

## Table of Contents

- **ALGERIA: Mass convictions for homosexuality**
- **EGYPT detains men for alleged sexual orientation, alongside alleged rapists**
- **EGYPT: Security forces abuse, torture LGBT people**
- **EGYPT: Gang rape witnesses arrested, smeared**
- **EGYPT: Actor's trans son sued for Instagram post about LGBT+ activist's suicide**
- **EGYPT: Actor's revelation about transgender son sends shock waves across conservative Egypt**
- **GABON formally decriminalizes homosexuality**
- **GABON: Anti-gay law passes first step to decriminalization**
- **GHANA: Archbishop of Canterbury speaks on anti-gay Bill in Ghana's Parliament**
- **GHANA's anti-gay bill condemned as 'state-sponsored' violence**
- **GHANA: Anti-gay bill seeks prison terms for LGBT+ people**
- **MOROCCO: Dozens of gay men are outed in Morocco as photos are spread online**
- **NIGERIA: The Nigerian filmmakers risking jail with lesbian movie Ife**
- **NIGERIA: A police raid, viral videos and the broken lives of Nigerian gay law suspects**
- **SUDAN: 'Great first step' as Sudan lifts death penalty and flogging for gay sex**
- **TUNISIA: Two-year sentence for homosexuality**
- **TUNISIA: LGBTQ association achieves major legal milestone in Tunisia**
- **UGANDA: Anti-gay rhetoric ramps up fear among LGBT+ Ugandans ahead of polls**
- **UGANDA: Ugandan officials summoned before court over torture of LGBT+ youth**
- **UGANDA: High Court rules in favour of #COSF19, awards each UGX 5M in damages**
- **UGANDA charges 20 LGBT+ people with risking spread of coronavirus**

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## **ALGERIA: Mass convictions for homosexuality**

***Arbitrary arrests; police raid alleged 'gay wedding'.***

HRW (15.10.2020) - <https://bit.ly/3dMEFpI> - An Algerian court on September 3, 2020 sentenced 2 men to prison terms and 42 others to suspended terms after mass arrests at

what the police alleged was a “gay wedding,” Human Rights Watch said today. The authorities should void the charges and release them immediately.

On July 24, 2020, police raided a private residence and arrested the 44 – 9 women and 35 men, most of them university students – in el-Kharoub, a district in Constantine Province, northeastern Algeria, after neighbors complained. An Algerian 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.

“Algerian authorities’ attack on personal freedoms is nothing new, but arresting dozens of students based on their perceived sexual orientation is a flagrant infringement on their basic rights,” said Rasha Younes, lesbian, gay, bisexual, and transgender (LGBT) rights researcher at Human Rights Watch. “They should immediately release from prison the two men who would be free today were it not for Algeria’s regressive anti-homosexuality laws.”

The court convicted the 44 of “same-sex relations,” “public indecency,” and “subjecting others to harm by breaking Covid-19-related quarantine measures.” Two men were sentenced to three years in prison and a fine, and the others to a one-year suspended sentence.

These convictions contradict the right to privacy under international human rights law. This right is also reflected in Algeria’s constitution, which provides for the protection of a person’s “honor” and private life, including the privacy of their home, communication, and correspondence. The convictions of the 44 for “same-sex relations” indicate that Algerian authorities are discriminating against them based on their perceived sexual orientation and gender expression, Human Rights Watch said. The appeal of their convictions has not yet been scheduled.

In Algeria, same-sex relations are punishable under article 338 of the penal code by up to two years in prison. Additionally, article 333 increases the penalty for public indecency to six months to three years in prison and a fine if it involves “acts against nature with a member of the same sex,” whether between men or women.

Arrests for “moral” offenses that involve consensual adult activities in private settings violate international human rights law, including the right to privacy, nondiscrimination, and bodily autonomy protected under the International Covenant on Civil and Political Rights (ICCPR), to which Algeria is a state party. Algeria has ratified the African Charter on Human and People’s Rights (ACHPR), which affirms the rights to nondiscrimination, and has joined the African Court on Human and Peoples’ Rights. However, Algerian law does not extend antidiscrimination protections to discrimination based on sexual orientation or gender identity.

Additionally, Algeria has a law that prohibits the registration of organizations in Algeria whose aims are deemed inconsistent with “public morals,” and that imposes criminal penalties for members of unregistered organizations. This law poses risks to those who want to form or become active in LGBT groups, as well as to human rights organizations that otherwise might support such activities. According to a 2019 analysis by the International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), laws regulating nongovernmental organizations in Algeria make it virtually impossible for organizations working on issues of sexual orientation and gender identity to legally register.

In light of the Covid-19 pandemic and the risk of outbreaks in detention sites, Human Rights Watch recommended that governments refrain from custodial arrests for minor offenses that do not involve the infliction or threat of infliction of serious bodily injury or

sexual assault or a known likelihood of physical harm. Officials should also release anyone held pretrial, unless they pose a specific and known risk of harm to others that cannot be managed through measures other than detention.

Since March, Algerian authorities have imposed a ban on all social gatherings to slow the spread of Covid-19. Breaking quarantine and social distancing measures to attend a social gathering does not justify arbitrary arrests and prolonged pretrial detention, Human Rights Watch said.

"While people in Algeria continue to demand their basic rights to protest, the authorities are dedicating their time and resources to crack down on students and stockpile discriminatory charges against them," Younes said. "Instead of policing its citizens' private lives, the Algerian government should carry out reforms, including decriminalizing same-sex conduct."

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## **EGYPT detains men for alleged sexual orientation, alongside alleged rapists**

***Men purportedly subject to abuse in custody, forced anal exams.***

By Rasha Younes

HRW (02.11.2020) - <https://bit.ly/3lBYa6U> - When Seif Bedour, 21, returned to Egypt this year to visit his family after years studying abroad, he did not expect to end up behind bars. His "crime"? "Suspicion" about his sexual orientation.

Bedour was looking forward to his graduation. Now, he looks forward to seeing his family only when prison authorities allow.

Police arrested Bedour in late August, when he accompanied a friend who had been arrested by the police as part of their investigation into a party in 2014 at Cairo's Fairmont Hotel. A woman at that party recently reported she was drugged and raped by several men in a hotel room on the same night.

Bedour, who was only 14 and not present when the Fairmont incident took place, had voluntarily accompanied a witness, a woman friend, to the police station after police arrested her from her home at dawn. "He didn't want her to be alone in a difficult situation," according to his family.

Also at the police station was Ahmed al-Ganzoury, 40, who was initially summoned by police because he was an organizer of the Fairmont party.

At the station, police unlawfully searched Bedour's and al-Ganzoury's phones and, based on private photos they found, detained them for allegedly engaging in same-sex conduct.

They remain in jail more than two months later, after judges renewed their pretrial detention three times in hearings they were not allowed to attend.

Authorities kept them for several weeks in a police station in east Cairo, permitting only one family visit. On October 14, they were transferred to al-Nahda prison, where they are currently detained in the same cell as the suspected Fairmont rapists.

According to the men's families, prison guards forcibly shaved their heads, and prosecutors ordered them to undergo drug testing and forced anal exams, a form of torture and sexual assault under international human rights law, which Egyptian authorities routinely carry out to seek "proof" of same-sex conduct.

Government-affiliated media appear to have reframed the alleged gang rape as a "group sex party" and claimed that security forces had broken up "the biggest homosexual network."

Egyptian authorities are sending a disturbing message that persons who voluntarily go to a police station to assist others may be arrested for their alleged sexual orientation. Prosecutors should immediately drop all charges and investigations concerning the sexual orientation and private life of Bedour and al-Ganzoury and release them.

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## **EGYPT: Security forces abuse, torture LGBT people**

### ***Arbitrary arrests, discrimination, entrapment, privacy violations.***

HRW (01.10.2020) - <https://bit.ly/30N5vsd> - Egyptian police and National Security Agency officers arbitrarily arrest lesbian, gay, bisexual, and transgender (LGBT) people and detain them in inhuman conditions, systematically subject them to ill-treatment including torture, and often incite fellow inmates to abuse them, Human Rights Watch said today. Security forces routinely pick people off the streets based solely on their gender expression, entrap them through social networking sites and dating applications, and unlawfully search their phones. Prosecutors use this content to justify prolonged detentions as they rubber-stamp police reports and bring unjustified prosecutions against them.

Human Rights Watch documented cases of torture, including severe and repeated beatings and sexual violence, in police custody, often under the guise of forced anal exams or "virginity tests." Police and prosecutors also inflicted verbal abuse, extracted forced confessions, and denied detainees access to legal counsel and medical care. These detailed accounts, including from a 17-year-old girl, unavailable elsewhere, were provided against the backdrop of increased prosecutions for alleged same-sex conduct during the anti-LGBT crackdown that started after a 2017 Mashrou' Leila concert in Cairo.

Sarah Hegazy, who was detained in 2017 after she raised a rainbow flag at the concert, said police tortured her and incited fellow detainees to beat and sexually harass her. She took her own life in June 2020, in exile in Canada. The cases documented in this report, as recent as August 2020, demonstrate that her mistreatment is part of a larger and systematic pattern of abuse against LGBT people in Egypt.

"Egyptian authorities seem to be competing for the worst record on rights violations against LGBT people in the region, while the international silence is appalling," said Rasha Younes, LGBT rights researcher at Human Rights Watch. "Sarah Hegazy's tragic death may have ignited waves of shock and solidarity worldwide, but Egypt has unabashedly continued to target and abuse LGBT people simply for who they are."

In late August, Egyptian security forces, likely from the National Security Agency, arrested two men who witnessed a high-profile gang rape in Cairo's Fairmont Nile City Hotel in 2014 and were to give evidence about the case. Officers unlawfully searched the men's phones while holding them incommunicado at al-Tagamoa First Police Station, east of Cairo, for several days, and used photos they found to allege that they had engaged in same-sex conduct, to keep them in custody. Judges renewed their detention several times, and prosecutors subjected them to forced anal examinations, a practice which Egyptian

authorities routinely carry out to seek “proof” of same-sex conduct, despite it being denounced as abusive and in violation of international law. The two men could face charges under Egypt’s “debauchery” laws.

Under President Abdel Fattah al-Sisi’s government, authorities have long waged a campaign of arrests and prosecutions against those whose perceived or actual sexual orientation and gender identity does not conform to heteronormative values and the gender binary. Human rights groups have documented wide-scale abuses in the wake of a September 2017 concert by the Lebanese band Mashrou’ Leila, whose lead singer is openly gay and which performs songs that support sexual and gender diversity. At the concert, activists, including Hegazy and Ahmed Alaa, raised a rainbow flag, a symbol of LGBT pride. Several LGBT Egyptians said that after the August arrests in the Fairmont case, they feared the crackdown would only intensify, and several had fled the country.

Human Rights Watch, assisted by a Cairo-based LGBT rights organization whose name is withheld for security reasons, interviewed 15 people, including LGBT people prosecuted between 2017 and 2020 under vague and discriminatory “debauchery” and “prostitution” laws, as well as two lawyers who represented the victims in these cases and two LGBT rights activists. The victims include a 17-year-old girl.

All of those interviewed said police verbally harassed and subjected them to physical abuse ranging from slapping to being water-hosed and tied up for days, and nine said police officers incited other detainees to abuse them. Eight were victims of sexual violence, and four said they were denied medical care. Eight said that police forced them to sign confessions. All victims were held in pretrial detention for prolonged periods, in one case up to four months, often without access to legal counsel.

One man said that upon his arrest in Ramses, Cairo in 2019, police officers beat him senseless, then made him stand for three days in a dark and unventilated room with his hands and feet tied with a rope: “They didn’t let me go to the bathroom. I had to wet my clothes and even shit in them. I still had no idea why I was arrested.”

A woman said that after being arbitrarily detained at a protest in Cairo in 2018, police officers subjected her to three “virginity” tests at different times in detention: “A woman officer grabbed and squeezed my breasts, grabbed my vagina and looked inside it, opened my anus and inserted her hand inside so deep that I felt she pulled something out of me. I bled for three days and could not walk for weeks. I couldn’t go to the bathroom, and I developed medical conditions that I still suffer from today.”

Police forced three men, a transgender girl, and a transgender woman to undergo anal examinations. In one case, after a man presented his disability card to the police, officers inserted the card up his anus.

One activist remarked on the impunity with which security forces perpetuate abuses against LGBT people: “Police are individuals. Each of them has an idea of torture that he carries out with impunity. The only difference in torture and assault techniques are due to their personal preferences.”

Malak el-Kashif, 20, a transgender woman and human rights activist, was arbitrarily detained for four months, sexually harassed, and abused in a male prison in 2019. An administrative court in May 2020 dismissed the appeal her lawyer filed requesting the Interior Ministry to provide separate detention facilities for transgender detainees in accordance with their gender identity.

The conditions of detention for transgender people can be detrimental to their physical and mental health. Human Rights Watch has previously documented that trans women

detainees are likely to face sexual assault and other forms of ill-treatment when placed in men's cells.

Egypt has repeatedly rejected recommendations by several countries to end arrests and discrimination based on sexual orientation and gender identity. Most recently, at the United Nations Human Rights Council in March, Egypt refused to recognize the existence of LGBT people, flouting its obligation to protect the rights of all within its jurisdiction without discrimination.

Egyptian security forces should end arrests and prosecutions for adult, consensual sexual relations, including same-sex conduct, or based on gender expression, and immediately release LGBT people who remain arbitrarily detained, Human Rights Watch said. President Abdel Fattah al-Sisi should order his government to put an end to security forces' practices of torture and other ill-treatment, including by banning the use of "virginity tests" and forced anal exams.

Egypt should extend an open invitation to UN human rights experts to scrutinize its protections against torture and other forms of abuse, and fully cooperate with their missions.

Wherever transgender people are detained, authorities should ensure that they can choose to be housed in a facility in accordance with their gender identity or in a segregated housing unit reserved exclusively for transgender people. Under no circumstances should transgender people be held in solitary confinement for lack of alternatives, Human Rights Watch said.

"Morality and public order are hijacked, not preserved, when security forces arbitrarily arrest people and subject them to life-altering abuse in detention," Younes said. "Egypt's partners should halt support to its abusive security forces until the country takes effective steps to end this cycle of abuse, so that LGBT people can live freely in their country."

### ***Abuse, torture, sexual violence in police custody***

The nature of the arrests and prosecutions documented by Human Rights Watch, and Egypt's official statements denying LGBT rights, suggest a coordinated policy – at the very least acquiesced to, if not directed by senior government officials – to persecute LGBT people. As a police officer told a man arrested in early 2019, his arrest was part of an operation to "clean the streets of faggots." These accounts of torture and abuse present further evidence of the deeply rooted, pervasive use of torture by the Interior Ministry and the level of impunity afforded to its officers. In a 2017 report, Human Rights Watch found that widespread and systematic torture crimes in Egypt probably amount to crimes against humanity.

In reviewing judicial files for 13 cases of people prosecuted under "debauchery" and "prostitution" laws between 2017 and 2020, Human Rights Watch found that Egyptian authorities had arbitrarily arrested seven men by entrapping them on dating apps (Grindr) and social media (Facebook and WhatsApp). Police randomly picked up five men because of what the authorities described as "feminine and gay gestures" and one transgender woman due to her "abnormal appearance."

Authorities held 11 men in pretrial detention pending investigation, in some cases for months, then sentenced them to prison terms ranging from three months to six years. Appellate courts dismissed charges against eight of the men and reversed their convictions and upheld the convictions of two men but reduced their sentences. In one case, a man spent a year in prison, having been convicted of "debauchery" because he was unable to afford legal counsel to appeal his conviction.



One woman was subjected to three “virginity tests” during her detention and the authorities forced three men, a transgender girl, and a transgender woman to undergo anal examinations. “Virginity” and anal tests constitute cruel, degrading, and inhuman treatment that can rise to the level of torture and sexual assault under international human rights law. They violate medical ethics, are internationally discredited, and lack scientific validity to “prove” same-sex conduct or “virginity.” The Egyptian Medical Syndicate has taken no steps to prevent doctors from conducting these degrading and abusive exams.

In the following accounts, some of the victims are identified with pseudonyms for their protection, indicated by use of quotation marks around the name in the case headings.

Click [here](#) to read the cases from the report. Trigger warning.

### **Egypt’s legal obligations**

The abuses by Egyptian authorities against LGBT people documented here violate multiple fundamental rights, including their rights to privacy, bodily integrity and protection against inhuman and degrading treatment and torture, free movement, free expression, assembly and association, as well as their right to nondiscrimination and protection under the law.

The abuses violate not only Egypt’s obligations under international treaties to which it is a party, but the rights guaranteed in Egypt’s own constitution.

Egypt’s constitution sets out a number of fundamental due process rights. It prohibits warrantless arrests unless the person is caught in the act of a crime, requires a lawyer to be present during interrogations, and guarantees suspects the rights to remain silent, to be informed in writing of the reason for their arrest within 12 hours, to be brought before a prosecutor within 24 hours, and to contact a lawyer and family member.

The constitution prohibits torture, intimidation, coercion, and “physical or moral harming” of detainees and specifies that there is no statute of limitations on the crime of torture. It provides that a court should disregard any statement made under torture or threat of torture.

Egypt is a party to several international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), and the African Charter on Human and People’s Rights. All these treaties strictly and absolutely prohibit torture, which includes a prohibition on the use of evidence obtained under torture. The ICCPR and the African Charter also set out fundamental due process rights for any person detained or facing criminal charges, similar to those in the constitution.

Under international human rights law, Egyptian authorities are required to protect women against all forms of violence, and have specific treaty obligations in this regard as a party to the Convention on the Elimination of All Forms of Discrimination against Women. Egypt’s constitution also requires protecting women from violence.

The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity include the obligation that all states:

take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts.

Prosecutions for consensual sex in private between adults violate the rights to privacy and nondiscrimination guaranteed under international law, including in the ICCPR. The UN Human Rights Committee, which monitors compliance with the ICCPR, has made clear that it is prohibited to discriminate based on sexual orientation in upholding any of the rights protected by the treaty. The UN Working Group on Arbitrary Detention has found that arrests for same-sex conduct between consenting adults are, by definition, arbitrary. The African Commission on Human and People's Rights explicitly calls on member states, including Egypt, to protect sexual and gender minorities in accordance with the African Charter.

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## **EGYPT: Gang rape witnesses arrested, smeared**

### ***Personal data used in abusive prosecutions.***

HRW (11.09.2020) - <https://bit.ly/2H9AF65> - Egyptian security agencies in late August 2020 arbitrarily arrested a man and three women who were witnesses to a high-profile gang rape case from 2014 that recently came to light, Human Rights Watch said today. Security also arrested two of the witnesses' acquaintances.

The prosecutor general ordered the release of three of the six on August 31 but is pressing charges against all of them for violating laws on "morality" and "debauchery" that are vague, discriminatory, and open to abuse. Pro-government media have subjected them to a coordinated smear campaign, and one of the women has described being abused in detention.

"It is horrifying that Egyptian authorities have arrested the witnesses to a gang rape after encouraging them to come forward instead of protecting them and prosecuting the attackers," said Rothna Begum, senior women's rights researcher at Human Rights Watch. "The case against the witnesses and the smear campaign against them and the rape survivor send a chilling message to survivors of sexual violence and witnesses that they can go to prison if they report sexual violence."

The authorities should immediately drop the charges against the six, offer protection to those who have come forward as witnesses, and prosecute those who are found to have committed the gang rape, Human Rights Watch said.

The case involves a woman who said that several men drugged her, took turns raping her, wrote their initials on her back, and recorded a video of their actions in Cairo's Fairmont Nile City Hotel in April 2014. The attackers shared the video among their friends, said women's rights activists, who first raised the case on social media in July 2020. After activists campaigned for weeks, the Office of the Prosecutor General said on August 24 that it had ordered the arrest of a number of suspects, seven of whom the office later said had fled the country. Two more were later arrested.

The authorities had encouraged witnesses of the rape to come forward, which they did in early August. They now stand accused of consensual same-sex sexual conduct, "inciting debauchery," personal drug use, and "misuse of social media," a charge frequently used against peaceful government critics.

Human Rights Watch interviewed 4 activists involved in online campaigning against sexual violence, 3 of whom have been in contact with the rape survivor and 2 of whom have been in contact with families of the witnesses and their acquaintances. Human Rights Watch also interviewed a person with knowledge of the case who asked to remain anonymous; a close friend of one of the detained men; a journalist, Basma Mostafa, who has been covering the



case for al-Manassa, an independent news website; and two lesbian, gay, bisexual, and transgender (LGBT) rights activists.

"These men think they're so powerful that they filmed multiple rapes with their faces on video because they knew they could get away with it," one activist said. "The video was circulated among 70 or 80 people."

The Interior Ministry's National Security Agency arrested and then pressured the witnesses to alter their accounts while holding them incommunicado from August 28 to 31, three activists said after speaking with the witnesses who were released. Videos and photos showing events in the witnesses' private lives were leaked online shortly after security forces confiscated the witnesses' mobile phones and laptops.

"They went into their personal belongings, laptops, and phones, and extracted private things and the next day personal pictures and videos were circulating on social media," the friend of one of the witnesses' acquaintances said.

The friend and the journalist, who spoke with lawyers and relatives of the two men and one woman who remain in pretrial detention, said that the authorities subjected two of the detained men to forced anal examinations and one woman a "virginity test" – internationally discredited practices with no scientific validity to "prove" same-sex conduct or "virginity." These tests violate medical ethics and constitute cruel, degrading, and inhumane treatment that can rise to the level of torture and gender-based violence, Human Rights Watch said.

The woman witness who remains in detention said that security officers called her names, provided insufficient food and water, and "constantly humiliated" her, an activist who spoke with her family said. Activists believe she is most likely being held in Cairo's al-Qanater Women's Prison.

The accusations relating to private consensual sexual conduct violate the rights to privacy and nondiscrimination on the basis of sex, sexual orientation, and gender. International human rights standards require providing protection and security to complainants and witnesses to gender-based violence before, during, and after legal proceedings.

Activists connected to feminist and LGBT communities in Egypt said they fear a wider crackdown as security forces use content that they obtain from the confiscated devices to identify others. They said they believe that security forces have summoned additional witnesses and victims' friends for questioning. The 2014 gang rape at the Fairmont Hotel was first reported in July 2020 by "Assault Police," an Instagram account that has played a leading role in campaigning against sexual violence. The account did not name the suspects but claimed they were from wealthy, influential families. The account administrator deactivated the account for two weeks between late July and mid-August and later stopped posting about the case after receiving "serious threats," two activists close to the campaign said.

Activists told Human Rights Watch that several other survivors sent them accounts of sexual assault involving the same men as the Fairmont Hotel rape but were too afraid to file complaints. "They sent these videos to their friends like trophies," a July 26 post on Assault Police said.

"The Egyptian authorities have reinforced a 'victim blaming' culture and signaled where they stand on Egypt's #MeToo movement by silencing those brave enough to speak out," Begum said. "Egypt should be holding people to account for sexual violence and not persecuting women and men who report and fight such abuse."

### **More information**

Two activists said they had several screenshots from the video showing the survivor in a “paralyzed” state and the initials of the suspects that the suspects had written on her back. Activists said that the survivor of the Fairmont assault was 18 at the time. Following the incident, she left Egypt to study abroad and to seek psychological support. A person with knowledge of the case said that the survivor became impregnated as a result of her rape and that she terminated the pregnancy.

When the Assault Police Instagram account was deactivated, the National Council for Women, a governmental body overseen by the presidency, issued a public call on July 29 for victims and witnesses of sexual violence to contact the authorities, saying that the council was following the “threats” against online activists, including on Instagram.

Prosecutor General Hamada al-Sawy said on August 26, 2020 that the Fairmont survivor had filed an official complaint with the council on August 4, and that 7 suspects had left the country between July 27 and 29.

The authorities arrested two suspects in the case, A. and O., on August 27 and August 30, respectively, the prosecution said. A later statement said that the suspect arrested on August 27 was charged in a separate gang rape incident. Activists said this arrest was based on another video submitted to the prosecution, showing this suspect and another man raping another woman in Egypt’s North Coast in 2015. It is not clear why the prosecutors added him to the Fairmont case, but prosecutors in Egypt frequently add suspects from different cases together, which can be in violation of safeguards against mass unfair trials.

Media reports said, and the Lebanese Interior Ministry confirmed, that Lebanese authorities arrested three other suspects between August 27 and 29 in Lebanon, based on Interpol requests. Activists said that to their knowledge, those three suspects had not been extradited to Egypt.

### **Arrests of witnesses, acquaintances**

Four witnesses to the Fairmont gang rape, three woman and a man, were arrested after they gave their accounts to the National Council for Women, two activists who have closely followed the case said. The two activists said the rape survivor and witnesses initially did not agree to meet with the council, fearing reprisals and intimidation by the families of the suspects, but that council officials assured them that their identities would be protected.

On August 28 and 29, the National Security Agency arrested the three women witnesses, including an Egyptian-American woman arrested at her home in Cairo at 4 a.m. Officers told her they “wanted her for a chat,” an activist with knowledge of the arrest said. Security forces arrested another witness at her summer house in the Red Sea resort el-Gouna, southeast of Cairo. The authorities held all three women incommunicado and interrogated them until August 31, when they were eventually allowed access to lawyers, three activists said. They said that the officers pressured the women to alter their accounts.

“One witness was made to stand [during interrogations] for hours to make her tired, uncomfortable, and break her down,” one activist who spoke with the released witnesses said. “They kept telling her, ‘You made this up. Better for you to admit it now. You don’t want what’s going to happen to you.’” The witness refused to change her testimony, the activist said.

After security forces arrested the witnesses, activists tried to contact National Council for Women officials but received no response. One activist said a council staff member told

her to “calm down” when she expressed concern about the detained witnesses. Human Rights Watch emailed questions about the case to the council on September 3 and September 8 but has received no response.

The United Nations Committee on the Elimination of Discrimination Against Women, which oversees the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, to which Egypt is a state party, has called on state parties to “Adopt and implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings, including by: (i) Protecting their privacy and safety.”

Four activists said that the authorities arbitrarily arrested at least two other people, who are acquaintances of the witnesses. One was allegedly a man who was visiting one of the American-Egyptian woman witnesses when security officials came to arrest her. Security forces unlawfully searched the man’s phone and used photos they found to allege that he has engaged in same-sex conduct as a basis to keep him in custody. Prosecutors renewed his detention, and he could face charges under Egypt’s “debauchery” laws.

While Egyptian law does not explicitly criminalize consensual same-sex conduct, authorities routinely resort to vague “debauchery” and “morality” laws to prosecute people suspected of same-sex conduct or for being gay or transgender. Under President Abdel Fattah al-Sisi’s government, since 2014 authorities have waged a campaign of arrests and prosecution against hundreds of people for their perceived or actual sexual orientation and gender identity.

Security forces also arrested a well-known party organizer who was involved in organizing the 2014 party at the Fairmont Hotel during which the gang rape occurred, although the person with knowledge of the case said the rape survivor did not accuse him of any wrongdoing. Pro-government websites said he was arrested on August 28 in a North Coast resort village. Several websites published his name and private information in the smear campaign based on his perceived sexual orientation.

Security forces have been holding the two men in al-Tagamoa First Police Station, east of Cairo. Authorities have not allowed any family visits for the two since their arrest, a person with knowledge of the case said. Lawyers were reportedly able to attend the prosecution interrogations with the two men, but not see them privately.

The Fairmont Nile City Hotel released a statement on July 31, saying that it is “committed to assisting the relevant authorities should an initial investigation be opened.”

An August 31 statement by Prosecutor General Hamada al-Sawy said that he had ordered 3 people detained pending investigation and ordered the release of 4 others, 3 of them on bail of 100,000 Egyptian pounds (US\$6,300) each. It is not clear which people he is referring to in the statement. As of September 2, at least three of those arbitrarily detained remain in custody, including a woman witness, the party organizer, and the man whom the authorities are alleging has engaged in same-sex conduct.

The statement said that prosecutors ordered the detainees to be tested by the forensic labs for drugs and two of them to undergo physical examinations.

Two activists said that authorities subjected the two detained men to forced anal examinations, a practice denounced by African and international human rights bodies, which Egyptian authorities routinely carry out to seek “proof” of same-sex conduct.

Al-Manassa also reported on September 3, citing the lawyer of one of the witnesses, that the authorities subjected at least one of the detained women to the abusive “virginity test.”

“Virginity testing” is likewise recognized internationally as a form of cruel, inhumane, and degrading treatment, gender-based violence, and discrimination. The World Health Organization has said that “virginity tests” have no scientific validity and that healthcare workers should never conduct them. The UN Committee on the Elimination of Discrimination against Women has also called on states parties to repeal “discriminatory evidentiary rules and procedures, including ... practices focused on ‘virginity.’”

Prosecutions for consensual sex in private between adults violate the rights to privacy and nondiscrimination guaranteed by the International Covenant on Civil and Political Rights, to which Egypt is a party. The UN Human Rights Committee, which interprets the covenant, has made clear that discrimination based on sexual orientation is prohibited in upholding any of the rights protected by the treaty, including the right to free expression.

The UN Working Group on Arbitrary Detention has found that arrests for same-sex conduct between consenting adults are, by definition, arbitrary. The African Commission on Human and Peoples’ Rights explicitly calls on member states, including Egypt, to protect sexual and gender minorities in accordance with the African Charter.

The arbitrarily detained individuals could also face prosecution related to personal drug use. Governments should decriminalize the personal use of drugs, Human Rights Watch has said. Criminalizing personal drug use has failed to eliminate drug abuse, and has had devastating human rights consequences, including undermining the rights to health, access to necessary medications, and privacy; serving as an excuse for grossly disproportionate punishment and abuses in detention; and fueling the operations of organized criminal groups that commit abuses, corrupt authorities, and undermine the rule of law.

### **Smear campaign**

After their arrest, videos and photos showing scenes of some of the detained witnesses’ private lives have been leaked online. One video shows several women and a man who appear to be drunk, and other videos show intimate behavior. Activists said they believe that security forces leaked the photos and videos to smear and intimidate the witnesses.

The Office of the Prosecutor General said in its August 31 statement that all mobile phones of the people detained were sent to the “Technical Support Administration” in the Interior Ministry to “retrieve all its contents and recover any deleted content and retrieve all conversations made on the communications apps.” One activist, who spoke with some of the released witnesses, said that the National Security Agency had searched the phones and laptops of the witnesses at the time of arrest and “took whatever they could find.”

Since August 31, pro-government websites and journalists have published reports that stigmatize the rape survivor, witnesses, and activists involved in the case. Some government-affiliated media websites are reframing the gang rape as a “group sex party” and alleging that security investigations revealed “the biggest network of homosexuality.” One pro-government journalist, who is also a lawyer, said in a now-removed Facebook post that she submitted a complaint to the prosecutor general about several activists whom she accused of fabricating the rape allegations to “tarnish Egypt’s image” and to “spread homosexuality.”

One activist said that an audio recording, taped secretly, of a private conversation between the rape survivor and her lawyer was leaked over WhatsApp and on social media “after being taken out of context” to make the survivor appear as if she was contradicting her official complaint.

The mother of one detained witness wrote on her Facebook page on September 2 that many Egyptian journalists received WhatsApp messages from an international number with

contents violating her daughter's privacy. She said her daughter was married to one of the suspects in the rape, who is believed to be in London. Blurred screenshots of the messages the mother posted showed the phone number which sent the messages.

### **Online campaigns combating sexual violence**

The Egyptian #MeToo movement has become re-energized since late June as many victims and survivors of sexual violence have posted accounts of sexual violence on Facebook, Twitter, and other social media platforms. The Assault Police Instagram account emerged in early July and has since published dozens of accounts of assaults, particularly of people from wealthy families. Some of the assault accounts that the page received involved Ahmed Bassam Zaki, 21, who Assault Police said was involved in over 100 sexual assaults, some dating back to 2016.

The campaigning led the authorities to detain Zaki in early July and prosecutors referred him on September 1 to criminal trial on charges of sexual assault of three girls, as well as other complaints about sexual harassment and blackmailing. "We did all the police work for them from scratch," an activist supporting the campaign said. "We got evidence for them. We got a police report from Spain and testimonies from different countries.... And we got him in jail."

The campaign against Zaki and his subsequent arrest reignited the #MeToo movement. The National Council for Women said on July 7 that it had received 400 complaints and inquiries, mainly about violence against women, in the first 5 days of July.

Assault Police was also the first to publish an account of the Fairmont case in late July, without naming any suspects. The account called on those with the video recording of the assault to send it to the account administrator. The administrator, Nadeen Ashraf, deactivated the account for about two weeks after the page received "serious threats," two activists said. Ashraf had remained anonymous until August 20, when she posted a video statement acknowledging her role in the campaign. Assault Police did not publish anything more about the Fairmont case on the account, but other online campaigns began to report on it. "Gang Rapists of Cairo," another anonymous Instagram account, published the names and photos of several of the alleged rapists.

This is not the first time that the authorities have prosecuted people who report rape. Human Rights Watch reported on the arrest on May 28 of Aya, 17, who is a social media influencer known as "Menna Abdelaziz." She had posted a video online on May 22, in which her face appeared bruised, saying she was beaten by a group of young men and women, and that the men also raped her, filmed the acts, and blackmailed her with the footage. The prosecution stated that she had been detained pending investigation as a victim of sexual assault but also as a suspect in morality-related offenses for her videos.

Serious gaps remain in Egypt's laws and practices relating to sexual violence and treatment of survivors. On August 16, the Egyptian Parliament approved government-sponsored amendments to the Criminal Procedural Code, following reports about the Zaki case, to ensure anonymity and protect the identities of victims and witnesses in sexual violence cases and to punish those who leak such information. President al-Sisi has not yet signed the amendments into law.

If enacted, this would come after amendments to the penal code passed in 2014 that defined sexual harassment for the first time and strengthened its punishment. But the law falls short of international standards for the definition of rape as it should include all forms of penetration without consent or in coercive circumstances that negate consent, including vaginal, anal, and oral penetration by any body part or by other instruments, Human Rights Watch said.

Calls by Egyptian women's rights organizations and activists over the years for a comprehensive law on violence against women and a national strategy to enforce the new approved laws have largely not led to action by the authorities.

The authorities should use available UN guidance, such as the UN Handbook for Legislation on Violence against Women, to set out components on combating violence against women, including protection of survivors and witnesses through trained officers and providers. Sexual violence and harassment have plagued Egyptian society in recent decades as survivors are often blamed, and authorities have done little to prosecute suspects or to challenge discriminatory norms that underpin such violence.

A 2013 survey by the UN Entity for Gender Equality and the Empowerment of Women (UN Women) reported that 99 percent of women in Egypt interviewed experienced some form of sexual harassment in their lifetime. The Egyptian authorities are required to act under the Convention on the Elimination of All Forms of Discrimination against Women, to which Egypt is a state party, and Egypt's constitution to protect "women against all forms of violence."

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## **EGYPT: Actor's trans son sued for Instagram post about LGBT+ activist's suicide**

***Noor Hesham Selim is being sued for trying to spread homosexuality among young people.***

By Menna A. Farouk

Thomson Reuters Foundation (24.06.2020) - <https://bit.ly/3dM3vnF> - The transgender son of one of Egypt's most famous actors is being sued for promoting homosexuality among young people after posting on Instagram in support of an LGBT+ activist who died by suicide earlier this month.

Two Egyptian lawyers filed a lawsuit on Tuesday against Noor Hesham Selim, son of film and television star Hesham Selim, after he posted a video on Instagram in response to the death of exiled Egyptian activist Sarah Hegazy.

"It is a conspiracy against Egypt to give up on our culture and morals and let homosexuality spread among young people," Ayman Mahfouz, one of the two lawyers who filed the lawsuit, told Thomson Reuters Foundation by phone on Wednesday.

"Strict action" should be taken against people who seek to destroy Egyptian values and religious beliefs, Mahfouz added.

While homosexuality is not outlawed in Egypt, it is a conservative Muslim society and discrimination against LGBT+ groups is rife, with gay and trans people facing instances of assault and torture, according to Human Rights Watch.

Selim, 26, was thrown into the spotlight last month when his father surprised television viewers by speaking openly about his transition in the hope it would help change social attitudes towards trans people in Egypt.

Selim's support for Hegazy, who was found dead in her apartment in Canada, where she sought asylum in 2018 after being jailed in Egypt for waving a rainbow flag at a pop concert, has triggered further upset among conservatives.



Selim, who was not immediately available for comment, made a second post on Tuesday saying that he was in poor mental health and the online criticism of Hegazy made him feel even lonelier.

Hegazy, 30, had been struggling with depression before her death, according to her lawyer.

"Where is the mercy?" Selim asked.

Reda Eldanoubki, a lawyer and human rights activist with the Women's Center for Guidance and Legal Awareness, said the case might actually play in favour of Egypt's LGBT+ community.

"Such lack of tolerance and acceptance usually backfires, and it is not in the interest of the whole society," he said.

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## **EGYPT: Actor's revelation about transgender son sends shock waves across conservative Egypt**

***A prominent actor's disclosure about his daughter's transition has been met with a rare show of support in a conservative society with little tolerance for gender nonconformity.***

By Shahira Amin

Al-Monitor (12.05.2020) - <https://bit.ly/3e2VOKr> - Egyptian actor Hesham Selim raised eyebrows when he disclosed in a TV interview broadcast on Al-Kahera Wal Nas Channel May 3 that his daughter, Noura, was undergoing gender transition.

"My daughter Noura is now my son Nour; it is God's will," the actor said. He added that he was not surprised when Nour came out as a transgender person at the age of 18. "The first time I held Noura after she was born, I could see that 'she' looked more like a boy than a girl. I always had doubts about 'her' gender identity."

Eight years ago, Nour told his father he did not feel in harmony with his body. "It was very brave of him to speak out as we live in a society where such issues are taboo," Selim told the show's presenter.

In the conservative patriarchal society, few dare talk openly about gender transition because of the stigma attached to gender nonconformity. Selim nevertheless, expressed support for his son's decision, saying, "As his father, I can only encourage him to live the life he has chosen."

Nour, who has yet to complete his transition, is facing challenges in changing his gender designation on his national identity card, Selim said in the interview. "Things are extremely difficult for people like my son. I deeply sympathize with families that are going through such an ordeal," he noted.

While Selim's revelation sent shock waves across the country, it earned him more praise than criticism on social media. Many activists commended his "courage" and expressed their support for him and his son.

One Twitter user expressed doubt, however, that Selim would have gotten the same level of support had he announced that the transition was from male to female. Acknowledging Selim's "bravery," the activist added, "He has thrown a stone into still waters, causing ripples. His disclosure may lead people to rethink their attitudes toward transgender people."

Members of Egypt's transgender community celebrated Selim's announcement as a step toward reversing the widespread antipathy toward transgender people.

"This is a remarkable step forward and a marked change signaling greater social acceptance and a more supportive environment for transgender people," Malak el-Kashif, an outspoken transgender woman and rights activist, wrote on her Facebook page May 3.

Like many fellow members of Egypt's LGBTQ community, Kashif has suffered discrimination, abuse and even persecution. The 20-year-old, who was registered as a boy at birth, got approval from the Egyptian Medical Syndicate to change her gender three years ago and has since performed several gender reassignment surgeries.

Kashif has gained a massive following chronicling her transition on social media and also advocates for transgenders' rights in her articles published on the Transatsite, an Arabic-language portal dedicated to gender identity issues.

But Kashif has paid a price for her visibility, as she has been arrested three times in what she told Al-Monitor were "attempts by the authorities to silence me." She recalled, "On one occasion in 2018, I was arrested at a checkpoint on my way to [the town of] Dahab, after the officer who searched my bag found my medical records and some dresses. I was taken into custody on the accusation of traveling with the intent of engaging in illicit sexual conduct."

In March 2019, Kashif was arrested again — this time over a Facebook post calling for demonstrations to protest a deadly Cairo train crash that had taken place some days earlier.

"I was clearly being punished for my activism and was forced to undergo a humiliating anal examination at a public hospital," Kashif said.

Such examinations have been denounced by the Egyptian Commission for Rights and Freedoms as "a flagrant violation of privacy and human dignity" and tantamount to "torture." Kashif, who has yet to change her gender designation on her ID card, was held for four months in solitary confinement in an all-male prison on charges including "aiding a terrorist organization" and "misusing social media by spreading false news on Facebook."

After her release in July 2019 pending further investigations, she filed a legal complaint demanding separate cells for transgender inmates in police stations and prisons.

"Those who have not completed their transition should be separated from other prisoners to avert the risk of sexual assault at the hands of other inmates," she said.

There has been no verdict in the case so far as the court proceedings have been postponed several times. Kashif expects yet another postponement on May 30, the scheduled date for the next court session.

Gender reassignment surgeries are legal in Egypt. In 2013, the Medical Syndicate issued a Code of Ethics recognizing gender identity disorder (GID) as a medical condition, thus paving the way for transgender patients who have GID to undergo sex change surgeries. But these surgeries were being performed in Egypt long before then. In January 1988, in

a much publicized case, Sayyid Abdallah, a then-19 year-old medical student at Al-Azhar University, underwent gender reassignment surgery, transitioning to Sally. The case stirred a great deal of controversy and Sally was reportedly punished by the then-dean of the Medical Faculty who refused to admit her for the final exam or have her transferred to the Medical Faculty for girls. The Medical Syndicate accused the surgeon who performed the operation of committing "a grave error."

Today — more than three decades later — perceptions of gender transition have not changed much — the procedure is still largely frowned upon as "sinful" and "tampering with God's creation." That perception may have been shaped by the Islamic hadith citing that "God has cursed effeminate men who imitate women." Former Grand Mufti Ali Gomaa, however, affirmed in a 2014 TV interview broadcast on the Egyptian CBC channel that "it is a duty for transgender persons — and their families — to correct their gender to end their state of confusion."

The surgery is only permissible for hermaphrodites (those with male and female reproductive organs), Gomaa said, adding that it is forbidden in cases of a person choosing to behave or look like the opposite sex but only has the traits of his or her birth gender.

Gomaa's view was reiterated by Dar al-Iftaa, the authority that issues religious edicts, in response to a question by Al-Monitor (via its hotline) on whether such surgeries are halal (permissible). "If a medical specialist decides that the surgery is in the patient's interest and is necessary to protect him or her from harm, then it is permissible. But it is forbidden in cases where there are no medical grounds and a man simply desires to become a woman or vice versa," an Iftaa cleric said.

Up until 2016, transgender people were able to undergo gender reassignment surgeries at public hospitals without charge. This is no longer the case and "permits for such surgeries are now harder to obtain," Hashem Bahary, a professor of psychiatry at Al-Azhar University, told Al-Monitor in a telephone interview.

A sex correction committee — made up of a psychiatrist, a medical expert from the Medical Syndicate and a cleric from the Ministry of Endowments — had met periodically to review requests for gender transitions and approve or reject them on a case-by-case basis. But the committee has not convened since early 2016, leaving those wishing to change their gender with no option but to turn to private hospitals and clinics.

"Many private clinics take advantage of trans patients' desperation, charging exorbitant fees — sometimes for botched surgeries," Mozn Hassan, a women's rights activist and founder of Nazra for Feminist Studies, told Al-Monitor.

A gender reassignment surgery costs in the range of 25,000 Egyptian pounds (around \$1,600), according to Bahary, who said that the surgeries are beyond the means of the average Egyptian. Al-Azhar's Psychiatric Center, which had offered transgender patients psychological support for nearly two decades, was shut down in 2017 at the behest of Al-Azhar Grand Imam Sheikh Ahmed el-Tayeb, according to Bahary, who said he continues to offer his LGBTQ patients free mental health services at his private clinic.

Transition is a complex and tedious process in Egypt, often taking several years to complete. It involves two years of psychological treatment, medical tests and approvals by religious authorities and medical specialists.

"After completion of the transition, a report is submitted by forensic experts to the Interior Ministry requesting permission for the change in gender designation on ID cards," Bahary said.

Waad Mohamed Ahmed (nicknamed Cinderella ), a 28-year-old Alexandria-based lawyer, has been more fortunate than most. Identified as a boy at birth, she performed her first gender reassignment surgery five years ago at a private hospital at her own expense. She then underwent a second surgery at Kasr el-Eini public hospital in Cairo. It took several months to change her gender status on her ID card after approval from forensic experts. "The worst time for me was before the transition. I was ostracized by my family and was persistently sexually harassed on the street," she told Al-Monitor.

Her biggest concern today is finding a suitable marriage partner. "When men who are attracted to me learn about my past, they shy away," she said.

In a society with little tolerance for gender variance, the biggest challenge for transgender Egyptians is gaining societal acceptance.

"Selim's disclosure about his son's transition is a milestone in transgender Egyptians' fight for recognition and respect," Hassan said. "Not only has he broken a longstanding taboo, but he has also brought to public attention the dire need to integrate this marginalized minority group into the mainstream."

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## **GABON formally decriminalizes homosexuality**

By Kaela Roeder

The Blade (08.07.2020) - <https://bit.ly/30cF79Y> - Gabon on Tuesday decriminalized consensual same-sex sexual relations, becoming one of the few countries in sub-Saharan Africa to legalize them.

The Gabonese Senate on June 29 approved a bill to repeal a 2019 law that criminalized same-sex relationships by a maximum penalty of six months in prison and a 5 million Central African CFA franc (\$8,561) fine. President Ali Bongo Ondimba on Tuesday signed the repeal measure into law.

"I applaud the collective decision by Gabon's parliament, government and president to decriminalize same-sex sexual relations," said UNAIDS Executive Director Winnie Byanyima in a press release. "By doing so, Gabon is righting a grave injustice inflicted on the LGBTI community in the country."

The initial proposal to legalize LGBTQ relationships was approved in the lower house of the Gabonese Parliament on June 24.

Reuters reported 59 members of the Gabonese Senate moved to revise the law, as opposed to 17 senators who voted against the reversal. Four senators abstained.

Angola and Lesotho are among the African countries that have decriminalized same-sex relationships in recent years, and LGBTQ rights advocates are demanding more to join.

"Today's historic signing of a law decriminalizing same-sex relations in Gabon is a pivotal moment in the global fight for LGBTQ rights," said Human Rights Campaign President Alphonso David in a press release. "This critical win for basic human rights gives us reason to hope for more awareness and more victories across the continent."

Kenya and Uganda are among the 70 countries in which consensual same-sex sexual relations remain criminalized.

"It is shocking that over a third of the world's countries continue to criminalize same-sex love, in stark contrast to basic human dignity and international human rights standards," OutRight Action International Executive Director Jessica Stern in an Instagram post. "The decision in Gabon decreases the total number of countries criminalizing same-sex relations by one. This is not only an affirmation of the right of LGBTQ people in Gabon to love whom they choose, but also an inspiration to advocates in countries in which these bans still exist or are being considered."

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## **GABON: Anti-gay law passes first step to decriminalization**

***In a surprise move, less than a year after a new penal code criminalized homosexuality, Gabon's lower house of parliament voted to reverse the law that bans same sex relations.***

RFI (24.06.2020) - <https://bit.ly/2NIKWpL> - The vote on Tuesday passed with 48 MPs voting to take the law off the books, while 24 voted against and 25 abstained from the vote.

While hailed by human rights leaders as a positive move, the bill must also pass in the upper house of the Senate before the law is taken off the books. If the Senate does not agree on the same terms, then the two houses must come together to agree on a text. The ruling Gabonese Democratic Party (PDG) has majority in the Senate, so it is not a given that the bill will be passed.

Homosexuality is against the law in Gabon, and that includes same-sex marriage. People who are caught can be punished with up to six months in prison and fines of up to 7,600 euros.

These laws, in addition to societal attitudes, have caused lesbian, gay, bisexual and transsexual (LGBT) people to be excluded from society as well as caused discrimination and promoted fear.

Six African countries have scrapped their bans since 2012, marking a positive trend overall, said Neela Ghoshal, a researcher with Human Rights Watch told Reuters last December.

"It's unfortunate that a lot of African countries have claimed and owned those homophobic, colonial values, but others haven't," said Ghoshal.

"In general, across the continent, things are moving more in the right direction than in the wrong direction ... I'm guessing you'll see a lot of change in the next 10 years or so."

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## **GHANA: Archbishop of Canterbury speaks on anti-gay Bill in Ghana's Parliament**

Ghana Web (27.10.2021) - <https://bit.ly/3BrADgn> - The Archbishop of Canterbury, the Most Revd. Justin Welby, has reminded members of the Anglican Church of the position they hold when it comes to the issue of same sex marriage.

He said in a statement on Tuesday October 26 ahead of the debate on the anti-gay bill

which is currently before Ghana's Parliament that : "I am gravely concerned by the draft anti-LGBTQ+ Bill due to be debated by the Ghanaian parliament. I will be speaking with the Archbishop of Ghana in the coming days to discuss the Anglican Church of Ghana's response to the Bill.

"The majority of Anglicans within the global Anglican Communion are committed to upholding both the traditional teaching on marriage as laid out in the 1998 Lambeth Conference Resolution I:10, and the rights of every person, regardless of sexual orientation, before the law. In Resolution I:10, the Anglican Communion also made a commitment "to assure [LGBTQ+ people] that they are loved by God and that all baptised, believing and faithful persons, regardless of sexual orientation, are full members of the Body of Christ."

"Meanwhile on numerous occasions the Primates of the Anglican Communion have stated their opposition to the criminalisation of same-sex attracted people: most recently, and unanimously, in the communiqué of the 2016 Primates' Meeting.

"I remind our brothers and sisters in the Anglican Church of Ghana of these commitments.

"We are a global family of churches, but the mission of the church is the same in every culture and country: to demonstrate, through its actions and words, God's offer of unconditional love to every human being through Jesus Christ."

Meanwhile, the Majority Leader, Osei Kyei Mensah Bonsu, has explained the steps that the anti-gay bill will go through before its passage.

The Suame lawmaker told TV3's Dzifa Bampoh in interview on Tuesday October 26, the day Parliament resumed sitting that, "Let me be emphatic, it will not be done today, the reason is simple you want to let people follow processes and procedures of enacting legislation.

"Why because, it has just been referred to the Committee.

"That is the first reading, the committee then will go to sit on it and allow civil society organizations, allow religious groups who have so much interest, allow other groups, allow the general public who have interest to express the interest appropriately usually in a memoranda but there are some of them who will not encapsulate into any memorandum and then submit same to the committee, they will want to appear in person before the committee."

The Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill was laid in the House on Monday, August 2 and read for the first time.

Reading for the first time, a clerk in the legislative assembly stated that the Bill proscribes lesbian, gay, bi-sexual, transgender, queer and intersex (LGBTQI) and other related activities and propaganda or advocacy and promotion for same.

It also came to light that it supports protection for children and persons who are victims or accused of homosexuality.

Second Deputy Speaker Andrew Asiamah Amoako referred the Bill to the Constitutional, Legal and Parliamentary Committee for consideration.

"For the first time, it is referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report," Mr Asiamah Amoako, who is also the MP for Fomena, directed.



The controversial bill has already divided opinion in the Ghanaian public discourse.

While some, particularly the religious and traditional groupings, have supported the Bill and hopeful of its passing, others say it could incur the wrath of the international community against Ghana.

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## **GHANA's anti-gay bill condemned as 'state-sponsored' violence**

**United Nations experts said the bill, which makes it a crime to be LGBT+, could 'create a recipe for conflict and violence'**

By Nita Bhalla

Openly News (12.08.2021) - <https://bit.ly/2Y3ymtJ> - A Ghanaian bill criminalising LGBT+ people will establish "a system of state-sponsored discrimination and violence" against sexual minorities, U.N. human rights experts warned on Thursday, urging authorities to reject the proposed law.

The Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021, was introduced in parliament on Aug. 2 and is expected to go before lawmakers for debate in October.

In a letter to Ghana's mission to the U.N. in Geneva, the experts - who include the U.N.'s independent expert on sexual orientation and gender identity, Victor Madrigal-Borloz - said the bill **violated** Ghana's international human rights agreements.

"We express our grave concern about the draft bill, which seems to establish a system of state-sponsored discrimination and violence against LGBTI persons of great magnitude," said the letter dated Aug. 9 and publicly released on Thursday.

"Given that LGBTI people are present in every family and every community, it is not very difficult to imagine how, if it were to be adopted, this legislation could create a recipe for conflict and violence."

Ghanaian government officials were not immediately available for comment.

Gay sex is already punishable with up to three years in jail in Ghana, where homophobic persecution is widespread. The bill would also impose a penalty of up to five years imprisonment for being LGBT+ and of 10 years for advocating for their rights.

Online platforms or media companies publishing information deemed to support LGBT+ people or challenge traditional binary male and female gender identities could also be prosecuted.

The draft law promotes so-called conversion therapy by allowing flexible sentencing for an LGBT+ person if they request "treatment" to change their sexual orientation or gender identity, which the U.N. experts said "may amount to torture".

Some political analysts say there is enough cross-party support in the largely conservative Christian West African nation for the bill to become law.

However, the bill could face pressure from international donors and legal challenges, as the U.N. experts said it violated international conventions to which Ghana is party, including the Universal Declaration of Human Rights.

Danny Bediako of the human rights organisation Rightify Ghana said he hoped the U.N. statement would encourage lawmakers to vote against the bill.

"Just as some Ghanaians who have spoken against the hate bill, the international community is concerned about Ghana's democratic credentials being wiped out by this anti-LGBTQ bill," he told the Thomson Reuters Foundation.

"Within parliament, I don't think it would make much difference amongst MPs who support the bill. However, it could encourage other MPs to speak against it."

(Reporting by Nita Bhalla @nitabhalla, Editing by Katie Nyugen and Katy Migiro. Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that covers the lives of people around the world who struggle to live freely or fairly. Visit <http://news.trust.org>)

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## **GHANA: Anti-gay bill seeks prison terms for LGBT+ people**

***A new draft law in the West African nation proposes jail time for those who identify as LGBT+, and for anyone who offers assistance to the LGBT+ community.***

By Nita Bhalla

Openly News (02.08.2021) - <https://bit.ly/3fFZipl> - A bill in Ghana that would make it a crime to be gay, lesbian, bisexual or transgender or to advocate for LGBT+ rights is expected to be presented before parliament on Monday for its first reading.

The [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill](#), 2021, has sparked outrage and fear in the West African nation's LGBT+ community, with campaigners saying it could heighten widespread persecution and violence.

Here are some key details and background about the controversial proposal:

### ***What is the current law regarding LGBT+ people in Ghana?***

Under a 1960 British [colonial-era law](#), "unnatural carnal knowledge" - widely interpreted as sexual intercourse between men - is punishable with up to three years in jail.

Ghana has not prosecuted anyone for gay sex in years, but LGBT+ people face frequent abuse and discrimination, including blackmail and attacks, human rights researchers say.

It is not a crime to be LGBT+ or to promote LGBT+ rights under current legislation.

### ***Why was the bill introduced now?***

The bill is sponsored by eight lawmakers from the opposition and ruling parties who [came together](#) following the opening of the country's first LGBT+ community centre in January.

The opening of the centre sparked uproar from church organisations, politicians and anti-gay groups, and authorities [shut it down](#) three weeks later.

This has led to a crackdown by authorities - including the arrest of 21 LGBT+ activists in May - and an increase in homophobic abuse from the public in recent months, community members say.

The lawmakers, who are led by Samuel Nartey George from the National Democratic Congress party, say homosexuality is a perversion and LGBT+ activities threaten Ghanaian family values, and society in general.

### ***What are the main provisions in the bill?***

The draft law makes it a crime punishable by up to five years imprisonment to be gay, lesbian, bisexual, transgender, transsexual, pansexual and non-binary - someone who does not identify as male or female.

Advocating for the LGBT+ community, sympathising or offering any assistance such as financial or medical support to LGBT+ people or organisations would also be an offence punishable by up to 10 years in jail.

Media companies, online platforms and accounts that publish information deemed to support LGBT+ activities or encourage children to explore any gender or sex outside of the binary categories of male and female could also be prosecuted.

On the other hand, the draft law promotes so-called conversion therapy by allowing flexible sentencing for an LGBT+ person if they request "treatment".

Other articles include outlawing "intentional cross-dressing" and "amorous relations" between people of the same sex in public, and making it a citizen's duty to report any LGBT+ persons or activities to authorities.

It also proposes amending Ghana's existing extradition law to allow for the deportation of LGBT+ Ghanaians living overseas.

### ***How have people responded to the bill?***

LGBT+ rights groups in Ghana have expressed shock and alarm over the provisions of the draft law, saying that it would strip gay, bisexual and transgender people of all their rights - and increase homophobic persecution and violence.

LGBT+ people report being scared and have already begun to restrict their movements and avoid public places such as markets where they may be targeted, say community organisations.

Campaigners have launched a campaign on social media called #KillTheBill to raise awareness and also an [online petition](#) to stop the draft law, which has garnered nearly 4,000 signatures since it was launched on Sunday.

Religious groups such as the Coalition of Muslim Groups in Ghana have welcomed the bill, saying it is necessary to prevent the dilution of cultural values and beliefs in Ghanaian society.

Last week, traditional leaders from Ghana's Waala community - to which about 100,000 people belong - [announced](#) a ban on LGBT+ activities, saying they did not want to wait for the bill to be passed.

### ***What are the chances the bill could be passed?***

Some political analysts say there is enough cross-party support in the largely conservative Christian nation for the bill to become law.

However, the bill could face major hurdles, including pressure from international donors and foreign partners as well as legal challenges over whether it violates Ghana's constitution.

In May, the United States and the World Bank [called on Ghana](#) to respect LGBT+ rights and said they were closely watching the situation in the country.

### ***What are the next steps?***

After the first reading, the bill will be referred to a committee for review before it is presented before parliament for a second reading and debate where it may be subject to amendments.

It then goes for a third reading before it can be passed into law. It will also require assent from President Nana Akufo-Addo.

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## **MOROCCO: Dozens of gay men are outed in Morocco as photos are spread online**

***The idea was to show the hypocrisy of Moroccan society by showing how many gay men are living quietly in straight society. It backfired badly.***

By Aida Alami

The New York Times (26.04.2020) - <https://nyti.ms/3aLsKVr> - At least 50 to 100 gay men were outed in Morocco over the last two weeks, rights activists say, after the men were identified on location-based meeting apps while sheltering at home amid a coronavirus lockdown.

In at least three cases, men were kicked out of their houses, L.G.B.T.Q. activists said. In interviews, many others in the country said they had been blackmailed and threatened, and thousands fear that their photos will be spread on social media.

"Here I am just waiting for my death sentence," said a young man whose photos were leaked online and who spoke anonymously for fear of being attacked. "I'm frustrated and scared."

In Morocco, a North African kingdom where homosexuality and sex outside marriage are crimes, gay people are painfully accustomed to the feelings of peril and rejection, and many keep their sexual identities under wraps.

Now, their cover has been blown in a way that would be criminal in most Western societies, rights advocates say. Yet they have no legal recourse.

"Forcibly outing people is not just an obvious violation of their right to privacy," said Ahmed Benchemsi, the communications director for the Middle East and North Africa division of Human Rights Watch. "When wrapped in incitement to hate and calls to violence based on sexual orientation, it's also a crime."

"A legal system respectful of universal rights would empower victims to press charges," he said. "But in Morocco, same-sex behavior is also criminalized, so victims could find themselves trapped in a tragic catch-22 situation."

What makes this episode particularly painful, gay leaders say, is that it was ignited by someone who had also been singled out.

On April 13, a Moroccan transgender Instagram personality based in Istanbul, Naoufal Moussa or Sofia Talouni, was insulted about her sexual orientation. In a rage, she released a profanity-laced video encouraging women to download the location-based meeting apps, like Grindr and Planet Romeo, which are usually used by gay men.

In subsequent videos, she said her aim was to reveal the hypocrisy of Moroccan society by showing her attackers how many gay men were living in their vicinity, perhaps even in their own homes.

Many people followed Ms. Moussa's lead and created fake accounts on the apps to gather photos of gay men, which they then posted on private and public Facebook pages, setting off the homophobic attacks.

The attacks ignited a firestorm of criticism, both of Ms. Moussa and of Morocco's discriminatory laws.

Adam Eli, the founder of the New York-based activist group Voices4, worked in coordination with Moroccan L.G.B.T.Q. rights activists to get Ms. Moussa's Instagram account deleted.

"For now the account has been suspended, and already a new one has popped up," he said. "We did not solve the issue of queer-phobia in Morocco. However, we showed a bunch of young queer people, who are scared and in quarantine, that they are not alone, that they have the force of the international queer community behind them."

A spokesperson for Facebook, which owns Instagram, confirmed that Ms. Moussa's account had been suspended. "We don't allow people to out members of the L.G.B.T.Q.+ community because it puts them at risk," the spokesperson wrote in an email. "We've disabled Naoufal Moussa's Facebook and Instagram accounts, and we're taking proactive steps to find and remove other content like this."

What seems to have set Ms. Moussa off was a late-night conversation with a little-known Instagram user, who in an interview asked to be identified only as Yassine, for fear for his safety.

Ms. Moussa has attained a measure of fame in recent months, using her platform to talk crudely about sex and to entertain her followers in an insolent and confrontational manner in vulgar Moroccan Arabic. That has made her an object of fascination and horror to her more than half-million followers.

And she is known to despise L.G.B.T.Q. people who do not make their sexual orientation known.

Yassine, a 22-year-old, said he was initially delighted to be picked to go live on Instagram with Ms. Moussa. But what felt like an honor rapidly turned into embarrassment and shock as Ms. Moussa compelled him to acknowledge that he was gay, threatening to post revealing photos showing him with another gay man. It is unclear how she obtained the photos.

"I was shocked and then very scared," Yassine said. "She destroyed my life."

He has since been forced to move out of the house of a family member and to use his savings to rent a small apartment in Tangier.

"Everybody is sending the video and saying bad things about me," he said. "My mom, also, she's very sad. She's not talking to me anymore. My friends at the gym, friends I went to school with — they all blocked me."

Many who saw the outing of Yassine were outraged and attacked Ms. Moussa, flagging her account to Instagram. That's when she got angry and suggested downloading gay meeting apps, which led to the outburst of anti-gay violence.

"My dating life in Morocco was somehow OK as long as my partner and I were being super discreet and cautious," said one gay man who asked to be identified only by his initials, N.A., and says his family hasn't seen the photos. He has been staying with his grandmother and waiting in fear for something bad to happen.

Abdellah Taia, a prominent gay author and one of few to publicly declare his sexual orientation in Morocco, says that the state keeps people in a gray area, making them vulnerable to abuse and discrimination and forcing many into hiding.

"This is a great and bitter Moroccan comedy," he said, adding of the pandemic that is exacerbating the situation: "Corona reveals every day a little more how the weakest on this Earth are even weaker and more ostracized than we thought. It's sad. It's tragic. It's revolting."

Morocco's Interior Ministry did not respond to a request for comment.

The outing episode is seen by many as destroying a fragile balance that the country's underground gay culture has built laboriously over the years, made even worse in a time of uncertainty and economic hardship. But they do have some support at home.

Nadia Bezaoui, the president of the Pan-African Organization for the Fight Against AIDS, said that while Morocco's laws were unlikely to change, its health ministry encourages associations like hers to help vulnerable populations, including gay people.

"They can come to us without any danger or apprehension," she said. "The reality is that they are tolerated but expected to remain invisible."

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## **NIGERIA: The Nigerian filmmakers risking jail with lesbian movie *Ife***

***Two Nigerian filmmakers face the prospect of imprisonment if they ignore the stern warning of the authorities and proceed with the release of a movie about a lesbian relationship.***



By Azeezat Olaoluwa

BBC (14.09.2020) - <https://bbc.in/3coq5ne> - The dramatic face-off with the regulators - the Nigerian Film and Video Censors Board (NFVCB) - is worthy of a film itself.

Producer Pamela Adie and director Uyaiedu Ikpe-Etim are determined that *Ife* (meaning "love" in the Yoruba language) reaches a Nigerian audience, but the NFVCB says it will not be approved as it violates the country's strict laws on homosexuality.

### ***International premiere***

To get around this, the filmmakers are planning a surprise online release to catch the regulators off-guard. The NFVCB, however, is diligently monitoring all digital platforms to prevent the movie from getting out.

According to NFVCB boss Adebayo Thomas, Adie and Ikpe-Etim could be jailed for promoting homosexuality in a country where same-sex relationships are forbidden and can carry a 14-year sentence.

They are organising a private screening in the commercial capital, Lagos, at the end of the month, for which they believe they do not need to get permission.

*Ife* will also get an international premiere in Canada in October.

Adie said the aim of the film was to show an accurate picture of lesbian and bisexual women in Nigerian movies.

If a lesbian woman does appear in a standard Nollywood movie they are often portrayed as being possessed, influenced by bad friends or forced into homosexuality and always needing "saving", she told the BBC.

"You rarely see stories about LGBT people, especially about queer women that speak to the realities of our lives.

"*Ife* was made to bridge the gap and to get the conversation going in Nigeria."

### ***Coming out to a Nigerian mother***

*Ife* is a story about two women falling in love as they spend three days together. They "then have their love tested by the realities of being in a same-sex relationship in a country like Nigeria", according to the publicity for the film.

If July's trailer, where sex is hinted at but not actually shown, is anything to go by, then *Ife* certainly pushes the boundaries of telling the LGBT story by Nigerian movie standards.

In one shot, the two protagonists, *Ife* and *Adaora* are in bed talking about love and the challenges faced by LGBT people especially within their families.

Their conversation forms the spine of the teaser for the film.

"I told my mum first, took her about a week to come to terms with it," *Ife*, played by Uzoamaka Aniunoh, says talking about revealing that she was a lesbian.

"Which is short for a Nigerian mother," interjects *Adaora*, played by Cindy Amadi.

"Is it too soon to say I might be in love with you?" asks *Adaora* as they cuddle.

"We are lesbians, this is the perfect time," answers Ife.

### ***'It has to be censored'***

Homosexuality is an extremely contentious issue in many parts of Africa and Nigeria is no different.

It is a highly religious and traditional society and its influential Christian and Muslim organisations oppose homosexuality.

As a consequence, Nigeria is one of 30 countries on the continent where it is criminalised. The legislation outlawing same-sex relationships was passed in 2014 and built on the colonial-era prohibition of sodomy. Police in Nigeria have cracked down on people suspected of homosexuality, forcing most into hiding.

The feeling of being sidelined and the need to challenge beliefs that homosexuality is immoral is what inspired director Ikpe-Etim to take on the project.

"Before now, we have been told one-sided stories. What we are doing with this film is normalising the queer experience, we are normalising the LGBT romance.

"It will begin to erase that shame that LBQ [lesbian, bisexual and queer] women face," she told the BBC.

The lesbian, gay, bisexual, transgender and queer (LGBTQ) community in Africa is becoming increasingly vocal and visible, thanks to the internet providing a space for films, talk shows and websites.

But that has not stopped filmmakers from getting into trouble with authorities.

The head of the NFVCB said there was no space for Ife or other homosexual movies in Nigeria, citing the law.

"There's a standing law that prohibits homosexuality, either in practice or in a movie or even in a theatre or on stage. If it's content from Nigeria, it has to be censored," Mr Thomas told the BBC.

He said that whatever the platform was, "as long as it's Nigerian content and it's telling a Nigerian story, then we have a right to it".

But there is no plan for large-scale screenings of Ife in Nigerian cinemas or selling the DVD, as the producers want to make it available online as pay-on-demand.

But even that will get them into trouble with the regulators.

### ***Increasing acceptance of LGBTQ people***

"If it did not pass through NFVCB and it is released, the filmmakers will be prosecuted according to the law," Mr Thomas said.

"As long as it's Nigerian content, we will pull it down because we have collaborations with Google, YouTube and other key players."

But that has not deterred the producers and Adie says her team will continue as planned, as they believe they have done nothing wrong and do not plan to seek permission for an online release.

This is not the first time an LGBTQ-themed movie has fallen foul of regulators on the continent.

Stories of Our Lives, a collection of five short films based on stories of LGBTQ life in Kenya was banned in 2014 for being "contrary to national norms".

This was also the fate of Rafiki, Kenya's first film about a lesbian relationship, which went on to be the East African nation's first film to premiere at the Cannes film festival and also receive an Oscar nomination.

Inxeba/The Wound, a South African film about a relationship between two men in the context of the Xhosa initiation ritual was also banned from mainstream South African cinemas in 2018.

Despite the set-backs, some in the LGBTQ community in Africa say they are gradually gaining confidence and acceptance and link it to the increased visibility in films and literature which are encouraging greater tolerance among younger generations.

A 2019 survey of attitudes in Nigeria showed an increase in acceptance of LGBTQ people - though the balance was still tilted against them.

Some 60% of Nigerians surveyed said they would not accept a family member who was LGBTQ, but this was significantly lower than the 83% who put themselves in that category in 2017.

The need for further change is why people like Ikpe-Etim want to keep telling the stories of the LGBTQ community.

"As a member of an under-represented group, you are constantly at the mercy of people who don't understand what it means to be queer.

"I knew if I wanted the society to view LGBTQ people in a different light, I had to tell the full story," she said.

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## **NIGERIA: A police raid, viral videos and the broken lives of Nigerian gay law suspects**

***Among 47 Nigerian men on trial for same-sex affection are people who have been made homeless and lost their jobs by the publicity.***

By Alexis Akwagyiram

Openly (24.02.2020) - <https://bit.ly/2x1PNx7> - The 57 men stumbled out of the back of a dark police truck into the glare of a sunny courtyard and a phalanx of cameras. Some clutched another's hand, as if for comfort. They lined up on wooden benches in the dirt, almost all of them trying to hide their faces, and not succeeding.

Standing behind a bank of microphones, the Lagos state police commissioner, Imohimi Edgal, told the gathered journalists that he personally had ordered the raid that swept up

the men after the authorities received a tipoff that young men were being initiated into a "homosexual club."

Edgal declared that homosexuality ran contrary to the Same Sex Marriage Prohibition Act. That law, which drew international condemnation when it came into force in 2014, targets not only same-sex unions but homosexual relations in general with prison terms of up to 14 years.

"It is the duty of everybody, not only the police, to ensure that such antisocial behaviour, such social vices, such crimes, are checked so that we can create communities that protect our children from such deviant behaviour," he said.

The cameras panned over the faces of the men, capturing expressions of shame, fear and anger. Most of them remained quiet, but others answered journalists' questions.

"What is the definition of a gay? It is when you are caught having sex, intercourse, with a guy. They didn't caught me," shouted James Brown, a wiry young man who said he had been hired to dance at a birthday party and had done nothing wrong.

The phrase "they didn't caught me" quickly went viral. Video footage of the August 2018 news conference has since been viewed more than half a million times. Friends, colleagues and strangers all learned of the allegations from the videos that circulated online.

Last November, after more than a year of court hearings, Brown was among 47 men who pleaded not guilty to a charge of public displays of affection by people of the same sex. Arrest warrants were issued for the 10 other men who failed to appear in court. In a landmark case that may reach its resolution this month, the men face 10 years in prison if found guilty under the 2014 law, which has never been used to secure a conviction.

But prison time or no, the men have already been punished. In this resolutely Christian and Muslim country, homosexuality is broadly rejected across society, as casual as a snub on the street and as serious as Sharia law that threatens death by stoning.

One of the men is a married father of four who says he had driven people to the party to earn extra money. For a time, he went without electricity because he couldn't pay the bills after being fired; even in the darkness of his house, the strain between him and his wife was visible to a visiting Reuters journalist. Another man slept in a church outhouse after his family threw him out, until he was finally cast out of that safe harbour, too. A third man lives in fear of the street toughs who have beaten him up three times after recognizing him from the viral videos of the perp walk. And the man who was celebrating his birthday avoided arrest but is now overwhelmed by guilt, seeing blame even in his friends' eyes.

These are the stories of lives broken by a birthday party late one night in Lagos – and by a culture that cast the men adrift.

### ***The family man***

Around 2 on a Sunday morning, they streamed out of the building, running in every direction. Within seconds, the birthday party at a Lagos hotel turned into a stampede as people fled armed policemen who had burst into the compound.

"I couldn't understand what was happening," said Onyeka Oguaghamba, a trade union officer who used a borrowed car as a taxi at weekends. "Was it armed robbers or a fire?"

Oguaghamba had been dozing in the car park of the Kelly Ann Hotel. After a long journey driving three customers to the hotel in the Egbeda suburb, he said, he had decided to sleep

in the car rather than risk a perilous journey home on potholed roads where he could encounter armed robbers.

Assuming the dozens of people who raced past him were fleeing danger, Oguaghamba said, he got out of the car and ran. Before he could reach the hotel compound's gates, however, he was pulled to the ground and struck repeatedly on his head. Seconds later, he said, he realised he was being held by a policeman using a gun as a bludgeon. Lagos state police spokesman Bala Elkana declined to comment on the beating claim on the grounds that the raid predated him. He rejected emailed and text message requests to speak to police officers who participated in the raid.

The impact on Oguaghamba's life was swift. After two weeks in police detention, he was fired as a bookkeeper with the Nigeria Union Of Petroleum and Natural Gas Workers, a job he had held for eight years. His employers had seen the videos on social media and didn't believe his explanation, he said. His former manager declined to respond to text messages and phone calls from a journalist.

The 42-year-old, who insists he is not gay, was unable to find work for a year after his arrest. Finally, in December, he was hired as a driver for a transport company.

Even his four boys – aged 6, 7 and two 10-year-olds – weren't immune from the innuendo that swirled around their father. While he was in police detention, they were told their father had been on television.

"I felt so bad, although they didn't understand what gay means," he said. "They asked me -why police arrested me and they were showing me on television. I explained to them that the police can arrest anybody at any time."

Walking past locals in his Lagos neighbourhood, Oguaghamba greeted people with "good morning," as is customary across Nigeria. Most returned the greeting, but some, particularly men, seemed reluctant to acknowledge him, barely nodding in response and looking away.

There was tension at home too.

"When I came back from that Ikoyi prison, people talked a lot to my wife. They tell her a lot of things," he said, referring to those who questioned his motives for being at the hotel that night.

Wedding photos of Oguaghamba, known to most people by his Christian name Miracle, and his wife, Juliette, take pride of place on the living room walls. But as the couple discussed the case with a visiting journalist recently, they rarely made eye contact; he looked at the floor, and she fixed her gaze straight ahead.

While he was being detained, Juliette sent protection money to an inmate so he would be spared the beatings that he says many of the others he was arrested with were subjected to.

"She suffered a lot to bail me out," Oguaghamba said. Aside from the money, there was the indignity of a policewoman at the station accusing Juliette of having a gay husband. "When I got back, we started having issues."

Finally, relations improved after a family meeting was convened at which her elder sister acted as a mediator between the couple.

"Because of the incident, it was very difficult for us," Juliette said. "There is no evidence. You can't just barge into a hotel and pick people," she said, her voice growing louder.

"I know my husband very well. He doesn't play such games. This is 11 years of marriage," she said. "It makes me cry. It makes me angry because he lost a lot."

The house was dark at the time because the electricity had been turned off weeks after the annual rent was due in October. Oguaghamba said he was able to pay some, but not all, of the money. The landlord has threatened to evict the family if it can't pay the outstanding sum.

Oguaghamba said he was angry at the way his life had been upended.

"I'm angry because what they are saying is not fact," he said. "They shared my pictures and video on social media. It's a very shameful thing."

### **The police**

The Lagos police force has yet to disclose what its officers saw during the raid that led to the charge of public displays of same-sex affection against Oguaghamba and the other men.

Since the November arraignment, the judge has adjourned the case three times because prosecution lawyers were unable to produce their witnesses. The judge threatened to throw out the case if the prosecution didn't produce its key witness at the next hearing in March.

Police officials rejected a Reuters request for the police commissioner to provide details of the evidence that prompted the mass arrest and charges. Spokesman Elkana said the current commissioner wasn't in the job at the time and therefore couldn't comment.

Edgal, the commissioner who said he personally ordered the raid, left office early last year for a commissioner position in southern Nigeria. He didn't respond to requests for comment on the raid.

But in a wide-ranging media briefing with journalists in January, the current Lagos commissioner, Hakeem Odumosu, spoke broadly about the application of the same-sex law.

"As police officers, we are to enforce the laws," he said. "So on the same-sex marriage now, we stand by the position of the law."

Nigeria hasn't disclosed how many people have been detained under the law. But based on reports of mass police raids, Reuters estimates that the number is likely to run into the hundreds each year. Information is also scarce on the number of prosecutions, but activist groups say they know of none.

Xeenarh Mohammed, executive director of Nigerian rights group the Initiative for Equal Rights, which has been providing legal and counselling support for the men arrested in the raid, said the law prohibiting same-sex unions "has simply been used again and again and again to harass people, to pick people for perceived sexual orientation or gender identity."

The accusation of extortion and police harassment also has been levelled by international rights campaigners. In a 2016 report, Human Rights Watch cited a number of alleged victims of police officers who had used the threat of a prison sentence to extort money from them.



In interviews with Reuters, five people who acknowledged having same-sex relationships said that police in Lagos use that fear and the threat of the law to extort money from men. Nigerian police have repeatedly denied the claim. Nigeria's attorney-general and a spokesman for the Justice Ministry didn't respond to text messages and phone calls seeking comment on the accusations.

In addition to the national same-sex law, 12 of Nigeria's 36 states apply Sharia law. In those states, in the predominantly Muslim north of the country, same-sex acts carry maximum penalties of death for men and whipping and/or imprisonment for women. Cases are infrequent, however, which means the punishment is rarely carried out.

Gay people in Lagos say they live in fear of their sexuality becoming publicly known. Members of the gay community said they arrange discreet private gatherings such as house parties in the homes of friends. Many also turn to dating apps and social media to set up romantic liaisons. But criminals sometimes use these secret rendezvous to carry out attacks known locally as "kito," in which a gay person arrives to meet a person for the first time only to be kidnapped, beaten and sometimes raped, said rights campaigners and two people who told Reuters they had been victims of such attacks.

### ***The man who brought shame***

When he was a child, Chris Agiriga said, his aunt gave him a home after his mother left Lagos to pursue a new life. Some 20 years later, his aunt told him to leave after he appeared on TV in the police line-up.

"Everyone in the area knew about it," said the 23-year-old from Egbeda, the same district as the hotel. "I brought shame upon the whole family."

Agiriga's aunt took him to her church and arranged for her pastor to house him on the premises. Agiriga slept on the floor of an outhouse that he shared with another homeless man who had been taken in by the church.

The church pastor told Reuters that Agiriga was a vulnerable young man who had been taken advantage of. He wanted to help. But the arrangement ended after five months during which Agiriga clashed with his roommate. Agiriga said the roommate sent threatening text messages about turning him in to the police for "his lifestyle." When asked for his version of events, the roommate declined to offer an explanation and told a Reuters journalist to leave the church premises.

Agiriga now lives in a safe house for men in Lagos.

He says he lost his job as a community outreach worker with an HIV charity after his arrest. In Nigeria, unlike in other parts of the world, the condition is not primarily associated with gay communities but with unprotected sex in general.

"I called my director. He saw what happened on TV. He said he couldn't employ me because it brings shame," Agiriga said.

Olubiyi Oludipe, executive director of the Improved Sexual Health & Rights Advocacy Initiative, said Agiriga had already been "disengaged" when the raid happened but was unable to specify when. He said Agiriga's performance hadn't been satisfactory but declined to elaborate further.

"We have never laid off any of our project volunteers because of police arrest or based on sexual orientation and gender identity," he said in an emailed statement. "We always treat everyone as equal."

Before the raid, Agiriga wanted to pursue a career as a fashion designer. But he dropped out of his fashion course after losing the job that funded his studies. Agiriga now works as an HIV counsellor for a nonprofit group.

Agiriga didn't even know the birthday celebrant. A friend invited him, he said, and he was reluctant but was persuaded to go.

Police raided the venue around 30 minutes after he arrived.

"I regret going to the party," he said. "I lost my job, I lost my family, I lost a lot my friends – all because of this."

### **The target**

For one of the other suspects, the dominant emotion since the arrest has been fear.

Smart Joel said he has been beaten up three times by gangs of men known in Lagos as "area boys" who said they recognised him from the video. People still point and stare as he walks by, he said, although it was worse in the first few months following the video.

"I'm always scared," the diminutive 25-year-old said, recounting an attack that took place last year in which a group of men called him out as the "gay guy who was arrested" and stole his phone, money and wristwatch.

Before the arrest, he said, it was the police who made him fearful. "Police officers will stop you and then get you arrested. Extort money from you and begin to call you names," Joel said. "That is not what the law talks about. They tend to harass."

Joel's livelihood has also suffered. He runs a laundry and dry-cleaning business from the room he shares with his mother and five younger siblings.

An iron and a chair draped with pressed clothes take up the tiny part of the floor not covered by the double bed shared by Joel's mother and his four sisters. But many customers have deserted him. "The ones that saw the video stopped coming to me. My income became unstable," he said. The family has struggled to pay bills and buy food since then.

"It has not been easy," he said. "At some point I had to move on, not minding the stigma, the discrimination and the dirty language."

### **The host**

Most of those arrested in August 2018 had gathered to celebrate James Burutu's 24th birthday, a party that promised to last from "10 pm till mama calls."

The sense of guilt he has lived with since then has been made worse by the fact that he wasn't among those seized by police, he said.

He was still preparing for the party in a hotel room with friends when the raid took place; parties in Lagos often spill over well into the early hours of the day.

But even though he wasn't arrested, the raid also changed his life. He says he has been ostracised by relatives. "So many of my family members don't want to see me because of this issue," he said.

His elder sister asked him to leave the house she and her husband had shared with him. Three days of homelessness followed, during which he slept underneath a bridge, before he sought shelter with friends.

And, as with a number of those who were arrested, he says he was fired. "My company said they didn't want to hear about a gay issue, and that if I continue working with them it would be a threat to the company," he said.

Eleganza, a Lagos-based company that produces plastic furniture, didn't immediately respond to emails seeking comment on Burutu's claims. A staff member, in a phone call, said he couldn't comment.

Many of Burutu's friends, some of whom wondered aloud how he managed to evade arrest, now refuse to speak to him.

"My life has been shattered," he said.

### **Justice**

For the family man, Oguaghamba, his options look limited. If he is evicted, he might have to uproot his children from the only home they've ever known and return to his home state of Imo, in southeast Nigeria. He hasn't lived there in more than 20 years.

"I am not happy at all," he said, perched on a threadbare armchair in his living room.

Despite the setbacks, however, he remains optimistic about the future.

He maintains he is innocent and believes he finally has a chance to defend himself after seeing his image tarnished on social media.

"All my joy is that we are in the federal high court and that this matter will come to an end," he said. "I believe that victory will be mine."

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## **SUDAN: 'Great first step' as Sudan lifts death penalty and flogging for gay sex**

***Punishments for gay sex in Sudan have been reduced to prison terms, ranging from five years to life.***

By Ban Barkawi and Rachel Savage

Thomson Reuters Foundation (16.07.2020) - <https://bit.ly/30uWJPS> - Sudan's decision to lift the death penalty and flogging as punishment for gay sex was hailed by LGBT+ activists on Thursday as a promising sign after almost four decades of Islamist rule, with calls for prison sentences to be abolished as well.

Others criticised the relaxation of the law in conservative Sudan, where a transitional government has promised to lead the country to democracy after the toppling last year of autocrat Omar al-Bashir, who had been in power since 1989.

"These amendments are still not enough but they're a great first step for the transitional government that's trying to implement changes," Noor Sultan, founder of Bedayaa, an LGBT+ group in Egypt and Sudan, said on Thursday.

"We see this as a positive change on the path to reform."

Same-sex relations are criminalised in most of Africa and the Middle East. Sudan was one of six countries, including Iran, Saudi Arabia, Yemen, Nigeria and Somalia, that imposed the death penalty for gay sex, according to the LGBT+ rights group ILGA.

Under Sudan's old sodomy law, gay men faced 100 lashes for the first offence, five years in jail for the second and the death penalty the third time around. The punishments have been reduced to prison terms, ranging from five years to life.

The legal amendment was part of several reforms announced by the justice minister on Saturday, including plans to decriminalise apostasy - the abandonment of a religion - and to permit non-Muslims to consume alcohol.

Sudan will also ban female genital mutilation, which typically involves the partial or total removal of the external genitalia of girls and women, and allow women to travel with their children without a permit from a male relative, he said.

Sultan said the government was discreet about dropping the death penalty for gay sex and its amendment document did not detail what Article 148 - the sodomy law - was about.

"I think society is still reluctant to accept such changes but I hope that the government will continue in its path toward reform," she said.

Others criticised the justice ministry's reform agenda.

"Congrats to the immoral people who achieved their misguided demands over female genital mutilation, legitimising sodomy, drinking alcohol, and opening bars and night clubs," said one Twitter user with the handle @marwanbsas1980.

Fabo Elbaradei, an LGBT+ activist based in the capital Khartoum, welcomed the surprise move to lift the death penalty but said it would not change life much for gay people in Sudan.

"We are subjected to social discrimination and we face a prison sentence ... for simply being who we are," he told the Thomson Reuters Foundation in emailed comments.

"We are still deprived (of) our right to live like any other members of society."

Government officials did not respond to requests for comment.

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## **TUNISIA: Two-year sentence for homosexuality**

### ***Arbitrary detention and reported attempt to require discredited anal exam.***

HRW (06.07.2020) - <https://bit.ly/3eyEOeG> - A Tunisian court sentenced two men accused of sodomy to two years in prison on June 6, 2020, Human Rights Watch said today. The decision violates their rights to privacy and nondiscrimination under international law and Tunisia's 2014 constitution. The police also attempted to subject the defendants to an anal exam, apparently to use as evidence in the case.

Police arrested the two men, both 26, on suspicion of same-sex conduct on June 3 in Le Kef, a city 175 kilometers southwest of Tunis, after one of them filed an unrelated complaint against the other. The prosecutor of the Kef First Instance Tribunal charged the men with sodomy under article 230 of the penal code, which punishes consensual same-sex conduct with up to three years in prison. Hassina Darraji, the lawyer who took on the men's defense for the upcoming appeal, told Human Rights Watch the defendants told her they had refused the police's demands that they undergo an anal exam.

"Tunisia's record of actively prosecuting people for consensual same-sex conduct is deeply worrying and a blatant invasion of their private life," said Rasha Younes, lesbian, gay, bisexual, and transgender (LGBT) rights researcher at Human Rights Watch. "While states and international bodies have commended Tunisia for its progress on human rights, the criminalization and prosecution of homosexual conduct signals otherwise."

Damj Association, a Tunis-based LGBT rights organization, told Human Rights Watch that one of the men had filed a complaint against the other regarding an outstanding loan. The police then attempted to persuade them to "confess that they are gay" by bullying, insulting, and threatening to imprison them, Darraji said.

Damj and Darraji said that after they were sentenced, the authorities transferred the men, whose names are being withheld for their privacy, to a prison in Ben Arous, near Tunis, when a prisoner in el-Kef prison contracted Covid-19. The men are now being quarantined in the Ben Arous prison. The two-year sentence, Damj said, is longer than most handed down for sodomy in recent years. The appeals hearing is scheduled for July 8.

During Tunisia's 2017 Universal Periodic Review (UPR) hearing at the UN Human Rights Council, in response to the recommendation from several countries, Tunisia formally accepted the recommendation to end forced anal exams as a method of "proving" homosexuality. 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."

This approach fails to recognize that consent is seriously compromised because trial courts can infer guilt from a refusal to undergo the exam, Human Rights Watch said. Furthermore, the tests are of no scientific or evidentiary value in proving homosexuality. Indeed, such examinations, when forcible, are intrusive, invasive, and amount to cruel, inhuman, and degrading treatment that violates international law. State-sponsored forcible anal exams violate medical ethics and have been recognized as torture by the UN Committee Against Torture.

Tunisian authorities should immediately quash the two men's conviction and release them, Human Rights Watch said. Tunisia's parliament should repeal penal code article 230, and the Justice Ministry should direct public prosecutors to abandon prosecutions under article 230 and issue a directive ordering prosecutors to stop sending detainees for anal examinations as part of police investigative procedures to determine suspects' sexual behavior. Tunisia's health minister should also direct all forensic doctors under the ministry's authority to cease all anal examinations for these purposes and to respect people's right to physical dignity and integrity.

Prosecutions for consensual sex in private between adults violate the rights to privacy and nondiscrimination guaranteed by the International Covenant on Civil and Political Rights, to which Tunisia is a party. The UN Human Rights Committee, which monitors compliance with the covenant, has made clear on several occasions that sexual orientation is a status protected against discrimination under these provisions. The UN Working Group on Arbitrary Detention has found that arrests for same-sex conduct between consenting adults are, by definition, arbitrary.

This conviction appears to contradict the right to privacy and nondiscrimination reflected in Tunisia's 2014 constitution. Article 24 obligates the government to protect the rights to privacy and the inviolability of the home. Article 21 provides that "All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination."

In 2018, the Commission on Individual Freedoms and Equality, appointed by President Beji Caid Essebsi, proposed, among other actions, to decriminalize homosexuality and to end anal testing in criminal investigations into homosexuality. On October 11, 2018, 13 members of the Tunisian Parliament introduced draft legislation for a code on individual freedoms. It incorporated several proposals from the presidential commission including abolition of article 230.

"Tunisia has an opportunity to uphold individual freedoms and everyone's right to nondiscrimination and bodily integrity by leading the way in decriminalizing same-sex conduct," Younes said. "It should start by immediately releasing these two young men and halting arrests based on sexual orientation under archaic sodomy laws."

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## **TUNISIA: LGBTQ association achieves major legal milestone in Tunisia**

By Amel al-Hilali

Al-Monitor (10.03.2020) - <https://bit.ly/33mhhcS> - In a first for Tunisia and the Arab world, Shams, an association founded in early 2015 to defend LGBTQ rights, was granted legal protection in a ruling handed down Feb. 21 by Tunisia's Court of Cassation following the state's attempts to shut down the organization.

In December 2015, Kamel Hedhili, head of state litigation, had filed a complaint against the organization, resulting in the Court of First Instance suspending the association's activities for 30 days beginning Jan. 4, 2016. Hedhili's charged that the association had violated the Decree of Associations and had failed to complete the legal registration procedures, ostensibly because its registration was rejected for publication in the Official Gazette, a decision made by the government and over which Shams had no control. In addition, he asserted that the organization violates the Arab-Islamic norms of Tunisian society because it advocates and defends sodomy, which is a criminal act under Chapter 230 of the Penal Code.

The Decree of Associations (2011) stipulates that associations in their statute, activity, and financing, shall respect the principles of the rule of law, democracy, pluralism, transparency, equality and human rights. It also prohibits them from advocating or involvement in violence, hatred, intolerance and discrimination on religious, sexual or regional grounds. According to Hedhili, Shams violated the decree because its defense of the rights of homosexuals represents sexuality-based discrimination.

On Feb. 23, 2016, the Court of First Instance ruled that Shams "does not violate the law" and allowed it to resume its activities. After additional judicial procedures and postponements, Hedhili challenged that ruling on Feb. 20, 2019, on the grounds that the association's bylaws state that its goal is to defend sexual minorities, which, he said, is inconsistent with "the Islamic values of Tunisian society, which rejects homosexuality and prohibits such inappropriate behavior," on the basis of Chapter 230 of the penal code.

Three days later, Amna Guellali, Tunisia director at Human Rights Watch, called on the government to stop its legal battle against Shams, especially after the ruling clearing the association of breaking any law and allowing it to continue functioning.

On May 20, 2019, the Court of Appeals rejected the appeal lodged by Hedhili, ruling in favor of Shams resuming its activities, and then last month, the Court of Cassation, the final arbiter in Tunisia's legal system, issued its opinion on Sham's legality.

Speaking to Al-Monitor, Shams executive director Bouhdid Belhedi called the ruling in favor of the association "a victory for the individual rights and freedoms and the civil character of the state established in the country's constitution."

He lamented the long, drawn out attempt by the government "maliciously" trying to stop Sham's activities, noting that the association's objective is to support sexual minorities "providing financial, emotional and psychological assistance and securing them a safe environment, regardless of their sexual orientation."

Belhedi stressed that the association will work to abolish Chapter 230 of the Penal Code, which calls for three years in prison for people convicted of sodomy. He also said that Shams, in coordination with human rights organizations, seeks to abolish the practice of authorities ordering "anal examinations" for men arrested on suspicion of having had same-sex sexual relations.

In October 2018, a number of MPs had spoken about coordinating with civil associations in drafting a law decriminalizing homosexuality and prohibiting anal examinations, but no such law has been presented for consideration.

According to Bochra Belhaj Hmida, a former parliamentarian and chairperson of the Individual Freedoms and Equality Committee — created in August 2017 by President Beji Caïd Essebsi to report on proposed legislative reforms on private and public rights and freedoms — the judiciary's decision in favor of Shams is a "legal and judicial revolution" in post-revolution Tunisia.

Hmida told Al-Monitor how proud she was, as a human rights activist, that the judiciary had shown itself to be independent, free of political pressure, in handing an association defending gay rights a victory by legalizing its presence. Hmida stressed that the decision is a positive first step in that efforts at decriminalizing homosexuality and abolishing anal examinations can now be pursued within the framework of the jurisprudence of that case.

With this legal victory, Shams joins other LGBTQ associations in Muslim-majority countries in the region that have defied prevailing social attitudes in pursuit of human rights. In another example, in Turkey, 17 Mayıs (17 May) was established at the end of February to defend the rights of the country's LGBTQ community. Its name refers to May 17, 1990, when the World Health Organization declassified homosexuality as a mental illness.

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## **UGANDA: Anti-gay rhetoric ramps up fear among LGBT+ Ugandans ahead of polls**

***President Yoweri Museveni is among politicians who have made homophobic speeches.***

By Nita Bhalla



Thomson Reuters Foundation (06.01.2021) - <https://tmsnrt.rs/3noMOUb> - Homophobic comments by Uganda's president and other politicians are making some LGBT+ Ugandans too scared to vote in elections scheduled for Jan. 14, gay rights campaigners said on Tuesday.

LGBT+ people face widespread persecution in the east African nation, where gay sex is punishable by life imprisonment, and gay activists fear politicians exploiting homophobic sentiment to win votes could stoke fresh attacks on the community.

"We have seen increased harassment against LGBT persons and those who speak up for gay rights," said Frank Mugisha, who has received dozens of threats over the years as head of the leading LGBT+ rights group Sexual Minorities Uganda (SMUG).

"The politicians are using the LGBT community as a scapegoat to gain support and win votes and it is fuelling homophobia," he told the Thomson Reuters Foundation.

President Yoweri Museveni, 76, is seeking to extend his 34-year rule, but is facing a challenge from 11 candidates, including Robert Kyagulanyi, a pop star turned lawmaker known as Bobi Wine who has won popular support.

The run-up to the polls has been marred by Uganda's worst political violence in decades.

The United Nations spoke out last month after more than 50 people were killed in clashes between police and protesters demanding the release of Kyagulanyi after he was briefly detained over alleged violations of anti-coronavirus measures.

In an election rally, Museveni later blamed the protests on groups funded by foreign LGBT+ rights organisations, but did not provide any further details.

"Some of these groups are being used by outsiders ... homosexuals ... who don't like the stability of Uganda and the independence of Uganda," said Museveni.

A spokesman for Museveni did not immediately respond to a request for comment.

Real Raymond, head of LGBT+ charity Mbarara Rise Foundation in western Uganda, said politicians were also making "hate speeches" on the campaign trail, such as pledges to eradicate homosexuality in Uganda, if they were to be elected.

Campaigners also said last month's arrest of Nicholas Opiyo - one of Uganda's most prominent human rights lawyers, known for representing sexual minorities - was also contributing to an increasingly tense environment for LGBT+ Ugandans.

Opiyo has been charged with money laundering and released on bail. His organisation Chapter Four Uganda said the charges were "fabricated and malicious" and aimed at obstructing his work as a human rights attorney.

It is not unusual for harassment of LGBT+ Ugandans to spike following homophobic remarks by politicians.

Attacks on LGBT+ people rose in 2019 after a minister proposed bringing back the death penalty for gay sex. The government later denied the plan.

Mbarara Rise Foundation's Raymond said local advocacy groups were trying to encourage gay, bisexual and trans Ugandans to exercise their democratic right to vote.

"It's actually a really scary and rough time. LGBT people are fearful to even vote as there is a risk they will be targeted at the polling stations due to all the hate speeches," he said.

"We are trying to educate people about why it is important to vote. Due to safety concerns, we are advising them to go early to the polling stations when there are not many people and they are less likely to draw attention."

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## **UGANDA: Ugandan officials summoned before court over torture of LGBT+ youth**

***The court's move is seen as a positive step for sexual minorities in the east African nation, where gay sex carries a life sentence and homophobia and the persecution of LGBT+ people is widespread, yet rarely punished.***

By Alice McCool

Thomson Reuters Foundation (21.08.2020) - <https://tmsnrt.rs/3bitSlo> - A town mayor and senior prison official in Uganda have been summoned to appear before a criminal court over allegations of torture, inhuman and degrading treatment against a group of LGBT+ youth, the victims' lawyers said on Friday.

The court's move is seen as a positive step for sexual minorities in the east African nation, where gay sex carries a life sentence and homophobia and the persecution of LGBT+ people is widespread, yet rarely punished.

Witnesses and the victims say Hajji Abdul Kiyimba, chairman of Kyengera town council, beat members of the group and bound them with ropes before marching them barefoot to a nearby police station as onlookers jeered and threatened them.

Kiyimba told the Thomson Reuters Foundation that he was not involved in any acts of violence or torture against the group.

Philemon Woniola, deputy officer in charge at Kitalya Prison, located outside Kampala, is accused of violent acts against members of the group, their lawyers said.

The Thomson Reuters Foundation was not immediately able to reach Woniola. Uganda Prisons Services spokesman Frank Baine said he had "no powers to comment on court matters" regarding the case against Woniola.

The case dates back to March when Ugandan police raided a shelter on the outskirts of Kampala, charging 20 LGBT+ youth with disobeying rules on social distancing and risking the spread of COVID-19.

The arrests sparked widespread criticism from LGBT+ rights groups who said authorities in Uganda were using the restrictions to target sexual minorities.

"It sends a clear message that courts are willing to stand up for victims of torture, even where the police is reluctant to act," said Adrian Jjuuko, executive director of Human Rights Awareness and Prevention Forum (HRAPF), a legal charity representing the victims.

"The summons also send a clear message that torture is no longer something that you do ... You torture someone, you answer to criminal charges yourself."

The group - 13 gay men, two bisexual men and four transgender women - were imprisoned for over 50 days at Kitalya prison where they were taunted, flogged and denied access to food and medication, said their lawyers.

The LGBT+ group were released after prosecutors withdrew charges.

They have already won a civil case against the attorney general and commissioner general of prisons for denying them access to lawyers and were awarded five million Ugandan shillings (\$1,365) each in damages.

The summons, stating the complaint of "acts of torture, cruel, inhuman and degrading treatment or punishment" orders Kiyimba and Woniala to appear in court on the Aug 26. The two men are also facing a civil lawsuit to be heard on Sept 23.

LGBT+ campaigners in Uganda say members of the community risk physical attacks in their daily life and routinely encounter harassment, as well as facing prejudice over work, housing and health care.

Oryem Nyeko, Uganda researcher at Human Rights Watch, said the case could help deter attacks and promote more tolerance towards LGBT+ people in the county.

"(The case) has the potential to serve as a really important example of the implementation of Uganda's underused anti-torture law and to be deterrent to abuses against LGBT people and the population as a whole by security forces," said Nyeko.

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## **UGANDA: High Court rules in favour of #COSF19, awards each UGX 5M in damages**

Kuchu Times (20.06.2020) - <https://bit.ly/31s5M4V> - The civil division of the High Court, on 17th June 2020, delivered its final ruling in the main application filed by Human Rights Awareness and Promotion Forum (HRAPF) challenging the refusal of by prisons' authorities to allow the #COSF19 access to their legal representation.

The 19 LGBT youth were arrested on 29th March 2020 from the Children of the Sun shelter in Kyengera and were thereafter charged with doing 'a negligent act likely to spread infection of disease contrary to section 171 of the Penal Code Act, arraigned before the Chief Magistrates Court of Mpigi at Nsangi vide Criminal Case No. 113 of 2020 and remanded to Kitalya Prisons until 28th April 2020.

The 19 accused were then detained for 49 days and refused access to their legal representation. It is upon this background that HRAPF filed an application challenging the Commissioner General of Prisons' decision to deny the accused contact with their lawyers.

In a positive judgement delivered by Justice Micheal Elubu, the Court declared that the refusal tantamounted to a violation of the non derogable right to a fair hearing and the right to liberty. For these violations, the Court awarded 5 million Uganda shillings (about USD 1340) to each of the accused persons and also awarded costs to HRAPF. This now brings a close to the litigation in this case at the High Court.

### **Case History**

On Sunday the 29th of March 2020 at about 11am, HRAPF received a call from the Executive Director of Children of COSF requesting HRAPF to respond to a raid by security officials and community leaders at their shelter located in Kyengera, Wakiso district. The

HRAPF team composed of a lawyer and Community Paralegal went to the shelter but found that 23 persons had been arrested and taken to Nkokonjeru Police Post.

There was one Local Defence Unit member who informed the two that he had instructions to arrest anyone who came to the shelter, and as such he put the lawyer and Community Paralegal under formal arrest. After about one hour, the two were also taken to Nkokonjeru Police Post, where the Officer in Charge released them since he knew them to be HRAPF lawyers. At the station, they met their clients who had been arrested. Information gathered shows that the community members in the area and the leadership were worried about the 'homosexual' behavior of the youths who they believed to be a bad influence in the area.

They involved the Mayor of Nsangi Municipality, Hajj Abdul Kiyimba who stated that such behavior could not be tolerated in the area. He led the team that raided the shelter, assisted by members of the Local Defence Unit and the Uganda Peoples Defence Forces (UPDF). The mayor personally beat up at least two of those arrested as he questioned them about their homosexuality. After being questioned, the group was detained at Nkokonjeru Police Post. While at the station, a crowd continued to gather, some of whom even threatened the HRAPF lawyers. A search was conducted in the shelter in order to find evidence of 'homosexuality.' Some of the items recovered and kept as evidence included several bottles of an Anti-Retroviral Drug regimen commonly used as Pre-Exposure Prophylaxis, two oral HIV self-testing kits, several condoms in their foil packs and several pieces of condoms that the residents in the shelter had blown up.

### ***Persons arrested***

The total number of persons arrested was 23. These included a nurse from the COSF community clinic and the Executive Director of COSF. The others were all residents of the shelter. The shelter housed homeless LGBT youths. Among those arrested, three were released on police bond, one of whom was the nurse and the other two for medical reasons.

### ***Charges***

Statements were taken from the arrested persons. The Police first considered charging them with having carnal knowledge against the order of nature under section 145 of the Penal Code, but this was later changed to doing 'a negligent act likely to spread infection of disease' contrary to Section 171 of the Penal Code Act, and 'disobedience of lawful orders' under section 117 of the Penal Code Act. This was in the context of the Presidential Directives on COVID-19 which incidentally require people to stay indoors, the exact thing that the people at the shelter were doing.

### ***Appearance before court***

The 20 were arraigned before the Chief Magistrates Court of Nsangi and remanded to Kabasanda Prison until 29th April 2020, when they will appear back in Court.

### ***Human rights violations involved***

Article 23(1) of the Constitution, the right to liberty can only be limited in the case of a few exceptions including 'for the purpose of bringing that person before a court in execution of an order of a court or upon reasonable suspicion that the person has committed or is about to commit a criminal offence'. In this case, the arrested persons were suspected of being 'homosexuals' but were instead charged with offences related to violating the Presidential directives on COVID-19. These directives however, did not limit the number of people who stayed in a house provided they stayed at home. The charges were therefore unfounded.

At least two of those arrested were also subjected to beatings, which action contravenes article 24 of the Constitution, which protects from torture, inhuman and degrading treatment.

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## **UGANDA charges 20 LGBT+ people with risking spread of coronavirus**

By Alice McCool

Thomson Reuters Foundation (31.03.2020) - <https://reut.rs/2wmouOi> - Ugandan police charged 20 LGBT+ people with disobeying rules on social distancing and risking the spread of coronavirus on Tuesday, drawing criticism from campaigners who said they were using the restrictions to target sexual minorities.

Gay sex carries a possible life sentence in Uganda, one of the most difficult countries in Africa to be a sexual minority.

The 14 gay men, two bisexual men and four transgender women were taken into custody on Sunday when police raided a shelter on the outskirts of the capital Kampala.

Police said they were disobeying coronavirus-related restrictions on social distancing by "congesting in a school-like-dormitory setting within a small house" despite a ban on gatherings of more than 10, which has now been reduced to five.

Deputy Police Spokesperson Patrick Onyango denied allegations made by LGBT+ campaigners that they were targeted because of their sexual orientation.

"We still have offences of unnatural sex in our law books," Onyango told the Thomson Reuters Foundation. "We would charge them with that law, but we are charging them with those counts as you can see."

Onyango said there were two charges against the group - disobedience of lawful order and committing neglectful acts likely to spread infection of disease. The charges carry a maximum of two and seven years imprisonment respectively.

Although 23 people were arrested initially, three people were released without charges on medical grounds. The group are now on remand and will appear in court on 29 April 29, he added.

LGBT+ campaigners in Uganda say members of the community risk physical attacks in their daily life and routinely encounter harassment, as well as facing prejudice over work, housing and health care.

"They are always using alternative charges to arrest people for unnatural offences so it (coronavirus) just worked perfectly for them," said Patricia Kimera, a lawyer with Human Rights Awareness and Promotion Forum, defending the group.

"But definitely the reason they have been arrested is their sexual orientation."

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