



Australian Government
Refugee Review Tribunal

Country Advice

Lebanon

Lebanon – LBN40358 – Homosexuals –
Entry/Residency in Syria
18 May 2012

1. Please provide an update on the situation of homosexuals in Lebanon since LBN38710 dated 16 May 2011, including any changes to the relevant laws in Lebanon.

This is an update to LBN36239 of 16 March 2010 and LBN38710 of 6 May 2011.

There has been little obvious change in regards to the situation for homosexuals in Lebanon. Article 534 of the Lebanese Penal Code continues to prohibit “unnatural sexual intercourse” which can be punishable by up to one year in gaol. Sources indicate that Lebanese society remains intolerant of homosexuals, despite a growing gay scene in Beirut.

The most recent United States Department of State (USDOS) report, covering events in 2010, noted that discrimination against homosexual activity persisted throughout the year.¹ Lebanese law continues to prohibit “unnatural sexual intercourse” through Article 534 of the Lebanese Penal Code, which can be punishable by up to one year in gaol.² The law was sometimes applied to men engaging in homosexual activity; it was rarely applied to women, although the Lebanese NGO Helem reported that police used the law to blackmail women.³

The following reports have been published since RRT Country Advice LBN38710 was provided on 6 May 2011:

An article published on 17 May 2012 by *The Daily Star* in Lebanon, a pan-Middle East English language publication edited in Beirut, reports that ‘homosexuality is becoming more visible in Lebanon, particularly in Beirut, with groups such as the non-profit Raynbow following in the footsteps of Lebanese NGO Helem’.⁴ However, despite these gains, the article notes that, due to Article 534 of the Penal Code, ‘being openly homosexual is risky, although the law is used infrequently’.⁵ According to the article, there is a view that ‘real change will only come when the law gives equal protection to homosexuals and heterosexuals’.⁶

¹ US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Lebanon*, 8 April, Section 6

² US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Lebanon*, 8 April, Section 6; Helem (not dated), *Our work*, Helem website <<http://helem.net/node/62>> Accessed 18 May 2012

³ US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Lebanon*, 8 April, Section 6

⁴ Gatten, Emma 2012, ‘Homophobia continues to lurk in Lebanese laws, attitudes’, *The Daily Star*, 17 May <<http://www.dailystar.com.lb/News/Local-News/2012/May-17/173652-homophobia-continues-to-lurk-in-lebanese-laws-attitudes.ashx#axzz1v6sM0ovS>> Accessed 17 May 2012

⁵ Gatten, Emma 2012, ‘Homophobia continues to lurk in Lebanese laws, attitudes’, *The Daily Star*, 17 May <<http://www.dailystar.com.lb/News/Local-News/2012/May-17/173652-homophobia-continues-to-lurk-in-lebanese-laws-attitudes.ashx#axzz1v6sM0ovS>> Accessed 17 May 2012

⁶ Gatten, Emma 2012, ‘Homophobia continues to lurk in Lebanese laws, attitudes’, *The Daily Star*, 17 May <<http://www.dailystar.com.lb/News/Local-News/2012/May-17/173652-homophobia-continues-to-lurk-in-lebanese-laws-attitudes.ashx#axzz1v6sM0ovS>> Accessed 17 May 2012

An article published in *The Daily Star* in December 2011 reported that Beirut ‘has a burgeoning gay scene, and many gay bars and clubs are making a tidy profit, not just from Lebanese but from homosexuals who come to the city from other, less permissive countries in the Middle East’.⁷ However, it reports that ‘many gay Lebanese still live their lives in the closet, never telling their families or friends’.⁸ According to a social worker from Helem, Lebanese society remains intolerant of homosexuality. The Helem worker noted that many gay Lebanese are afraid that if their families find out about them it would put their reputations and relationship with them at risk, and that they could also be turned over to the police.⁹

An article published on 17 November 2011 by the online US news agency *GlobalPost* reported on the treatment of LGBTI refugees in Lebanon. Lebanon reportedly enjoys a general perception in the region that its capital Beirut is a liberal, relatively gay-friendly city.¹⁰ This, according to one refugee is ‘primarily because there is an LGBT infrastructure’ in Lebanon. According to the article:

The “LGBT infrastructure” [in Lebanon] includes the only openly active LGBTI NGO in the region, Helem, as well as various LGBTI-sensitized services such as ReStart, a clinic which offers psychological counseling for refugees fleeing traumatic conditions, a UNHCR office which is familiar with and sensitized to the specific needs and vulnerabilities of the LGBTI community, as well as a pretty vibrant gay scene of bars, cafes and nightclubs.¹¹

However, the *GlobalPost* article reports that those refugees that stay in Lebanon long enough ‘begin to see a Lebanon that doesn’t match up with the liberal paradise they once imagined’.¹² According to Mahady Charafeddin, a member of Helem and a protection officer at the Arab Foundation for Freedom and Equality, the LGBTI refugees ‘think that in Lebanon we have more freedom and more of a gay life and that people don’t judge them. They think it is okay to be gay in Lebanon but it’s not the reality’. Charafeddin notes that LGBT refugees sometimes get exploited for sex work.¹³

On 12 October 2011 Lebanon’s *Daily Star* reported that transgendered people faced social rejection and discrimination in employment. According to Helem, transgendered people get

⁷ Anderson, Salome 2011, ‘Beirut’s burgeoning gay community goes online’, *The Daily Star*, 25 December <<http://www.dailystar.com.lb/Culture/Lifestyle/2011/Dec-25/157891-gay-lebanese-find-escape-online.ashx#axzz1v6sM0ovS>> Accessed 18 May 2012

⁸ Anderson, Salome 2011, ‘Beirut’s burgeoning gay community goes online’, *The Daily Star*, 25 December <<http://www.dailystar.com.lb/Culture/Lifestyle/2011/Dec-25/157891-gay-lebanese-find-escape-online.ashx#axzz1v6sM0ovS>> Accessed 18 May 2012

⁹ Anderson, Salome 2011, ‘Beirut’s burgeoning gay community goes online’, *The Daily Star*, 25 December <<http://www.dailystar.com.lb/Culture/Lifestyle/2011/Dec-25/157891-gay-lebanese-find-escape-online.ashx#axzz1v6sM0ovS>> Accessed 18 May 2012

¹⁰ Duncan, Don 2012, ‘Beirut, an imperfect haven for LGBT refugees’, *GlobalPost*, 17 November <http://www.salon.com/2011/11/16/beirut_an_imperfect_haven_for_lgbt_refugees/singleton/> Accessed 18 May 2012

¹¹ Duncan, Don 2012, ‘Beirut, an imperfect haven for LGBT refugees’, *GlobalPost*, 17 November <http://www.salon.com/2011/11/16/beirut_an_imperfect_haven_for_lgbt_refugees/singleton/> Accessed 18 May 2012

¹² Duncan, Don 2012, ‘Beirut, an imperfect haven for LGBT refugees’, *GlobalPost*, 17 November <http://www.salon.com/2011/11/16/beirut_an_imperfect_haven_for_lgbt_refugees/singleton/> Accessed 18 May 2012

¹³ Duncan, Don 2012, ‘Beirut, an imperfect haven for LGBT refugees’, *GlobalPost*, 17 November <http://www.salon.com/2011/11/16/beirut_an_imperfect_haven_for_lgbt_refugees/singleton/> Accessed 18 May 2012

harassed in the street and are often beaten.¹⁴ According to Dr. Michael Khoury, a clinical psychologist based in Beirut who treats many transgender people, when they reach out to a health care professional, most are shunned.¹⁵ A transgendered person interviewed for the article stated that she could not go to certain parts of the country or even parts of Beirut for fear of being beaten or killed.¹⁶

Article 534 of the Lebanese Penal Code

The Helem website provides the following information about Article 534:

Despite the lack of a definition to what is meant by “intercourse contrary to nature”, many of the judiciary, security, and legal community read Article 534 as criminalizing homosexual acts.

Retention of the article, particularly in its ambiguous text, promotes abuses and acts of hatred directed against homosexuals: from discrimination against homosexuals in employment, arbitrary dismissal, or in the field of housing, health, and social services, to political and financial extortion. It also keeps the subject of homosexuality among the restricted, banned, and taboo subjects, in line with the wishes of the political and religious elites that want to maintain a conservative society to be able to control it.

The application of Article 534 remains largely discretionary, where the poor get the largest share of acts of hatred and aggression, and of the total number of cases applying the article. Also, ruling differs between one judge and another, depending on the degree of leniency or fanaticism of the judge, in addition to the amount of “connections” of the accused.

The maintenance of the Article 534 and the accompanying assaults, physical punishment, acts of hatred, and violations of liberties poses a threat to the individual, on the one hand, and to society in general. On the psychosocial level, homosexuals remain in a constant state of anxiety and fear. At the community level, criminalization of homosexuals leads to the isolation and marginalization of a large section of society, denying them the right to exercise their role in the political, intellectual, cultural, and social life.¹⁷

Additionally, Professor Nizar Saghie, Lawyer and Independent Law Researcher, conducted an analysis on the application of Article 534. The emanating report, *Homosexual Relations in the Penal Codes: General Study Regarding the Laws in the Arab Countries with a Report on Lebanon and Tunisia*, published in 2009, states that:

While the spread of homosexual scenes in many areas of Lebanon, including nightclubs and gathering places, suggest broad tolerance, Article 534, aiming to punish sexual intercourse contrary to nature, remains a living text according to court records, affecting, selectively and from time to time, a specific number of people as if we are suddenly in another country. The presence of this feeling is increased by the fact that these cases remain, to a large extent, hidden and away from public discourse, and do not face any criticism, opposition, or commentary.

Thus, the issue seems to point towards social schizophrenia:

¹⁴ Anderson, Sulome 2011, ‘Transgenders lead an alternate life in Lebanon’, *The Daily Star*, 12 October

¹⁵ Anderson, Sulome 2011, ‘Transgenders lead an alternate life in Lebanon’, *The Daily Star*, 12 October

¹⁶ Anderson, Sulome 2011, ‘Transgenders lead an alternate life in Lebanon’, *The Daily Star*, 12 October

¹⁷ Abbani, Hiba (undated), *No to Article 534*, Helem website, <<http://helem.net/node/22>> Accessed 18 May 2012

On one hand, there is a world where homosexuals can live freely and plan their lives accordingly in a manner that was even unthinkable a few years ago, in an ever expanding scene, calling for the annulment of Article 534, or at least its inapplicability against them following the development of the term “nature” scientifically and socially, based on a deep feeling of the authenticity of their orientation and needs. Moreover, this issue led to the creation of an organization for LGBTs (Helem), to calls for the punishment of homophobia, to the organization of petitions that expressed social solidarity with homosexuals in many circles, and publishing books where many intellectuals expressed solidarity with what came to be known as the gay cause or that tell the stories of lesbians.

On the other hand, there are individuals who are persecuted in secret, away from the media, based on Article 534 without any debate on the matter of nature and what is natural or unnatural. They face anal and penile examinations to prove sodomy and receive sentences whereby they are jailed for months. All this happens in a technical manner, whereby the rhetoric of the legitimacy of homosexual orientation is rarely reflected in courts...¹⁸

Professor Saghieh offered the following concluding observations concerning the application of the Article:

First, there is no penal policy to drop the text or overcome it, evident in the continuation of prosecution based on it.

Second, there is no penal policy to impose the respect of this text or to confront manifestations of homosexuality, evident in the authorities’ disregard of prosecuting persons who frequent bars and other places known to be meeting places for homosexuals, which are becoming very prominent in Lebanon.

Third, there is an expansion in the application of the article in cases we were able to study, whether in determining the text’s relevance, evidence means, formalities in initiating prosecution, or even in custody periods awaiting trial.

Fourth, in many cases, the deciding judge showed reluctance in accepting the public prosecutor’s extension of application of this article. This was reflected in many innocent verdicts. It also showed some tolerance in sentences.¹⁹

2. Do Lebanese citizens have a right to enter and reside in Syria?

Information provided by the Syrian Ministry of Tourism indicates that ‘Arab and foreign arrivals’ can enter Syria provided they have a valid passport. Citizens of all Arab states, such as Lebanon, are exempted from entry and transit visas, residence permits and exit visas. It remains unclear whether Lebanese citizens have a right to enter and reside permanently in Syria.

The Syrian Ministry of Tourism states that:

Arab and foreign arrivals to Syria should have the following:

¹⁸ Al Farchichi, Dr. Wahid and Professor Nizar Saghiyeh 2009, *Homosexual Relations in the Penal Codes: General Study Regarding the Laws in the Arab Countries with a Report on Lebanon and Tunisia*, October, p.33

¹⁹ Al Farchichi, Dr. Wahid and Professor Nizar Saghiyeh 2009, *Homosexual Relations in the Penal Codes: General Study Regarding the Laws in the Arab Countries with a Report on Lebanon and Tunisia*, October, p.55

1- A Passport valid for a period not less than one month after the elapse of the period of the entry visa, provided that the passport is issued by a state recognized by Syria, does not carry an Israeli visa, and the name of the passport owner is not listed among those forbidden from entering Syria.

2- An entry visa or transit visa issued by the Syrian embassy or consulate in the original country of the tourist or his place of residence. Entry or transit visas are granted by Emigration And Passport Department at the border, for the subjects of foreign countries which have no diplomatic representation in Syria, and for the foreigners living permanently in Syria provided they show their residency cards.

Facilities And Exemptions Offered To Incoming Tourists:

1- Arab nationals are allowed to enter Syria and transit through it exempted from entry or transit visas, provided that they are properly registered in the arrival and departure records . Their passports , travel documents, or entry cards (of the Lebanese nationals allowed to enter by their IDs, or civil record extracts) are properly sealed upon entry and departure...

3- Citizens of all Arab states, Gulf Emirates and Sultanates, are exempted from entry and transit visas, residence permits and exit visas.²⁰

The Syrian Tourism Ministry cautions that residency permission is not considered a work permit and that ‘he, who wishes to work in Syria, should get a work permit from the Ministry of Labour & Social Welfare’. It also states that:

Arabs and foreigners who have temporary residencies and an exit and return visa, have no right to stay outside Syria for more than three months. **Lebanese citizens should report to the nearest police station within six days from their entry into Syria in order to obtain an I.D. card to facilitate their stay and movement in Syria.**²¹

The Syrian Tourism Ministry website states that there are two types of entry visa, one of which is a multiple-entry visa valid for six months from the date of issue (the other is valid for three-months, serving for only one entry).

No information was found to indicate that Lebanese citizens have the right to reside permanently in Syria.

²⁰ Syria Ministry of Tourism (not dated), *Entry Visas and Customs Facilities*, Syria Tourism website <http://www.syriatourism.org/index.php?module=subjects&func=listpages&subid=155&newlang=eng> Accessed 16 May 2012

²¹ Syria Ministry of Tourism (not dated), *Entry Visas and Customs Facilities*, Syria Tourism website <http://www.syriatourism.org/index.php?module=subjects&func=listpages&subid=155&newlang=eng> Accessed 16 May 2012

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Syria Ministry of Tourism (not dated), *Entry Visas and Customs Facilities*, Syria Tourism website
<http://www.syriatourism.org/index.php?module=subjects&func=listpages&subid=155&newlang=eng> Accessed 16 May 2012

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