

| **مركـز عمـان****لدراسـات حقـوق الإنسـان**حاصل على وضع استشاري خاص لدى المجلس الاقتصادي والاجتماعي بالأمم المتحدة |  | ***Amman Center*** ***for Human Rights Studies***In Special consultative status with U. N. ECOSOC |
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**OHCHR Call for input**

Freedom of religion or belief & sexual orientation and gender identity

1. **What are the actual or perceived points of tension (if any) between the right to manifest one’s freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity? Are there any areas in which they are mutually exclusive?**

Points of tensions:

* Contradiction within the law and constitution
* Opposition in the law and Jordanian society/culture

In Jordan, the constitution states that the “free exercise of all forms of worship and religious rites” is guaranteed for all as long as they are consistent with public order and morality. However, “Islam is the religion of the state” meaning the islamic sharia law is strongly anchored into Jordanian culture and society, creating a point of tension that is **mutually exclusive**.

Although same-sex sexual conduct has been decriminalized by the penal code in Jordan since 1951, there is still widespread social discrimination, including harassment and violence. In the constitution, it states that the government accords primacy to the Islamic Sharia law, meaning that Sharia will prevail over any law in a situation of conflict. Because of Sharia law, “no legislation exists to protect people from discrimination on the basis of sexual orientation”[[1]](#footnote-0). A 2013 poll reveals that 97% of Jordanians believe that homosexuality should not be accepted by society. Because of this negative public perception towards same-sex relationships, many members of the LGBTQ community are forced to flee the country because of “police mistreatment and fear of their family harming them due to their sexual orientation or gender identity”[[2]](#footnote-1). In addition, “many LGBTQ citizens do not seek legal protection due to fear of discrimination from the police and courts”[[3]](#footnote-2).

Furthermore, as mentioned above, the constitution states that all forms of worship and religious rites are permitted as long as it doesn't disturb public order and morality. However, the lack of definition in “public order” and “morality” gives authorities the freedom to interpret its meaning, leading the way to abuse and social harassment - often on religious grounds.

**2) Are there any ways in which the right to freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity are mutually reinforcing?**

The right to freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity is mutually reinforcing on paper according to the constitution and law, but also exclusive at the same time because of the primacy of the Sharia law. Furthermore, general public attitude towards LGBT+ is also an issue making them incompatible.

**3) Are there examples where gender and sexual diversity has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of LGBT+ individuals, or protects LGBT+ individuals from violence and discrimination? Has this informed any legal interventions or public policies?**

No, it is actually the contrary. Religious, traditional or indigenous narratives in Jordan promote cisgender and heteronormative norms of sexual orientation and gender identity. They also tend to promote and advocate for the exclusion of LGBT+ individuals.

**4) What are the key trends or significant instances of discriminatory or abusive practices by individual providers of goods or services in the public sphere against LGBT+ and gender-diverse persons that rely on religious narratives?**

As mentioned above (question 1), same-sex conduct is decriminalized in Jordan and the “free exercise of all forms of worship and religious rites” are guaranteed as long as it doesn't affect public order and morality. However, the vague definition of law gives authorities discretion when it comes to the interpretation of “public order” and “morality” giving space for discrimination and abuse.

There are many examples of police officers and government authorities who have canceled, arrested or ordered the arrest of LGBT+ members for organizing gatherings and social events to prevent “disturbance of peace”.

* High-level Jordanians have also used inquiries to limit freedom of expression and to target LGBT+ magazines and websites. In 2017, a Jordanian MP had requested the Jordanian Media Commission to open an inquiry into the website My.Kali - a Jordanian queer-inclusive social affairs online magazine - leading to it being banned for a second time. The MP also stated that homosexuals were not welcomed in Jordan.
* The same year, Jordanian officials have also canceled a Lebanese band - whose lead singer is gay - because the group’s lyrics about sexuality were “against the religion and norms of the country”. After these events the Minister of Justice wrote an official letter stating that “Jordan has not and will never endorse any charter or protocol acknowledging homosexuals - known as the LGBT community - or granting them any rights as it is considered a deviation from Islamic Law and the Jordanian Constitution”. The Minister of interior also added that “Jordan has not endorsed any international agreement, protocol or pact granting rights to those who are called sexual deviants”.
* Furthermore, members of the LGBT+ community are reluctant when seeking legal protection against abuse or harassment of fear of discrimination from the police and courts. There have also been instances where the government has prevented LGBT+ citizens from founding NGOs focused on LGBT+ rights - preventing any protection or progress in this field.
* In addition, many reports and testimonies from politicians reveal that they fear addressing LGBT+ issues as it will likely lead to political backlash and a decrease in their popularity.

**5) Has the State adopted, in public policy, legislation or jurisprudence, norms purportedly based on protecting freedom of religion or belief that promote, enable and/or condone violence and discrimination against individuals based on sexual orientation or gender identity? If so, please give examples, with commentary as needed to explain context, scope, and application.**

As mentioned in question 1, “Islam is the religion of the State”, however the “free exercise of all forms of worship and religious rites” as long as they are consistent with public order and morality. This is a fundamental principle that aims to protect freedom of religion and belief, however, in practice, the Sharia law primes over other laws giving way to discrimination and violence based on religious beliefs, but also sexual orientation and gender identity.

Furthermore, in Jordan domestic violence is a huge issue and the practice of “honor killings” is common and deeply anchored into the society. Honor killings can be defined as the murder of an individual (a family member or an outsider) by someone who seeks to protect their own or their family's dignity and honor. In most cases, the crimes are related to religious beliefs and disproportionately affect women and LGBT+ members for bringing “shame” to their families.

According to the Higher Population Council (HPC), 54,743 cases of domestic violence were recorded in Jordan in 2020 - 82% of them were perpetrated by husbands towards their wives. For “honor killings”, the data is often inconsistent and incomplete, as official statistics are hard to find and in many cases unreported, however it is still widespread. In 2020, there were at least 20 honor killings in Jordan. Furthermore, according to a study conducted by Princeton University, Jordanians deemed honor killings more acceptable than homosexuality.

In order to condone these violences, the Jordanian government has increasingly criminalized honor killings and established in 2009 a special court to prosecute perpetrators of honor crimes. However, many activists argue that some laws related to domestic violence and honor killings are weak, reducing sentences for perpetrators and making it easy for them to escape punishment.

***For more information about specific laws consult:***

<https://pomed.org/until-when-honor-killings-and-other-domestic-violence-against-women-in-jordan/>

**6) Has there been any legal challenge to these policies/provisions under any domestic, regional, or international human rights provisions? If so, state the outcome and rationale of the case. If not, provide your opinions as to why such a challenge has not yet been brought.**

In Jordan the laws concerning same sex activity have been constant since 1951.[[4]](#footnote-3) According to the Jordanian law, same sex activities are legal.[[5]](#footnote-4) However, there has been no further legal development regarding LGBT+ individuals. The challenges in Jordan lie in the religion that the law is based on. According to interpretations of the Quran, freedom of sexual orientation can be viewed as a sin.[[6]](#footnote-5) Therefore, Jordan is not keen on changing the laws on the freedom of sexual orientation and gender identity. This ties in with the fact that a large majority of the country is Muslim. Therefore, achieving change in society is very difficult. As stated in previous questions, people who want to express their sexual orientation that differs from the hetronormative perspective in Jordan, can face backlash and even dangerous situations. As a result, people who want to pursue change can face harsh backlash in Jordanian society and by the authorities.

**7) Are there any examples of State restrictions based on preventing violence and/or discrimination against LGBT+ persons that prohibit or limit practices undertaken in the name of the religion or spirituality, such as public accommodation non-discrimination protections? If so, have they been legally challenged on the basis of freedom of religion or belief? If yes, explain the outcome and rationale of the case(s).**

There are no state restrictions based on preventing violence and/or discrimination against LGBT+ persons that prohibit or limit practices undertaken in the name of the religion or spirituality, so discrimination against LGBT+ persons is not prohibited.

**8) What role (if any) has the concept of conscientious objection played in limiting the full enjoyment of the right to freedom from violence and discrimination on the basis of sexual orientation and gender identity?**

Conscientious objection plays a huge role in limiting the full enjoyment of the right to freedom from violence and discrimination on the basis of sexual orientation and gender identity. Even though same sex conduct is decriminalized in the law, religion and morality influence the LGBT+ community heavily. This is seen in practice with an Islamist MP successfully objecting to an online queer-inclusive magazine.[[7]](#footnote-6) According to the minister of Interior, this is based on the idea that LGBT+ activities are a deviation from Islamic law and Jordanian constitution.[[8]](#footnote-7)

Religious and moral influence in Jordan does not only apply to the scope of press or the internet. In research conducted by the American embassy it is stated that security services arbitrarily arrested, intimidated, physically assaulted LGBT+ individuals and shut down LGBT+ events: “Authorities shut down at least two events associated with the LGBTQI+ community and arrested guests under public decency and public order laws”. One NGO was aimed on suspicion of “Satan worship”, as to justify harassing LGBT+ individuals. Moreover, LGBT+ individuals “reported their reluctance to engage the legal system due to fear their sexual orientation or gender identity would provoke hostile reactions from police, disadvantage them in court, or be used to shame them or their families publicly”. In general, LGBT+ individuals confirmed they lacked safe spaces and reported being targeted by the police.[[9]](#footnote-8)

**9) Has the scope and application of conscientious objection been sufficiently defined, limited, and/or regulated so as to strike a fair balance between manifestation of one’s freedom of religion or belief, and freedom from violence and discrimination based on SOGI? Where the doctrine is invoked to permit the withholding of goods or services to members of the LGBT+ community (such as in the context of sexual and reproductive healthcare, provision of marriage licences, access to consumer goods, etc.), do State laws provide alternative access to goods or services?**

No, as portrayed in the previous question, Islamic law and Jordanian law are arbitrarily applied to LGBT+ individuals and activities. Since there are no laws specifically protecting LGBT+ individuals from discrimination or violence, there are also not many regulations on permitting alternative access to goods or services. One of the only examples of the state providing access to an alternative service is the legal changing of name and sex for transgender people, which is decided by a judge.[[10]](#footnote-9)

**10) Where State legislation or policy requires the reasonable accommodation of religious beliefs, practices, and/or institutions, are there instances where such laws or policies limit freedom from violence and discrimination against LGBT+ and gender-diverse persons? These may include but are not limited to exemptions from non-discrimination legislation, and/or accommodations within the workplace, educational institutions, healthcare-settings, the justice system, etc. Are there reports of violence, spiritual abuse, and/or other forms of discrimination against LGBT+ and gender-diverse persons because of these practices?**

For the LGBT+ community in Jordan, there is no protection against discrimination according to the Jordanian law. As stipulated in the previous question, officially changing one's gender is possible after surgery. However, a judge has to give consent for the surgery.[[11]](#footnote-10)

Jordan is more accepting of freedom of religion. Around 95% of Jordan is muslim. However, there are also christian communities in Jordan who are accepted in Jordanian society. There are many christians in parliament that hold powerful positions as ministers.[[12]](#footnote-11) Also, the previous deputy prime minister was a Christian. These examples show the acceptance of the Christian communities.

**11) Good Practices:**

**a. Provide any examples of good practice – at the international, national or local level – where State and non-State actors (including faith leaders, groups and organisations, international organisations, civil society organisations, and the UN human rights system) have taken effective measures to protect and promote freedom of religion or belief of LGBT+ and gender-diverse persons, and made efforts to prevent, mitigate and respond to any violence and/or discrimination justified in the name of religion.**

The Rainbow Street is an organisation focused on supporting LGBT+ individuals: “Rainbow Street is an international protection organization for LGBTQ people in the Middle East & North Africa”.[[13]](#footnote-12) Rainbow Street helps LGBT+ people in the MENA region and mainly in Jordan. Rainbow Street is not officially registered in Jordan as an organisation, since regional laws make recognition difficult. Hence their headquarters are based in the US. The organisation offers 3 main manners to help people who are struggling:

**Navigation**: this helps people struggling with their identity to talk to a person that they can trust. This can be a problem, because in the Middle East not all people are comfortable talking about this topic. **Peer support**: people can talk to people who are struggling with the same issues. **Cash for shelter**: in the worst cases, where people are in danger, the rainbow organization can give money to have a safe shelter for the night.

**b. Provide any examples of measures by State or non-State actors to ensure effective participation of people with diverse gender identities and sexual orientations in religious, cultural, social, and public life. Please provide relevant examples where LGBT+ people have asserted their individual or collective rights to access (or establish) religious or spiritual frameworks and institutions.**

Examples of measures to ensure effective participation of people with diverse gender identities and sexual orientations is very difficult in Jordan. As described above, people who openly express their part in the LGBT+ community face a lot of backlash and even serious dangerous situations. Religion is fully intertwined with Jordanian society. Therefore, for people to stand up for their beliefs and rights can be very difficult and have a lot of consequences for daily life.

An example of a non-State actor ensuring effective participation of people with diverse gender identities is the queer-magazine my.Kali. My.Kali was established in 2007 by Jordanian student Khalid Abdel-Hadi. The magazine aims to address social problems and gender issues in the Arab world. In their own words: “The magazine tackles issues related to women’s rights, personal politics, gender related matters, freedom of speech, alt-communities, and new media. This allows for a window of hope where societies’ minorities can find solidarity, offering a safe atmosphere of reassurance and certainty in the midst of regional turmoil”.[[14]](#footnote-13)

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2. Ibid. [↑](#footnote-ref-1)
3. Ibid. [↑](#footnote-ref-2)
4. “View the Ratification Status by Country or by Treaty,” tbinternet.ohchr.org, accessed January 11, 2023, https://tbinternet.ohchr.org/\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=88&Lang=en. [↑](#footnote-ref-3)
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7. “Gay-Bashing in Jordan-by the Government,” Human Rights Watch, October 28, 2020, https://www.hrw.org/news/2017/08/30/gay-bashing-jordan-government. [↑](#footnote-ref-6)
8. Ghaleb Alzu'bi, accessed January 11, 2023, https://www.hrw.org/sites/default/files/supporting\_resources/letter\_from\_ministry\_of\_interior.pdf. [↑](#footnote-ref-7)
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12. “Jordan - World Directory of Minorities & Indigenous Peoples,” Minority Rights Group, November 17, 2020, https://minorityrights.org/country/jordan/. [↑](#footnote-ref-11)
13. “Rainbow Street,” Rainbow Street, accessed January 11, 2023, https://www.rainbow-street.org/. [↑](#footnote-ref-12)
14. “About My.Kali,” My Kali, January 16, 2018, https://www.mykalimag.com/en/about/. [↑](#footnote-ref-13)