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## LGBT+ rights and issues in North Africa



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## Summary

This briefing focuses on LGBT+ rights and issues in five north African States: Algeria, Egypt, Libya, Morocco, and Tunisia. For the UK Government, Egypt and Libya are known as human rights priority countries, where it hopes to [make a “real difference.”](#)

In all five of these countries, LGBT+ people lack legal protections and recognition. While some of these states [inherited strict laws against homosexuality from the French or British colonial systems of justice](#), in others laws against same-sex sexual relations or transgender and non-conforming gender expression derive from a state-sanctioned interpretation of sharia (Islamic law). As a result, many regional governments reject the concepts of “sexual orientation” and “gender identity” altogether.

This briefing describes the lack of legal protections in these five countries, the struggles for NGOs to operate and demand reform, and UK Government statements.

We have used the acronym LGBT+ in this briefing paper (except where we are quoting someone else’s words). This refers to lesbian, gay, bisexual and transgender people. The ‘+’ symbol is used to include people whose identities do not fit typical binary notions of male and female, or who decide to identify themselves using other categories to describe their gender identity or their sexuality. In the countries we focus on, the legislation is largely around same sex sexual activity rather than gender identity.

This paper should be read as correct at the time of publication.

## Political and legal context

In four of the five countries considered in this paper, consensual same-sex sexual relations are illegal. In Egypt, while there is no explicit reference to same-sex sexual acts in the penal code, those suspected are [prosecuted under laws against debauchery, prostitution, or scandalous acts](#).

These are countries in which the Arab Spring of 2011 [promised to deliver social and political change](#), as people protested against the region’s traditional political rules and institutions. However, in relation to rights and legal protections for LGBT+ people, progress has been slow or stalled.

In Egypt, the popular revolt that overthrew President Hosni Mubarak brought short-lived hope to LGBT+ activists. Subsequent counter-revolutionary governments have rolled back on any progress. Human Rights Watch (HRW)

reports that the current government, led by President Sisi, has [adopted strategies previously used by Mubarak](#). It said:

the government has adopted Mubarak's strategy of scapegoating LGBT people, apparently as a method of proving his religiously conservative credentials and staving off Islamist challenges.

And in Libya, HRW said the power vacuum created after the fall of Muammar Ghaddafi in 2011 has allowed so called Islamic State (also known as ISIS) [to kill dozens of gay men](#).

In Tunisia, despite the recommendation of a 2015 commission to [decriminalise homosexuality](#), President Kais Saied, has said he is [against abolishing it as a criminal offence](#). There has been some progress, however. According to HRW, state institutions have [agreed to end forced anal examinations](#), after pressure from local and international activists.

## Lack of legal protections for LGBT+ people

While some countries in the Arabic-speaking region have laws or constitutional provisions that prohibit discrimination, none expressly prohibit discrimination on the grounds of sexual orientation. This means those who are victims of discrimination because they are LGBT+ have no access to legal recourse.

## NGOs and social activists

Whereas under the [1998 UK Human Rights Act](#) “everyone has the right to freedom of peaceful assembly and to freedom of association with others”, in all five countries there are restrictions placed on NGOs and social activists which support LGBT+ communities. Some do not register as LGBT+ groups and many operate underground, as a result.

In Tunisia in 2016, however, a court [upheld the right of the LGBT+ organisation](#), Shams, to operate, after the Government attempted to shut it down.

While the legal and social contexts differ across the five countries, there are commonalities in the strategies activists have used to respond to challenges, including: staying safe campaigns, building alliances and social media campaigning.

## UK Government

UK aid projects seek to support [greater representation for LGBT+ people](#) in politics and government, and assist in the [drafting of new legislation](#) to address discrimination and violence.

The Government is also due to [host a global LGBT conference](#) in London in June 2022, named “Safe to be me.” It intends to urge countries to “protect and promote” LGBT+ rights.

In 2020, the UK Government signed a [trade agreement with Egypt](#) which was [criticised by some opposition MPs](#) for not having stronger human rights conditions, despite the fact that Egypt is a [human rights priority country](#) for the UK. The Government said it [regularly raised concerns with the Egyptian Government](#).

# 1 Algeria

## 1.1 Legal context

Homosexuality is illegal in Algeria. Sexual acts between people of the same sex are punishable by imprisonment. Same-sex relations are punishable under [Article 338](#)<sup>1</sup> of the penal code by up to two years in prison. If a minor is involved, the adult may face up to three years' imprisonment and a fine.<sup>2</sup>

The US State Department's [2020 country reports on human rights practices: Algeria](#) discusses a range of significant human rights issues, including "criminalization of consensual same-sex sexual conduct":

LGBT+ activists reported that the vague wording of laws criminalising "homosexual acts" and "acts against nature" permitted sweeping accusations that resulted in multiple arrests for consensual same-sex sexual relations, but no known prosecutions during 2020.

It notes that while LGBT+ status is not, in itself, criminalised; LGBT+ people may be prosecuted under legal provisions on prostitution, public indecency, and associating with bad characters. NGOs reported that judges gave harsher sentences to LGBT+ people for the above crimes compared to non-LGBT+ people and that men were targeted more often than women.

There are no anti-discrimination protections for LGBT+ people. While officials asserted that the law covers LGBT+ people through general civil and human rights legislation, in practice they did not take steps to prevent such discrimination. LGBT+ people face discrimination in accessing health services such as longer wait times, refusal of treatment, and shaming. Some organisations maintained a list of "LGBT+-friendly" hospitals, and several NGOs operated mobile clinics specifically for vulnerable communities.

NGOs reported that employers refused jobs to LGBT+ persons, particularly men perceived as effeminate. Community members reported obtaining legal assistance was also a challenge due to similar discrimination.

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<sup>1</sup> Equal Rights Trust, [Algeria: Penal Code \(Code pénale\)](#), (accessed on the 26 May 2021)

<sup>2</sup> Human Rights Watch, [World Report 2021: Algeria](#), 2021

## 1.2 Social discrimination

Algerian society is “strongly heteronormative”—homosexuality is often presented as an illness requiring treatment. Its promotion is therefore not tolerated. In 2018 it was reported that Arabic media complained when the British embassy in Algiers raised an LGBT flag in support of the Pride in London parade.<sup>3</sup>

The US State Department’s [2020 country reports on human rights practices: Algeria](#) also sets out some examples of the discrimination faced by LGBT+ organisations and people. These include, the arrest of two men who posted images of their wedding on social media in Tebessa. They were charged with public indecency, and subjecting others to harm by breaking Covid-related quarantine measures. The men received three years in prison and a fine, and the others received a one-year suspended sentence.

During the year LGBT+ NGOs organised virtual meetings. The NGOs reported government harassment, including threats of imprisonment.<sup>4</sup>

In September 2020 Human Rights Watch reported an Algerian court had sentenced two men to prison terms and 42 others to suspended terms after mass arrests at what the police alleged was a “gay wedding”.<sup>5</sup>

## 1.3 Further reading

[Country Policy and Information Note Algeria: Sexual orientation and gender identity](#) Home Office, May 2020

[Audacity in adversity LGBT activism in the Middle East and North Africa](#) Human Rights Watch, 2018

[‘No Longer Alone’: LGBT Voices from the Middle East, North Africa](#) Human Rights Watch, 2018

[Algeria](#) Human Dignity Trust

[Algeria](#) FCO travel advice (Laws and Customs)

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<sup>3</sup> [If you want a life, you have to get out: Being gay in Algeria](#) Le Monde Diplomatique (English). August 2019

<sup>4</sup> US State Department, [2020 Country Reports on Human Rights Practices: Algeria](#), , 30 March 2021

<sup>5</sup> Human Rights Watch, [Algeria: Mass Convictions for Homosexuality](#), 15 October 2020

## 2 Egypt

### 2.1 Legal context

According to the International LGBT+ Organisation (ILGA) There is [no recognition for LGBT+ persons in Egypt, and no protections](#).

ILGA reports [Egypt has de facto criminalisation of same-sex sexual acts](#), rather than legislation that explicitly criminalises such acts. To come under this category requires evidence of substantial and significant reports that people are arrested or prosecuted for their actual or perceived sexual orientation or for the engagement of same-sex intercourse.

[Legislation cited](#) in the arrest of LGBT+ people includes Penal Code 1937/278. This criminalises “scandalous acts” with a penalty of one-year imprisonment or a fine. Law 10/1961 on the Combatting of Prostitution, Article 9, criminalises enabling acts of “debauchery” or “prostitution,” with a penalty of up to three years imprisonment and a fine.

NGOs supporting LGBT+ rights are [also often required to work secretly and anonymously to avoid persecution](#). Law No. 70 of 2017 prohibits organisations from any activities that “result in destabilising [...] national unity, national security, public law and order, and public morals.” In 2017, the Supreme Council for Media Regulation [also prohibited](#) the “appearance of homosexuals or their slogans in the media.”

Law 175/2018 on cybercrimes [punishes those who publish online content](#) that “threatens society and family values.”

Egypt [allows some sex reassignment surgeries](#) if permission is given by a special committee, comprised of doctors and clergy. However, transgender people still face [wider discrimination and hostility](#).

#### **Proposed legislation, 2017**

In 2017, a bill was proposed to the Egyptian Parliament that [would imprison those engaging or promoting same-sex relations](#), for up to 10 years. It was [supported by at least 67 MPs](#).

As of 2020, the legislation is [still being considered by the Egyptian parliament](#) in its Legislative and Constitutional Committee.

## 2.2

## Enforcement

In 2017, the Egyptian Initiative for Personal Rights [reported that the average number of individuals arrested and referred to court on grounds relating to LGBT+ rights rose substantially after 2013](#). An average of 14 people were arrested annually from 2003 and 2013 (a total of 189). This rose to an annual average of 66 from 2013 to 2017 (a total of 232).

For 2019, LGBT+ organisation Bedayaa [reported there were 92 LGBT+Q+ arrests](#). This included entrapment through dating apps (13 cases), arrests on the street (47) and hotel/house arrests (8). This compared to 76 arrests in 2018. The report notes that while many courts initially order a prison sentence, defendants are often acquitted on appeal.

In 2020, the US State Department said there had been reports that authorities [monitor social media and internet dating sites](#) to identify and arrest LGBT+ individuals. Reports suggest that since 2014 the app, Grindr, has warned users from Egypt [about potential surveillance and the app being used to track down LGBT+ persons](#).

In 2018, a TV host was imprisoned for a year for [interviewing a gay man](#).

In 2017, the [waiving of a rainbow flag](#) at a Cairo concert in September resulted in at least 85 arrests. By January 2018, 40 people had received prison sentences, and some were subjected to forced anal examinations. Other prisoners reportedly experienced [electrocution and sexual harassment](#). Human Dignity Trust reports that in response to the concert many TV presenters made speeches [attacking LGBT+ people, equating them with terrorists and associating them with debauchery and prostitution](#).

### Reports of torture and violence

Human Rights Watch report that Egyptian police and security agencies routinely arrest LGBT+ persons and subject them to torture and ill-treatment.

Based on interviews with 15 LGBT+ people prosecuted from 2017 to 2020, [Human Rights Watch reported](#) that they had been subject to verbal harassment, water-hosing, sexual violence, anal examinations, denial of medical care, and being held for long periods without access to legal counsel.

Amnesty International have reported that a transgender woman human rights activist was [subject to lengthy detention, torture and harassment](#).

### Reports of discrimination

In 2018, the UN Special Rapporteur on the right to adequate housing in Egypt reported on the [“extreme discrimination in accessing housing and security of tenure”](#) experienced by LGBT+ individuals in the country. The Rapporteur

found that many LGBT+ people could not rent accommodation because of their perceived sexual identity and lived in fear of their sexual or gender identity being discovered.

An administrative court [denied a request](#) for the Interior Ministry to provide separate detention facilities for transgender detainees in accordance with their gender identity.

In 2020, the Egyptian Government [rejected recommendations during the UN's Universal Periodic Review of Human Rights](#) to end arrests and discrimination based on sexual orientation and gender identity. Human Rights Watch reported that in response the Egyptian Government said it did not “recognize the terms mentioned in this recommendation.”

## 2.3 NGOs and civil society campaigns

In addition to the legal restrictions on NGO activity, the US State Department cites concerns [about harassment and social stigma](#) impeding LGBT+ people from organising or advocating publicly in defence of their rights.

In 2018, Human Rights Watch said the primary focus of Egyptian LGBT+ organisations [was keeping themselves and LGBT+ people safe](#), both in terms of physical security and when online.

However, in 2017 LGBT+ organisations were able to [mobilise around 50 organisations](#), mostly in the Middle East and North Africa, to oppose arbitrary arrests on the grounds of presumed sexual orientation or gender identity. In 2021, an [open letter was sent to European and North American officials](#) to raise concerns for LGBT+ groups in Egypt. Signatories included several Egyptian organisations.

One of the leading activists involved in the waiving of the Rainbow Flag in 2017, Sarah Hegazi, [committed suicide in Canada in 2020](#).

In 2020, a leading Egyptian actor, Hisham Selim, [revealed on TV that his daughter, Noor Hisham Selim, had transitioned to become a man](#). However, Noor was later [sued for an Instagram post](#) made in support of Sarah Hegazi, following her suicide.

## 2.4 UK Parliament and Government statements

Egypt is one of the UK Government's [30 priority countries for human rights](#). In these countries, the Government hopes to “exert influence over the long term” and ensure their governments meet their human rights obligations.

In March 2021, human rights were [raised in discussions](#) between the Prime Minister and the Egyptian President, Abdel Fattah el-Sisi.

## UK Government statements

The Foreign and Commonwealth Office's (FCO) [Report on Human Rights and Democracy](#) for 2019 reported that there was “no evidence of improvement” in the respect for the rights of LGBT people. It cited reports of detention, forced anal examinations and the imprisonment of a TV host who conducted an interview with an LGBT+ individual.

There have been several Parliamentary Questions on the UK Government's relations with Egypt and the protection of LGBT+ individuals.

In 2019, the FCO said it “[regularly raise\[s\]](#)” concerns for LGBT+ individuals in Egypt. Similar replies were given to questions in [2019](#), [2018](#) and [2017](#). In 2015, the Government said the UK embassy [monitors the situation in Egypt closely](#).

Specific issues the UK Government has raised include: in 2018, [a proposed bill to punish same-sex relationships](#), and, in 2017, [arrests of LGBT+ persons and forced anal examinations](#) and [reports of torture](#).

## 2.5

## UK Parliament proceedings: Trade agreement with Egypt

In 2020, the UK Government signed a [trade agreement with Egypt](#). The Labour Party argued that its [human rights provisions should have first been strengthened](#).

For example, Lord Collins (Labour) said Egypt should have first been required to make [meaningful commitments on protecting human rights before the agreement was signed](#), including to improve LGBT+ rights. In January 2021, Kate Osborne MP asked the Minister, Greg Hands, why the trade agreement [did not contain additional protections](#).

In response, the Minister said the UK Government [regularly raised concerns with the Egyptian Government](#):

I do not believe that there was any diminution of human rights provisions in the agreement with Egypt, or certainly of the effect of those provisions. We have a regular dialogue with Egypt on these issues. There is an extremely difficult internal security situation in Egypt, which the hon. Lady will know has affected British nationals directly as well. It is careful to get that balance right in all our dialogues with countries such as Egypt.

In 2017, a debate on Global LGBT+ rights was held in the Commons Chamber. Contributors including [Nick Hebert MP](#), [Crispin Blunt MP](#), [Stuart C. McDonald MP](#) and [Lloyd Russell-Moyle MP](#) raised concerns for LGBT+ rights in Egypt.

In reply, the Minister, Nick Gibb, said the Government was concerned about the crackdown of LGBT+ rights in the country and that it had [called upon the Egyptian Government to protect the rights of all minorities in the country](#).

## 2.6

## Further reading

Commons Library, [Egypt in 2021: Politics, human rights and international relations](#), 2021

Human Rights Watch, [Egypt: Security forces abuse, torture LGBT people](#), 2020

The Tahir Institute for Middle East Policy, [LGBTQ human rights in Egypt](#), 2019

Egyptian Initiative for Personal Rights, [A year after the raising of the rainbow flag incident \[...\]](#), 2018

Human Rights Watch, [Audacity in Adversity: LGBT activism in the Middle East and North Africa](#), 2018

Egyptian Initiative for Personal Rights, [The trap: Punishing sexual difference in Egypt](#), 2017

Human Rights Watch, [Dignity debased: Forced anal examinations in homosexuality prosecutions](#), 2016

## 3 Libya

### 3.1 Legal context

Libya's [Penal Code](#) criminalises same-sex sexual conduct. Article 407(4) of the Penal Code prohibits illicit sexual intercourse, punishable by imprisonment for up to five years. This covers sexual intercourse outside of marriage and is also interpreted as prohibiting same-sex sexual intercourse too. There is no right for same-sex partners to marry within Libya.

Article 408 prohibits “indecent assault”, with Article 408(4) criminalising an “indecent assault upon a person with that person's consent”. Again, [this is widely interpreted as prohibiting homosexual acts](#).

The [International Lesbian, Gay, Bisexual, Trans and Intersex Association](#) also [notes that](#) the Libyan Penal code, at Article 421, criminalises the distribution of writings, pictures or other articles of an “indecent nature”.

More recently, in 2016, Libya adopted [Law No. 11 \(2016\)](#) prohibiting acts “contrary to public morals” and “the provisions of Islamic law”, which the ILGA perceives as a potential limitation on the freedom of expression relating to LGBT issues. While these do not explicitly prohibit LGBT expression, the ILGA notes their potential to be interpreted by some groups as a barrier to free expression on LGBT issues.

### 3.2 Enforcement and experiences

Owing to the ongoing instability within Libya, the enforcement of these particular rules varies between different parts of the country depending on who is in control. For example, [Human Rights Watch reported in 2019](#) that some armed groups within Libya had been arresting people because of their sexual orientation.

In previous years, the presence of ISIS or ISIS-aligned groups within Libya [also raised reports](#) of men disappearing or [being executed](#) by these groups because of their homosexuality, as well as [the kidnapping and torture of men by other extremist groups](#).

[Amnesty International](#) also recently reported similar ongoing persecutions.

The US State Department's [2020 country reports on human rights practices: Libya](#) noted the following on LGBT issues in the country:

Societal discrimination against LGBT+ people persisted and official discrimination was codified in local interpretations of sharia laws.

There was little information on discrimination based on sexual orientation or gender identity in employment, housing, access to education, or health care. However the threat of possible violence or abuse might prevent people from reporting such discrimination.

There were reports of physical violence, harassment, and blackmail based on sexual orientation and gender identity. Armed groups often policed communities to enforce compliance with their commanders' understanding of "Islamic" behaviour.

The US State Department further reports that in December 2019:

an internationally recognized, Tripoli-based journalist, Redha al-Boum, was arbitrarily detained and tortured by a GNA-aligned group for two weeks for reporting on human rights conditions in the country, including coverage of the LGBT+ community. According to international watchdog groups, he was conditionally released while awaiting a potential referral for trial proceedings.<sup>6</sup>

### 3.3

## European Human Rights Case on LGBT risks in Libya

The situation regarding LGBT rights in Libya was considered briefly by the European Court of Human Rights in 2014 and 2015 in *M.E. v Sweden*. The Court was to consider whether an applicant seeking asylum in Sweden would be at a real personal risk of persecution, on the basis of his sexual orientation, if he was returned to Libya by the Swedish authorities after a failed asylum application. Although the applicant's personal case was rejected by the Court for a number of reasons – and Sweden eventually granted him a residence permit in any case – the Court did make assessment of the situation in Libya for LGBT groups. In 2014, [a lower Chamber of the court considered that:](#)

since the overthrow of Gadhafi in 2011, the situation in Libya has been, and continues to be, insecure and unclear as to the direction the country is taking. Consequently, there is also only little and varying information about the situation for homosexuals in Libya, making it difficult for the Court to make an evaluation of this matter. Although it is clear that homosexual acts are punishable by imprisonment under Articles 407 and 408 of the Libyan Penal Code, the applicant has not presented, and the Court has not found, any information or public record of anyone actually

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<sup>6</sup> US State Department, [2020 Country Reports on Human Rights Practices: Libya](#), 2020

having been prosecuted or convicted under these provisions for homosexual acts since the end of Gadhafi's regime in 2011.

The Court concluded that while it was clear that homosexuality was a taboo subject and was seen as immoral, there was insufficient evidence to conclude that the Libyan authorities actively persecute homosexuals.

The case [went to the Grand Chamber of the Court in 2015](#), where the Court noted Sweden's updated assessment of the situation in Libya when granting the applicant a permanent residence permit, and the fact that the domestic authorities had taken into account both the deterioration in the security situation in Libya since the summer of 2014 and the applicant's sexual orientation, which would have put him at risk of being persecuted if sent back to his home country.

## 3.4

### Further reading

[How globalisation has transformed the fight for LGBTQ+ rights](#), Guardian, 16 June 2020

[ILGA World's State-Sponsored Homophobia](#), ILGA, December 2020

[World map on sexual orientation laws](#), ILGA, December 2020

[World's Trans Legal Mapping Report](#), ILGA, September 2020

[International Lesbian, Gay, Bisexual, Trans and Intersex Association \(ILGA\)](#)

[Human Rights Watch Country Profiles: Sexual orientation and gender identity](#), Human Rights Watch 2021 World Report, April 2021.

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## 4 Morocco

### 4.1 Legal context

Consensual same-sex conduct is not legal in Morocco. Article 3 of the Decree Regulating the Right of Association, Decree No. 1- 58-376 (1958), prohibits associations from engaging in activities that, inter alia, “breach the laws or public morals” or “offend Islam.”<sup>7</sup> Article 489 of the penal code punishes same-sex relations with prison terms of up to three years or a fine.<sup>8</sup>

[Human Rights Watch 2021 World Report](#) discusses the rights of LGBT+ people:

Consensual sex between adults who are not married to one another is punishable by up to one year in prison. Moroccan law also criminalizes what it refers to as acts of “sexual deviancy” between members of the same sex, a term that authorities use to refer to homosexuality more generally, and punishes them with prison terms of up to three years.

In a memorandum published in October 2019, the National Human Rights Council, a state-appointed body, recommended decriminalising consensual sex between non-married adults. Despite support from more than 25 NGOs the Moroccan Government did not take the proposal forward.<sup>9</sup>

According to a report by the Prosecutor General’s Office released in 2019, the state prosecuted 122 individuals in 2019 for same-sex sexual activity.

### 4.2 Discrimination and harassment

The US State Department’s [2020 country reports on human rights practices: Morocco](#) observes a list of significant human rights issues in Morocco:

The media was becoming more open in discussing questions of sexuality, sexual orientation, and gender identity more openly than in previous years. However, high profile cases with LGBT+ victims often led to public harassment of those people.

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<sup>7</sup> ILGA, “[State-Sponsored Homophobia 2020: Global Legislation Overview Update](#)”, December 2020

<sup>8</sup> Human Rights Watch, “[Morocco: Online Attacks Over Same-Sex Relations](#)”, , 27 April 2020

<sup>9</sup> [Human Rights Watch Country Profiles: Sexual orientation and gender identity](#), Human Rights Watch 2021 World Report, April 2021.

On May 7, two Moroccan journalists based in France posted on social media that a young gay man in Sidi Kacem (a town in the Rabat-Sale-Kenitra region), was arrested on April 10 after he attempted to press defamation charges against an individual who outed him on Facebook. The young man was held in police custody for 48 hours for violating the state of emergency confinement measures, while he claimed he had a permit to leave his residence.

Activist and playwright Abdellatif Nhaila was given four months' suspended sentence and 1,000 dirhams (\$10) fine for violating the state of emergency confinement in October in Sidi Kacem.

In early 2020, a transgender Moroccan LGBT+ activist based in Turkey started a campaign encouraging the outing of closeted homosexuals in Morocco. An international warrant for his arrest was issued. The press reported numerous cases of harassment resulting from these outings, and some victims reported receiving death threats.<sup>10</sup>

Human Rights Watch (HRW) reports that the "outing" campaign in April 2020 led to some families expelling suspected homosexuals from their homes. It also caused panic among LGBT+ people.<sup>11</sup>

It issued a press release outlining a [campaign of online harassment](#) of gay and bisexual men and calling on the Government to both enforce the right to privacy and decriminalise same-sex relations. The BBC also reported on the story: [Gay men abused in Morocco after photos spread online](#).

The Home Office publishes [Country policy and information notes](#) which outline the guidance used by UK Visas and Immigration to make decisions in asylum and human rights applications. The Home Office published a detailed note entitled [sexual orientation and gender identity](#), Morocco, in July 2017. This observes that while cases involving prosecutions are reported widely, they are relatively few in number and "do not appear to contradict the commonly held view that the law is used rarely." It goes on to observe the law is rarely, if ever, used against women involved in same-sex sexual acts with women.

## 4.3

### UK Parliament

There have been relatively few questions asked about LGBT+ rights in Morocco. In May 2020 Alberto Costa asked for the FCO's assessment of treatment of LGBT+ people in Morocco, to which the Minister replied:

We have seen reports about harassment of LGBT people in Morocco. The British Government is opposed to all forms of discrimination and

<sup>10</sup> US Statement Department, "[2020 Country report on human rights practices: Morocco](#)", 30 March 2021

<sup>11</sup> Human Rights Watch, "[Human Rights Watch Country Profiles: Sexual orientation and gender identity](#)", 2021 World Report, April 2021

committed to upholding the rights and freedoms of lesbian, gay, bisexual and transgender people in all circumstances all over the world.<sup>12</sup>

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<sup>12</sup> PQ 41517 [[on Morocco: LGBT People](#)], 11 May 2020.

## 5 Tunisia

### 5.1 Legal context

The International LGBT+ Organisation (ILGA) reports that there is [no recognition for LGBT+ persons in Tunisia, and no protections](#).

There are several sections of Tunisia's Penal Code that criminalise same-sex relationships.

"Sodomy" is criminalised under [Article 230 of the 1913 Penal Code](#). It is punishable by up to three years in prison.

[Article 226](#), which criminalises "indecent behaviour in public," is also used against LGBT+ people. Those that are found guilty are liable for up to six month's imprisonment and a fine.

[Article 226 bis](#) also criminalises any act that publicly draws attention to the opportunity to "commit debauchery" through written, audio or visual recoding.

While in April 2020 there were reports that Tunisia legalised same-sex marriage, the Tunisian Government has denied this is the case. Tunisian LGBT+ activists [have urged news organisations not to share this misinformation further](#), for fear of backlash.

### 5.2 Enforcement

It is uncertain how often these laws are enforced. The below provides some illustrative numbers and examples.

In 2020, Tunisian LGBT+ rights group Damj said they [met 98 requests for legal consultations from LGBT+ persons](#), being five times higher than 2019. It reported [12 prison sentences against trans people and gay men](#) for "sodomy," "indecent behaviour" and "insulting a public officer."

The same organisation, together with Lawyers without Borders, [said in 2019 121 individuals were convicted under Article 230](#), with anal examinations being used as the basis for the majority of the convictions.

The Tunisian LGBT+ rights group Shams [reports in 2018 there were 127 convictions for same-sex intimacy](#), an increase from 79 in 2017 and [56 in 2016](#).

In 2019, a Tunisian court [sentenced an alleged rape victim to eight months imprisonment for engaging in homosexual acts](#). The victim was subject to a forced anal examination.

From October 2015 to March 2016, [at least seven men were prosecuted for consensual same-sex acts](#). Human Rights Watch [contacted five of the men](#), all of which said they had been subject to human rights abuses. These included beatings and forced anal examinations.

The NGO has also said that Tunisian Police [confiscate and search the phones of men they suspect of being gay](#) in order to pressurise them to confess to homosexual activity.

## Anal examinations

In 2017, Tunisia's National Council of the Medical Order said that [doctors must inform people accused of "sodomy" of their right to refuse an anal examination](#).

In the same year, the Tunisian Government [accepted the recommendation of the UN Human Rights Council](#) to halt the practice of forcing anal tests on those accused of homosexuality. Human Rights Watch [welcomed the decision](#), but urged the Tunisian Government to instruct officials not to order or perform anal examinations on anyone, even if they appeared to "consent."

Tunisian LGBT+ organisation Damj said that in 2020 two men's refusal to consent to an anal examination was [permitted as evidence by a presiding judge](#) considering whether they were guilty of "sodomy".

## 5.3

## Calls for repeal and reform

In June 2018, a commission to reform the legal code created by Tunisia's then-President, Beji Caid Essebsi (d.2019), [called for the decriminalisation of homosexuality](#). The proposal contained two options: the complete decriminalisation through the repeal of Article 230 or those convicted of same-sex sexual activity should face a fine of 500 Tunisian dinar (c. £150).

In 2015, President Essebsi had said decriminalisation [would "not happen."](#) The Tunisian Minister of Justice, Mohamed Salah Ben Aïssa, has called for the repeal of Article 230, arguing it is unconstitutional.

Tunisian Parliamentarian Belhaj Hmida had [expected a new law to be voted on by Parliament by August 2018](#). This did not take place.

In October 2018, some Tunisian MPs [suggested drafting a law to decriminalise homosexuality and anal examinations](#), but no law was presented to the Parliament.

In May 2020, a coalition of NGOs, the Civil Collective for Individual Liberties, [called upon the Government to accelerate the establishment of the Constitutional Court](#) as a guarantor of rights, to decriminalize consensual same-sex conduct, end forced anal examinations, and end harassment of LGBT+ persons and groups.

## Position of current President

Tunisia's President, Kais Saied, has [supported the criminalisation of homosexuality](#).

## 5.4

## Reports of discrimination

In 2019, the Arab Barometer poll found [only 7 percent of Tunisians believed homosexuality to be acceptable](#).

From March to September 2020, Damj reported instances of [violence against trans people in public, torture cases, and bullying against trans people](#) by security officers in detention facilities.

In 2020, the National Authority for the Prevention of Torture, an administratively independent body established in 2013 to assess allegations of torture and mistreatment, noted that during the pandemic [LGBT+ individuals were particularly vulnerable to mistreatment when in prison, alongside women and youths](#).

The US State Department state there is [no information on official discrimination based on sexual orientation or gender identity](#) in employment, housing, education or health care.

## Presidential candidacy of activist

In 2019, one LGBT+ activist, Mounir Baatour, attempted to stand for the Tunisian Presidency on behalf of the Tunisian Liberal Party. Baatour leads the country's LGBT+ rights group, Shams. He was [jailed for sodomy in 2013](#) for three months. His candidacy was [refused by the Tunisian elections authority](#). The Presidential run had the [support of the Parliamentarian Khawla Ben Aïcha](#).

However, in 2020 Baatour was [forced to flee to France](#) to claim asylum following death threats. In 2019, an investigation was opened up against Baatour [accusing him of incitement to hatred, discrimination and violence](#). He says he will [return to the country](#), if sufficient police protection is given and the lawsuit is dropped.

Baatour and the NGO Shams have [faced criticism amongst LGBT+ groups in the country](#). In 2018, some members of Tunisia's LGBT+ coalition said they would no longer collaborate with Shams, accusing it of violating the private

lives of LGBT+ persons and Baatour of sexual harassment. Shams has also [faced criticism](#) in its [openness to normalising relations with Israel](#).

## 5.5 NGOs and civil society

Several groups protecting LGBT+ rights have emerged since the Tunisian Revolution in 2011.

In 2019, there were [four recognised LGBT+ organisations in the country](#). They have been [active in campaigning for the repeal of Article 230](#).

Groups include Mawjoudin (“We exist”). Mawjoudin have held an LGBT+ film festival in the capital, Tunis, in both [2018](#) and [2019](#). It was [cancelled in 2020 due to the pandemic](#).

In 2016, the Tunisian authorities [suspended the activities of Shams](#), which had first been registered in 2015. The prosecutor argued the organisation had not completed its legal registration. The Secretary General of the Tunisian Government had [previously called for the group to be disbanded](#). However, in 2019 a Tunisian court [confirmed the registration of Shams](#). In 2020, the Court of Cassation, the highest court in Tunisia, [confirmed this decision](#).

In 2021, Human Rights Watch said Tunisian security forces have [“repeatedly” targeted protestors](#), including LGBT+ activists. This included denial of access to a lawyer once arrested, and harassment. In February, Damj activist Rania Amdouni, was [arrested and imprisoned for six months](#) for “insulting police and abuse of morals.” On appeal, the sentence was [suspended and the fine increased](#).

In 2020, Ahmed El-Tounsi, a trans man and founder of OutCasts, an organisation for trans people in the country, was [physically and verbally assaulted by police](#) when they discovered his gender marker on his ID card did not match his true identity while he was with other activists.

In 2020, LGBT+ activists have also [complained that their email and social media accounts have been targeted](#) and disabled due to their activism. In 2018, a LGBT+ [protest was also dispersed by police](#).

## 5.6 UK Government

At the UN Human Rights Council, in 2017 the UK Government called upon the Tunisian Government to [accelerate the creation of the Constitutional Court](#) and ensure the National Authority for the Prevention of Torture is independent, operational and adequately financed. In 2017, the UN Human Rights Council, which includes the UK, [recommended that the Tunisia Government:](#)

- Eliminate discriminatory practices based on sexual orientation and gender identity and ensure the protection of LGBT+ persons from stigmatisation, harassment, discrimination and violence
- Immediately cease forced medical examinations of LGBT+ persons
- Decriminalise same-sex relations by repealing Article 230 of the Penal Code.

In 2017, the then-Tunisian Government [accepted recommendations](#) to ensure the protection of LGBT+ persons from stigmatization, discrimination and violence and abstain from random testing, and to develop awareness programmes to address stigmatization of LGBT+ persons. It [“noted” proposals](#) to repeal Article 230.

## 5.7

### Further reading

Human Rights Watch, [Tunisia: Police arrest, use violence against LGBT+ activists](#), February 2021

Human Rights Watch, [“Consent” or no, anal testing in Tunisia must go](#), 2017  
Tunisian Coalition for the Rights of LGBTQI People, [Stakeholders report: Universal Periodic Review of Tunisia](#), 2017

Human Rights Watch, [Dignity debased: Forced anal examinations in homosexuality prosecutions](#), 2016

Human Rights Watch, [Tunisia: Men prosecuted for homosexuality](#), 2016

Amnesty International, [Assaulted and Accused: Sexual and gender based violence in Tunisia](#), 2015

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