

# Accessing Legal Rights, Mental Health and Community Support

A collaborative look into issues facing  
the trans community in Lebanon



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# Introduction

**Monica Basbous and Zakaria Nasser**

**In March 2020**, a group of people with diverse gender experiences came together to kick off what would be the first research project entirely conceived and led by transfeminine, transmasculine and non-binary individuals living and having lived in Beirut. The research aimed to understand the status of trans people's access to particular services, institutions and systems, which have a direct impact on wellbeing and bodily agency. By creating a space for collaborative knowledge production between community members, experts and researchers, this experimental and participatory approach attempted to bridge the gap between the research and the community, and to allow those typically in the position of "research subjects" to become co-producers of knowledge by contributing to defining the issue at stake.

The research departed from preliminary studies and mappings conducted in Lebanon and commissioned by the Tajassod working group in Qorras in late 2019. These included Youmna Makhoul's mapping of the legal status of trans individuals in Lebanon; Nawal Ramadan's legal mapping of sex work and mental health; Michelle Yazbeck's desk review on access to nutrition and general health; and Rana Aaraj's mapping of access to mental health. While the initial plan was to invite a broader group of community researchers to contribute to the project, the onset of the Covid-19 pandemic led us to mitigate risks by working more intensively with a smaller group and primarily online.

Between March 2020 and May 2021, the research Steering Committee – composed of Sarah Zein, Wissam Sheib and Zakaria Nasser, with the support of Monica Basbous – met on a regular basis to discuss, debate and develop the preliminary studies in light of individual lived experiences with access to legal rights and justice, to nutrition and general health, to mental health, and to community support. Through informal sessions and self-documented Work Sessions, a Brief

was produced and compiled by the Steering Committee, and used as a basis to commission the writing of the three articles in this report, authored by Rana Aaraj, Chris Maaraoui, and Youmna Makhoul in collaboration with Maya Dghaidi. In many respects, this project is an experiment that calls for additional experimentation in research and knowledge production methodologies.

The project was guided by a set of shared principles developed by the Steering Committee in preface to the Work Sessions. These values aimed to set clear expectations from the different stages of the research while outlining its goals and limitations, and bearing in mind its potential afterlives; to think together of ways to co-produce within our capacities rather than relentlessly extract data; to ensure that we are mindful of the multi-layered labor that the process entails, and that we organize our resources and methods accordingly. It was equally important at that stage to stress on our shared commitment to complexity whereby we would build on the confrontation and contradictions of different experiences rather than seek to erase difference in the name of consensus.

The implementation of the methodology challenged various assumptions relating on one hand to methods of (self-) documentation and their accessibility to Steering Committee members, and on the other, related to the thematics addressed by the research. Learning to adjust expectations and tools while moving forward, it was of prime importance to give space to the issues that emerged from conversations led by the SC, and to build on them, particularly when they redefined notions and questions mentioned in the initial mappings. This agency to reformulate questions and relocate the focus of the study, rather than simply provide answers, was at the heart of the approach to this research which relied on a reversal of the roles and boundaries typically set between the researcher and subject. While it was indispensable for trans individuals to lead on the decision-making in this project, we must also recognize the challenges and difficulties that accompany the labor of self-documentation, which can be a taxing process of personal excavation and coming to terms with one's past and present realities all while having to navigate everyday life in a volatile and sometimes violent environment.

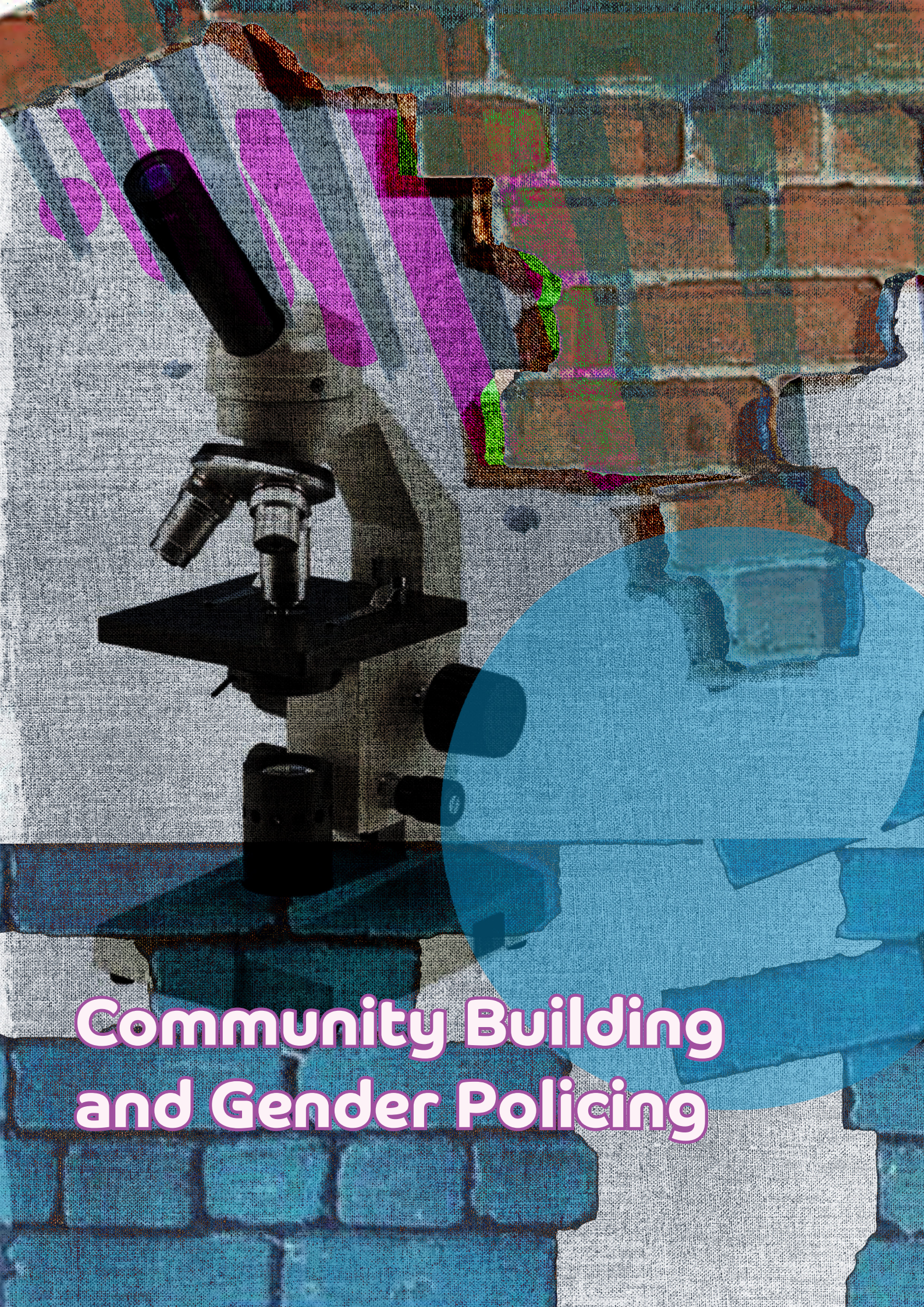
On August 4th 2020, the explosion of the Beirut Port had immediate repercussions on us as individuals, and on our capacity as a working group. The safety of our homes was forcibly compromised, our physical and mental health abruptly unsettled. Faced with the negligence and impunity of our public institutions and servants, we resumed work some weeks later, determined to affirm our right to dignified life despite all attempts to sideline and erase the needs and existence of people with non-normative gender and sexual experiences.

The outcomes of this project take on different forms, the first of which is this series of articles in which Rana Aaraj gives an overview of gender identity development and its institutionalization within the mental health system in general, and more specifically in the Lebanese context by focusing on the process of gender assessment and its impact on bodily agency; Chris Maaraoui departs from conversations with the Steering Committee to look into the notion of community among individuals with non-heteronormative sexualities and gender non-conforming experiences, and how the discourse of body-positivity plays into community dynamics and access to support; in their text on obstacles to trans people's access to basic rights and justice in the Lebanese legal

system, Youmna Makhoul and Maya Dghaidi show that despite not being mentioned in the law, trans people are indirectly criminalized and discriminated against nonetheless.

These texts are primarily addressed to experts, professionals and institutions in Lebanon who are involved in the production of knowledge or provision of services for trans individuals, particularly in the areas of mental health and legal procedures. The present material and future outcomes may be equally beneficial to individuals who encounter these systems and institutions (government institutions, legal service providers, medical practitioners and hospitals, laboratories, mental health providers, etc.) in the process of their gender embodiment, as well as their peers and allies. At the same time, all of these articles recognize the vast amount of work that remains to be done on multiple fronts in order to advance trans access to legal rights, mental health and community support.

For us in Tajassod – and more broadly in Qorras – this project has provided a space for us to practically experiment with research and documentation methodologies that serve our communities and reflect their complex realities without victimizing or romanticizing them. It has also revealed the need for further research into legal practices manoeuvred by trans people in their everyday lives, as well as a more in-depth look at the specificities of refugees and asylum seekers in Lebanon. The research also highlighted the need for documenting experiences with mental health professionals and institutions locally, and the impact of transitioning on mental health while in Lebanon. Finally, we look forward to forthcoming projects that address trans lives beyond their transition, and contribute to envisioning safer futures for trans people in Lebanon and beyond.



# Community Building and Gender Policing

Chris Maaraoui

**Marginalisation** and stigmatisation have often created a bond between individuals and hence a sense of community<sup>1</sup>. The shared position of marginality has driven many individuals with non-heteronormative sexualities and gender non-conforming experiences to come together against legal and medical systems that exclude, demonize and pathologise them. Despite the need for solidarity between these and other struggles, it is important to point out that gender and sexuality are two separate concepts. Gender may be understood as the way we perceive ourselves and understand our body as being feminine, masculine, both or neither; whereas sexuality refers to one's physical, emotional and/or romantic attraction to another person. Yet, as early as the late nineteenth century, and with the emergence of psychiatry and the field of sexology, trans people were described as "sexually inverted" – a term also used at the time to describe same-sex attraction.<sup>2</sup> This conflation of gender and sexuality was reproduced in society and in community spaces, and is partly inherited from funders and development agencies who cemented the acronym "LGBT" which fuses together experiences of sexuality and gender.

In Lebanon, there are no physical spaces specifically dedicated to trans<sup>3</sup> individuals. Instead, people find themselves navigating predominantly gay and feminist spaces. Usually, spaces set up by cis gay men are a meeting spot for some trans women, while queer and feminist spaces tend to be frequented by some trans masculine individuals. However, trans-only spaces have a strong presence

1- Johansson A. , "Fat, Black and Unapologetic: Body Positive Activism Beyond White, Neoliberal Rights Discourses." *In: Alm E. et 1 (eds) Pluralistic Struggles in Gender, Sexuality and Coloniality*. Palgrave Macmillan (2021)

2- Natasha Feiner, "Endocrinology, 'Transsexual Agency', and the Boundaries of Medical Authority", *University of Exeter, Archives*, Vol.7 (2015)

3- Throughout the research, the word trans is used to refer to individuals who were expected to perform a certain gender role/ gender embodiment but opted for another path (whether socially or medically). It is important to note that as "Tajassod", we do not always agree on the terminology "trans" since the word as such refers to a transitional phase. Gender embodiment isn't a direct process (with a before and after) but rather it is a continuous process that concerns everyone (including cisgender individuals).

online – whether blogs, or Facebook groups – and play an increasingly important role<sup>4</sup>. Two Facebook support groups for arabic speaking individuals were identified where trans people connect and share their experiences. While all of the community spaces mentioned above can be a great relief for some, they also tend to reproduce toxic attitudes towards gender embodiment.

The concept of an “LGBT community” is often contested among individuals with non-heteronormative sexualities and gender non-conforming experiences, who sometimes feel that it separates them from society and assumes the similarity of experiences between LGBT individuals. Throughout the research done by the Tajassod Working Group in Qorras in 2020-2021, it was clear that there was a mutual feeling of deception and frustration when it came to the concept of an “LGBT community”. This paper will seek to understand some of the reasons behind this frustration. The concept of community touches upon a variety of topics, which makes it challenging to criticise solely one aspect of it. Nevertheless, it was noticed that the gender policing that is present in LGBT spaces highly participates in creating this sentiment of frustration. The paper departs from the documented experiences of the Steering Committee (Zakaria, Sarah, Wissam and Monica) who discussed their gender embodiment experiences, specifically within trans-only communities and feminist communities. Long open discussions took place on multiple interrelated topics which included gender, esthetics, medicine and safety. Written testimonies were gathered, as well as an extensive desk review. “We live in a society that doesn’t want to let us in” says Zakaria. So where do people who are on the margins of society find a sense of belonging and safety? To what extent are queer and trans communities safe environments? To answer these questions, we will start by looking at how online trans spaces reproduce stereotypical gender norms. Then, we will look into the use of body-positivity discourse in feminist spaces and how it can be detrimental to some experiences and identities.

## Community or Gender Police?

As Sarah puts it: “The only way to survive is to look for help where people pretend that help exists”. Individuals with trans experiences rely heavily on trans-only communities to get some sort of moral support and access to practical information, specifically around medical issues. As both Sarah and Wissam mention, peers can be a source of essential information, for example, regarding where to do health check-ups, how different types of hormones work, etc. But while trans communities allow for much-needed exchanges to happen, they also hide some harmful aspects.

The research highlighted that trans-only spaces tend to focus excessively on the body and on esthetics. Information shared in these spaces touches directly on stereotypical visions of masculinity and femininity. As Zakaria points out: “In the trans community, it is all about passing”. There is a common conception that the more heteronormative you are as a trans person – a masculine, muscular man or a slim, feminine woman – the more you will be respected in society and hence among your trans peers. Online communities in particular tend to replicate stereotypical images of manhood and womanhood, and perpetuate unrealistic expectations of how a “trans” body

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4- The role of online groups is becoming more and more important in the light of the COVID-19 and political crisis in Lebanon. Large scale protests have erupted in Lebanon since October 2019, checkpoints are more and more present, changing the notion of safety. It is without a doubt that the pandemic also highly affected the way people organise and meet. The Beirut blast also had a huge impact on people with a trans experience since many of the bars that were welcoming and respectful had to shut their doors. Physical spaces to meet became limited and sometimes inaccessible.



should look. Zakaria remembers seeing many times the image of what was supposed to represent a trans man: someone with well dressed hair, well designed chest, skinny, able, etc.

There are many famous images circulating online of bodies before and after their physical changes. These images are harmful because they imply that there is a “before and after” in the experience of gender embodiment. In other words, there is an expectation that a trans body should undergo certain transformations, attain a certain goal, look a certain way to fit in and be respected in society and in trans spaces. Discussions also mention how too often people are told that they are ‘not trans enough’. At different points, many trans individuals felt that they didn’t belong among their trans peers because they didn’t opt for a stereotypical path (taking hormones then doing top surgery and then bottom surgery) or aspire to pass within the gender binary.

“Our relationship to our body varies each day, and this should be normalised” says Wissam.

The Steering Committee mentions at several instances how the words ‘trans’ and ‘cis’ create a false distinction between bodies; between people who supposedly do not struggle with gender (‘cisgender’) and others who constantly suffer from it (‘trans’), when in reality many issues that are commonly considered to be particular to the trans experience are shared with different gender experiences. For example, cisgender women who undergo breast augmentation surgery may feel the same discomfort – or as medical professionals like to say: ‘dysphoria’ – that some transgender women might feel. Societal pressures regarding height and hairloss were also mentioned during the discussions as common to the experience of trans men and cisgender men. Not feeling comfortable with certain parts of the body isn’t something specifically ‘trans’.

The distinction between bodies is reinforced by the dominant medical discourse which is rooted in rigid, binary conceptions of gender and identity, and where dysphoria and distress are prerequisites for being considered trans<sup>5</sup>. As Sara mentions mockingly: “the degree to which you have a problem with your body determines your level of transness”. To borrow the words of writer and scholar Jay Prosser, it seems like trans people “must tell a transsexual autobiography” in order to be deemed ‘trans’. In fact, the Diagnostic and Statistical Manual of Mental Disorders (DSM), used by many

mental health practitioners, focuses on the concept of “True transsexual”<sup>6</sup>: a person needs to present a discourse of distress when it comes to their gender, and wanting all the characteristics of the ‘other sex’ (for example hating one’s genitals and wanting to have a gender reassignment surgery). It becomes a requirement to accept the gender binary and present a discourse of self-hate in order to access certain surgeries and enact bodily agency<sup>7</sup>. Wissam describes his first encounter with a psychiatrist: “I went in, and the doctor looked at me from head to toe, probably trying to assess if I fit the image he had in mind”. What is expected from a trans person in this situation is to present a discourse of self-hate and of wanting a stereotypical manhood or womanhood.

The medical field highly influences how individuals describe their experiences, particularly in trans communities. The DSM does not hide that it “not only determines how mental disorders are defined

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5- See Rana Aaraj, “Access to mental health”, *Qorras* (2021)

6- Peggy T.Cohen-Kettenis, Friedmann Plafflin, “The DSM Diagnostic Criteria for Gender Identity Disorder in Adolescents and Adults”, *Archives of Sexual Behaviors*, American Psychiatric Association, Vol.39; Issue 2 (2009)

7- In Lebanon, doctors will ask for a letter from a certified psychologist or psychiatrist (which will refer to gender incongruence diagnosis) before accepting to proceed into any kind of surgery or hormone treatment. For further reference, Rana Aaraj, “Access to mental health”, *Qorras* (2021)-

and diagnosed, it also impacts how people see themselves and how we see each other”. As a result, trans communities tend to perpetuate binary expectations and discourses of self-hate and suffering. Work remains to be done to break out of the hold of such discourses and worldviews, to build a real sense of community that does not replicate the scrutiny and gender policing that people face in their everyday lives.

## The body positivity discourse in feminist settings

Body positivism expects a change of attitude in the way people perceive and understand their body. It seeks positivity and acceptance of one’s own body, for example rejecting the diet culture, rejecting unnecessary plastic surgery etc<sup>8</sup>. As defined by scholar Anna Johansson:

“Body positivity activism is mainly practised through and within the so-called ‘fat-o-sphere’ and feminist or queer forums, some of which function as counter public spaces in which participants challenge and reinterpret bodies considered ‘deviant’ ”.

While feminist spaces tend to reject social injunctions of beauty and adopt a more ‘body positive’ discourse, in practice, this discourse often focuses on empowering cis women and breaking taboos around parts of the body – for example, through the use of expressions such as ‘magical vagina’ and ‘clitoris power’. Such a language does not take into consideration people with trans experiences, and can even be alienating to cis individuals dealing with dysphoria. In counterpart, what is perceived as a masculine body is highly monitored in feminist settings, revealing the limits of the body positivity discourse.

For trans men who undergo hormone therapy, it is a struggle to find a space in these settings because their masculinizing bodies progressively cease to conform to the expectations of feminist spaces. As Zakaria points out, there is “a huge contrast between feminist spaces and trans spaces: the [esthetic] standards are very different. [As a trans-masculine person,] Feminist spaces want you to leave markers of masculinity behind while trans spaces pressure you to follow stereotypically masculine beauty standards”. This demonstrates how “different spaces and different communities give different meaning to gender.”<sup>9</sup> In many feminist settings, trans people shouldn’t be too masculine; they should be a ‘cool’ trans – i.e. someone who breaks the binary but not to the extent where they actually fully embody a “male’s” body. Zakaria describes his experience with one of the earliest lesbian and queer organizations: “It made me the biggest transphobe, I wasn’t at peace with my masculinity”. Wissam and Zakaria recall that after they began taking hormones, they didn’t feel comfortable going back to these spaces. The need to automatically come out and apologetically reveal parts of one’s gender identity in order not to appear as cis men is certainly not encouraging.

Moreover, there is an undeniable contradiction between what general society expects and what ‘body positive’ spaces claim: there is a pressure to go from a negative bodily perception to a positive one but without any guarantee of safety. The body positivity discourse usually envisions a body that

8- As Rayanne Connie Streever found throughout her research: “body positivity is understood by influencers as made up of five aspects: (1) a connection to the fat acceptance movement; (2) an opposition to diet culture; (3) the belief that all bodies are good bodies; (4) celebrating self-love; and (5) proclaiming that all people have a freedom to be beautiful

9- Ida Linander, Isabel Goicolea, Erika Alm, Anne Hammarström & Lisa Harryson, “(Un)safe spaces, affective labour and perceived health among people with trans experiences living in Sweden”, *Culture, Health & Sexuality*, 21:8, (2019)

is 'free'. In other words, a body which is liberated from social injunction and on which the individual him/her/themselves has total control. Although it is meant to be liberating, this discourse creates a conflict between what is acceptable in certain spaces (such as feminist settings and spaces who adopt a body positive approach) and what is acceptable in society. As Sarah points out: "certain feminist spaces will preach that you can become whoever you want and that you will be accepted. However, practically it is not true at all. We cannot become whoever we want". In fact, there are many constraints which include safety and wellbeing, financial restrictions, societal rules and peer pressures. As we already know, society has rules and would not hesitate to condemn a person who does not conform to its gender norms.

In this regard, (public) space plays an active role where "power is enacted...Bodies are adjusted to comply with the cardinal rule of gender – to be readable at a glance – which is often due to safety concerns."<sup>10</sup> In some contexts more than others, safety is highly linked to the public expression of esthetics. For example, article 521 of the Lebanese penal code punishes up to 6 months in prison what they consider to be 'cross-dressing':

"Every man who dresses as a woman and enters a place for women, or prohibited at the time for others than women, is punished with prison up to 6 months and a fine."<sup>11</sup>

As Sarah states: "As long as society does not perceive the 'physical difference' and there are no indicators on your body that you are trans, then it is fine. However, when society starts to perceive a difference, here you will be in danger". The rejection that trans people face in society is, in some respects, comparable to the experiences of the differently abled. In both cases, society rejects the person because the way the body presents itself is perceived as 'different', 'unknown', 'uncommon'. During the steering committee discussions, it was pointed out that how one is perceived is tightly linked to safety. Depending on the setting, the way people present themselves and arrange their body might either put the individual at risk or on the contrary, grant them safety. For example, at security checkpoints, the way one dresses, the way they talk, the car they are in might have a great impact on how the officer will perceive and judge a person. As Monica mentions, displaying signs of a stereotypical femininity (now being done through her facial pink mask) often allows her to escape the scrutiny of checkpoints. Sarah also mentions that having red hair in Furn el Shebbak has a different meaning than having red hair in Burj Hammoud. In Furn el Shebbak she would be perceived as a beautiful woman and hence feel safe, whereas in Burj hammoud she will directly be assigned the label of 'trans' and this might put her in danger.

A 2021 study by Gundi Knies and Emanuela Sala showed how

'Erotic capital' (or what is commonly known as normative beauty) is an asset that influences people's life chances. Fitting in, being perceived as 'respectable' is essential for the survival of many.

10- Kyla Bender-Baird, "Peeing under surveillance: bathrooms, gender policing, and hate violence", *Gender, Place & Culture, A Journal of Feminist Geography*, Volume 23, 2016 - Issue 7, (2015)

11- Penal law, legislative decree No.340 issued on 1/3/1943, Article 521. The Law does not incriminate directly based on the dress code. However, police officers have used this law to arrest transgender women even in public mixed spaces. For further reference on the law and gender embodiment, Youmna Makhoulouf, "Access to the Law", Qorras (2021)

Sarah, for example, didn't hesitate to prioritize getting funds for her surgery rather than buying food so that she can feel secure when walking down the streets. People with trans experiences can easily recognize how their gender embodiment process affects their security and livelihood, which may explain why trans communities focus on esthetics and 'passing'. In this sense, the discourse of body-positivity often overshadows the sentiment of comfort that some people might get in fitting the norm. This is not to say that a body-positivity discourse should not exist but rather that it should be mindful of contextual specificity and center personal safety and security.

## Recommendations and conclusion

Through this research, it became clear that community spaces in Lebanon aren't a fostering environment. Rather, they often reinstall gender policing and become places of scrutiny in which femininity, masculinity and transness are constantly evaluated and weaponized. In the midst of the contradictions between extreme gender policing and body positive discourses, "it is quite hard to love or hate yourself since people are torn in multiple directions" – as Wissam puts it. It is then important to be mindful of how toxic aspects of culture often imprint themselves on the community. To reduce this negative impact, the Steering Committee believes that 'healthy' community building should focus on providing practical information about how to navigate institutions such as the medical and judicial system, and on repositioning and redefining conversations on bodily freedoms while acknowledging that society is still not safe for many.

On an endnote, it is important to highlight that having a trans experience is only a small part of one's identity. Building a community focusing solely on this aspect while ignoring all of the others can be counter-productive. Age, ability, race, religion, sexuality, socio-economic status, all of it comes into play and it is important to recognize the intersections between them.



# Identity Development and Gender Assessment

Rana Aaraj

**A person's identity** may be understood as how they perceive themselves and how they wish to be perceived and referred to by others. It is subjective and very personal to the individual. When it comes to gender identity development, research continues to evolve to this day. Theories suggesting that gender identity is fixed in childhood and remains permanent throughout a person's life are today considered reductive, if not outdated. A person's identity is continuously changing and more schools of psychological thought are starting to describe the human psyche as being in a constant state of becoming. However, most of a person's identity characteristics are chosen on their behalf at birth, and even before it – be it their name, religion, family, class, even sometimes political affiliations, citizenship, and civil rights – including the assumption that they are heterosexual and conforming to gender norms.

Identity development is a broad and multifaceted field. In this paper, we will focus on gender identity development and its institutionalization within the mental health system in general, and more specifically in the Lebanese context. Based on a series of interviews with professionals, as well as the documented experiences of three trans individuals with the Lebanese mental healthcare system, and a desk review about the most recent mental health practices on the matter, this paper will shed some light on the process of gender assessment in Lebanon, and reflect on the notion more generally within the mental health field.

## **1. The male/female binary as the incontestable truth**

Conventionally, a person's gender is assigned to them as early as the foetal stage through genetic screenings on the 10<sup>th</sup> week of pregnancy, or through the determination of their genital morphology through an ultrasound on the 12<sup>th</sup> or 13<sup>th</sup> week<sup>11</sup>. From the moment a person is conceived, their

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11- Interview with Dr. Christian Dagher, OB/GYN, July 2021

identity, no matter how personal, is part of a larger system that influences and sometimes even dictates its characteristics, while often expecting them to be static and unchangeable.

Upon being assigned a gender by their doctors and family, a person is socialized – i.e., addressed, treated, dressed, and taught – according to the norms of this assigned gender. In other words, a person’s earliest education about life, feelings, communication, and sexuality is inscribed in their assigned gender role and in expectations dictated by socially and culturally dominant patriarchal systems. Since early childhood, individuals are praised or punished depending on their ability to conform to the gender role that they have been assigned, a role that is typically set in the binary of male/female.

People born with penises are taught masculinity, which entails being physically and mentally strong, not showing vulnerability, being ambitious and demanding of their desires, whereas people born with vaginas are expected to be more feminine, which would entail attributes like sensitivity, politeness, and caretaking skills. When a baby’s genitalia are “unclear”, or among intersex people, the gender is assigned based on the most logistically efficient and least intrusive surgical operation that would absorb the person back into the binary of male or female.

Within this hetero-patriarchal system, a person is expected to be able to answer the question “are you a boy or a girl?” at the age of 3 years old. This identification is expected to comply with the environment’s assumptions and is perceived as unchangeable throughout a person’s life.

## **2. Identity development theories and the trans/cis binary**

In the identity development theories that support the male/female binary, most research in psychology and social sciences has been conducted on subjects who identified with the gender assigned to them at birth – otherwise known as cisgender people. This has contributed to setting a false premise that considers cisgender people to be the majority or the “norm”. Anyone who does not fall within this gender binary is to be studied as an exceptional case. This has skewed most clinical work and literature around gender to fit into a cis-hetero-normative lens, looking at variant gender experiences (trans, non-binary, etc.) as “others” who are “different”, when in practice, gender is perceived, experienced, and embodied differently by each person. Much like every other aspect of one’s identity, gender is learned through socialization and is expressed differently throughout a person’s life based on their self-image and interactions. This is true of both cis- and trans-gender experiences, just like the journey of exploring and shaping one’s identity is relatable to each person. Making the experience of gender embodiment exceptional to trans people is counterproductive on many levels: it tends to “other” trans people, it sheds an intrusive spotlight on their journey and bodies, and makes them an accessible topic of conversation and exploitation.

## **3. Mental health, diagnoses, and bodily agency**

The mental health field contains controversial, if not blatantly transphobic theories when it comes to tackling the needs of trans and gender-variant individuals. For example, it wasn’t until the 5<sup>th</sup> edition of the *Diagnostic and Statistical Manual (DSM)*, issued in 2013 by the American Psychological Association, that the diagnosis of “Gender Identity Disorder”(GID) was removed for implying that transness and gender variance were personality disorders. Because of its widespread influence, the DSM is referred to as psychiatry’s “bible” in most medical circles, including Lebanon. It is periodically revised and taught in most schools of mental health as the primary guide for practitioners to

diagnose psychological disorders or mental illnesses, based on which they suggest the most suitable course of action for the patient's treatment, leading to their recovery or psychological relief. In the 5<sup>th</sup> edition of the DSM, GID was replaced by the diagnosis of Gender Dysphoria. For a person to be diagnosed with Gender Dysphoria, they need to show clear signs that they do not identify with the gender they were assigned at birth, but they also need to report clinically significant distress or suffering. In this revised edition, gender variance is no longer viewed as an illness or a disorder in and of itself. Rather than seeking to treat the discrepancy between the person's self-identification and the gender assigned to them at birth, mental health practitioners focus on relieving the person from the suffering that might come from the alienation and oppression that they are subjected to as a result of this discrepancy. In the explanation of Gender Dysphoria by the journal of the American Psychiatric Association, it is explicitly said that:

“The presence of gender variance is not the pathology but dysphoria is from the distress caused by the body and mind not aligning and/or societal marginalization of gender-variant people.”<sup>12</sup>

The establishment of such a diagnosis in the DSM allows mental health professionals to study gender from a holistic point of view while recognizing that it is shaped by internal and external factors relating to the individual. Ideally, it invites service providers to look further into issues and difficulties specific to gender-variant experiences in order to supply their patients with the most effective care. While there are notable improvements from the previous pathologizing of these gender experiences, gender-variant people in some countries such as Lebanon, who do not suffer from any psychological distress still need to seek psychiatric counselling before moving forward with any medical or legal procedures that they might desire. By making the psychiatric diagnosis a necessary step for gender-variant people to embody their genders as they see fit, the psychiatric field strips them of any agency over their bodies. In that sense, the diagnosis of Gender Dysphoria and its role remain by-products and perpetuations of transphobia and othering. Many trans activists and other professionals working on trans issues further argue that although this diagnosis has positive aspects, it remains limiting as it still focalizes issues of gender and causes of distress on the person themselves and their shortcomings in social adaptation, rather than on the oppressive and unfair cultural and social expectations and discriminations that they might endure<sup>13</sup>.

#### **4. Gender embodiment and psychiatric assessment in the Lebanese context**

Lebanon's mental health field is not immune to transphobia and the pathologizing of gender-variant people. If anything, the deficiencies in handling trans and gender issues are exacerbated by insufficient local literature and research regarding gender and sexuality, as well as by the inability or unwillingness of some Lebanese practitioners to operate outside of a cis-hetero-normative perception of the psyche. Some practitioners follow the theories that suggest that sexual identity is formed throughout a person's early life and is fixed during early adulthood, thus they encourage cis-heterosexual behaviors in their patients in order to promote what they believe is a healthy choice

12- *Gender Dysphoria Diagnosis*. TGNC Guide. (n.d.). <https://www.psychiatry.org/psychiatrists/cultural-competency/education/transgender-and-gender-nonconforming-patients/gender-dysphoria-diagnosis>.

13- A. Istar Lev, "Gender Dysphoria: Two steps Forward, One Step Back",



for them. This rigidity is also perpetuated among cis-gender people at times where gender roles and norms prevail over a person's interests and comfort. A person's culture, surroundings, religious background and other systems people are born and raised in expect them to grow into a certain image that, if defied, can have severe consequences on the person. (See paper by Chris Maaraoui)

During the research done by the Tajassod Working Group in Qorras in 2020-2021, Wissam recounted his experience dealing with a mental health provider to get his medical report stating the "Gender Identity Disorder" diagnosis: "There was a huge emphasis on fitting into the binary, on being compliant to nature, and on how much I embrace my manhood and reject my femininity and hate it. There was a lot of focus on self-hate and bodily hate. For someone who was experiencing this for the very first time, it was confusing to hear a mental health provider insisting on this approach, not caring if it triggers any other mental health issues. In addition, the hyper-focus on the person's relationship with their gender and their body was from a purely "trans" point of view and completely isolated them from their environment and their context. [...] Practitioners subtly enforce the concept of being "compliant to nature". I see that this has a lot to do with the concept of "legitimacy": in order to have legitimacy you have to exert the "natural" behaviour of the desired gender so that it doesn't go against the guidelines of the DSM. Otherwise, you could hinder the chances of starting your transition process."

Although the Lebanese legal system does not criminalize gender embodiment surgeries (See paper by Youmna Makhoul and Maya Dghaidy), such procedures require a person to go through a psychiatric assessment prior. According to Dr Hala Kerbage<sup>14</sup>, this evaluation seeks to assess two main aspects:

**whether the person can give informed consent** –i.e., that they are not in a state of psychosis nor are they delusional, that their decision is firm and stable in time, and that they understand the risks and consequences of their decisions

**and whether they are clearly expressing gender incongruence** – in other words, not conforming to the gender they were assigned at birth. The assessment further allows the psychiatrist to ensure that the individual is emotionally stable before undergoing gender embodiment procedures. In the event where they are emotionally unstable, the psychiatrist accompanies them until they reach a stage where they are capable of decision-making.

According to Dr Kerbage, there are two ways a person ends up before her for psychiatric assessment. The first path is when they are referred by the person's surgeon or endocrinologist in the case of surgical interventions or hormone therapy respectively. In these cases, the evaluation is completed in two sessions. Even if there are no prior mental health concerns, individuals going through this process should be prepared for it as it relates to their identity.<sup>15</sup>

The second path is when the person is seeking support for other mental health concerns, such as depression, and ends up disclosing their gender incongruence during their treatment. In this case, the assessment is not necessary and remains a suggestion for the patient should they need it, as it was not their main concern when they first came for psychiatric consultations. Once the assessment

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14- Interview with psychiatrist Dr Hala Kerbage, by author, September 2020

15- Interview with psychiatrist Dr Hala Kerbage, by author, September 2020

is completed, the report is handed in person to the patient who can look at it, approve it and sign a receipt.

Although most people who have gone through this process have found it intrusive and unfair, Dr Kerbage for her part believes that when done with the right mental health professional, the evaluation allows the person to self-reflect and visualize how this process fits into their narrative. However, given the complete absence of standardized guidelines for this evaluation, and the difficulties for trans people in accessing mental health providers, finding the right psychiatrist might be very hard -if not impossible- for most people.

## **5. Accessibility and quality of mental healthcare in Lebanon**

Mental healthcare in Lebanon generally is still seen as a privilege rather than a right, considering the very high cost of treatment relative to the average income, and the localisation of most mental healthcare services in Municipal Beirut and Greater Beirut areas. Psychological follow up is not (or rarely) covered by social services, as it is not deemed a priority healthcare issue.

However, even when a person is privileged enough to have access to mental health services, they are still at risk of being exposed to unprofessional staff and transphobic responses. Several testimonies have been given by trans and cis people alike on experiences of transphobia, homophobia, sexism and misogyny. Yet such reports remain on a level of hearsay as they are rarely documented in a systematic manner. Gender-variant migrants, refugees and undocumented persons in Lebanon are particularly vulnerable in this system. Their refugee status causes many added challenges and barriers to their daily lives, and no clear feedback has ever been reported regarding the quality of the services tackling them specifically. Service providers and organizers need to conduct extensive and continuous research to assess the attitudes and efficiency of mental health professionals when it comes to the treatments available to people questioning or exploring their gender.


Lebanon still lacks a clear structure for the evaluation and accountability of mental health professionals and the quality of their services. Mental health schools in Lebanon lack any specialized training in gender identity development, leaving it up to practitioners' personal will to seek information and train themselves on the matter. Alternatively, professionals discussing issues of gender with their clients tend to base their intervention on general and sometimes outdated theories or on personal experience, which affects the quality of the service and risks breaching clinical ethics and professional boundaries. In the absence of a clear reporting structure, the experiences and feedback of service-users who choose to access mental health services should be highlighted and used for the betterment of the field.

### **Conclusion**

Research on trans experiences is rarely trans-led, which further grows the gap between the realities of trans needs and how they are represented and addressed. As mentioned by the Steering Committee leading the research in the Tajassod Working Group, the community has been exhausted by repeated data extraction by different organizations, with little being done to better the situation of the trans community in Lebanon. This highlights the importance of developing more collaborative approaches, which we attempted to do through this paper. That being said, this paper can only attempt to scratch the surface of what remains to be done in order to leave room for trans people to

have agency over their own narrative. The narrative around trans experiences in mental healthcare remains in the hands of professionals who have historically given trans voices little to no contribution in the theories and practices developed about their psychosocial experiences. Proper documentation and trans-led research and publications have become a necessity in the fight for accountability and reform. It is time for cisgender professionals and scholars to listen to the experiences and needs of gender-variant people, rather than reiterate a generic discourse that is based on stereotypes and lacks any relevance to the local context.

Mental health theories and diagnoses revolving around trans people remain benchmarked to the experiences of cisgender people, and fail to recognize that gender development and embodiment are processes experienced by everyone. The diagnosis of gender dysphoria cannot be synonymous to gender-variance as it risks shifting attention from the structural violence causing this dysphoria, and contributing to the false assumption that all trans people are dysphoric. A person should be free to seek the psychological care or mental health service of their choice without being forced into it by the state or the mental health field. As long as a mental health assessment is compulsory for a person's embodiment process, the lives of trans people remain subjected to scrutiny and even oppression by their service providers.



# The Lebanese Law and Trans Individuals

**Youmna Makhlouf and Maya Dghaidy**

**Lebanese laws** make no mention of gender. Instead, they refer to a person's biological sex. Like other clauses of personal status records, sex has legal importance because of its role in regulating the relations of individuals among each other and their relationship with the state. This role is highlighted in various Lebanese legislations.

The mention of sex on identification cards or documents has legal repercussions on an individual's personal liberties, as well as on the rights and duties imposed by the law. The Lebanese Constitution stresses on the general principle of equality in Article 7, however it does not explicitly address the principle of gender equality. Yet, Lebanese Statutory Law gives great and direct importance to sex. Most notably, the Lebanese Nationality Law only allows males to grant Lebanese citizenship to their foreign wives and children. As for females, they were deprived of this right: Lebanese mothers still struggle to pass their nationality on to their children and foreign husbands.

When it comes to penal laws, some of them aim to protect girls and women – such as the Law on the Protection of Women and Other Family Members from Family Violence (Law No. 293/2014) – while others are unfair to women – such as Article 562 of the Penal Code, which reduces the penalty for so-called “honor crimes”.

The legal importance of sex is also highlighted in personal status laws on various levels. Most important in this regard is the minimum legal age for marriage, which differs between males and females, and is set differently by each religious sect according to its beliefs. Also, the principle of polygamy in Islamic sects is restricted to males. Additionally, the guardianship of children is granted to males by law, while the right of custody is given to females under specified and strict conditions. With regard to the right of inheritance among Islamic sects, the rights of female heirs differ from those of males. The legal importance of sex extends to the Labor Law as well, which prohibits

females from engaging in some professions which are considered arduous or dangerous.

In recent years, the concept of gender began to emerge in judicial decisions, where judges relied on the gender identity and social reality of the individual in order to decide on their request for changing their legal sex. It is worth mentioning that this situation applies to Lebanon and Arabic-speaking countries in general, as well as other countries around the world. However, the findings of this study are specific to the Lebanese context.

## 1. Legal Status of Trans Individuals

The term “trans” refers to people whose gender identity and/or gender expression differs from the sex they were assigned at birth.<sup>16</sup> When it comes to the legal reality of trans individuals in Lebanon, there are no legislations, regulations or policies concerned with their protection. However, the legal recognition of sex/gender change has become commonplace by jurisprudence. Despite this recognition, the legal status of trans individuals remains precarious in the absence of any legislations, regulations, or policies that address them. Thus, gender fluidity cannot be accounted for in practice, even if more people have come to understand or treat trans individuals without discrimination. In fact, statutory laws, or legal texts, do not explicitly recognize trans individuals. Rather, they acknowledge trans individuals indirectly by making it possible for them to modify their legal sex, and to register it officially. Therefore, legal recognition to change the sex mentioned in personal status records is solely based on jurisprudence, where decisions are made on a case-by-case basis. Even though the expression of gender identity is not directly criminalized in Lebanese legislation, trans individuals are subject to legal prosecution and therefore to indirect criminalization, as we will highlight in the third section of the study.

During prosecutions, arrests, and investigations, trans individuals are subject to discrimination, and sometimes to harassment by those entrusted to protect society such as police officers. However, they fear resorting to the judiciary and are thus denied access to justice. The main reason for this discrimination is the discrepancy between what is mentioned in identification papers and the outward appearance of trans individuals before or during their transition. After transition, legal discrimination tends to be negligible while other difficulties arise, for example when applying for formal jobs or to the military, where the concerned authorities conduct a social and behavioral investigation of the applicant, in addition to medical examinations that disqualify people who have undergone major surgeries. In this regard, it is also worth mentioning that authorities conduct a medical examination to “ensure” that the applicant is not homosexual (even when this is considered not possible scientifically or through a medical examination). This reality, however, does not fully apply to the private sector, which may be more flexible, open, accepting of others and respectful of personal rights scientifically or through a medical examination). This reality, however, does not fully apply to the private sector, which may provide flexibility, openness, acceptance of the other and respect for their rights, if the trans person had the chance to work in it.

The discrimination that trans individuals face – whether from the police and security forces, or

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16- Altilio, Terry; Otis-Green, Shirley (2011). *Oxford Textbook of Palliative Social Work*. Oxford University Press. Page 380. ISBN 978-0199838271. Originally achieved, December 1, 2016. “Transgender” is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth (Gay and Lesbian Alliance Against Defamation [GLAAD], 2007)

from other members of society – is mainly due to the absence of laws and policies aimed directly at protecting human rights and civil liberties, and particularly the rights of trans individuals, and at guaranteeing that they are not discriminated against socially or institutionally. In practice, it tends to be difficult to prove that discrimination has occurred on the basis of gender expression or gender identity when it comes to employment or accessing services. Yet, as a result of discrimination in employment, some trans individuals resort to sex work, which exposes them to criminal prosecution and imprisonment.

As for the judicial rulings that recognized the legal change of gender, they were based on principles of non-discrimination and on the right of trans individuals to obtain their full economic and social rights. In the absence of legislation and regulations that protect and guarantee the rights of trans individuals, the legal recognition to change the sex mentioned in identification documents may contribute to facilitating some administrative and social matters. However, it does not guarantee, for example, trans individuals' right to healthcare related to transition, or their right to a family or marital life, or the right to religious marriage as long as there is no civil marriage in Lebanon.

## **2. Accessibility of Trans Individuals to their Basic Rights**

One of the primary forms of discrimination against trans individuals undermines their right to access healthcare, as laws, regulations and policies do not cover healthcare services related to transition. According to the Ministry of Health, there is no ministerial policy that recognizes cases of transition. Therefore, the ministry does not cover any medical procedure related to gender embodiment. Similarly, private health insurance companies do not cover these procedures, and consider them treatments for mental disorders and/or cosmetic treatments.

Trans individuals who are not formally employed do not benefit officially from the services of the National Social Security Fund. As for the State Employees' Cooperative, it has its own laws and regulations and may cover some medical procedures if it considers them necessary. In light of the difficulty of accessing formal employment in Lebanon, especially for trans individuals, many of them are forced to resort to informal work - specifically sex work for some of them - in order to secure the costs of healthcare services throughout their transition. It is worth mentioning that a number of trans individuals residing in Lebanon are of other nationalities. Some of them are here temporarily, while they await to be granted asylum in other countries through the United Nations relocation program – a process that may take months and sometimes years. In this case, the person's legal status does not allow them to access formal employment, which exacerbates the difficulties.

Trans individuals in Lebanon are also deprived of their right to marriage and family. Lebanon recognizes civil marriages between a man and a woman when they are registered abroad. However, it is still in discussion whether the Lebanese state would recognize a marriage between two people legally registered as having the same sex at birth in Lebanese civil records – that is, if one of the spouses is of Lebanese nationality and has corrected their legal sex. For correcting the sex at birth in identification papers does not cancel out the previous data. Rather, the information remains in the individual's personal record, and the amendment of the legal sex is mentioned in the archives. Access to these records is available only to the individual personally concerned or through a

power of attorney specific to this regard. As for marriage under Lebanese law, religious sects are concerned with regulating marriage, adoption, and inheritance in the absence of a civil marriage law. Accordingly, the question remains around the ability of trans individuals who have obtained legal recognition of sex/gender change to enter a religious marriage with a person of the same sex at birth, given that these marriages are subject to the conditions imposed by religious authorities.

### 3. Unlawful criminalization of trans individuals

Expressing gender identity in Lebanon is not a criminal act, but in practice, some trans individuals are indirectly criminalized. Trans individuals who haven't undergone sex reassignment surgery or obtained legal recognition of their sex/gender are subject to prosecution and conviction on the basis of Article 534 which criminalizes "all intercourse contrary to nature", and of Article 521 which prohibits men from disguising themselves in women's clothing and entering places designated for women. Although the condemnation and criminalization in this article is based on the existence of spaces dedicated only to women (such as a nightclub or a beach), these places, despite being assigned to a specific group of people (in this case, women), remain public, accessible, or visibly exposed. The interpretation of the material and moral elements of this criminal act is subject to the judge's viewpoint and their contribution to implementing the provisions of the article at hand. It should be noted that the criminalization on the basis of this article is not limited to sex workers, but also affects all trans individuals.

In addition, out of fear from security checkpoints, many trans people prefer to carry identification papers that belong to siblings or relatives who share the person's gender expression. This exposes them to legal prosecution based on Article 469, which criminalizes

"whoever submits false identity to a public authority with the intent to gain benefit for themselves or for others, or with the intent of harming the rights of a person, shall be punished by imprisonment from two months to two years, in addition to the criminal penalties they may face in the event of their complicity with a public official";

However, trans individuals who carry identification papers belonging to relatives do not intend to harm or bring benefit to anyone. Rather, their main goal is to avoid questions related to the discrepancy between their outward appearance and their identification documents. In spite of this, and until the absence of intention is proven before the ruling judge and the person's innocence is declared, it remains possible for trans individuals to be prosecuted by the prosecution court.

In addition to all the above, there are many other charges, such as assaulting a security officer, for example, with which trans individuals can be prosecuted, even in the absence of any element of proof in some cases. But at the same time, some live testimonies show a kind of judicial fairness to trans individuals through rulings that acquit them of crimes that the judge sees as empty allegations. For example, given the legal approaches related to Article 534 mentioned above, it is clear that some judges considered sexual relations between individuals of the same biological sex to be a form of intercourse contrary to nature, while other judges considered them relations between consenting individuals, distinct from their biological sex, which fall within the exercise of an



individual's right and personal freedom, calling for the recognition of gender identity on the basis of the person's experience. Here, we must highlight the importance of sensitizing and training judges to deal with cases of trans individuals and their situation. The higher the level of awareness and guidance among judges, the better their understanding of trans people and their situation, which may reduce their conviction for unfair or unjust reasons.

#### **4. Obstacles to accessing justice**

Despite all the hindrances that trans people face and the legal violations of their basic rights, and despite the importance of resorting to the judiciary to settle their situation, protect themselves, or seek justice and retribution from those who abused or discriminated against them, most trans individuals are often reluctant to turn to court and file the necessary lawsuits and complaints because they fear possible abuse and discrimination from police officers during investigations. It is clear from the testimonies of many that they experience sexual and physical violence and extortion because of their identity, and they fear persecution if they engage in legally prosecuted sexual activities. As for non-Lebanese trans people, they fear imprisonment or prosecution if they go to court to file a complaint.

It is worth mentioning that when a trans person commits a crime or when they are arrested, they are referred for investigation. In some cases, it was noted that investigation records contained information that differed from the statements made by the trans individuals being investigated. Other documented cases include torture and abusive circumstances and methods of investigation.

One of the most significant obstacles facing trans individuals remains the difficulty of obtaining identification papers that match their expressed gender. There are many recorded cases of refusal to issue personal civil records (ikhraj qaid fardi) for trans individuals who did not apply for legal recognition of sex/gender change. Sometimes, civil servants refuse all related requests (such as the issuance of a passport or an ID card) because the recent photograph of the person does not match the sex at birth specified in official records.

#### **5. Treatment in prisons and detention centers**

The laws regulating prisons, detention centers, and institutions for the rehabilitation and education of juveniles do not include any measure that takes into account the situation of trans individuals. In the absence of such measures, trans individuals who have not obtained a court ruling recognizing their expressed gender are held in prisons on the basis of their sex at birth. In police stations, the decision is usually made on a case-by-case basis. Trans individuals are often subjected to harassment and aggression from the moment they are detained and arrested, and leading up to their interrogation in security centers, at the hands of security officers or other detainees. This reality applies to the arrest of trans individuals in general, as well as in prisons, where they are subjected to harassment and discrimination by other prisoners. Many testimonies document these violations, whether in detention centers or prisons. However, other testimonies have indicated better treatment, which reflects a development in public awareness, and may be the result of training police department personnel on issues related to trans people.

## 6. Basic Recommendations to Ensure the Protection of Trans Individuals' rights

The suffering experienced by trans individuals because of the discrimination practiced against them must receive the attention of those concerned in order to take the necessary measures to put an end to these practices, each within the limits of their competence: the parliament must make the necessary legal amendments, while the Ministry of Health and the Social Security Fund must guarantee the right of trans individuals to benefit from healthcare services related to transition procedures and gender correction and reassignment surgeries; as for internal security forces, they must adopt a specific policy for officers dealing with trans individuals and train them on issues related to trans identities, in addition to activating behavioral accountability and publishing the provisions related to the accountability of members of public security forces who are in violation. The role of judges is also essential in rendering fair sentences to trans individuals, especially criminal judges. Therefore, it is necessary for the judicial institute to train judges and invite them to attend workshops that bring them closer to the views of marginalized groups and the discrimination they face. Awareness must also be spread in the Bar Association by organizing lectures for working and training lawyers to help them better understand the reality of trans individuals, and better communicate their issues to the prosecution and trial judges, enabling them to prove their non-criminal intentions in the crimes attributed to them and referred to in the previous sections.

What we have stated above generally applies to trans individuals of Lebanese or other nationalities. However, the situation of non-Lebanese trans people is significantly worsened by additional legal and social obstacles that expose them to more discrimination and greater harm. This is a result of the laws relating to refugees, migrant workers or foreign residents in Lebanon, and of the unfair decisions issued against them by the judiciary and security forces. These decisions are not always subject to judicial oversight (for instance, decisions taken by the General Security Directorate to immediately deport persons without referring to the judiciary or even waiting for a verdict). As such, a non-Lebanese person may be punished, and the punishment is executed without a trial, through an administrative decision instead. Working on developing laws related to foreigners in general and eliminating forms of discrimination against them may reduce the impact of the injustice being practiced against them in Lebanon, and this applies to foreign trans individuals residing here.

Finally, the elimination of all types of discrimination against trans individuals and giving them justice begins with eliminating discrimination against all members of society and establishing effective equality between men and women and people of different gender identities in Lebanon, by adopting a civil system that is not based on gender segregation, and by working to unify personal status provisions in a civil law based on the principles of justice, fairness, and true equality. On the other hand, abolishing all forms of discrimination based on individuals' gender identity makes the mention of sex/gender in identification papers obsolete legally or socially. This opens the door to abolishing the mention of sex altogether in personal documents and identification papers.

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