

التبليغ: أهالة تنظيم الشواذ لأمن الدولة «طواري»
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النص الكامل لوثيقة تنظيم الشواذ



"They have no presence!" ..

On banning the LGBT community from appearing in the Egyptian media

«They have no presence!» ..

On banning the LGBT community from appearing
in the Egyptian media

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Methodology

This paper is based on some human rights reports and studies that tackled the situation of the LGBT community in Egypt and the violations committed against them, as well as an analysis of the media behaviour in the aftermath of the rainbow flag incident. It also relied on news reports published during the period from 2005 until now.

The paper is concerned with members of the LGBT community – with an emphasis on their privacy – who are targeted as a result of a lack of understanding of the wide range of different gender practices and identities, which the local media and the official narrative reduce to homosexual practices only.

The term “media” here refers to every radio, television, or electronic broadcast that reaches the public or certain categories of it, with signs, images, sounds, drawings, or writings that are not of the nature of private correspondence.

Introduction

The LGBT community in Egypt faces gross human rights violations, amounting to a threat to the right to life, bodily integrity, and expression in all its forms. The media behaviour towards the members of that community is one of those violations. Media is an important measure of the human rights situation in any country, as it has great influence in shaping public opinion and building awareness towards various issues and ideas. The way the Egyptian official media deals with LGBT issues reflects intense hostility based on authoritarian, social, moral and religious stances towards the rights of the LGBT community.

The social movement that coincided with the 25 January 2011 revolution led to the appearance of members of the LGBT community in the official and unofficial media, as the media at the time enjoyed a margin of freedom of expression. It can be said that the way the media deals with members of the LGBT community has been shaped through two separate incidents, the first – the Queen Boat – took place in 2001 during the era of late President Hosni Mubarak, and the second – the raising of the rainbow flag during a concert for the Mashrou' Leila band – took place in 2017. Members of the LGBT community were allowed to appear in the media in a way that disgraces and defames them, and the Supreme Council for Media Regulation (SCMR) decided later to ban their appearance in the media.

The authorities' crackdown on the LGBT community is linked to incidents in which members of that community expressed themselves and tried to appear in public. Although Egyptian laws do not explicitly criminalize homosexuality, the Egyptian authorities have used to criminalize any sexual practices outside the stereotyped binary (man-woman) through the Penal Code, articles on prostitution and debauchery, and other texts that restrict personal freedom.

This paper discusses the SCMR's policy with regard to the media appearance of LGBT people, in addition to the way the state-owned and privately-owned media have been dealing with LGBT issues since the 1990s, in light of the Egyptian standards and laws. It also discusses the legality of the SCMR's decision to ban the appearance of LGBT people in the media.

First: Homosexuality in pre-2011 media: the Queen Boat incident



The security authorities launched a large-scale campaign against LGBT people in 2001, when the police stormed a nightclub on a boat in the Nile called "Nariman Boat" or "Queen Boat". Some 52 men were arrested in the raid and brought to trial before the State Security Court, in accordance with the Egyptian Emergency Law, on charges of "practicing debauchery", amid widespread condemnation from human rights organizations and Western governments.

The trial sparked an intense debate, in which local and international media organizations participated, making the Queen Boat incident one of the most frequently mentioned when talking about the crackdown on homosexuals in Egypt.

The media did not condemn the incident at the time, prompting the defendants to hide their faces with masks made from the prison clothes during the trial sessions. However, human rights activists and observers believe that LGBT people enjoyed a degree of freedom during the last years of late President Hosni Mubarak's era, depending mainly on hiding and non-disclosure of identity.

During the 1990s¹, the Mubarak's regime used articles of the Penal Code in a limited way to imprison suspected homosexuals, especially men, before these campaigns took a broader media and security form after the Queen Boat incident. Observers believe that many of the campaigns were aimed at distracting the public from the economic and political problems in the country.

During the 25 January revolution and the rule of late President Mohamed Morsi, the LGBT

¹ Alyssa Bernstein, 2017 Was a Bad Year for Egypt's LGBT Community, 2018 Could Be Even Worse; Egyptian authorities are using a "debauchery" law to justify a crackdown on gay and trans people, foreignpolicy, December 2017, last visited in August 2022; <https://bit.ly/2AAGmuV>

people’s concern about security crackdown decreased, given the possibility of making a social, political and cultural change at the time. Morsi’s regime did not expand the implementation of the law despite the justified concern about the Muslim Brotherhood’s assumption of power, which analysts say² may have been caused by the lack of control over the security apparatuses at the time.

The very limited media appearance of LGBT people at the time was characterized by hostility. It was mostly stereotyped in a way that carried insult, ridicule, and discrimination against them. The media coverage of LGBT cases did not take the defendants’ privacy into account, nor did it respect their desire to appear in the media in the first place.

Second: Disappearance after the rainbow flag incident



The disclosure of gender identity or political or religious affiliations arouses the ire of the Egyptian authorities. On the sidelines of the space of freedom created by the 25 January revolution, and before 2013, LGBT individuals appeared in the Egyptian media. However, they disappeared from the media after the rainbow flag raising incident, which was a symbol for members of the LGBT community to appear in public gradually to express their gender identity.

In September 2017, the Egyptian authorities launched an unprecedented media and security campaign against the LGBT community after the audience of a concert for the Mashrou’ Leila rock band raised the rainbow flag.

The incident caused moral panic to the Egyptian authorities and society. Such panic recurs from time to time with issues related to personal freedom and freedom of expression. Dozens of LGBT people and their supporters were arrested during that campaign.

The SCMR issued an unprecedented decision banning members of the LGBT community

from appearing in the print, audio and visual media. It also banned the promotion or publication of homosexual slogans, citing ethical, social and religious considerations. Established in 2016, the SCMR is responsible for granting licenses to various media outlets and monitoring their compliance with the standards it sets.

This decision is problematic not only in terms of being discriminatory and inciting against a group of people, or in terms of being a censorship decision stemming from the SCMR's policy of banning and blocking towards various media outlets, but also in terms of imposing custodian penalties. In 2018, an Egyptian court sentenced³ journalist Mohamed El-Ghaiti to one year in prison and a bail of 3,000 pounds for hosting a homosexual on his TV show “Sah al-Noum” (Wake up). Moreover, the privately-owned LTC TV, on which the show was broadcast, was suspended for two weeks.

As much as the SCMR's attitude contains censorship and discrimination, it also reflects a policy based on concealment and non-recognition of different gender identities. In 2020, Egypt rejected⁴ the recommendations of several countries to end discrimination based on sexual orientation or gender identity. It also refused to recognize the terms contained in the recommendations during the Universal Periodic Review of the United Nations Human Rights Council.

The prevention of a group of people from appearing in the media is considered discrimination against them and a clear violation of the Egyptian constitution, which stipulates in Article 53: “Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason. Discrimination and incitement to hate are crimes punishable by law.” It also violates international human rights treaties and covenants.

Article 65 of the Egyptian constitution also states: “Freedom of thought and opinion is guaranteed. All individuals have the right to express their opinion through speech, writing, imagery, or any other means of expression and publication.” This text is consistent with all relevant international standards and covenants that guarantee everyone the right to freedom of expression.

The media ban on LGBT people also represents a further restriction on freedom of expression, whether through opinions or public appearance. The Egyptian authorities used to do so with non-dominant or socially unacceptable ideas, something which limits the culture of acceptance of difference.

As much as the crackdown on the LGBT community poses a danger to the right to life and existence for a certain group of people, the absence and lack of representation might pose a greater danger, as this would enhance the volume and type of violations against the LGBT community, without anyone knowing.

According to observers and rights activists⁵, the LGBT community has been facing a fierce campaign since mid-2013, which reached its climax with the incident of raising the

³ Mostafa Fathy, the full story of suspending the broadcast of an Egyptian satellite channel for hosting a gay man, Raseef 22, published in September 2018, last visited in August 2022; <https://bit.ly/41bBXBO>

⁴ LGBT Community Under Attack in Egypt, Human Rights first, published in December 2017, last visited in August 2022, <https://www.humanrightsfirst.org/sites/default/files/Egypt-LGBT-Factsheet.pdf>

⁵ The Egyptian Initiative for Personal Rights, press release, the Egyptian Initiative calls for the immediate release of those arrested and warns that they will be subjected to violations in places of detention, the Egyptian Initiative calls on print and visual media to stop broadcasting hate speech and incitement against LGBT individuals, published in October 2017, last visited in August 2022; <https://bit.ly/3IBOiYP>

rainbow flag. The Egyptian Initiative for Personal Rights documented 232 cases in which suspected gays or transgenders were arrested during the period from the last quarter of 2013 until the beginning of 2017, when many of them were tried according to the law criminalizing prostitution and debauchery.

The anti-LGBT campaign in Egypt was renewed after the animation company “Disney” pledged to produce more cartoon characters that support homosexuality during 2022 due to the poor representation of LGBT people in the media and in the entertainment business. The Egyptian authorities responded⁶ to the move by banning the screening of the Lightyear cartoon in Egypt, claiming that it contains homosexual scenes.

In the same context, MP Enas Abdel Halim submitted a request⁷ in June 2020 to block the “Disney” website for promoting homosexuality.

Although Egyptian law does not criminalize homosexuality, the Penal Code and the prostitution law are full of articles that are used to prosecute and imprison LGBT people in Egypt.

The first article of Law No. 10 of 1961 pertaining to combating of prostitution stipulates that whoever incites a person, be they male or female, to engage in debauchery or in prostitution, or assists in this or facilitates it, and similarly whoever employs a person or tempts him or induces him with the intention of engaging in debauchery or prostitution, shall be sentenced to imprisonment for up to three years.

Articles 178, 294 and 296 of the Penal Code also stipulate a penalty of up to five years in prison for inciting debauchery or prostitution.

Concerns have increased in Egypt due to the mounting application of Article 25 of the Law on Combating Information Technology Crimes, which is related to the Egyptian family values and principles.

⁶ Not the first time.. Disney movie banned in Arab countries over homosexuality allegations, Masrawy, published in June 2022, last visited in August 2022; <https://bit.ly/3Z5VaDe>

⁷ A new move in Egypt against “Disney” because of homosexuality, Russia Today, published in June 2022, last visited in August 2022; <https://bit.ly/3KmAT8y>

Third: What does the decision to ban the appearance of the LGBT community mean?



The rainbow flag raising incident frightened the authorities, prompting them to take tough decisions and launch a fierce crackdown on the LGBT community. This panic led the SCMR to take a defective decision with repressive and political - rather than administrative and organizational - motives. It is hard to understand the decision which bans “the appearance of homosexuals in any of the print, audio and visual media outlets”, as media appearance does not require knowledge of the gender identity of the guests. Thus, it is intended to prohibit any support of homosexuality. As for the persons themselves whose gender identity cannot be known, the conservative and reactionary authorities may identify them based on their appearance and general behaviour.

The SCMR's decision violates the Egyptian constitution as well as the international treaties that Egypt has signed. It also places restrictions on media freedom and curbs the work of journalists. The SCMR has exercised wide powers over the media and suspended TV channels for hosting homosexuals.

The Press and Media Regulation Law No. 180 of 2018 gives the SCMR the right to regulate the media in order to guarantee the protection of press and media freedom by ensuring that media outlets and press institutions adhere to the standards, principles and ethics of the profession, as well as the requirements of national security. This allows the SCMR to ban the publication or the broadcast of any content that it may deem violating the profession and its ethics or threatening the national security.

The decisions issued by the SCMR are administrative⁸ and can be appealed in accordance with Article 97 of the constitution, which states: “Litigation is a safeguarded right

⁸ Mostafa Shawqy, Q&A on the SCMR's gag order in the 57357 Hospital case, AFTE, published in 2018, last visited in August 2022; <https://aftegypt.org/advocacy/position-papers/2018/07/16/15556-afteegypt.html>

guaranteed to all. The state shall bring together the litigating parties, and work towards speedy judgment in cases. It is forbidden to grant any act or administrative decision immunity from judicial oversight.” So, the constitution allows persons who have the capacity and the interest to challenge administrative decisions before the State Council.

Although the litigation process may appear to be a solution, it requires time and physical, mental and material effort, and may pose a security risk to the appellant, given that the disclosure of affiliation to the LGBT community is a crime punishable by the Egyptian authorities. However, individuals and citizens can – as they have interest – ensure the existence of non-biased media outlets that guarantee representation of all voices and groups and non-discrimination among citizens on any basis.

Fourth: Are social media enough for the LGBT community to be present?



Social media played an important role during the 25 January revolution, in terms of mobilization, communication and awareness. The outbreak of the Covid-19 resulted in an increase in the use of the internet globally, leading more young people to resort to the internet for expression, knowledge, entertainment, and others.⁹

More attempts by the LGBT community to appear were made in the face of the security crackdown. In the aftermath of the 25 January revolution, the number of public pages supporting the LGBT community increased significantly on social media. Some of these pages acted as platforms for carrying and discussing the issues of the LGBT community, allowing its members to express their views and develop their identity through communication and discussion¹⁰. Over the past years, global and local electronic campaigns have called for love and acceptance among different individuals, without any considerations.

Despite these open solutions, social media are still an elitist tool that does not reach everyone, due to considerations related to the economic situation, infrastructure, etc. Most of those in charge of these platforms live outside Egypt, given the major security risk they may face at home through laws, such as the law on cybercrimes and the article on the Egyptian family values, or the charges included in Penal Code and the prostitution law, such as the charge of promoting debauchery.

Despite the online surveillance¹¹ of and crackdown on LGBT people, which may make the

⁹ Ricarda Ameling, Constructing the National Body through Public Homophobia: A Discourse Analysis of Egyptian Media Coverage of the ‘Rainbow Flag Case’ in 2017, Rowaq Arabi, February 2022, last visited in August 2022; <https://bit.ly/41875SY>

¹⁰ LGBTQRIGHTS, social media, moveme; last visited in August 2022; <https://moveme.berkeley.edu/project/lgbtqrights/#social-media-presence>

¹¹ Social media gives support to LGBTQ youth when in-person communities are lacking, published in September 2021, last visited in August 2022; <https://bit.ly/3IgiQ0S>

use of social media a psychological burden, LGBT people and defenders have - according to the Egyptian constitution - the right to be recognized and represented in the official media in their capacity as members of society against whom discrimination or incitement is not permitted for any reason.

Fifth: Towards media that respect sexual diversity and human rights standards



In 2013, 95% of Egyptians¹² polled by the Pew Research Center believed that homosexuality should not be accepted by society, compared to 3% who believed that it should be accepted.

A study published in 2017 by OutRight Action International¹³ found that Arabic language media tended to use “degrading and derogatory terms” when discussing LGBT people and frequently used religion to justify transphobia and homophobia.

There is no doubt that the media strongly influences society's handling of issues in general. The policy of concealing the LGBT community constitutes discrimination on the basis of gender, as it does not recognize their representation and gender identities in the first place. This concealment is meant to consolidate a homophobic stereotype.

Media appearance would allow LGBT people to be present as a first step, with what this presence means in terms of recognition. It would allow them to present their ideas, albeit in a conservative and arbitrary context, thus creating a state of communication and societal discussions related to personal (religious, political and sexual) freedom, something which the authorities deliberately disrupt.

¹² Do all Arab countries criminalize homosexuality? arabic.rt, published in August 2018, last visited in August 2022; <https://bit.ly/41dFoJj>

¹³ Audacity in Adversity, LGBT Activism in the Middle East and North Africa, Human Rights Watch, published in April 2018, last visited in August 2022; <https://www.hrw.org/ar/report/2018/04/16/316661>

Egypt has an announced policy towards LGBT issues, as it was one of 13 countries that voted against a draft UN resolution condemning the use of the death penalty for same-sex relations¹⁴. It also called for boycotting a session with the first UN expert in the field of violence and discrimination against homosexuals. We hope the SCMR will review its policies with regard to the LGBT community, allow them to appear in the media without discrimination, and take into account professional and ethical standards and codes that must be observed when dealing with them, which are mainly related to non-discrimination, ensuring privacy, and giving a free space for expression without restrictions or fear of punishment.

There is no doubt that media representation based on incitement and defamation, as in the Bab al-Bahr case (a 2014 raid on a Cairo bathhouse where dozens of homosexuals were arrested), may affect the right to life.

The LGBT community in Egypt faces legal and social challenges that others do not face. Therefore, launching a serious dialogue on how to represent the community members in the media in light of professional and international human rights standards has become a top priority. Members of the LGBT community should be allowed to appear in public and participate in that dialogue.

Conclusion and recommendations

Human rights include things that societies don't agree on, such as the unheard-of violations the LGBT community faces. The Egyptian authorities adopt a policy that conceals the LGBT community and its problems. Moreover, they crack down on the community members, punish them, and promote a homophobic stereotype.

The Egyptian authorities may see the policy of concealment as effective in order to preserve what they see as values, beliefs and constants, but in light of the spread of the internet and the global trend towards respect for personal freedom, this policy seems useless.

AFTE calls on the Egyptian authorities to stop their crackdown on the LGBT community, and recommends the following:

- The SCMR's decision banning the appearance of the LGBT community in the Egyptian media should be revoked.
- Articles 178, 294 and 296 of the Penal Code, Articles 1 and 2 of the Law on Combating Prostitution and Debauchery, and Article 25 of the Law on Combating Information Technology Crimes should be reviewed.
- Arbitrary detention based on gender identity and sexual orientation should be stopped.

14 https://ilga.org/downloads/HRC36_death_penalty_voting_resolution.pdf