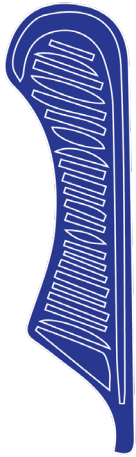




YOUR KIND IS NOT WELCOME HERE

A Study on the Treatment of Queer Foreigners
by the Egyptian Authorities

By: Nora Noralla



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Author: Nora Noralla

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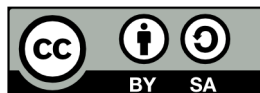
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info@cairo52.com

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Executive Summary

The report analyses how Egypt treats queer foreigners once they are identified as queer. The information is based on an analysis of Egypt's immigration laws and case law related to queer people under this law. The report is also based on the analysis of 12 incidents that happened from 2018 to 2022, which involved queer foreigners' interactions with the authorities. While the treatment of queer foreigners can be arbitrary and highly dependent on the officer or civil servant the queer person is dealing with, some patterns can be identifiable.

The Main findings of the report are:

1. Egyptian law and case law gives the Ministry of Interior broad powers to deport or deny entry to anyone who disturbs public order and morality; this was interpreted to mean allowing the denial of entry and deportation of those perceived as queer or are actually queer, once identified by the authorities.
2. Transgender and gender-nonconforming people are most vulnerable to being denied entry to Egypt because of the mismatch between their gender identity/expression and the information on their passports. All cases documented here involved Transgender and gender-nonconforming people who did not or do not wish to change their legal documents, which make them more vulnerable than others who did change their legal documents.
3. Queer refugees also engage in sex work to support themselves, which makes them most vulnerable to arrest and prison. However, there has been no recorded attempt by the State to deport queer refugees who are convicted after serving their prison time. Still, this can change in the future, as the Egyptian State does have a record of deporting refugees before, but for other reasons besides sex work or queerness. Egypt also has a record of deporting non-refugee sex workers, especially females.
4. Other foreigners who are not refugees are arrested and deported directly without going to trial or having to spend prison time. Some exceptions exist, mainly if the authorities are sure that the person is also engaged in sex work and not only queer.
5. While judicial customs are to prosecute both parties in male sex work cases (buyer and sex workers), the authorities make an exception for Gulf States citizens, who are treated as "a victim" and do not face any legal consequences, whether arrest, deportation, or prison time. This is consistent with the general Egyptian authorities' attitude towards sex tourists from the Gulf, as they are often allowed to get away with whatever they do due to their importance as a viable source of income to the Egyptian State.

1. Introduction and methodology

Every year, millions of tourists visit Egypt, and perhaps millions more choose to resettle in Egypt. Egypt is a popular tourist destination for many, with a total tourist intake of 11.7 million in 2022. Most of Egypt's tourism comes from Europe, whether citizens of ex-Soviet states or the European Union¹. Furthermore, Egypt hosts around 9 million immigrants who call the country home. Egypt is also a transit country for many asylum seekers and refugees, with some choosing to settle permanently. Officially, 276,000 refugees and asylum seekers were registered with the United Nations High Commissioner for Refugees (UNHCR) in Egypt; the number has risen according to government estimates, which puts it at approximately five million².

Whether refugees, asylum seekers, immigrants, or tourists, queer foreigners must carefully tread around the country's restrictive anti-LGBTQ+ laws and policies—Egypt, whether the government or the people are known to be anti-queer. The most recent opinion survey around homosexuality by the Pew Research Center was in 2013 and found that 95% of society does not accept homosexuality. Meanwhile, the Egyptian State employs several laws, such as the anti-sex work law 10/1961 and cybercrime law 175/2018, to arrest and prosecute queer individuals³. According to the Egyptian Initiative for Personal Freedoms (EIPR), between 2013 and 2017, no less than 232 people were arrested due to their perceived sexual orientation or gender identity, 129 of whom were arrested through social media or dating apps. Those arrested faced prison terms ranging from 6 months to 3 years⁴. In 2018, a massive crackdown occurred after some activists flew a rainbow flag during a rock concert by the Lebanese band Mashrouh Lalia. The crackdown resulted in the arrest of 85 individuals in under three months, making it the worst security crackdown against LGBTQ+ people in the country's history⁵. In 2019, Local organisations documented 92 arrests; in 2022, the number was 43, according to the EIPR⁶.

1 "Egypt Records 46% Increase in Number of Tourists in 2022: Minister - Tourism - Egypt." Ahram Online. Accessed September 17, 2023.

<https://english.ahram.org.eg/NewsContent/1/1238/491798/Egypt/Tourism/Egypt-records--increase-in-number-of-tourists-in--.aspx>

2 "Iom Egypt Estimates the Current Number of International Migrants Living in Egypt to 9 Million People Originating from 133 Countries - Egypt." ReliefWeb, August 17, 2022.

<https://reliefweb.int/report/egypt/iom-egypt-estimates-current-number-international-migrants-living-egypt-9-million-people-originating-133-countries>

3 Nora Noralla, Sexually Guilty: Custom Morality and the Persecution of the LGBTQ Community in Egypt, Cairo 52Legal Research Institute, June 2023. <https://cairo52.com/2023/06/01/sexually-guilty-custom-morality-and-the-persecution-of-the-lgbtq-community-in-egypt/>

4 Hamid, D. A. The Trap: Punishing Sexual Difference in Egypt. Al Qahirah: Egyptian Initiative for Personal Rights, 2017.

https://www.ecoi.net/en/file/local/2020143/the_trap-en.pdf

5 Ghoshal, Neela. "More Arrests in Egypt's LGBT Crackdown, but No International Outcry." Human Rights Watch, October 28, 2020.

<https://www.hrw.org/news/2018/01/22/more-arrests-egypts-lgbt-crackdown-no-international-outcry>

6 ElShekh, Fathi. "محامون: القبض على عشرات المثليين في مصر خلال 3 أشهر.. و«جرايندر» يحذر مستخدمييه من مصيدة الشرطة." مدى مصر, March 26, 2023.

<https://www.madamasr.com/ar/2023/03/26/news/u/محامون-القبض-على-عشرات-المثليين-في-مصر/>

Thus, the numbers paint a clear picture of prosecution and anti-queerness in Egypt; however, it misses one aspect, it does not show queer foreigners are treated in Egypt. The present report aims to fill this gap by analysing several incidents involving queer foreigners from 2018 - 2022 to outline how the Egyptian state deal with them. The report uses qualitative methods, mostly literature review of Court cases and open-access media articles reporting incidents involving queer foreigners in Egypt. Furthermore, the author conducted several interviews with queer foreigners involved in such incidents and lawyers who work on queer cases in Egypt. The author reviewed 12 incidents involving queer foreigners in Egypt, interviewed three individuals involved, and spoke to two lawyers familiar with such incidents. These methods and data are used to answer the report's fundamental question: how do queer foreigners get treated when their queerness is exposed by the State in Egypt?

2. Legal Background

2.1 Criminalisation

Egypt has several laws in its legal arsenal that are used to criminalise LGBTQ+ people. The first one is law 10/1961, which is an anti-sex work law; thus, naturally, queer sex workers are the ones most vulnerable to such a law. The main charge used is “debauchery”, which is judicially used to prescribe male sex work. Article 9(C) is the primary article seen in queer cases and stipulates that:

“Punishment by imprisonment for a period not less than three months and not exceeding three years and a fine not less than 25 LE and not exceeding 300 LE in the Egyptian administration and not less than 250 Lira and not exceeding 3000 Lira in the Syrian administration or one of these two punishments applies in the following cases: Whoever habitually engages in debauchery or prostitution.⁷”

Apart from this charge, other common charges under the same law are “promotion of debauchery” and “facilitating debauchery.” Other legal articles are used as well, including article 269bis of the Penal Code, which stipulates:

“Whoever is found on a public road or a travelled and frequented place inciting the passers with signals or words to commit adultery shall be punished with detention for a period not exceeding one month.⁸”

The most recent addition to Egypt’s anti-LGBT+ legal arsenal is Article 25 of the Cybercrime Law 175/2018, which stipulates:

“Posting content that “violates the family principles and values upheld by Egyptian society” may be punished by a minimum of six months imprisonment and/or a fine of EGP50,000–100,000.⁹”

Thus, several laws can be used to arrest and prosecute queer Egyptians and queer foreigners; as outlined in this report, Egyptian authorities maintain the right to prosecute foreigners just like Egyptians when they feel like it, as there is no unified rule on the matter.

⁷ Hamid, D. A. The Trap: Punishing Sexual Difference in Egypt. Al Qahirah: Egyptian Initiative for Personal Rights, 2017.

https://www.ecoi.net/en/file/local/2020143/the_trap-en.pdf

⁸ Noralla, Nora. “A Litigation Guide on Crimes of Sex Working and Homosexuality (Prostitution and Debauchery).” cairo52, June 25, 2021.

<https://cairo52.com/2021/06/24/a-litigation-guide-on-crimes-of-sex-working-and-homosexuality-prostitution-and-debauchery/>

⁹ Noralla, Nora. “Sexually Guilty: Custom Morality and the Persecution of the LGBTQ Community in Egypt.” cairo52, June 7, 2023.

<https://cairo52.com/2023/06/01/sexually-guilty-custom-morality-and-the-persecution-of-the-lgbtq-community-in-egypt/>

2.2 Law Regulating Entry and Deportation

Egyptian laws give the Ministry of Interior broad powers in deciding foreigners' entry, stay, and existence. Law No. 89 of 1960 on the Entry and Exit of Foreigners, amended in 2005, is the primary law governing this issue. Article 25 stipulates that "foreigners can be deported on the orders of the Minister of Interior."¹⁰

Article 26 provides the grounds on which a foreigner can be deported or denied entry: "Foreigners can only be deported if they Threaten the security or safety of the State at home or abroad, its national economy, public health, public morals, or public tranquillity, or is a burden on the State."¹¹

Other Articles in the law stipulate that those who are deported or denied entry do not have the right to re-enter the country unless the Minister of Interior issues an order allowing them to. Moreover, it specifies a one-year prison sentence for those who re-enter illegally after being deported. The law also gives the Ministry of Interior broad powers in detaining individuals who receive a deportation/denying entry order in a place of their choosing until the order is executed¹².

The vague terminology in the law regarding the reasons for deportation or denying entry gives broad powers to the Ministry of Interior in deciding without giving clear justifications. Terminology such as "public morals" or "public tranquillity" can be interpreted according to the whims of the reviewing officers, which makes deportation and denying entry orders arbitrary in some cases.

To no surprise, "public morality" is interpreted to mean denying entry or deporting LGBTQ+ people who attempt to visit or reside in the country. There has been reporting on such cases as early as the 2000s, and most likely, LGBTQ+ people were targeted before but not documented. National media outlets reported on the deportation of foreigners in Egypt, claiming they were part of a conspiracy to "spread HIV among the youth" and "young Egyptian men." A 2010 media article reports on the deportation of two French and one Norwegian citizens for these reasons¹³. In the next section, I will examine case law on the deportation and denying entry of foreigners for LGBT+ reasons.

¹⁰ بشأن دخول وإقامة الأجانب بأراضي الجمهورية العربية المتحدة والخروج منها. "الشرق" 10. Accessed September 17, 2023.

<http://site.eastlaws.com/GeneralSearch/Home/ArticlesTDDetails?MasterID=42099>

¹¹ Ibid

¹² Ibid

¹³ "محاكمة وترحيل السائحين الشواذ في مصر: نصر القوسي." القوسي, October 17, 2010.

<https://www.turess.com/alfajrnews/41458>

2.3 Case Law on LGBT+ Deportation/Denial of Entry

While LGBTQ+ individuals were subject to deportation and denial of entry due to the de-facto integration of public morals to include being LGBT+, this interpretation became official when the Administrative Courts system affirmed this interpretation in two cases.

In 2014, a Libyan citizen petitioned the Administrative Court to revoke the entry ban he received in 2008. The plaintiff has resided in Egypt since 2006 before receiving a deportation order in 2008 after he was arrested for “practising debauchery.” He submitted judicial petition number 8084/67 JY in 2012, requesting that his entry ban be revoked, as he is attempting to return to Cairo to continue his studies. The Court examined the case and issued its judgment on 23/12/2014, siding with the Ministry of Interior, reaffirming its right to deport or deny entry to any individual who poses a risk to the country. The Court focuses on the fact that the plaintiff was suspected of “homosexuality” alone, stating that:

“The issued order was legal, as the issuing authority has the right to issue such orders to protect public order, social and religious values, and to stop the spreading of vice among the society.¹⁴”

Thus, in this case, the Court reaffirmed the de-facto interpretation of LGBT+ people, making it now an official legal interaction, giving broad powers to the Ministry of Interior to deport or deny entry to those who are not only convicted of “debauchery” but for those who are just suspected of being LGBT+¹⁵.

The second case was in 2017 and had a similar outcome. The plaintiff is a British citizen who was deported in the 2000s after being suspected of homosexual acts with locals in Luxor, Upper Egypt. Again, suspicion alone was enough to deport the plaintiff without actual court proceedings proving any wrongdoing. The Ministry of Interior stated to the Court that:

“The deportation and the denial of entry order came after news broke out in the local village where the plaintiff was staying that one of the people he had sex with got infected with HIV because of him. The order came out of fear for the plaintiff’s life from any reprisals from the locals.¹⁶”

The plaintiff submitted medical certificates that he never and still doesn’t have HIV. However, the Court upheld the Ministry of Interior’s order, stating in judgment number 17406/63 JY that:

“The residence of a foreigner in the country is subject to the discretion of the Ministry of

¹⁴ Cairo Administrative Court. Judgment Number 8084/67 JY, issued on 23/12/2014.

حكم القضاء الإداري رقم 8084 لسنة 67 قضائية صادر بتاريخ 23/12/2014

¹⁵ Atlantic Council. “A Ruling to Deport Gay Foreigners: The View from Egypt.” Atlantic Council, August 15, 2019.

<https://www.atlanticcouncil.org/blogs/menasource/a-ruling-to-deport-gay-foreigners-the-view-from-egypt/>.

¹⁶ Administrative Court. Judgment Number 17406/63 JY issued on 25/03/2017.

حكم القضاء الإداري رقم 8084 لسنة 63 قضائية صادر بتاريخ 25/03/2017

the Interior, which takes the liberty of assessing its occasions within the limits of what it deems consistent with the public interest, as the residence of a foreigner is no more than a temporary, fleeting connection based only on mere friendly tolerance on the part of the State, and this status does not disappear no matter how frequently it is renewed. Especially if the foreigner's presence threatens the security or safety of the State at home or abroad, its national economy, public health, public morals, tranquillity, or if he is a burden on the State.¹⁷"

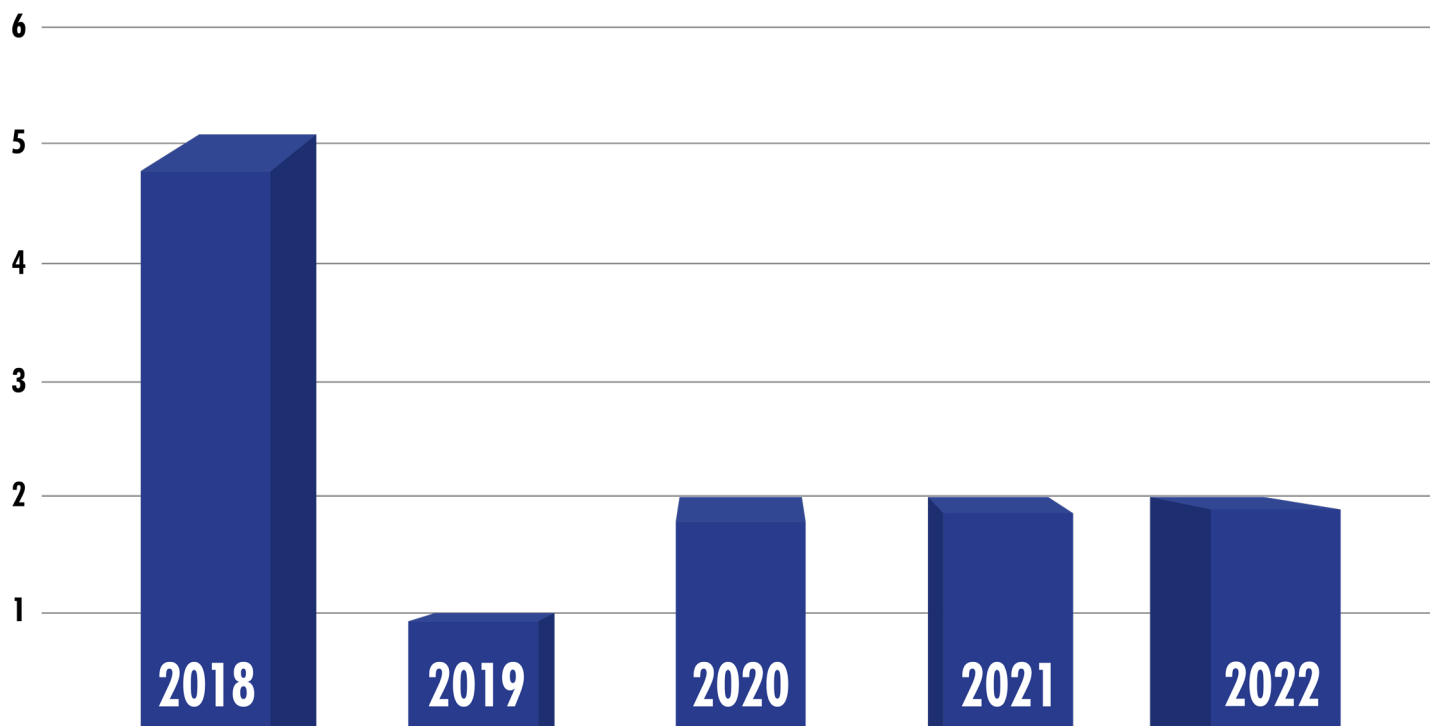
أيمن عبد العزيز و مصطفى عبده. "مصر تمنع 'بريطاني شاذ' من دخول أراضيها.. 'الإدارية': رفضنا طعنه ضد 'وزير الداخلية'.. اعتاد ممارسة نشاطه الجنسي بمقابل مادي.. 17
March 25, 2017. «الشاذلى»: تقارير ادعت أنه فرنسي ومصاب بالإيدز." البوابة نيوز

<https://www.albawabhnews.com/2443004>

3. Data Analyzing and Main Observation

The report covers five years, from 2018-2022. The incidents reported here were directly collected by Cairo 52's legal aid team or through open-access media articles. In total, the author identified 12 incidents, two occurring in Taba, Sinai border crossing, one in Sharm Al-Sheikh International Airport, and the rest being in Cairo. The identified incidents are only the tip of the iceberg, as indeed, more cases of foreign queers happened in the past five years and were not reported. The incidents show that Egyptian authorities have been active in their anti-queerness:

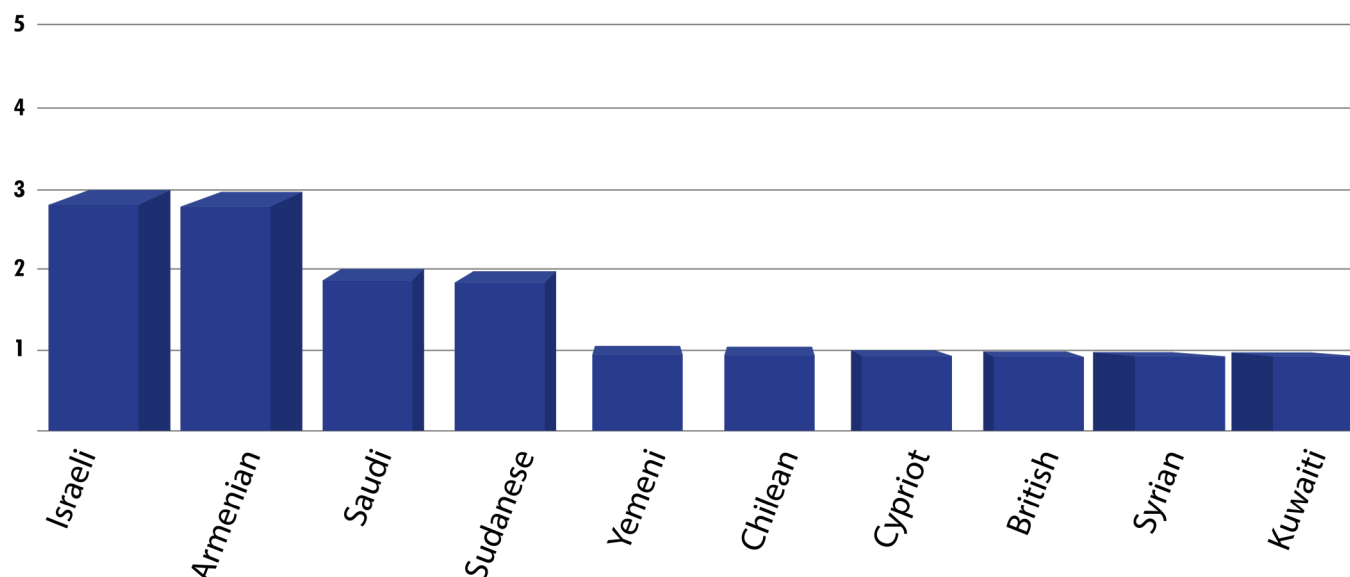
The 12 incidents involved 16 individuals from various countries, busting the myth that some



have that holding Western citizenship would make them immune from harassment by the authorities. Meanwhile, four individuals in the incidents are documented refugees with the UNHCR, which may explain why they were arrested and sentenced to prison time and not deported due to their refugee Status. However, Egypt does have a record of deporting documented refugees for other reasons; thus, it might change in the future, which can have a catastrophic impact on queer refugees in Egypt¹⁸. Egypt also usually deports non-refugee sex workers, especially female ones, after arrest.

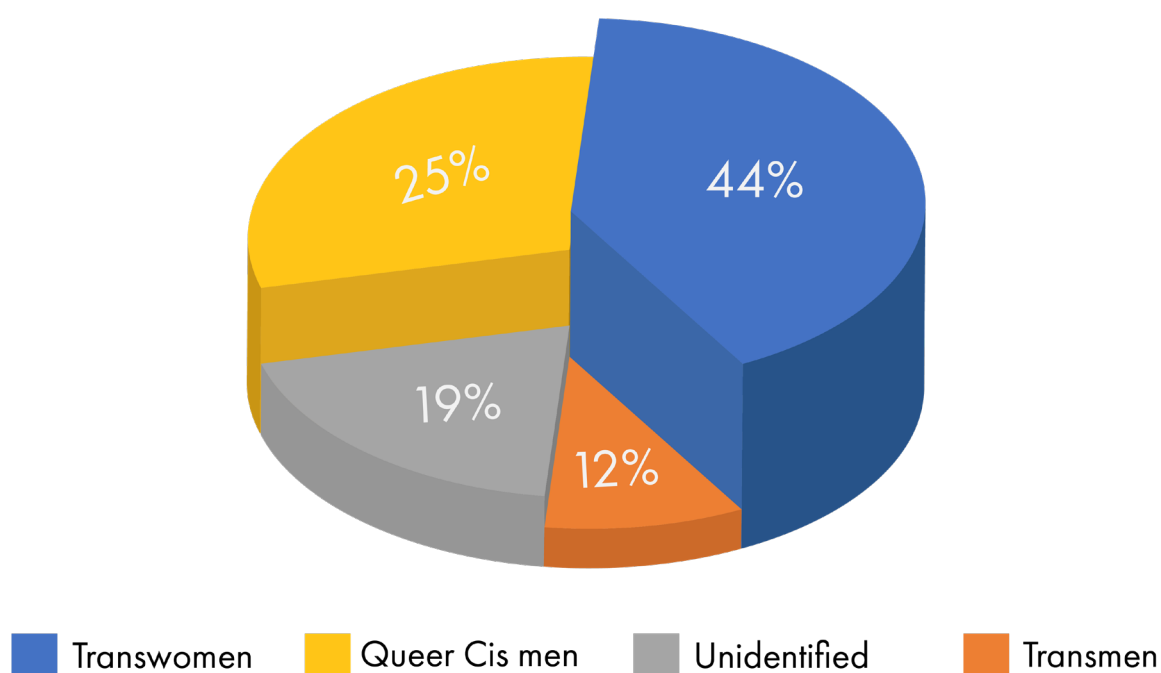
18 "Egypt: UN Experts Condemn Expulsions of Eritrean Asylum Seekers despite Risks of Torture, Arbitrary Detention and Enforced Disappearance." OHCHR, April 13, 2022.

<https://www.ohchr.org/en/press-releases/2022/04/egypt-un-experts-condemn-expulsions-eritrean-asylum-seekers-despite-risks>



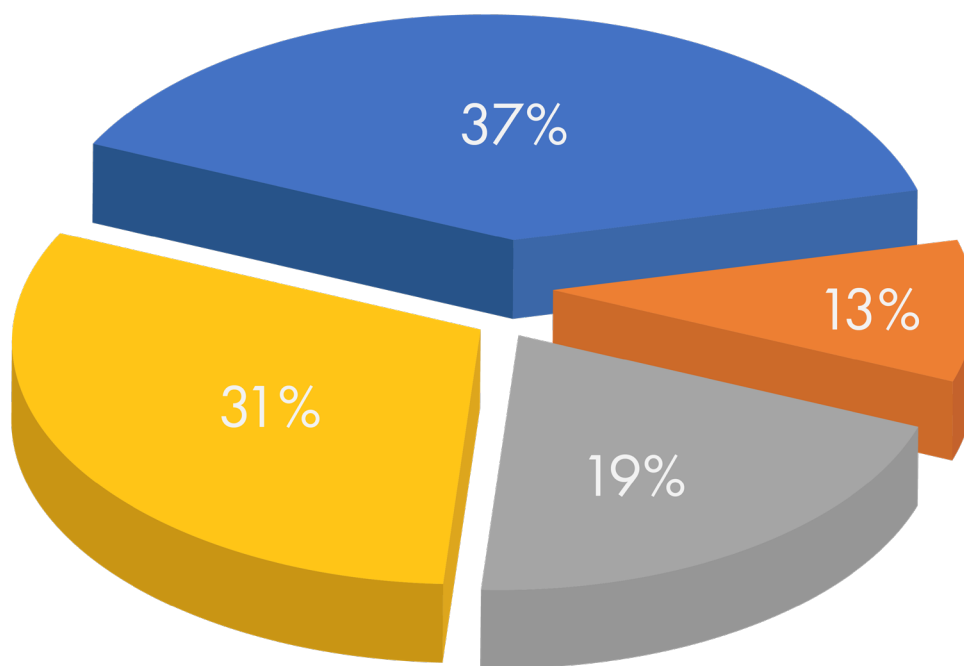
The most vulnerable groups are trans and gender-non-confirming people, followed by sex workers. Nine individuals or approx. 56% of people involved in the incident were identified as trans, easily targeted due to their obvious queer appearance. Meanwhile, 5 or 31% of individuals involved in the incidents are identified as foreign queer sex workers, as due to their profession, they face a higher risk of arrest by the authorities. Three out of the five are identified as trans, while four are identified as refugees. Those intersectional identities add to the vulnerability of a foreign queer person. Naturally, refugees and transgender people have sex work as the only viable income option due to the discrimination they face in the job market and the lack of feasible financial aid from the UNHCHR and other refugee organisations. One refugee I spoke with who was sentenced in 2018 indicated that when arrested in such cases, the UNHCHR abandoned them and did not provide any legal aid or even financial assistance to hire lawyers to defend them. The outcome of the incidents differs.

Disturbtion by Sexual Orientation and Gender Identity



Trans people (six out of nine) were mainly denied entry due to the mismatch between their gender identity and official documents. Egyptian officials instructed them only to return after they amended their records to reflect their gender identity. Those denied entry reported being confined in a specific space for hours or even days until they could leave and return to their home countries¹⁹. Meanwhile, queer sex workers were arrested, prosecuted and sentenced to prison times ranging from 6 months to three years.

Disturbtion by Incidents Outcome



Denied Entry

Arrested & Sentenced

Treated as Male Sex Work Buyer

Arrested & Deported

You may notice that 19% or three individuals are marked as “Male Buyers” to their outcome. That is because of the hypocrisy of the Egyptian State. Egypt has long been lenient with sex tourists from the rich neighbouring Gulf States, as tourism from the Gulf is an essential revenue to the State. Thus, there is an unwritten policy not to arrest or prosecute Gulf sex tourists, even when committing severe crimes such as child marriage²⁰. The three individuals identified in this report from Saudi Arabia and Kuwait received favourable treatment; Egypt’s anti-sex work law only criminalises sex workers and not buyers, but for a long time, it has been the judicial custom to prosecute both parties in cases that involve “two men” or in other word queer cases²¹. In cases involving Gulf citizens, the authorities decide only to

¹⁹ “Three Armenian Transgender Women Barred from Entering Egypt Because of ‘Male’ Marker in the Passport.” Right Side, February 22, 2021. <http://rightsidengo.com/news/three-armenian-transgender-women-barred-from-entering-egypt-because-of-male-marker-in-the-passport/>.

²⁰ Sex Tourism in Egypt: A Bride for the Summer.” Qantara.de, December 24, 2017.

<https://en.qantara.de/content/sex-tourism-in-egypt-a-bride-for-the-summer>.

²¹ NSWP. Egypt’s profile <https://www.nswp.org/country/egypt>

prosecute the other side, in these three cases, Egyptians. In Court records, the Gulf citizens are portrayed as “innocent men whom the evil Egyptian queer sex workers attempted to seduce them.” Despite proof in the same Court records that the Gulf citizens agreed with the Egyptians to have sex.

Thus, while the treatment of foreign queers is mainly arbitrary, one rule seems to exist: look at the other side if they are from a friendly Gulf country. It does not apply if Egypt has an ongoing geopolitical rivalry with your country, as was the case in 2016 when Egyptian media reported heavily on the deportation of three Qatari citizens for their supposed homosexuality²². Of course, this incident occurred in 2016, when Egypt and other countries were blockading and boycotting Qatar. Now that relations are better, it is doubtful that queer Qatari citizens are being treated differently from their Gulf counterparts.

ليلة سقوط 3 قطريين شواذ داخل مطعم شهير بالمهندسين.. المتهمون دخلوا مصر بتأشيرة سياحة لممارسة الشذوذ الجنسي مقابل مبالغ مالية.. النيابة تخلي سبيلهم..” 22
«الجوازات» تكشف انتهاء إقامتهم وترحلهم إلى بلادهم، “اليوم السابع، November 30, 2016.

<https://rb.gy/h8x0d>

4. Conclusion

The report adds to the existing research, which discusses the treatment of queer people in Egypt and proves the active discrimination Egyptian authorities practice on those perceived as queer or actually are. The report is the first of its kind to offer unique insights into the treatment of queer foreigners by the Egyptian authorities based on evidence-backed research. Queer foreigners are not all treated the same, but they are all treated in a way that further proves the anti-queerness of the Egyptian authorities. The case law gives the Ministry of Interior the right to deport or deny entry to people even when their queerness is not proven, a sign of the Egyptian authority's obsession with their idea of morality and social values, an idea that is rooted in discrimination against queers, sex workers, PLHIV and other sexual and gender minorities.

Some recommendations we can offer for queer foreigners who are planning to visit Egypt or are living in Egypt are:

If you are a trans or gender-non-conforming person and your passport's information does not reflect your gender identity/ expression, avoid visiting unless it is very necessary. If you have to visit, you will sadly have to conceal your true gender identity/ expression while at the immigration services at the border. It is advisable to maintain a binary appearance throughout your stay in Egypt to avoid unwanted attention from the authorities or members of the society.

If you are queer cis-person and planning to visit, you can, but it is advisable to avoid using dating apps such as Grindr throughout your visit. If you wish to use dating apps, please verify the identity of those you will meet beforehand by checking their social media accounts, for example. Generally, follow safety and security measures and avoid attracting too much unwanted attention to yourself.

If you are a queer person living in Egypt, familiarise yourself with Egyptian anti-sex work, cybercrime laws, and the safety and security measures followed when using dating apps. Give power of attorney to a trusted lawyer who can interfere if something happens to you. You can contact us at aid@cairo52.com, and we will provide a pro bono lawyer for you if you cannot identify a lawyer yourself.

Recommendation number three also applies to queer sex workers who are residing in Egypt, whether as refugees or regular residents.

If you come from an LGBT+-friendly country, make sure to request that a representative from your embassy be present if you are arrested or detained and that the authorities inform your embassy as quickly as possible. If you come from a non-LGBT+ friendly country and you feel the embassy will not be helpful, always request to have a lawyer present. If you or someone you know got entangled in legal troubles with the authorities, we remind

you that we provide pro-bono legal aid for queers and sex workers. You can find more information here:

<https://cairo52.com/legal-aid-project/> or <https://form.typeform.com/to/QsP6WzVI>

**Or email us at:
aid@cairo52.com**



القاهرة ٥٢

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