they were accused of "disgraceful acts", but no formal charges were laid against them.¹⁰⁹ According to Pembe Hayat, the trans women were called to a police station in **October** on the grounds of providing formal statements about the incident, and also had their health status checked. The group also alleges that police had previously "sealed" their homes without waiting for their lawyers to arrive, an act which local activists have deemed illegal. Activists also alleged at the time that it was "not a coincidence" that the incident occurred just two days before Istanbul Pride, claiming that it was an attempt by local authorities to intimidate vulnerable members of the community.¹¹⁰

On **11 July 2021**, the first Pride March of the city of Aydın was also blocked by the police. Although ILGA World has not gathered information on any arrests being made, media reported that the police besieged the office of a local NGO and forced the activists to stay inside.¹¹¹

On **2 September 2021**, 18 trans women were detained following a police raid on their houses around Taksim, Istanbul. According to Kaos GL, a local NGO, this was the fourth time the women had had their homes raided and been detained. Each time, the police alleged the need to gather information to adopt COVID-related measures or

actions against sex work. They were freed after being questioned for hours.¹¹²

It was reported on **8 September 2021** that charges had been laid against eight members of the LGBTIQ Assemblies of the Istanbul Pride on grounds of the law on Public Meetings and Demonstrations. The accused faced up to three years of imprisonment but were acquitted in **February 2022**.¹¹³

On **8 March 2022** police violently repressed another rally for the International Day for the Elimination of Violence against Women, this time in Antalya. On **23 May 2022**, media reported that 40 persons, including, at least six identified as LGBTQ+, had been indicted for participating in the demonstration. The group were indicted for allegedly violating the Law on Public Demonstrations.¹¹⁴

A trans woman was detained in Istanbul on **4 May 2022** after a neighbourhood guard shouted transphobic insults and called the police on her. According to her lawyer, she was then taken to the police station where she was harassed, assaulted, and forced to lick the floor by the guard and the police chief. She has filed a criminal complaint, but ILGA World has not been able to confirm whether any investigation was launched on the incident.¹¹⁵

It was reported on **20 May 2022** that at least 70 people were detained for participating in the Boğaziçi University Pride March. The action was organised by the Boğaziçi University LGBTI+ Research Club (BÜLGBTİA+), an academic association that was formally banned by the government-appointed rector during the previous year's campus protests. The BÜLGBTİA+ march was violently repressed by the police, who had set up strong security measures to access the campus and blocked the demonstration.¹¹⁶ On **16 November 2022**, it was reported that the 70 detainees had been indicted over allegations of violating elements of the Penal Code and the Law on Public Gatherings.¹¹⁷

On **5 June 2022**, 11 LGBTQI+ activists –including members of the civil society organisation Onur Haftası– were

¹⁰⁷ "Ankara'daki Onur Yürüyüşü'nde polis 20 kişiyi darbederek gözaltına aldı" [Police beat 20 people into custody at Pride Parade in Ankara], *Evernsel*, 30 June 2021; "Turkish police detain at least 15 at Pride march in Ankara", *Reuters*, 30 June 2021.

¹⁰⁸ "Eskişehir'de Onur Yürüyüşü'ne katılmak isteyen 20 kişi gözaltına alındı" [20 people who wanted to participate in the Pride Parade in Eskişehir were detained], *Cumhuriyet*, 1 July 2021; "Eskişehir Onur Yürüyüşü davasında görüntüler dosyada" [Images in Eskişehir Pride Parade case are in the file], *Bianet*, 26 April 2022; "Eskişehir Onur Yürüyüşü'nde yargılananlara beraat" [Acquittal of those on trial in Eskişehir Pride Parade], *Medyascope*, 27 April 2022; "Eskişehir Governor's Office bans LGBTI+ themed events for a month in province", *Duvar English*, 15 June 2023.

¹⁰⁹ "90'lara dönüş: Bekçiler, yolda gördükleri transları gözaltına almaya başladı" [Back to the 90s: guards started detaining trans people they saw on the road], *T24*, 19 July 2021.

¹¹⁰ "Bayram Sokak ve Küçük Bayram Sokak'ta trans kadınların evine mühür!" [Seal the house of trans women in Bayram Street and Küçük Bayram Street!], *Kaos GL*, 28 June 2021; "İstanbul'da trans kadınların evlerini polis kapattı" [Police seal off trans women's houses in Istanbul], *Bianet*, 28 June 2021; "Bayram Sokak: Trans kadınlar yine gözaltına alındı" [Bayram Sokak: Trans women were detained again], *Pink Life Association LGBTT Solidarity* (Pembe Hayat), 17 October 2021.

¹¹¹ "Aydın'da Onur Yürüyüşü'ne polis engeli" [Police barrier to Pride Parade in Aydın], *Gazete Duvar*, 11 July 2021; "Aydın'da Onur Yürüyüşü'ne polis engeli: İHD binası abluka altına alındı" [Police obstacle to Pride Parade in Aydın: İHD building is besieged], *İler Haber*, 11 July 2021.

¹¹² "Bayram Sokak'a polis baskısının bir yıllık özeti: Yıldırma politikası devrede!" [A one-year summary of the police crackdown on Bayram Street: Intimidation policy in action], *KAOS GL*, 9 March 2022.

¹¹³ "LGBTIQ+ Meclisleri'nden 8 kişiye Onur Yürüyüşü'ne katıldıkları için dava açıldı" [8 people from LGBTIQ+ Assemblies were sued for participating in the Pride Parade], *T24*, 8 September 2021; "Eight people from LGBTIQ+ Assemblies prosecuted over Pride March", *Bianet*, 9 September 2021; "Onur Yürüyüşü'ne katılan sekiz kişiye üç yıla kadar hapis istemiyle dava açıldı - "Bizi yıldıracaklarını zannediyorlar ama karşılığında mücadele eden, politika üreten LGBTIQ+lar var"" [Eight people who participated in the Pride Parade were prosecuted for up to three years in prison - "They think they will intimidate us, but there are LGBTIQ+s who are struggling and making policy"], *Medyascope*, 10 September 2021; "Tar: LGBTI+lar medya için 'özne' değil, 'sorun'" [Tar: LGBTI+s are not a "subject" but a "problem" for the media], *Bianet*, 9 February 2022.

¹¹⁴ "Antalya'da 8 Mart Feminist Gece Yürüyüşü'ne katılanlara dava" [Lawsuit against those who participated in the March 8 Feminist Night Parade in Antalya], *Gazete Duvar*, 23 May 2022; "Antalya'da 8 Mart'ta katılan 40 kadına dava açıldı" [A lawsuit was filed against 40 women who participated in Antalya on March 8], *Evernsel*, 23 May 2022.

¹¹⁵ "Trans woman tortured, harassed in Istanbul's Taksim Police Station", *Bianet*, 7 June 2022.

¹¹⁶ "Boğaziçi Üniversitesi'ndeki Onur Yürüyüşü'ne polis saldırı: 70 öğrenci gözaltında" [Police attacked Pride Parade at Boğaziçi University: 70 students in custody], *Gazete Duvar*, 20 May 2022; "BU'deki Onur Yürüyüşü'ne polis engeli: 30'dan fazla gözaltı var" [Police barrier to Pride Parade in BU: More than 30 detentions], *Yeşil Gazete*, 21 May 2022.

¹¹⁷ "Boğaziçi Onur Yürüyüşü'nde gözaltına alınan 70 öğrenciyi dava açıldı" [Lawsuit filed against 70 students detained at the Bosphorus Pride Parade], *Bianet*, 16 November 2022; "9. Boğaziçi Onur Yürüyüşü'nde 70 öğrenciyi dava açıldı" [Lawsuit filed against 70 students at the 9th Bosphorus Pride Parade], *Pink Life Association LGBTT Solidarity* (Pembe Hayat), 17 November 2022.

violently arrested when they gathered in Yeldeğirmeni, Istanbul, to read a statement for Pride Month. They were released from custody after the police took their statements. However, they claim to have been abused while in detention.¹¹⁸

Turkish police used so-called “less-lethal weapons”, such as pepper spray, tear gas and stun grenades, to violently disperse a Pride march at the MET University in Ankara on **10 June 2022**. Authorities arrested at least 38 people in what was described by Amnesty International as an “unnecessary and excessive” use of force towards peaceful demonstrators. The march, which was organised by the METU LGBTIQAA+ Solidarity student group, had been banned by METU staff a few days prior.¹¹⁹

On **17 June 2022** a Pride picnic celebrated at the Beyazıt campus of the University of Istanbul by the institution’s Equality Society was cancelled after a mob of members of nationalist and Islamist organisations gathered to intimidate the participants. The police, which did not disperse the openly hostile mob, detained 26 students who stayed to support the picnic and its organisers. Previously, a youth branch of the AKP (the country’s ruling party) had attacked the event on social media, calling on “nationalists who respect the Turkish family structure and morality” to act, and stating that the picnic organisers were “a perverted minority”.¹²⁰

Some days later, on **26 June 2022**, at least 373 persons – including several children – were detained in Istanbul for participating in the city’s Pride march. Previously, the district authorities of Beyoğlu and Kadıköy had once again banned any Pride-related activities. According to the detainees’ lawyers, the group were denied food and water while in custody.¹²¹

Also on **26 June 2022**, the Izmir Pride march was violently blocked and dispersed by police. According to Turkish media, at least eight persons were arrested.¹²²

On **3 July 2022** at least 21 persons had been arrested when they tried to participate in the Eskişehir Pride March. Eight of them had been indicted on grounds of violating the Public Gatherings Law. Some of the students who were

detained suffered consequences beyond the enforcement of this legislation, as they were reportedly expelled from their college dormitories or had their scholarships cut off.¹²³

On **5 July 2022**, police arrested at least 42 persons that had gathered in Ankara to commemorate Pride. The small demonstration was violently repressed by the security forces while a counterdemonstration shouting homophobic slogans was allowed to continue. On **10 May 2023**, it was reported that a trial had been initiated, with those arrested accused of violating the Law on Public Gatherings.¹²⁴

On the night of **12 October 2022** eight women and LGBTQ+ persons were arrested and taken into police custody in Kadıköy, Istanbul. The group was allegedly being harassed and beaten by some passers-by, who later called the police on them. According to the detainees, the police, along with the harassers, chased and assaulted them with pepper spray. While in detention they were assaulted further by the police, resulting in a broken arm, missing tooth, and torn ear among the victims.¹²⁵

On **25 November 2022**, during a rally for the International Day for the Elimination of Violence against Women in Ankara, up to seven people were detained for carrying “LGBTI+ banners”.¹²⁶ It should be noted that hundreds of participants in these demonstrations were arrested in other Turkish cities, even if an explicit link between expressing support for SOGIESC issues and these other detentions has not been confirmed.¹²⁷

On **8 March 2023**, 28 persons were detained in Istanbul after the police stormed a feminist rally for the rights of women and LGBTQI+ people. Some of the detainees alleged being subjected to violent abuses by security forces.¹²⁸

On **7 June 2023** security forces stopped a film screening in Kadıköy, Istanbul of the movie “Pride”, and arrested an undetermined number of people. Screening of this and other SOGIESC-related films had already been banned by the Kadıköy local government.¹²⁹

At least 15 persons were arrested at the MET University’s Pride demonstration in Ankara on **9 June 2023**. They were

¹¹⁸ “Onur Ayı için açıklama yapmak isteyen LGBTI+’lara gözaltı” [Detention of LGBTI+s who want to make a statement for Pride Month], *Bianet*, 6 June 2022; “Onur Ayı’nı kutladıkları için gözaltına alınan LGBTI+’lar serbest bırakıldı” [LGBTI+s detained for celebrating Pride Month were released], *Diken*, 6 June 2022; “Turkish police violently arrest and ‘torture’ Istanbul Pride organisers”, *Pink News*, 6 June 2022.

¹¹⁹ “Ban on Pride March at METU”, *Bianet*, 8 June 2022; “Türkiye: ‘Another dark day’ as police use excessive force and fire pepper balls on Pride marchers”, *Amnesty International*, 10 June 2022; “ODTÜ’de Onur Yürüyüşü’ne polis müdahale etti, gözaltılar var” [Police intervened in Pride Parade in METU, arrests are made - Cumhuriyet Newspaper], *Cumhuriyet*, 11 June 2022; “38 students detained as police use excessive force at ODTÜ pride march”, *Stockholm Center for Freedom*, 13 June 2022.

¹²⁰ “İstanbul Üniversitesinde Onur Pikniği hedef gösterildi!” [Pride Picnic at Istanbul University was targeted!], *Eversel*, 16 June 2022; “Pride picnic at Istanbul University canceled after attack by Islamists”, *Duvar English*, 17 June 2022; “LGBTI event at İstanbul University canceled over threats, 26 students briefly detained”, *Turkish Minute*, 18 June 2022.

¹²¹ “LGBTI+’lara ‘Onur Ayı’ yasağı: Tehditler, gözaltılar” [‘Pride Month’ ban for LGBTI+s: Threats, detentions], *Gazete Duvar*, 24 June 2022; “İstanbul Onur Yürüyüşü’nde gözaltına alınan 373 kişi serbest bırakıldı” [373 people detained at the Istanbul Pride Parade released], *Bianet*, 27 June 2022.

¹²² “İzmir’de yapılmak istenen 10’uncu Onur Yürüyüşü’ne polis engeli: 8 gözaltı” [Police blocked the 10th Pride Parade to be held in İzmir: 8 detentions], *Gazete Duvar*, 27 June 2022.

¹²³ “Onur Haftası’na katılan öğrenciler yurttan atıldı” [Students participating in Pride Week were expelled from the dormitory], *DW*, 30 July 2022; “Eskişehir Onur Yürüyüşü’nde gözaltına alınan sekiz kişiye dava: Savcı, fotoğraf çekme ve slogan atmayı ‘suç delili’ saydı” [Case against eight people detained in Eskişehir Pride Parade: Prosecutor considered taking photos and shouting slogans as ‘criminal evidence’], *Diken*, 20 October 2022.

¹²⁴ “Ankara Pride case begins!”, *Kaos GL*, 10 May 2023.

¹²⁵ “Kadıköy’de LGBTI+’lara polis işkencesi” [Police torture of LGBTI+s in Kadıköy], *Pink Life Association LGBTT Solidarity (Pembe Hayat)*, 18 October 2022; “Polis işkencesine uğrayan LGBTI+’lar ve kadınlardan açıklama” [Statement from LGBTI+s and women who were tortured by the police], *Agos*, 20 October 2022.

¹²⁶ “Ankara’daki 25 Kasım eyleminde 5 gözaltı!” [5 detentions during the November 25 action in Ankara!], *Bir Gun*, 26 November 2022; “Kadınlar ve LGBTI+’lar Ankara’da eylem yaptı, polis yedi kişiyi gözaltına aldı” [Women and LGBTI+s protested in Ankara, police detained seven people], *Medyascope*, 26 November 2022.

¹²⁷ “Kadınlar Taksim’de yaşadıklarını anlattı: Polis ordusuyla terör ortamı yaratıldı” [Women told about their experiences in Taksim: Terror environment was created with the police army], *Gazete Duvar*, 29 November 2022.

¹²⁸ “21. Feminist Gece Yürüyüşü’nde Taksim’e çıkması engellenen kadın ve LGBTI+’lara polis biber gazıyla müdahale etti!” [Police intervened with tear gas against women and LGBTI+s who were prevented from going to Taksim during the 21st Feminist Night March!], *T24*, 10 March 2023; “8 Mart’ta gözaltında” [Detained on March 8], *Bianet*, 13 March 2023.

¹²⁹ “İzleyiciye gözaltı yürüyüşe yasak” [Detention of the audience, no marching], *Bir Gun*, 9 June 2023; “Pride filmi izlemek isteyenler gözaltına alındı” [Detained those who wanted to watch the movie Pride], *Kaos GL*, 7 June 2022; “Türkiye: Teilnehmer*innen von Pride-Filmvorführung festgenommen” [Türkiye: Pride film screening participants arrested], *Queer*, 9 June 2023.

released shortly after, with at least five of them requiring medical examinations for their injuries.¹³⁰

Also on **9 June 2023**, eight individuals were detained during a march for workers' rights in Eskişehir after they unfurled a rainbow flag.¹³¹

On **13 June 2023** two students from the Izmir Democracy University (IDU) were arrested for participating in a Pride-themed picnic. They were released after being interrogated.¹³²

On **18 June 2023** at least eight persons were arrested in Istanbul when they were trying to participate in a march for Trans Pride. It was reported that at least one of the detainees was a minor. Previously, the Governor of the Istanbul province had banned all Pride-related activities in the city.¹³³

Days later, on **25 June 2023**, at least 113 persons were arrested in the Şişli district of Istanbul for participating in a Pride demonstration. Some of the detainees were apprehended while sitting at nearby cafés, allegedly because the police thought they "looked gay".¹³⁴ Among the arrested were at least five foreigners that faced deportation to their countries of origin, which included Iran, Libya, and Russia. A Portuguese tourist was hit by police and thrown in a van due to his appearance, after simply asking police for directions. He has alleged that they held him in the vehicle for five hours, and kept him imprisoned for 20 days.¹³⁵

Also on **25 June 2023**, at least 50 persons were arrested in Izmir for demonstrating in a Pride March.¹³⁶

¹³⁰ "Tehdit, saldırı ve gözaltılara rağmen... ODTÜ Onur Yürüyüşü yapıldı" [Despite threats, attacks and detentions... METU Pride Parade was held], *İler I Haber*, 9 June 2023; "ODTÜ Onur Yürüyüşü'nde gözaltına alınan 15 öğrenci serbest bırakıldı" [15 students detained at METU Pride Parade released], *Gazete Duvar*, 10 June 2023.

¹³¹ "TİP üyeleri protokolü protesto ederken LGBT bayrağı açtı, 8 kişi gözaltına alındı" [TİP members unfurled the LGBT flag while protesting the protocol, 8 people were detained], *Haberler*, 10 June 2023; "Eskişehir'de 8 kişi gözaltına alındı" [8 people detained in Eskişehir], *Anadolu Gazetesi*, 10 June 2023.

¹³² "Onur Pikniği engellendi: İki öğrenci serbest bırakıldı" [Pride Picnic blocked: Two students released], *İler I Haber*, 14 June 2023.

¹³³ "9. Trans Onur Yürüyüşü'ne polis saldırısı: 8 kişi gözaltına alındı" [Police attack on the 9th Trans Pride Parade: 8 people were detained], *İler I Haber*, 18 June 2023; "Trans Onur Yürüyüşü'ne polis müdahalesi: 8 gözaltı" [Police intervention in the Trans Pride Parade: 8 detentions], *Haber SoL*, 18 June 2023; "Trans Onur Yürüyüşü: En az sekiz gözaltı" [Trans Pride: At least eight detentions], *Diken*, 18 June 2023.

¹³⁴ "LGBT'nin gösterilerine izin verilmedi... İstanbul'da 96 gözaltı var -" [LGBT demonstrations were not allowed... There are 96 detentions in Istanbul -], *Sabah*, 25 June 2023; "Turkey's law enforcements detain dozens of LGBTQ activists", *Menafn.com*, 26 June 2023; "İstanbul Pride Parade: LGBTI+ activists gather despite restrictions, nearly 100 detained", *Bianet*, 26 June 2023; "İstanbul'da düzenlenen onur yürüyüşünde 113 kişi gözaltına alındı" [113 people were detained during the pride parade in Istanbul], *Cumhuriyet*, 27 June 2023; "Over 100 arrests following Pride march in Istanbul" [Over 100 arrests following Pride march in Istanbul], *Global Voices*, 28 June 2023.

¹³⁵ "İstanbul Onur Yürüyüşü: Biri göçmen, beş yabancı gözaltında tutuluyor" [İstanbul Pride Parade: One immigrant, five foreigners detained], *Euro News*, 28 June 2023; "İstanbul'daki Onur Yürüyüşü'nde gözaltına alınan İranlı sınır dışı edilebilir; 'İdam edilme tehlikesi var'" [Iranians detained at the Pride Parade in Istanbul may be deported; "There is a danger of being executed"], *T24*, 27 June 2023; "5 kişi Onur Yürüyüşü'nde gözaltına alınmıştı: İran vatandaşına idam kararı riski" [5 people were detained in Pride Parade: Risk of death sentence for Iranian citizen], *Cumhuriyet*, 28 June 2023; "Eşcinsel turist İstanbul'a gözaltına alındı, yaşadıklarını anlattı" [Gay tourist detained in Istanbul, told about his experiences], *Sozcu*, 22 July 2023; "Türkiyede bir kişi 'gey görüldüğü' için habs olunub" [A man was arrested in Turkey for "appearing gay"], *Minority Aze*, 27 July 2023.

¹³⁶ "İzmir'de LGBT yürüyüşüne polis müdahalesi: 50'nin üzerinde gözaltı" [Police intervention in LGBT march in İzmir: Over 50 detentions], *Haberler*, 27 June 2023; "Police operation at LGBT demonstration in Izmir: over 50 arrests", *NewsBeezer*, 26 June 2023; "Yasaklanan LGBT yürüyüşüne polis müdahalesi, 50 kişi gözaltına alındı" [Police intervention in banned LGBT march, 50 people detained], *İstiklal*, 27 June 2023.



Oceania

Six out of 14 UN Member States in Oceania criminalise same-sex sexual activity and at least one (Tonga) criminalises “female impersonation”, though documented cases of enforcement of such laws remain rare. More research is needed on the matter.

Decriminalisation has been uneven across the region, with some UN Member States, such as Vanuatu and Micronesia, having no record of such legislation since independence, while Australia’s federal system meant a gradual period of decriminalisation between 1975 and 1997.¹

In 2005, Fiji’s law against same-sex sexual acts was declared unconstitutional by the country’s High Court after an Australian tourist and local man were sentenced to two years’ imprisonment for “something so disgusting that it would make any person vomit”—sex between men. It was not until 2010, though, that Fiji’s criminalising legislation was officially taken off the books.²

More recently, in 2023 the Cook Islands also decriminalised consensual same-sex acts between adults, and while it is not a UN Member, New Zealand has indicated support for the autonomous territory’s ascent into the United Nations.³ In the other territories

associated with New Zealand, namely Niue and Tokelau, decriminalisation would have taken place in 2007. However, there is information that contradicts the reports received by ILGA in 2008, indicating that the law through which decriminalisation would have occurred may have never come into effect. Therefore, at the time of publication, ILGA has not been able to definitively confirm that in these two territories consensual sexual acts between adults of the same sex have indeed been decriminalised.⁴

Interestingly, while Tonga is not included in this report due to a lack of known cases of enforcement, the country’s Supreme Court refused to grant custody of a child to a gay man in 2013. The judge stated that because Tonga’s criminal law still prohibits “carnal knowledge” between consenting adults of the same sex, “[n]o court would entrust a very young child into the care of person whose lifestyle carries with it a very real risk of prosecution”.⁵ This case, then, demonstrates that well beyond the issues of detention or jail-time, criminalising legislation the world over can and does negatively contribute to the lives and dignity of our communities in very tangible ways.



Papua New Guinea

Criminalising Provisions

Section 210 of the Criminal Code (1974) penalises “unnatural offences” with “imprisonment for a term not exceeding 14 years. The crime is defined as sexual penetration “against the order of nature” (either insertive or receptive). Attempts to commit this “crime” can be punished with imprisonment for seven years. Further, “indecent practices between males” are criminalised under Section 212, with a penalty of imprisonment of up to three years.⁶

Enforcement Overview

ILGA World notes at least three possible examples of enforcement between 2011 and the time of publication. Even when evidence of formal enforcement is not abundant, the existence of such provisions contributes to the discrimination and violence perpetrated by hostile elements in society.⁷ Further, a 2011 study found the police to be one of the main sources of gender-based violence and discrimination against men who have sex with men (MSM) and trans people.⁸

¹ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Vanuatu* (accessed: 26 September 2023); ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Micronesia* (accessed: 26 September 2023); ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Australia* (accessed: 26 September 2023).

² “Australian jailed in Fiji for gay sex”, *Sydney Morning Herald*, 7 April 2005; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Fiji* (accessed: 26 September 2023).

³ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Cook Islands (New Zealand)* (accessed: 7 August 2023); “2022 in worldwide LGBT rights progress – Part 3: Africa and Oceania”, *Erasing 76 Crimes*, 4 January 2023.

⁴ “2022 in worldwide LGBT rights progress – Part 3: Africa and Oceania”, *Erasing 76 Crimes*, 4 January 2023; “LGBTQ+ rights lag in Pacific despite Cook Islands’ gay sex move”, *Openly*, 21 April 2023; ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Niue (New Zealand)* (accessed: 28 July 2023).

⁵ Supreme Court of Tonga, *FA 39 of 2011* (2013).

⁶ ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Papua New Guinea* (accessed: 4 September 2023).

⁷ “Papua New Guinea’s gay and transgender community finds safety in Hanuabada village”, *ABC News*, 8 October 2014; Human Dignity Trust, *Country Profile: Papua New Guinea* (2021).

⁸ Christina Misa Wong and Shanti Noriega, *Exploring gender-based violence among men who have sex with men, male sex worker and transgender communities in Bangladesh and Papua New Guinea* (FHI 360, 2011), 21.

Between its first UN Universal Periodic Review cycle in 2011 and its fourth in 2021, multiple calls have been made by several bodies and organisations to decriminalise. However, such recommendations have been widely rejected by the government of Papua New Guinea, and all discussions on the matter seem to have stalled.⁹

Examples of Enforcement

A 2011 report on gender-based violence in Bangladesh and Papua New Guinea interviewed one victim who spoke of Papua New Guinean police arresting several

transgender women, releasing them only when they agreed to sex with the officers.¹⁰

In **March 2015**, a Malalaua District resident was prosecuted and pleaded guilty to “indecent acts” between males, receiving a suspended sentence and being made to undergo mandatory counselling and community service work.¹¹

On **18 November 2022** two men in Morobe were arrested after being found having sex at a healthcare centre. They were released on bail of 700 Kina (approx. USD 200) each, with an additional 200 Kina (USD 56) to be paid by each of their guarantors. The pair were due to appear in court on **27 March 2023**, though at the time of publication no further information could be verified.¹²

⁹ Human Dignity Trust, *Country Profile: Papua New Guinea* (2021); “Papua New Guinea: Abuses Raised at UN Review”, *Human Rights Watch*, 10 November 2021.

¹⁰ Christina Misa Wong and Shanti Noriega, *Exploring gender-based violence among men who have sex with men, male sex worker and transgender communities in Bangladesh and Papua New Guinea* (FHI 360, 2011), 21.

¹¹ Kaleidoscope Trust et. al., *Speaking Out* (2015); Pacific Islands Legal Info Institute, *Papua New Guinea [National Court of Justice]* (2015).

¹² “Sodomy suspects granted bail”, *The National*, 6 December 2022.

