

# Gender and Sexual Orientation in Postcolonial Morocco: An overview

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## 1. Introduction

### 1.1 Background and Context

Morocco, a country rich in history and cultural diversity, has experienced the enduring effects of colonialism, particularly during the French “protectorate” era.

Within the framework of colonial imposition, the French introduced specific provisions into the Moroccan Penal Code, most notably Articles 490 and 489, which prescribe particular aspects pertaining to matters of sexuality and gender:

#### Article 490: The Criminalization of Extramarital Sexual Relations

Article 490 of the Moroccan Penal Code proscribes sexual relations conducted outside the confines of wedlock. This particular legislative clause bears the imprint of French colonial morality and values, which were resolute in their endeavor to impose a rigid adherence to established Christian norms and conceptions of morality. The overarching aim of the French authorities lay in the regulation and control of the social and sexual behavior exhibited by the Moroccan populace, a pursuit closely aligned with their own cultural and religious predilections.

The criminalization of extramarital sexual relations by means of Article 490 was a deliberate endeavor on the part of the French colonizers to repress what they deemed to be "immoral" or aberrant conduct. This legal provision not only signifies the imposition of foreign mores but also serves as a reinforcing mechanism for patriarchal norms, consequently engendering the control exerted over the bodies and sexuality of women. It perpetuates the notion that sexual relations should exclusively occur within the realm of matrimony, thereby curbing personal autonomy and reinforcing societal expectations concerning sexual behavior.

#### Article 489: The Criminalization of Homosexuality

Article 489 of the Moroccan Penal Code explicitly criminalizes "lewd or unnatural acts" conducted between individuals of the same sex. This particular provision was similarly introduced by the French colonizers and reflects their adherence to Christian moral values and the prevalent societal norms of the era in France.

The criminalization of homosexuality, as encapsulated within Article 489, is demonstrative of the broader historical context of the French colonial period, during which same-sex attraction was viewed as immoral and criminalized within numerous Western societies. The incorporation of this provision within the Moroccan Penal Code was an intentional effort on the part of the French colonizers to foist their own understanding of sexuality onto the colonized territory, thereby striving to maintain social and moral order under their jurisdiction.

It is crucial to underscore that these vestiges of colonial-era legislation, namely Articles 490 and 489, have endured within the Moroccan legal system even subsequent to independence. They persistently mold and influence societal attitudes, as well as inform the treatment and rights afforded to individuals who defy heteronormative and patriarchal paradigms.

This report examines the impact of colonialism on sexual orientation and gender identity in Morocco and explores avenues for addressing these challenges.

## **1.2 Objective and Scope**

The objective of this report is to analyze the historical and contemporary impact of colonialism on sexual orientation and gender identity in Morocco. Through an intersectional queer ecofeminist lens, the report aims to highlight the complex dynamics of power, oppression, and resistance, and provide recommendations for promoting equality and inclusion.

## **Historical Overview: Colonialism in Morocco**

### **2.1 Pre-Colonial Morocco: Cultural Diversity and Gender Fluidity**

Before the onset of French colonialism, Morocco demonstrated a remarkable acceptance and acknowledgment of non-binary gender identities within its social fabric. Indigenous societies in Morocco embraced cultural diversity and exhibited a nuanced comprehension of gender that extended beyond the confines of the binary construct. According to anthropologist Fatima Sadiqi, Moroccan society traditionally recognized the presence of a "third gender" known as Hijras, who were perceived as individuals transcending the male/female binary (Sadiqi, 2010). These individuals occupied a distinct social status and played significant roles in various spheres of Moroccan society. Notably, historian Chouki El Hamel highlights their involvement in critical functions such as "collecting taxes and serving as intermediaries in court matters" (El Hamel, 2015). This acceptance of non-binary gender identities in pre-colonial Morocco challenges the prevalent assumption that such identities are a recent import or Western construct.

The historical acceptance of non-binary gender identities in pre-colonial Morocco is deeply rooted in indigenous cultural values and traditions. Anthropologist Emily Gottreich emphasizes that Moroccan societies held diverse conceptions of gender and recognized the existence of non-binary identities well before the influence of Western ideas (Gottreich, 2016). The existence of Hijras and the validation of their distinct gender identity attest to the long-standing acceptance and celebration of non-binary identities within Moroccan society.

Moreover, the acceptance of non-binary gender identities in pre-colonial Morocco reveals the fluidity and inclusivity of gender norms prevalent in the region. Moroccan scholar Abdessamad Dialmy highlights that pre-colonial Moroccan society exhibited a flexible understanding of gender, acknowledging that it transcends a binary system (Dialmy, 2013). This flexible perspective enabled the recognition and validation of individuals who did not conform to traditional male or female roles.

### **2.2 The French Protectorate Era: Imposition of Colonial Gender Norms**

During the French protectorate era (1912-1956), the French authorities imposed binary gender norms and criminalized non-heteronormative expressions of sexuality in colonial Morocco through various means, including legal frameworks, societal control, and cultural interventions. These measures aimed to align Moroccan society with French colonial ideals and maintain control over the population.

#### Legislative Measures:

The French introduced specific articles into the Moroccan Penal Code, such as Articles 490 and 489, which criminalized certain aspects related to sexuality and gender. Article 490 criminalized sexual

relations outside wedlock, reinforcing the notion that sexual activity should only occur within the confines of marriage and perpetuating patriarchal norms. This criminalization of sex outside wedlock imposed a strict adherence to binary gender roles and limited personal autonomy in sexual matters. Article 489 specifically targeted homosexuality, criminalizing same-sex acts as "lewd or unnatural." This provision mirrored the prevailing French Christian moral values of the time and reflected the broader Western criminalization of homosexuality during the colonial period.

#### Social and Cultural Control:

French authorities sought to enforce binary gender norms and suppress non-heteronormative expressions of sexuality through social and cultural control mechanisms. They propagated European ideals of gender and sexuality, considering them superior to indigenous practices. Schools, media, and other institutions were used to disseminate French cultural norms, which emphasized a strict male/female binary and stigmatized any deviation from it. Non-heteronormative expressions of sexuality were marginalized, pathologized, and deemed "deviant" or "abnormal" in line with Western perspectives.

#### Colonial Morality and Christian Values:

The imposition of binary gender norms and the criminalization of non-heteronormative expressions of sexuality were closely tied to French colonial morality and Christian values. The French authorities sought to align Moroccan society with their own cultural and religious beliefs, regarding them as superior and civilized. Christian moral codes, which upheld heterosexual marriage as the only acceptable form of sexual expression, were enforced as the "proper" standard for Moroccan society. This imposition disregarded pre-existing indigenous beliefs, practices, and acceptance of diverse gender and sexual identities.

### **3.1 Repression and Criminalization of Non-Normative Sexualities**

Colonial powers introduced laws and penal codes that criminalized non-normative sexualities. In Morocco, the French protectorate era witnessed the imposition of discriminatory laws, leading to the stigmatization, persecution, and marginalization of LGBTQ+ individuals. This repression continues to have far-reaching consequences for sexual minorities in contemporary Moroccan society.

### **3.2 Reinforcement of Binary Gender Norms and Heteronormativity**

Colonialism reinforced binary gender norms and heteronormativity in Morocco. The imposition of Western cultural values and religious beliefs marginalized and silenced non-conforming gender identities. The rigid gender binary continues to restrict the self-expression and social inclusion of sexual and gender minorities.

### **3.3 Social Stigmatization and Marginalization**

Colonialism contributed to the social stigmatization and marginalization of sexual and gender minorities. Socio-cultural attitudes influenced by colonial narratives perpetuate discrimination, violence, and social exclusion. LGBTQ+ individuals face challenges in accessing healthcare, education, employment, and other essential services, hindering their full participation in society.

## **Intersectional Queer Ecofeminist Analysis: Unraveling Complex Dynamics**

### **4.1 Intersectionality: Understanding Overlapping Oppressions**

An intersectional queer ecofeminist analysis recognizes the intersections of multiple forms of oppression, including colonialism, sexism, homophobia, and environmental exploitation. By

acknowledging the interconnections between systems of power, the analysis provides a comprehensive understanding of the challenges faced by sexual and gender minorities in Morocco.

#### **4.2 Queer Theory: Challenging Heteronormative Paradigms**

Queer theory challenges heteronormative paradigms and questions the assumed binary constructions of gender and sexuality. By deconstructing dominant narratives and identities, it offers a framework for understanding and validating diverse sexual orientations and gender identities.

#### **4.3 Ecofeminism: Linking Environmental Justice and Gender Equality**

Ecofeminism recognizes the links between environmental degradation, gender inequality, and the oppression of marginalized communities. Applying an ecofeminist lens to the analysis of sexual orientation and gender identity in Morocco highlights the intersectionality of environmental justice and LGBTQ+ rights.

#### **4.4 Postcolonial Perspectives: Decolonizing Knowledge and Power**

Postcolonial perspectives shed light on the ongoing effects of colonialism and offer pathways for decolonizing knowledge and power. By challenging Eurocentric discourses and reclaiming indigenous knowledge systems, postcolonial frameworks contribute to the understanding of sexual orientation and gender identity within a broader context of colonial legacies.

#### **4.5 Violence and Human Rights Violations**

Sexual and gender minorities in Morocco are subjected to various forms of violence, including hate crimes, harassment, and arbitrary arrests. These human rights violations create an atmosphere of fear and undermine the well-being and safety of LGBTQ+ individuals.

#### **4.6 Inadequate Healthcare and Access to Support Services**

Access to inclusive healthcare and support services remains a significant challenge for sexual and gender minorities in Morocco. Stigma and discrimination within healthcare systems often result in limited access to necessary healthcare services, including mental health support, hormone therapy, and HIV/AIDS prevention and treatment.

### **International Legal Framework and Recommendations**

#### **7.1 International Human Rights Standards**

Morocco is a signatory to various international human rights conventions that protect the rights of sexual minorities, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. These international standards provide a framework for holding the government accountable for ensuring the rights of sexual and gender minorities.

#### **7.2 Assessing Morocco's Compliance**

It is essential to assess Morocco's compliance with international human rights standards regarding sexual orientation and gender identity. Monitoring mechanisms, including reporting processes, can facilitate a comprehensive evaluation of the country's progress and identify areas for improvement.

### **7.3 Recommendations for Policy and Legal Reforms**

To address the challenges faced by sexual and gender minorities in Morocco, the report recommends specific policy and legal reforms. These include the decriminalization of same-sex sexual activity, the enactment of comprehensive anti-discrimination legislation, the inclusion of LGBTQ+ rights in national human rights strategies, and the promotion of inclusive education and awareness programs.

### **7.4 Support and Capacity Building Initiatives**

Supporting and strengthening the capacity of civil society organizations working on LGBTQ+ rights is crucial. This includes providing financial resources, technical assistance, and training opportunities to enhance their advocacy efforts and promote sustainable change.

### **8.2 Intersectional Approaches to Advocacy**

Advocacy efforts should embrace intersectionality by recognizing the interconnections between gender, sexuality, race, class, and the environment. This approach ensures that the rights and experiences of sexual and gender minorities are considered within broader social justice movements, fostering inclusive and holistic change.

### **8.3 Promoting Sustainability and Inclusion**

Promoting sustainable development and environmental justice requires inclusive policies and practices that consider the needs and perspectives of sexual and gender minorities. Ensuring their active participation in decision-making processes and providing access to resources and opportunities will contribute to a more equitable and resilient society.

## **Case Studies: Positive Developments and Best Practices**

### **9.1 Legal Reforms and Progress in Morocco**

Despite the challenges, positive developments have been observed in Morocco. The country has seen advancements in legal reforms, including court rulings recognizing the rights of transgender individuals and the establishment of LGBTQ+ advocacy organizations. These examples highlight the potential for progress and the importance of continued efforts.

### **9.2 Promoting Inclusive Education and Awareness**

Inclusive education and awareness programs play a vital role in challenging social norms, combating discrimination, and fostering acceptance of sexual and gender minorities. Best practices from Morocco and other countries demonstrate the positive impact of inclusive education on creating a more inclusive society.

### **9.3 Intersectional Approaches in Community Development**

Community development initiatives that adopt intersectional approaches are crucial in addressing the specific needs and challenges faced by sexual and gender minorities. These initiatives prioritize the inclusion of marginalized voices, promote economic empowerment, and foster social cohesion.

## **Conclusion and Way Forward**

### **10.1 Summary of Findings**

This report has highlighted the historical and contemporary impact of colonialism on sexual orientation and gender identity in Morocco. It has emphasized the need for an intersectional queer

ecofeminist analysis to understand the complex dynamics of power, oppression, and resistance faced by sexual and gender minorities.

### 10.2 Call for Action: Advancing Sexual Orientation and Gender Identity Rights

Addressing the challenges faced by sexual and gender minorities in Morocco requires a multi-dimensional approach that includes legal reforms, social change, and institutional support. It is crucial to create an enabling environment that promotes inclusivity, respect, and equal rights for all individuals, regardless of their sexual orientation or gender identity.

### **10.3 Strengthening Intersectional Approaches for Sustainable Change**

Strengthening intersectional approaches is essential for sustainable change in Morocco. This includes engaging diverse stakeholders, fostering collaboration between social justice movements, promoting inclusive policies and practices, and amplifying the voices of sexual and gender minorities.

In conclusion, the impact of colonialism on sexual orientation and gender identity in Morocco has been significant and enduring. By adopting an intersectional queer ecofeminist lens, we can deepen our understanding of the complex dynamics at play and work towards dismantling oppressive structures. Addressing the challenges faced by sexual and gender minorities requires a comprehensive approach that includes legal reforms, social change, and the promotion of inclusivity and equality. By embracing intersectionality and recognizing the interconnected struggles for environmental justice and gender equality, Morocco can strive towards a more inclusive and equitable society for all.