

The Story of **LGBTQI+**

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Dedication

To the people who bravely shared their stories
To the unsung heroes who helped bring this work to light
To Ishaq Wadi'



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Notice

Names and places have been concealed /changed to preserve people's identities.
Testimonies contain violence incidents that may be harmful and triggering.



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Introduction

In the light of the systematic prosecution practiced by the Egyptian State against the LGBTQI community during the last five years, the State has continued to develop its tools of entrapping people based on sexual orientation and gender identities. This apparently reflects the patriarchal and predominantly masculine-oriented pattern of the State institutions, which is applied in its prosecution and litigation procedures. Such procedures punish anyone who express ideas or practice behaviors that do not fall in line with the narrow concept of the standard norms of the Egyptian society, which categorizes the individuals according to the binary standard of males and females only. While human rights defenders in Egypt work to use the tools of local litigation to defend the LGBTQI persons, the state seeks from time to time to use renewed means of entrapment and arrest.

This booklet reviews the current situation of the LGBTQI people in Egypt by shedding light on the legal dimensions and clarifying the tools used in targeting the LGBTQI community and investigation processes, as well as providing an overview of how the hunting /entrapment occurs, the development of police methods and criminal investigation authorities, types of arrest, interrogation, and litigation.

This booklet is also supported by extracts from cases official papers issued during the investigation stages. These cases are documented by the legal aid team of Bedayaa Organization, including texts from police records during the investigation and interrogation procedures. Additionally, we also included some documented testimonies of detainees.

The analytical aspect of this booklet intends to review and highlight the target groups with a brief analysis of the state representative's behavior and their role, along with a reflection of the social, political and legal structure.

Legal background

Although there is no explicit legal text condemning consensual same-sex relations in Egyptian law, the state pursues its criminalization through broadly- open -to -interpretation laws and creating specific circumstances to target and arrest LGBTQI members in Egypt. Several laws are used, namely:

- 1- Law to combat prostitution and debauchery, No. 10 of 1961¹
- 2- The Egyptian Penal Code: public indecency, inciting passersby to debauchery No. 11 of 2011²
- 3- Anti-Cybercrime Law No. 175 of 2018.³

¹ "A term of imprisonment no less than three months and no more than three years and a fine no less than LE25 and no more than LE300, or either penalty separately, shall be levied against...(c) anyone who habitually engages in debauchery or prostitution."

² "Whoever is found on a public road or a frequented place inciting passer-by to immorality with signs or words shall be punished by imprisonment for a period of no less than three months."

³ The law provides in Article 25 that "whoever publishes content violating the familial values and principles of Egyptian society, shall be punished with imprisonment for a period of no less than six months and a fine of not less than fifty thousand pounds and not exceeding one hundred thousand pounds, or one of these two penalties." This may constitute a threat against any awareness-raising activity carried out by LGBTQI individuals or activists - or others - on social media and the Internet in Egypt.

Legal basis for arrest and detention

Arrest in public places:

This Occurs when a police officer stops individuals for questioning or inquiring about their name, work, address, destination, and place of residence without restricting their freedom of movement and mobility and without the use of force. The persons responsible for carrying out the arrest are:⁴

1

The judicial officer in cases other than flagrante delicto. The judicial officer and the non-commissioned police officer, each within his jurisdiction.

2

Public authority men have the right to initiate this procedure. The officers of public authority are those who have been granted, by virtue of their position, the status of a judicial officer.

It is worth noting that the police officers do not have the right to stop / apprehend any person for questioning about their identity cards, unless in case the passer-by put himself /herself in a position of suspicion that requires the intervention of an officer of public authority. Policemen use this loophole in the Criminal Code to arrest anyone who raises suspicion from the policeman's point of view. Although the Court of Cassation⁵ has given some definitions of suspicious circumstances, it is still broadly open to interpretation and largely left to the whims of the judicial officer. Contrary to belief, the judicial officer is not entitled to arrest persons without a charge. Whereas the Supreme Constitutional Court ruled in Appeal No. (3) of Judicial Year 10 that the arrest of persons on the charge of "suspicion" was unconstitutional.⁶

<https://lawyeregypt.net/المكتبة-القانونية/أحكام-محكمة-النقض-في-التفتيش> 4
https://www.cc.gov.eg/criminal_judgments 5

<http://www.laweg.net/Default.aspx?action=LawEg&Type=4&PFID=13119&PPFID=13464&إشتباه> 6

Testimony 1

"In Al-Manshiya area in Alexandria governorate, while I was passing on the road, a person in civilian clothes stopped me and asked to see my ID card and told me that he was an informant. I gave him my ID and he looked at me from the bottom up, in disdain of my appearance and ordered to search my backpack, which contained a laptop computer in addition to my phone. He searched my phone and browsed through my pictures and personal conversations between my friends, and me. Then he said, "You turned out to be a faggot with a license too! Why did you act as if you were a real man, you fucker"? He then slapped my face and forced me to sit on the ground until he finished searching my phone, moments later two other people joined him, one of them was dressed as a policeman and came to me and said, "how long have you been getting fucked, you faggot?"

I told him that I am not like that and I don't know why I was arrested in the first place and that I was going to my house, so he hit me in the face and said, "We have seen all the pictures and read the conversations between you and the people who want to fuck you. We will take you to the police station in a bit and file a report in order to file a lawsuit against you, so that you learn a tough lesson".

I collapsed in front of him and begged him to let me go home, so he hit me in the face again and said hush, "I don't want to hear your voice, dumbass." And he began to search me and found nothing but the wallet with nearly 500 Egyptian pounds in it, so he said, "You received this amount as a price for getting fucked, or were you going to pay them for someone to fuck you, faggot". He continued saying: "you seem to be a well-bred decent man, and you are going to become a doctor", and if we file a lawsuit against you, your future would be ruined, and you won't be able to get out of this situation unless you do what I command you to".

I swore to him that I would do whatever he would tell me, he told me that he would take my laptop, my phone and also my money in order not to file a report or take me to the police station, I felt that my brain froze and I could not think and bear any more after begging him to give me my belongings back and allow me to go to my house, but my pleas did not work, and I gave him my laptop, my phone, and the money I had then he let me go."

Legal basis for arrest and detention

Arrest in public places and venues:

The Egyptian Criminal Code, especially Article 30, allows policemen to arrest without permission or a warrant from the Public Prosecution in cases of flagrante delicto, and therefore policemen always try to fabricate a case of flagrante delicto when writing records to ensure the legality of the arrest procedures⁷ and justify the arrest without prior judicial permission, such as watching the accused while trying to lure or induce the men in public. In the drafting of their records, police officers use the public morals offenses mentioned in the Penal Code and in the Anti-Prostitution and debauchery Law.

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Testimony 2

I was walking down a street in the downtown area of Cairo governorate while I was wandering like any citizen in his country, I was surprised by a person dressed in civilian clothes, he stopped me and ordered me to show him my identity card and my phone. He told me that he is affiliated with the police. When I refused to give him my phone, he insulted me and slapped me in the face and said, "Give me the mobile phone, otherwise I will take you to the police station, and I will be able to bring the phone out of your pocket with my own ways. I felt afraid and immediately gave him my phone, so he searched it and looked at my personal Facebook account and viewed the conversations between me and my friends and some photos, then said, "You are a faggot sissy boy and said that my night is going to turn into hell. "perverts like you are growing in numbers, you motherfuckers ". He handcuffed me and then dragged me to the police vehicle. Once I arrived Qasr al-Nil Police station, I was received with a barrage of insults.... "Son of a bitch, filthy whores, motherfucker, you are such a plague to this country" He kicked me in my stomach. When the Police Officer saw this happening, he asked the informant about the reason for my arrest, the informant replied by saying that "I was engaging in sodomy". The Police officer angrily yelled at the informant and told him: "I told you to arrest political activists at the moment not faggot", and he continued insulting the informant and added: "see if any of the inmates want to fuck, then send him to the cell" or otherwise show him what he deserves and then let him go. When I heard the officer's words, I had conflicting feelings, didn't know if I should be happy that I will be allowed to leave the police station, or lament the fact that I was subjected to insults and beating. I thought I would be set free in a few minutes. However, what I had faced afterward was the cruelest. The policeman dragged me on the ground all the way to the detective assistant's office and forced me to clean it and clean the bathroom inside. I stayed inside the station for about 24 hours, then the policeman allowed me to leave."

Legal basis for arrest and detention

Arrest in private places:

Article 45 of the Criminal Code states that home searches are carried out in accordance with the issuance of a judicial order and may not be searched without it, and that the reason for the search, its time, place, and purpose must be attached to it. The home may be entered under special circumstances such as distress and fires, and according to Article 51 of the Code of Criminal Procedure. The judicial officer entrusted with the search shall alert the persons in the house upon the search, and the owner of the house shall see the warrant issued to search his/her house. The Court of Cassation issued a judicial principle in Appeal No. 9680 of Judicial Year 86 that stipulates the right to search homes without a prosecutor's permission if approval is obtained from the owner of the house.⁸ In the event where a report or complaint is received from a citizen, the judicial officer has the right to investigate the validity of the complaint, if proven to be veritable and the circumstances of flagrante delicto are found as stipulated by law, then the judicial officer has the right to arrest individuals.

The right of the judicial officer to searches:

Inspection is the search for people's private details and intrusion into their privacy to obtain evidence that can be used to investigate a crime. The inspection (security check) may include the person himself or a place of his, that is ensured its inviolability based on the provisions of the constitution, or electronic devices belonging to the accused. It is agreed that searching a person or his property has legal procedures that must be followed, as the Code of Criminal Procedure, in its articles No. 52 and 97, regulates the cases that allow the search of people, as the search originally is an illegal act that violates the sanctity of private life guaranteed by the constitution.

The judicial officer must obtain a prosecutor's permission to anticipate the incident of the search so that the search is considered legal, or in the cases of flagrante delicto mentioned under the Code of Criminal Procedure. Hence, the judicial officer relies on Article 30 and other articles related to flagrante delicto cases. The judicial officer argues that a person commits a crime that applies to the principles of flagrante delicto under the law, which allows him to search people and their personal belongings. Usually the Public Prosecution "corrects" the legal errors made by the judicial officer and reopens the sealed confiscated items closed in front of the accused, in order to give legal status to the findings obtained by the Police in illegal ways.

8 /المكتبة-القانونية/أحكام-محكمة-التقاضي-في-التفتيش/ <https://lawyeregyp.net/>

The legal proceedings of each case:

Officially, any case goes through the following steps:

1

Pre-arrest investigations:

these are investigations that the police carry out to ensure that the information obtained from informants and assistants is correct.

2

Investigations with the accused immediately after their arrest:

these are carried out by the police as soon as the accused arrives at the police station, and the confession is extracted through means that will be mentioned later.

3

Prosecution investigations:

these are usually conducted in the presence of the defense lawyer. The prosecution investigates the details of the police report, in rare cases the police officer who conducted the arrest is investigated.

4

In some cases, the prosecution requests additional investigations from the police

The following will review the steps taken by the authorities for the prosecution of LGBTQI people, starting from online entrapment and arresting to the different grades of litigation:

The legal proceedings of each case:

Pre-arrest process

Firstly, the baiting or entrapment process consists of police affiliated persons luring members of the LGBTQI community, mainly gay, bisexual men, and transgender/transsexual women through online dating applications. To this end, those collaborators with the police created fake accounts for chatting with its users from the Gay/Trans community, allegedly to meet and date them for sexual encounters. Often (the user of the application and the fake user “policeman”) agree on dates on the roads or in public places. The security agent implements this strategy, so that they could arrest the users upon their arrival at the spot and then be able to confiscate and search their phones.

Upon reading many of these cases’ records - we concluded that the police officers were willing to pay sums of money in foreign currencies to lure users of these applications, through boasting their financial status. The police-affiliated user then expresses his willingness to host the target person in a private place of his, after the meeting takes place in a public venue at first.

The collaborator or agent also shows his familiarity and knowledge of the LGBTQI community, his acceptance and readiness for sex as soon as possible, and his keenness to practice safe sex. The methods of trapping have developed among people affiliated with the police force, which include the presence of trained personnel who can speak foreign languages and respond to users’ requests by taking personal photos showing distinctive signs (such as a foreign passport or foreign currency), or speaking through international numbers (in the form of text messages or via video calls.) all of these methods and tricks reduce suspicion of trapping and reassure the users to opt for the encounters.

The legal proceedings of each case:

The process of arrest and forms of arrest

A. The first form of arrest: It is the common model in targeting members of the LGBTQI community, in which (the user of the gay dating application unknowingly agrees on a date in a public place with the policeman, as a point for arresting the users once they reach the agreed meeting point. The detainees' phones are then searched, and the conversations they have had on dating apps are printed to serve as "single" evidence for criminal trials.

The police claim that the person affiliated with them who carries out the process of baiting and entrapping members of the LGBTQI community is a secret source, whose identity cannot be disclosed. Throughout the trial the source remains an unknown person, and then the police officer writes a fake investigation report- "that they have received information about the arrestee before the arrest" considering that this report is being written while the arrested person is actually in the custody of the police. The report contains information about the person soon-to-be an arrestee and about the presence of an account on a dating application. The content of the conversations that are found on the application is transcribed, and printed, and if there is personal nude photos or video clips, the police officers enclose them to the report in preparation for referring the arrested person to the Public Prosecution Office.

A practical example from the documents of a case held before the court in the year 2020, where the report issued for the arrest of a person stated the following:

"As soon as that information was available, and after identifying the person being investigated and setting a date for a meeting, I escorted the secret source and the secret police force to secure the mission in the department's vehicle, and upon our arrival through phone calls between the source and the suspect in question, it was possible to determine the meeting between them. I recognized the defendant through the pictures sent through the conversations...He interacted with our source and had a short conversation together, where both of them introduced each other and the perpetrator began to express his willingness to have a sexual encounter with our source.

He asked our source to accompany him to his private place (flat) in order for the sexual encounter to take place. At that point, our source, waved at us and as we witnessed what happened between them and we were watching the person in question of our investigations, and because he violated law no. 175 of 2018 of the Information Technology Law (meaning the Law on Combating Information Technology Crimes), and Law No. 10 of 1961 of the Morals Law (meaning the Anti-Prostitution Law), I approached him and then apprehended him."

Testimony 3

“I had reached out to someone on the gay dating app “Grindr” and we agreed that we would meet that day and he told me where he would be waiting for me. At eleven o'clock that day, I arrived in Mohandessin area, next to the duty-free shops in Giza Governorate, and that was the agreed-upon place. I waited for a few minutes until he came and while we were talking, I was surprised by the presence of several people who stopped us in plainclothes and accused us of trading in liquor. They took us to the fifteenth floor in the duty-free shops building, and then I discovered that I was in the office of the morality department (anti-vice department). They put me in a room after they took all my belongings. I stayed in the room until four o'clock in the morning, all without any interrogation or anything that proves that I am accused in any case, then They took me to another room in order to review my criminal record. I was surprised by the presence of the person I was talking with on the dating application among the policemen. After they finished reviewing my criminal record and my fingerprinting, they forced me through beating and insulting me into signing the report they wrote, where I found that it included charges of (Practicing debauchery, publicizing it, and satisfying my sexual desires), then they put me in custody, I stayed there for about two hours, and I discovered that there was another person who had been arrested through the same means, as happened to me.

In the early morning, around eight in the morning, we were referred to Dokki Prosecution. I expected that the prosecutor would be less aggressive than the policemen, especially when I told him what happened to me in the Morality Department and the trumped-up charges, forcing me to unlock my phone, beating me and threatening me and forcing me to sign the report. I was surprised by his reaction which was very insulting and demeaning to me, as he said, "You are the faggot who they arrested, you are a fucker, and do you fuck or get fucked" (top or bottom). Then the prosecutor ordered a four-day imprisonment to be renewed pending investigation.

The legal proceedings of each case:

The process of arrest and forms of arrest

B. The second form of arrest: It is also a common model, where police officers rely on guides and informants to gather information about the places where LGBTQI people gather. Based on this, then ambushes are set up in those places such as Ramses Square and Jamiat al-Dawwal Street, and this type of arrest is not based on a legal basis, as the law does not give the officer the right to arrest people except in the case of flagrante delicto. Therefore, in writing investigation reports, the officers tend to use language that hints at the presence of an element of flagrante delicto, as we note in the following example from a case report in 2018:

"Where we received information from one of our secret sources about the frequenting of a group of homosexual young men to al-opera square in order to satisfy their sexual desires in return for money, and on the basis of that, a force of the secret police moved to the site and noticed the presence of one of the gay youth making gestures and signals that would induce men to practice debauchery with him in return for a fee, and in confronting him with this, he admitted his frequent visits to the Opera Square in order to practice debauchery with men.

By examining the investigation papers for that model, we note that there is no evidence of suspicion of flagrante delicto except the officer's suspicion, which leads to questioning the legality and validity of the arrest and search procedures, due to the absence of the element of flagrante delicto except for those in the police force that executed the arrest based on their suspicions.

Testimony 4

"I was with my friends at the cafe, which we were accustomed to hanging out there, and while we were sitting, two policemen entered and approached us. They asked us about our identification cards, which we presented to them. They kept checking it, and then they searched us for anything, especially our phones. They asked us to unlock the phones, but we refused, and I asked them why they were searching us, even though the cafe was full of other guests and they did not search anyone else but us...

One of the informers responded by saying, "I don't want to hear your voice, you son of a bitch, you are terrorists." Then he shouted inside the cafe and said, "Terrorists! terrorists!" About 10 other people entered, handcuffed us from behind and then took us to the security directorate.

We arrived at the directorate, and then the policemen and police officers initiated their barrage of insults and beatings. The police officer asked to unlock the phone. When I refused, the policeman slapped me in the face. The officer said, "unlock the phone, you filthy faggot, should we beg you, son of a bitch?" So, I was forced to unlock my phone and the police officer went through my photos and read personal conversations. Then he said, "You seem to be into cash, you asshole", what kind of filthy pictures are these?" Then he ordered our referral to Bab Sharq police station.

While we were on the way to the station, I asked one of the policemen what would happen to us. He said, "you are heading to the police station to be sent home from there." After we arrived at the station and faced the same hurling of insults and beatings, then they took us to the room where they draft the initial reports while we were being bullied and mocked for our appearance, and we were also beaten by the police officer of that department. He told us: "you will stay here until next morning when we will refer you to the prosecution...we will teach you a lesson".

The legal proceedings of each case:

The process of arrest and forms of arrest

C. The third form of arrest: considered the least common form, whereby police officers arrest people, relying on reports from a person, to make the arrest, and it is divided into:

First: the arrest from hotels and it takes place after obtaining a report from one of the hotel workers about the presence of “suspicious” persons or the occurrence of unacceptable sexual practices, as we can see in the following example from a case report in 2019:

upon receiving information from the operating room which prompted us to move to the Zamalek Marriott Hotel to examine a person who was stopped by the hotel's security supervisor after he moved in the hotel's reception and waved and made signs to the hotel's guests for the purpose of inducing them. Upon our arrival at the hotel, the named / _____, the security supervisor at the hotel gave us a note that a suspicious person tried to induce the guests in the hotel and lure them to engage in debauchery with them in return for a fee, as well as presenting us the hard disk of the hotel cameras where we found scenes that show the suspect's attempts at doing so.

Second: Arrest from homes where a force from the police station moves after receiving a report from a neighbour indicating the presence of “suspicious” persons or persons working in one of the prostitution rings. In such cases, it is required to obtain a prior authorization or warrant issued by the prosecution. The following example from a case report in 2019:

"In compliance with the permission / warrant issued by the Public Prosecution to my fellow Major/ _____ to apprehend and search a person and the residence of the suspect/ _____ residing in..... Building/ _____ Fifth Floor, granted to the police station to arrest and search a suspect and his residence while he was running his house (managing a private premise for the purpose of debauchery, acts contrary to public morals , practicing homosexuality, immorality and inducing men to engage in such acts for a fee. Everything that may appear accidentally during the search is considered a crime punishable by law.

Because of the legal difficulties of this model of obtaining prosecution permits or receiving a report from a citizen, the police officers prefer other models to entrap the LGBTQI community because of their ease of implementation compared to this model.

The legal proceedings of each case:

Evidences and methods used in its gathering:

Reviewing the methods of gathering evidence in this type of cases, these methods can be summarized as follows:

Physical evidence indicating the practice of debauchery in return for a fee, such as money (especially foreign currencies) and electronic visa cards.

Electronic evidence obtained by searching a person's mobile phone and used to prove the elements of publicizing, habitual practice, and practice of debauchery.

Electronic evidence obtained through conversations with the informant, and used to prove the elements of publicizing, habituation and practice of debauchery.

Evidence related to transgender women, such as wigs, cosmetics, and women's clothing.

Physical evidence indicating the habitual practice of debauchery, such as sex toys, condoms, intimate lubricants, and others.

In most cases, this evidence is gathered without any legal basis. Mostly, the police officer does not obtain permission from a prosecutor to obtain such evidence, despite the illegality of obtaining such evidence, the prosecution approves enclosing it to the investigation records and prove it as exhibits of the case.

The evidence collected varies according to the type of case and the form of arrest. The police officers are highly inclined to gather electronic evidence. In the event where a person is arrested through the Internet. The police print photos from the person's account, screenshots of conversations, and any personal photos that the person sent to the detective.

If the arrest took place on the street, the person's phone is confiscated and searched, and they try to find anything that can be used as evidence of conviction. In some other cases, the police officers search for any evidence that can give the impression of engaging in debauchery without discrimination in return for a fee⁹, as they try to prove the defendant's possession of any sum of money, condoms, or intimate lubricant. The methods of gathering evidence can be observed as in the following example from a case report in Year 2017:

⁹ The practice of debauchery or prostitution in the law means the practice of prostitution or fornication with people without discrimination, and immorality is attributed to the prostitution of a man when he engages in immoral sexual acts with other men indiscriminately. Notably, the practice of fornication by a man with women is not considered debauchery, and the practice of lesbianism between females is not considered such.

The legal proceedings of each case:

Evidences and methods used in its gathering:

Upon searching him, we found a number of illicit items and a white Lenovo mobile phone, phone number 0000, and in confronting the accused, he confessed and admitted to using the mobile phone to create pages on websites to practice debauchery with men for a fee. A sum of money of one thousand pounds was found with him, which the accused admitted that the sum is the proceeds of his engagement in debauchery."

Note: Pictures of the conversations with the secret informant were copied and the conversations were provided after marked by seen and attached.

Note: A white Lenovo mobile phone and a sum of 1,000 pounds were seized, and they were kept in a white envelope.

In addition, in the cases of transgender women, the women's clothing and cosmetics used as evidence of their habitual practice of debauchery without discrimination, as in the following example from a case report in the year 2020:

And by searching the bag in preparation for taking him to the administration office, women's clothes, condoms, intimate oils (lubricants), a glass dildo used in abnormal sexual practices, a black Lenovo laptop broken from the back, and a black wallet containing a sum money amounting to 5200 pounds, one hundred dollars and 1180 euros, as well as a number of Visa cards, were confiscated. By confronting him with the investigations and information we have about him, he admitted and confessed."

The legal proceedings of each case:

Pre-trial investigation and interrogation

A. Police investigation and interrogation

After the arrest, the police interrogate the person and inform him / her of the reasons for his arrest. Police officers put pressure on the accused, both through physical coercion and threats, to induce them to make a confession. Those arrested may be blackmailed by the police for their release, if they report other members of the LGBTQI community or their friends to the police or to cooperate with the security forces by providing them with information.

At times, when the police officers are not sure that a person belongs to the LGBTQI community, or that there is no content indicating their sexual orientation on the mobile phone. They try to examine the accused physically by searching him and view his underwear or physically check him to see if the person has removed his body hair. The interrogation by the police is as follows, according to an example from the police interrogation report from a case in 2019:

Q: What do you say about the accusations attributed to you?

A/ I committed those.

Q: Have you ever been arrested before?

A/ no

Q: What was the situation in which you were arrested?

A/ Your honor, I was in Ramses Square making gestures and signs for pedestrians on the highway to practice debauchery with me to satisfy my sexual desires in return for a fee.

Q/ It is attributed to you that you made gestures to incite passersby to debauchery in return for money in contravention of the provisions of the law. What do you say?

C: This will be the last time I commit such an act.

Testimony 5

The Police officer was not deterred by the physical abuse inflicted upon us by the policemen when we entered the police station and when we refused to unlock our phones. The Police Officer continued further and tortured us until I begged him to stop beating and insulting us and I showed him my disability card, he mocked and laughed at me and told me to put it in my ass. I didn't realize he was telling me to do it seriously and literally. When he repeated his order for a second time in a louder tone with a grimaced face, and then he said in a loud voice, "I command you to take off your trousers and stick it in your ass", He indeed ordered the policeman to take off my pants and put the card inside my ass."

Testimony 6

"After I was referred to Qasr al-Nil police station, the police officers performed their well-known brutal acts on me, which consisted of beating and insulting, manhandling and beating me with sticks which lasted more than two and a half hours when I had to endure all these insults, humiliation and beating. Then they put me in the detention cell, which was about 14 and a half meters in size, and we were about 58 people in it. I spent four days confined in that space with 58 other people inside a "sardine box", during that period I could not sit on the ground except for a price that I had to pay, whether it was financial or something else. "In order to even sleep on the ground, you will pay money or cigarettes, or you will find someone harassing you." And if you do nothing about it, by then he would allow you to sleep next to him". I was trying to enter the bathroom so that I could sit in it or sleep "for two days I slept in the bathroom because of the crowdedness in the cell. I sometimes used to wake up to the scene of someone urinating next to me. No matter how I describe what I experienced, it won't compare to what I really saw in reality". Not to mention, of course, the intense heat that exists and the lack of ventilation outlets. We only had two fans in the cell, but we are not strong enough", as the two fans were dedicated to the person in charge of the cell, who was the biggest thug among them, and the second fan was allocated to the one who paid more to the cell's supervisor. It was hard to breathe, we were suffocating".

The legal proceedings of each case:

Interrogation by the prosecution

Despite the “impartiality of the prosecution” in investigating cases in general. It always tends to reflect the anti-LGBTQI tone. The prosecution rarely investigates the false procedures that happen during the arrest with the absence of flagrante delicto or ignores the interrogation of the officer responsible for the arrest. It is worth noting that a defence lawyer must be present during these investigations. Here is an example from the prosecution’s interrogation report from a case in 2019:

Q/ what is your relationship to the confiscated items presented to you specifically?

A / I have nothing to do with them and I only had 50 pounds.

Q: Whose possessions are these then?

A/ I don't know.

A/ What is your comment about their presence as exhibits enclosed with the apprehension report?

A/ I don't know.

Q / What do you say, then, about the pictures attached to the report that show you inviting lodgers to practice debauchery, as well as your own nude pictures?

A/ I don't know anything about these pictures.

Q: Have you ever been arrested in previous cases?

A/ no

Q: Do you have any criminal records?

A/ no

Q/ You are accused of habitually practicing debauchery as indicated in the investigations, for a fee and without discrimination, what do you say?

A/ I hereby deny such accusations.

Q/ You are accused of inciting a male named _____ to practice debauchery as indicated in the investigations, what do you say?

A/ I deny such accusations.

Q: Do you have anything to add?

A/ no

Testimony 7

“They brought us before Qasr al-Nil Prosecution and the patrol officer and a lawyer from the prosecution were present, however, the prosecutor did not interrogate me, he only said while looking at me indignantly, “ what a load of rubbish and disgusting people you are , people like you are supposed to be burned, you are from Upper Egypt, if your family knew, they would shoot you dead or burn you alive.” He kept on insulting me without hearing me, just by looking at the report, which I did not know what was written in it at the time. The lawyer tried to speak to the prosecutor because of his aggressive manners, but the officer replied to him and said, “There is no talk, don’t talk, otherwise we will kick you out.” The Public Prosecutor ordered four days of detention pending investigations, which did not happen in the first place! We were transferred to Qasr al-Nil police station again.

Testimony 8

We were taken to the Public Prosecution Office and the beatings marks were still clearly shown on our bodies. The lawyer requested attending the interrogation with us at the prosecutor's office, but the latter declined and justified this by saying that he wanted to ask us about something, so the lawyer had to wait outside. Moreover, while we were at the prosecutor's office alone, he reprimanded and insulted us and said, "I will refer you to the Forensic Medicine authority so that we can see if you are really faggots or not." Consequently, we were sent to the forensic doctor to do an anal examination on each of us.

When I went to the doctor, he asked me, "Have you been used from the back before (had an intercourse as a bottom)?" I told him yes, in order to avoid going through the anal examination, but he insisted on examining me. He ordered me to take off all my clothes and bend in the prostration position. Then he did the examination using his hand and holding something else in his other hand until I felt something being inserted into my ass.

The legal proceedings of each case:

Interrogation by the prosecution

We have noticed, through our legal interventions in such cases, that pressure on people to confess /reveal their sexual orientation and gender identity occurs under duress, as the confession takes one of the following forms: either by:

(1) Advice from police officers to the arrested person, that his confession of his sexual orientation makes him not guilty of sex work, or that his confession will make the Public Prosecution office treat him as a witness and not an accused. Without a doubt, these advice are legally incorrect and take place in the absence of the arrested person's defence/lawyer of his choice, the arrestee is ultimately obliged to comply with a lawyer appointed by the police or the prosecution, and in most cases, the lawyer is not sufficiently professional and fail in adhering to ethical standards in the defence.

(2) As for the second form of pressure on the detainees to confess, it is usually after searching the mobile phones, specifically dating applications and the conversations that took place on them, and in the case of naked personal photos of the arrested person or other persons, the arrestee is confronted with these conversations and pictures under moral and psychological pressure, while not enabling the arrested person to communicate with his lawyer, this leads to his collapse and his confession of his sexual orientation under this pressure.

It is worth mentioning that the confession of the accused individuals always takes place in the police reports, and their denial of these actions is found in the prosecution reports. This constitutes an evidence of the extraction of forced confession by illegal means of torture, threats, and coercion within the police station in the absence of a lawyer to represent the accused person in most cases.

General analytical insights

Target groups

The security prosecution procedures target members of the LGBT community in Egypt in general, as these persons are exposed to a range of violations because of their real or perceived sexual orientation, or because of their gender identity and gender expression. It is noted that in all these prosecutions, gays, bisexuals (men from a social perspective), transgender/transsexual women (men from a social perspective) and sex workers (men from a social perspective) are targeted.¹⁰

It is reported that in cases of online entrapment, police officers try to charge the accused with commercial sex or prostitution as a pretext against them, to justify the targeting of this group through the previously mentioned common models (either through online dating applications, social media, or random arrests from the street). Foreigners in Egypt are treated equally as Egyptian citizens in such cases of arrest, and the Administrative Court ruled in 2015 that the Ministry of Interior had the right to expel homosexual foreigners from the country because this posed a threat to the public interest¹¹. The deportation is carried out even if the innocence is proven by the court.

¹⁰ The accusation of the habitual practice of debauchery cannot be brought against a heterosexual man who has sex with women even if the element of habituality is proven against him, because the law explains the habit of practicing prostitution that a woman allows her to be presented to men without discrimination, while debauchery is that a man permits his offering to other men without discrimination. This means that if a man permits his promiscuity to other women, then that is according to the rulings of the Court of Cassation and is not criminalized by any punitive text. Habitual practice of debauchery or prostitution without discrimination by which the elements of the crime are fulfilled, whether in relation to the prostitution of a man or the prostitution of a woman. Prostitution is attributed when a woman allows her to be offered to every student without discrimination. Immorality is attributed to a man when a man permits his exposure to other men without discrimination.

¹¹ <https://egyptianstreets.com/2015/04/14/egypt-court-rules-homosexual-foreigners-can-be-deported-banned-from-entry/>

General analytical insights

Prosecutions and the social, political, and legal structure

Unfortunately, people in these cases go through many violations of their rights. It begins with false and incorrect incidents of arrest, by means of fabrication, forgery, and hunting (entrapment). Then the police force the defendants to confess and search their mobile phones without any judicial warrant or legal justification. In the prosecution, the accused is treated with contempt and looks of disdain, which in turn renew their imprisonment and refer them to trial in a quick period, sometimes not exceeding four days.

Observers of the laws used against LGBTQI people can easily notice that there is a clear disparity and difference in the treatment and interpretation of the law in terms of the protection of heterosexual men and punishment of the homosexuals and commercial sex workers.

According to the provisions of the Court of Cassation, a man who buys sex from women who are "habitually engaged into practicing prostitution" cannot be accused of being their partner in the crime of habitual prostitution. Partnership, as explained by court rulings in these crimes, requires that the man provide to the woman "accustomed to practicing prostitution" means to help her continue working in commercial sex. In addition, the man here is not considered an incitement to women to commit prostitution or an aid to them in doing so, because the incitement requires that it come from a third party, not from someone who wants to buy the sex, as for assistance, it requires spending money on commercial sex workers for some time.

We also observed the strict interpretation of the law to punish homosexuals or men who have sex with men. This comes in the context of the courts' interpretation of the crime of "habitual practice of debauchery", in spite of the keenness of the courts to set conditions to prove the element of habitual practice, including "non-discrimination" as previously explained, in cases of immorality. However, the presence of one sexual partner for the accused and the lack of sex in exchange for money is not sufficient to eliminate the element of habitual practice of debauchery as the judge considers the financial compensation merely a presumption and not the only evidence on the habit of practicing debauchery.

Judges are not interested in refuting the defense of lawyers and examining evidence and the legitimacy of accessing it in accordance with the rights of citizens - in the constitution and in the Criminal Procedure Law. Because of the judges' bias, very harsh sentences are issued against the accused in a single trial session. The accused has little chance of acquittal before the Court of Appeal, or at least a reduction in the sentence. It is noticeable that the judge lacks impartiality during the consideration of the immorality cases presented, especially when they contain personal sexual images of the defendants.

Testimony 9

The judge asked us, "Are these your pictures," we negated and said no. Then he asked another question and said, "Do these phones belong to you?" We answered: "yes". Then the judge said, "did you engage in such an act?" I told him, "No, we don't do this, of course, we are just friends, nothing more." The judge ordered the adjournment of the session. We went out with the lawyer, then we were surprised by the arrival of the judge's guard, and he summoned us again, and told us that the judge wants to talk to us without the presence of the lawyer. We went, and the judge told me and my friend: "If only I can beat you with my shoes, you bastards, you ruined the Egyptian society, go find someone to bring up your children.... And as for you, I swear I will release you from jail when you turn 36 and your life will be ruined you son of a bitch". Then he ordered us to leave, the verdict was pronounced, and we were sentenced to six years followed by probation (be kept under observation) for each one of us.

General analytical insights

Prosecutions and the social, political, and legal structure

In the event of conviction, the defendants become social outcasts, shamed, and ostracized for many years, because this crime is disgraceful and shaming to honor, in addition to the societal stigma that LGBTQI people suffer from in general.

The structure of Egyptian society allows this to happen due to prejudice and societal hatred for the LGBTQI community, and because the parliament that legislates laws is considered a reflection of the Egyptian society's religious and political mood, it is natural for Egyptian laws to be biased against the LGBTQI community.

For example, Egyptian laws do not penalize heterosexual men and women because of their sexual relations outside of marriage, while it punishes homosexuals for practicing same-sex sexual relations. On the other hand, the mentality of the formal justice institutions in Egypt is predominantly reactionary conservative thinking, which is constantly in a battle of political speculation and point scoring with the political Islam groups that compete with the ruling regime to gain power and mobilize public opinion around them.

This said, LGBTQI people are usually the victims of these battles over popularity and political conflicts between the current regime and political Islam groups, and it turns out, accordingly, how the security forces are seeking to play the role of guardians of morality in society or help to distract public opinion from the government's failure to implement social justice policies.

The rulings issued by the Egyptian judiciary reflect a full-fledged cycle of persecution by personnel of the police, the prosecution and the judiciary, whereby police officers are distinguished by their disdain and degradation of the LGBTQI persons, especially gay men and transgender/ transsexual persons, and accordingly the police insult the arrested verbally and physically in Police departments. While the prosecution plays its role in pressuring the accused to confess through the aforementioned methods, and refrains from questioning the narrative of the police, and deals with the accused in a demeaning and degrading way.

The violations of state representatives (SSI personnel and police) and society (neighbors, café and hotel workers) continue to represent the reproduction of the system of male domination in a patriarchal society that feels threatened by those who challenge the norm of gender roles. Accordingly, people must follow certain rules, and if they are broken, they will be dealt with decisively.