

Criminalized and Marginalized: A Socio-Legal Analysis of HIV Key Populations and People Living with HIV in Egypt

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Executive Summary

This report provides a comprehensive socio-legal analysis of the systemic challenges confronting HIV Key Populations (KPs)—including sex workers, LGBTQ+ individuals, people living with HIV (PLHIV), and people who use drugs—in Egypt under the post-2013 authoritarian regime. It argues that the persecution of these groups is not an incidental byproduct of conservative social norms but a deliberate state strategy. By instrumentalizing “public morality,” the regime seeks to legitimize its rule, particularly against narratives from political Islam, and to deflect public attention from a protracted economic crisis and the mismanagement of state resources. This strategy has led to the active criminalization and marginalization of KPs, whose human rights are systematically violated to serve the state’s political objectives.

The analysis deconstructs the legal architecture of this persecution, which is built upon a web of vaguely worded and broadly interpreted legislation. The colonial-era Law 10/1961 on the Combating of Prostitution, with its gendered terms of “prostitution” and “debauchery,” serves as the cornerstone for prosecuting sex workers and for the de facto criminalization of LGBTQ+ individuals. Critically, the judiciary has actively expanded the law’s scope, with the Court of Cassation removing the need for financial proof in sex work cases, thereby transforming the law into a tool for policing any non-normative sexuality. The recent Cybercrime Law 175/2018 has shifted this persecution into the digital sphere, enabling mass surveillance and entrapment under ambiguous pretexts like protecting “family values.” Recent judicial interpretations have further escalated this trend, moving from de facto to explicit, de jure criminalization of homosexuality.

Beyond direct criminalization, the report details a system of state-sponsored discrimination and public health failures. LGBTQ+ individuals are barred from public employment, pathologized as mentally ill to avoid military service, and subjected to deportation under discriminatory migration laws. Transgender and intersex individuals face a particularly dire situation, governed by a rigid, religiously influenced health policy that distinguishes between “permissible sex correction” for intersex people and “impermissible sex change” for transgender people, effectively denying the latter access to essential gender-affirming healthcare and creating a dangerous underground market. This prioritization of “public morality” over public health is starkly evident in the state’s HIV response. Despite a rising infection rate, HIV is treated as a “non-issue,” with policy focusing on treatment over prevention and failing to address stigma. This neglect stands in sharp contrast to the state’s highly successful campaign against Hepatitis C, demonstrating that the lack of an effective HIV response is a political choice, not a lack of capacity. Similarly, drug policy has taken a punitive turn with Law No. 73/2021, which mandates the termination of public employees for drug use, officially abandoning a rehabilitative model for one of pure punishment.

In this highly constrained civic space, civil society has been forced to adopt an “advocacy inversion” strategy, shifting from direct lobbying of the state to engaging international bodies, pursuing strategic litigation, and integrating data collection into service provision. Concluding with a set of pragmatic recommendations grounded in a “Harmonization and Expansion” strategy, the report outlines a path forward for the Egyptian government, international partners, and local civil society. It focuses on achievable, incremental changes—such as expanding STI services, clarifying drug laws, enhancing data transparency, and leveraging international mechanisms—to build a foundation for improving the human rights and health outcomes for all Key Populations in Egypt.

Introduction: The Authoritarian Context and the Marginalization of Key Populations

The Post-2013 Political and Economic Landscape

The trajectory of Egypt's political and civil landscape underwent a profound transformation following the military takeover in 2013, which brought then-Minister of Defence Abdel Fattah El-Sisi to power (Farooq 2023). This event marked the end of a brief, tumultuous period of democratic experimentation and heralded the return of a deeply entrenched authoritarianism. The subsequent decade has been characterized by a systematic erosion of political and civil liberties, the dismantling of independent civil society, and the consolidation of power within the executive and security apparatuses. This regression is starkly reflected in Egypt's consistently poor performance on major international indices. The country ranks 136 out of 140 on the World Justice Project's Rule of Law Index, 131 out of 167 on the Economist Intelligence Unit's Democracy Index, and scores a mere 18 out of 100 on Freedom House's Freedom in the World index.

This political backsliding has been compounded by a protracted economic crisis, largely attributed to the mismanagement of state resources and colossal spending on mega-projects, such as the new Administrative Capital, estimated to cost 60 billion USD (Cordall 2024). The consequences for the general populace have been severe: skyrocketing inflation, a precipitous devaluation of the Egyptian Pound, and a sharp increase in the cost of living have pushed millions into economic precarity. Within this environment of shrinking civic space and deepening economic hardship, the human rights of all Egyptians have deteriorated. However, the impact has been disproportionately felt by those who were already marginalized, particularly the Key Populations (KPs) for HIV: sex workers, LGBTQ+ individuals, people who use drugs, in addition to people living with HIV (PLHIV)

The state's approach to these communities is not merely one of neglect but of active persecution. This persecution is not random; it is a functional component of the modern Egyptian state's governance strategy. By manufacturing and prosecuting moral panics, the regime accomplishes several strategic objectives. Firstly, it bolsters its own legitimacy. Having overthrown an elected Islamist government, the Sisi regime faces a persistent challenge from political Islam, which frames it as an immoral, anti-Islamic institution (Noralla 2023a). To counter this narrative, the state has engaged in a protracted moral campaign, positioning itself as the guardian of traditional Egyptian and Islamic values. Targeting KPs, who are already subject to significant social stigma, is a low-cost, high-visibility method of performing this role. This is evident in public statements from high-ranking officials, such as the Justice Minister's 2023 declaration that a family consists «only of a man and a woman» and that any other relationship would be legally punished (Bawabat Al-Ahram 2023).

Secondly, the persecution of KPs serves as a convenient distraction from the state's profound economic failures. As living conditions worsen, high-profile arrests of individuals for «vice crimes,» such as the infamous «TikTok girls» case, create a public spectacle that redirects popular anger away from government policy and towards an internal «moral enemy» (Global Freedom of Expression 2021; Ahmed 2022). This creates a self-perpetuating cycle: economic desperation pushes more individuals into criminalized survival economies like sex work, which in turn provides the state with more targets to persecute in order to distract from the very economic failures that fueled this growth. This report argues that the legal, social, and political marginalization of KPs is therefore central to understanding the nature of authoritarian consolidation in contemporary Egypt.

HIV as a Neglected Epidemic

Against this backdrop, HIV remains a largely neglected public health issue. While Egypt's overall prevalence rate is low at less than 0.01%, the number of infections is rising at an alarming rate, having increased fivefold from 5,400 cases in 2010 to an estimated 30,000 by the end of 2021 (Ghazy et al. 2023). Projections suggest this number could reach 39,000 by 2024, with only about 71% of PLHIV aware of their status (Ghazy et al. 2023). Despite these concerning trends, the political leadership generally regards HIV as a «non-issue». Consequently, official policy has prioritized treatment over comprehensive prevention and social awareness programs, failing to address the root causes of the

epidemic's spread: the criminalization and stigmatization of the very populations most affected by it. Without a fundamental improvement in the human rights situation for KPs, any HIV policy will remain fundamentally ineffective. This analysis seeks to deconstruct the complex legal and social architecture that perpetuates this marginalization, identifying potential avenues for pragmatic advocacy and reform.

Table 1: Summary of Key Legislation Affecting HIV Key Populations in Egypt

| Key Population | Law/Statute | Key Article(s) | Core Provisions & Judicial Interpretation | Primary Impact |
|-----------------------|--|-----------------------|--|--|
| Sex Workers | Law 10/1961 on the Combating of Prostitution | Art. 1(a), 9(c) | Criminalizes "inciting" and "habitual engagement" in "prostitution" (female) and "debauchery" (male). Court of Cassation removed the need for financial proof, broadening the scope to non-commercial acts (Egypt 1961a; Noralla 2021a). | Primary legal tool for arresting sex workers and, by extension, queer individuals. |
| | Cybercrime Law 175/2018 | Art. 25, 27 | Criminalizes publishing content with "sexual connotation" to obtain financial benefit and using websites to commit a crime. Vaguely defined "family values" are used as a pretext (Egypt 2018). | Shifts policing to the digital sphere, enabling entrapment and surveillance of online sex work and queer expression. |
| | Penal Code | Art. 178, 269bis | Criminalizes possessing materials "against public morals" and inciting "adultery" on public roads (Egypt 1937). | Provides additional, broadly defined offenses to prosecute individuals when other charges are weak. |
| LGBTQ+ People | Law 10/1961 & Cybercrime Law 175/2018 | As above | "Debauchery" is judicially interpreted to be synonymous with homosexual acts, shifting from de facto to explicit criminalization (Noralla 2024a). | The legal basis for mass arrests, such as the Queen Boat (2001) and Rainbow Flag (2017) crackdowns. |
| | Civil Service Law No. 81/2016 | Art 57 & 58 | Supreme Administrative Court ruled that suspicion of homosexuality is grounds for dismissal from public employment, as it is a "dishonorable offense" (Adel n.d.; Noralla 2023b). | Codifies employment discrimination, making state employment untenable for openly queer individuals. |

| Key Population | Law/Statute | Key Article(s) | Core Provisions & Judicial Interpretation | Primary Impact |
|-----------------------------|--|-----------------------|---|---|
| | Migration Law No. 89/1961 | Morality Clauses | Allows the Ministry of Interior to deport and ban foreigners suspected of being queer, a power upheld by administrative courts even after acquittal on criminal charges (Noralla 2023b). | Creates a hostile environment for foreign LGBTQ+ individuals and refugees. |
| PLHIV | Penal Code | Art. 278 | "Public obscenity" has been used to prosecute for HIV transmission within a marriage (Masrawy 2024). | Opens a forum for active discourse regarding the legality of intentionally transmitting HIV through sexual relationships and the ethical implications of withholding this information from intimate partners. |
| | Civil Law | N/A | Civil courts have awarded compensation for HIV transmission based on fraud and deception (Sky News Arabia 2020). | Establishes civil liability in incidents of omitting HIV infection and transmitting to intimate partners, separate from criminal prosecution. |
| People Who Use Drugs | Law No. 182 of 1960 | Art. 33, 37, 39 | Imposes severe penalties (including death) for trafficking. Criminalizes possession for personal use but includes a theoretical, yet unused, option for rehabilitation instead of prison (Suleiman 2021). | Creates a highly punitive system where the distinction between user and trafficker is dangerously ambiguous. |
| | Law No. 73/2021 | N/A | Mandates termination of public service employees for drug use (casual or dependent) based on mandatory testing (Mansurat Qanunia 2021). | Represents a policy shift away from rehabilitation towards pure punishment, particularly for state employees. |
| | Law No. 71/2009 On Providing Mental Health | Art. 13 | Allows for involuntary commitment if a person is a "danger to themselves or others," a loophole exploited for forced addiction treatment (Al-Masry Al-Youm 2023). | Undermines the principle of voluntary treatment and enables abusive practices in unregulated rehab centers. |

The Legal and Social Architecture of Sex Work Criminalization

From Regulation to Repression: A Historical Analysis

The legal status of sex work in modern Egypt has undergone a dramatic reversal, shifting from a state-regulated industry to a criminalized activity subject to intense moral policing. For much of its modern history, beginning with the first regulations in 1885, the Egyptian state maintained a pragmatic, rather than punitive, stance towards sex work, consistent with a legal tradition that generally avoided punishing «victimless crimes» such as gambling and public drinking (Beker 2001). This changed decisively in 1951 with the introduction of the first anti-sex work law, a legislative milestone driven by a potent combination of rising nationalism and the growing influence of political Islam (Noralla 2020a). Both nationalist and Islamist factions, despite their ideological differences, converged on the narrative that «immorality,» including sex work, was a foreign pathology introduced by colonial powers and enabled by weak governance. This perspective advocated for a strong, centralized state that would extend its authority beyond economic and infrastructural matters into the private lives of citizens, enforcing a singular vision of public morality and social values. This ideological shift laid the groundwork for a series of morality-based laws that continue to shape Egypt's legal landscape.

The cornerstone of this framework is Law 10/1961 on the Combating of Prostitution, which remains the primary legal instrument used against sex workers in both Egypt and Syria to this day (Cairo 52 Legal Research Institute 2020). Enacted to align Egyptian law with the 1959 UN Convention for the Suppression of the Traffic in Persons and to standardize laws following the union with Syria, the law is comprehensive in its scope. Its 19 articles criminalize a wide range of activities associated with sex work, including aiding, inciting, seducing, advertising, and engaging in the practice itself (Cairo 52 Legal Research Institute 2020). The law employs distinct terminology based on gender, using «prostitution» (بغاء) for female sex work and «debauchery» (فجور) for male sex work. The two most frequently used charges are Article 1(a), which penalizes incitement, and Article 9(c), which criminalizes the habitual engagement in prostitution or debauchery (Cairo 52 Legal Research Institute 2020).

A critical development in the application of this law demonstrates the judiciary's role not as a neutral arbiter but as an active agent in expanding the state's power to police sexuality. The original legislative intent of Law 10/1961 was to criminalize commercial sex work. However, in a series of rulings during the 1970s, Egypt's highest judicial body, the Court of Cassation, fundamentally altered the law's scope (Noralla 2021a). The Court eliminated the requirement for the prosecution to prove that a financial transaction had occurred. Instead, it established two new, far more ambiguous criteria for conviction: «habitual engagement,» meaning the act was repeated at different times and places, and «indiscriminate behavior,» meaning it occurred with multiple partners (Noralla 2021a). This judicial reinterpretation was a watershed moment. It effectively decoupled the law from its original context of commercial sex and transformed it into a powerful tool for policing any form of non-marital or non-normative sexual activity that authorities deemed «habitual.» This precedent set the stage for the law's later use against queer individuals and illustrates a crucial pattern: the judiciary often acts as a force multiplier for the state's moral agenda, creating new legal realities through interpretation that are more repressive than the original legislative text.

The Digital Dragnet: The Penal Code and Cybercrime Law 175/2018

In addition to Law 10/1961, authorities utilize several broadly worded provisions of the Penal Code to prosecute individuals for morality-related offenses. These include Article 178, which punishes the production or possession of materials «against public morals» with up to two years' imprisonment, and Article 269bis, which penalizes «inciting passersby, through signals or words, to commit adultery» on a public road (Egypt 1937). However, the most significant recent addition to the state's arsenal is the deeply controversial Cybercrime Law 175/2018 (Egypt 2018).

Passed under the explicit pretext of combating «cyber prostitution and immorality,» this law has become the primary instrument for targeting individuals engaged in online sex work and, more broadly, for policing digital expression. Article 25 of the law is particularly potent, criminalizing anyone who

publishes information online that «carries a sexual connotation intending to incite others to commit indecent acts or to exploit the sexual desires of others... to obtain a financial benefit» (Egypt 2018). The law's vague terminology—failing to define what constitutes an «indecent act» or a «sexual connotation»—grants law enforcement and the judiciary vast discretionary power. This ambiguity is intentional, allowing the state to adapt the law to target a wide range of online activities. Article 27 further criminalizes the use of any website or private account to «commit or facilitate a punishable offense,» providing another catch-all provision (Egypt 2018).

The implementation of these laws is managed by the vice crime departments of the Ministry of Interior, which have shifted their focus from traditional surveillance of brothels and nightclubs to monitoring digital platforms. This shift was institutionalized in 2019 with the establishment of the Communication, Guidance, and Social Media Department (CGSMD) within the Public Prosecution. Its Monitoring and Analysis Unit (MAU) actively investigates «acts of immorality» committed online, often based on citizen complaints (Association for Freedom of Thought and Expression 2021). This new digital frontier was explicitly acknowledged by the Public Prosecution in 2020, which declared the need to safeguard Egypt's «cyber border» from malicious entities seeking to «dismantle our society and undermine its core values and principles» (Association for Freedom of Thought and Expression 2021). This rhetoric frames digital expression not as a matter of personal freedom but as a national security threat, justifying invasive surveillance and entrapment. While entrapment to expose a crime is permissible under Egyptian law, the line between revealing and inciting a crime is dangerously blurred, leading to frequent violations of due process that go uninvestigated.

Gendered Enforcement and Judicial Precedent

The application of Egypt's vice laws is deeply patriarchal and discriminatory. In cases involving cisgender heterosexual sex workers, male clients are almost invariably treated as victims and accorded the status of «king witnesses,» absolving them of any criminal liability (Youm7 2017a). This practice reflects a legal and social framework that implicitly grants cisgender heterosexual men the right to engage in extramarital sex while penalizing the women who provide the service. This gendered bias becomes even more apparent when contrasted with cases involving individuals assigned male at birth (AMAB) who are engaged in sex work. In these instances, authorities typically arrest both the seller and the client, despite the law only penalizing the seller (Noralla 2021a). This differential enforcement underscores the vice police's focus on policing non-normative gender and sexuality rather than the act of sex work itself.

The long-term consequences of being arrested for a vice crime are severe and lasting, regardless of the case's outcome. An arrest remains on an individual's criminal record, even if they are acquitted, creating significant barriers to employment and access to services that require a clean record. A conviction carries even graver consequences. Under Egypt's Civil Service Law No. 81/2016, vice crimes are considered «dishonorable offenses,» rendering anyone convicted of them permanently unfit for public service (Egyptian Lawyers Syndicate 2020). For foreigners, an arrest for a vice crime can lead to deportation and a ban from re-entry under the morality clauses of Migration Law No. 89/1961, often without a conviction being necessary. While a rare 2019 Supreme Administrative Court ruling allowed an acquitted Moroccan woman to return to Egypt, setting a potentially positive precedent, such outcomes are the exception rather than the rule (Kafapress 2019).

Societal Narratives and Survival Strategies

Public discourse surrounding sex work in Egypt is dominated by two conflicting narratives. The first, and most prevalent, is one of moral condemnation, portraying sex workers as sinners who threaten the nation's social and religious fabric (Noralla 2023a). This narrative is actively promoted by state-aligned media, which often covers sex work-related arrests in a sensationalist manner, presuming guilt and celebrating the vice police as moral protectors of society. The second, more compassionate narrative views sex workers as victims of the country's severe economic crisis, arguing that they need

economic support and rehabilitation rather than punishment.

In response to the constant threat of state prosecution, sex workers have developed sophisticated survival strategies to mitigate risk. The increasing shift to online platforms is itself a strategy, offering greater flexibility and perceived safety compared to street-based work. To navigate the legal risks of being caught with a client, many rely on Urufi marriage contracts, a form of civil union that can be established with long-term clients to provide a legal pretext for their relationship if apprehended (Youm7 2017b). Another common tactic is the «companionship system,» where a sex worker and client agree to portray themselves as lovers in a private setting, exploiting the fact that extramarital relations conducted in private are not criminalized in Egypt. These strategies demonstrate the resilience and ingenuity of a community forced to operate in a deeply hostile legal and social environment.

Navigating Identity and Persecution: The LGBTQ+ Community

From De Facto to De Jure Criminalization

The Egyptian state's persecution of the LGBTQ+ community is built upon a legal framework that, while not explicitly criminalizing homosexuality, has been systematically weaponized to achieve that end. In the absence of a specific law against same-sex relations, authorities have historically relied on the «debauchery» provisions of Law 10/1961 on the Combating of Prostitution for the de facto criminalization of queer identities (Hamid 2017). This has enabled periodic and sometimes massive crackdowns, such as the infamous Queen Boat arrests of 52 men in 2001 and the arrest of 75 people following the raising of a rainbow flag at a concert in 2017 (Hamid 2017). Local human rights organizations like the Egyptian Initiative for Personal Freedoms (EIPR) report an average of around 50 such arrests annually, primarily targeting individuals assigned male at birth (AMAB), a category that includes both cisgender queer men and transgender women (EIShekh 2023).

A deeply concerning legal development in 2023 signals a shift from this long-standing practice of de facto criminalization towards an explicit, de jure one. Egyptian courts have begun interpreting Article 25 of the Cybercrime Law in conjunction with Article 9(c) of the anti-sex work law to equate the charge of «debauchery» with homosexual acts themselves (Noralla 2024a). This new judicial interpretation argues that engaging in homosexual acts inherently violates «family and social values,» thereby removing the need for the prosecution to even pretend that sex work was involved. While the full consequences of this recent judgment are still unfolding, it represents a significant and dangerous escalation in the state's legal war on its queer citizens.

The process of apprehension and detention is often accompanied by severe human rights violations. Queer individuals are frequently subjected to abusive treatment and torture based solely on their perceived sexual orientation or gender identity (Human Rights Watch 2022). One of the most notorious of these practices is the forced anal examination, a procedure with no scientific validity that is considered a form of torture by multiple United Nations bodies. Despite being widely discredited, it is still considered an acceptable practice by the Ministry of Justice's Forensic Medicine Agency (FMA) as a supposed means of proving engagement in anal sex. While the increasing prevalence of digital cases has led to a gradual phasing out of this practice in favor of analyzing seized electronic devices, reports of its continued use, as recently as 2023 in the city of Mansoura, are a grim reminder of the brutality of the system (Masrawy 2023).

Systemic Discrimination in State Policy

Beyond direct criminalization, the Egyptian state enforces a regime of systemic discrimination against LGBTQ+ individuals through a variety of laws and policies. This system is underpinned by a nexus of pathologization and criminalization, where queer identity is framed as either a crime to be punished or a disease to be «treated» or managed, but never as a legitimate variation of human experience worthy of rights and protection.

- **Employment:** Discrimination in employment is widespread and has been legally codified in the public sector. In a landmark 2023 ruling, Egypt's Supreme Administrative Court upheld the termination of a public employee accused by his wife of engaging in homosexual acts. The court affirmed that being suspected of homosexuality is sufficient grounds for dismissal from public employment under Civil Service Law No. 81/2016, as it is considered a dishonorable offense (Adel n.d.; Noralla 2023b). This ruling effectively bars openly queer individuals from state employment.
- **Military Service:** Military service is compulsory for all males over 18. However, queer AMAB individuals are granted medical exemptions on the grounds that they suffer from «severe personality disorders» (Noralla 2022a). This policy, while allowing them to avoid conscription, does so by officially classifying their identity as a mental illness, reinforcing the state's pathologizing narrative.
- **Migration:** Foreign LGBTQ+ individuals face severe restrictions. The «morality clauses» in Migration Law No. 89/1961 are interpreted by the Ministry of Interior to justify deporting and banning

the entry of anyone suspected of being queer. This power has been explicitly upheld by administrative courts in multiple verdicts (e.g., 8084/67 JY in 2014 and 17406/63 JY in 2017), even in cases where the individual was acquitted of criminal «debauchery» charges (Noralla 2023b). This creates an exceptionally hostile environment for queer foreigners, asylum seekers, and refugees.

- **Education:** The educational system has been weaponized to promote anti-LGBTQ+ sentiment. In 2022, the Ministry of Education issued a directive instructing schools to organize awareness campaigns against homosexuality, framing it as a negative Western influence from which children must be protected (Noralla 2023c).

This web of discriminatory policies demonstrates a coherent state strategy. The pathologization of queer identity in military and medical policy provides the pseudo-scientific and religious justification for the criminalization seen in the courts and the discrimination codified in employment and migration law. This creates a closed ideological loop: a queer person in Egypt can only be a criminal or a patient, but never a full, rights-bearing citizen.

The Transgender and Intersex Dilemma

The situations of transgender and intersex individuals in Egypt are uniquely complex, governed by a medical and legal framework heavily influenced by the country's foremost Islamic institution, Al-Azhar. This framework is designed to rigidly enforce a cis-heteronormative gender binary. In the 1980s, as gender-affirming healthcare became more accessible, Al-Azhar jurists issued a series of influential Fatwas that continue to define state policy (Tolino 2017). These religious edicts drew a sharp distinction between transgender and intersex individuals. Transgender people were deemed to be biologically within the binary but suffering from a mental illness; therefore, gender-affirming healthcare was prohibited (haram) as an attempt to alter God's creation, and only therapy was permissible (Tolino 2017). Intersex individuals, conversely, were seen as existing outside the biological binary, and thus medical interventions to «correct» their bodies to align with one of the two recognized sexes were deemed permissible and even encouraged.

This religious doctrine was codified into health policy in 2003 with an amendment to the Medical Syndicate's code of ethics, which established the «Sex Correction Committee» (Medical Syndicate 2003). This committee, comprising medical experts and a representative from Al-Azhar, was given sole authority to approve applications for medical treatments that would change an individual's sex. The policy explicitly adopts Al-Azhar's terminology, distinguishing between impermissible «sex change» (for transgender people) and permissible «sex correction» (for intersex people). The committee has been largely dysfunctional, ceasing operations entirely between 2014 and 2017 due to conflicts between medical experts and the Al-Azhar representative. It only resumed its work after the medical experts capitulated, granting Al-Azhar final veto power over all applications (Chahine 2023). As a result, access to legal gender-affirming healthcare for transgender individuals is effectively non-existent through official channels.

This policy has created a dangerous and exploitative underground market for gender-affirming care. Transgender individuals are forced to rely on do-it-yourself hormone replacement therapy (HRT) or seek treatment from unlicensed, ill-equipped, and overpriced clinics (Noralla 2022b). The tragic death of Ezz, a 26-year-old transgender man who died from complications following an unsafe surgery in 2021, highlights the lethal consequences of this state-enforced exclusion (Noralla 2021b). For intersex individuals, the situation is also dire. Despite the policy focus on «correction,» there is no unified standard of care. Decisions on sex assignment for intersex infants are often arbitrary, based on external examination alone and influenced by patriarchal social norms that favor assigning male sex. This can lead to incorrect and medically unnecessary surgeries at birth, with little to no psychological support for the individuals or their families (Noralla 2023d).

The Judicial Barrier to Recognition

The path to legal gender recognition for transgender individuals is fraught with obstacles. The process is governed by Article 46 of the Civil Code, which allows citizens to request changes to their civil registry information (Chahine 2023). While intersex individuals who have undergone surgery can change their documents with relative ease, transgender individuals face an arbitrary and hostile system. Their applications are often rejected or referred for further evaluation by the Forensic Medical Authority (FMA), which frequently denies certification based on chromosomal evidence.

Appeals to the administrative courts have proven largely futile. The judiciary has a consistent history of rejecting requests for legal gender recognition from transgender individuals, often citing Sharia law and biological essentialism as justification (Dabash 2023; Noralla 2023e). In Case No. 3867/66 J.Y. (2013), the Alexandria Administrative Court upheld the FMA's refusal to certify a trans woman because she was not intersex. Similarly, in Case No. 80419/68 J.Y. (2016), the Cairo Administrative Court rejected a trans man's request, arguing that despite his male physical characteristics, his female chromosomes meant that recognizing him as male would violate Sharia. These rulings demonstrate how the judiciary actively enforces the binary logic established by Al-Azhar, making legal recognition a near impossibility.

Anomalies in the Law: Inheritance

A peculiar anomaly exists within Egyptian inheritance law that offers a glimpse into a different, albeit archaic, legal understanding of gender. Egyptian inheritance is governed by Islamic Sharia, as codified in Law no. 77 of 1943 (Al Yassir Office 2021). Article 46 of this law explicitly recognizes the legal category of *Khuntha Miskl*—an intersex individual whose sex characteristics are so ambiguous that they cannot be easily categorized as male or female (Shahat 2018). The law stipulates a specific, reduced share of inheritance for such individuals, effectively acknowledging a third legal sex for this limited purpose. However, this provision is largely a historical curiosity. It is unclear how it could be implemented today, as the state does not recognize a third gender on any other official documents, and modern medical interventions are geared towards assigning all intersex individuals to the binary. Nevertheless, its existence in the legal code is a significant, if obsolete, documentation of a legal concept beyond the rigid binary that now dominates state policy (Radwan 2022).

Public Health Versus Public Morality: The Status of People Living with HIV (PLHIV)

Egypt's HIV Policy Framework: A Critical Assessment

Egypt's official policy on HIV has evolved significantly since the 1980s, when a positive HIV status was often used as incriminating evidence in vice crime prosecutions. The contemporary approach has shifted towards a public health framework focused on treatment and care. This is embodied in the work of the National AIDS Program (NAP), established in 1987, and the country's multi-year national strategies. The current working strategy for 2021-2025 aims to eliminate HIV infections and includes positive measures such as expanding government services to 44 centers, improving early detection, establishing a consultation hotline, and integrating mental health support into treatment plans (Abdel-salam 2022). Other commendable initiatives include the Ministry of Health's 2019 plan to transition to auto-disabled (AD) syringes to prevent transmission and the Egyptian Drug Authority's 2020 strategy to domestically produce HIV medications.

However, this framework is undermined by critical flaws. The primary focus remains heavily skewed towards treatment for those already diagnosed, with a significant lack of investment in comprehensive prevention programs and social awareness campaigns designed to combat stigma (Youm7 2022). Furthermore, the implementation of the national strategy is plagued by a lack of transparency. There are no independent review mechanisms, and it is unclear how funds received from international partners like UNAIDS are spent. The consultation process with affected communities is also questionable, as most government-registered HIV organizations do not have KPs in leadership positions, and there are no safe mechanisms for criminalized populations to participate meaningfully. The practical consequences of these systemic weaknesses are stark: during crises like the COVID-19 pandemic and again in March 2024, official treatment centers experienced prolonged shortages of essential HIV medications, leaving PLHIV in a precarious position (Human Rights Watch 2020; Facebook Post 2024).

The state's failure to mount an effective response to HIV is not due to a lack of capacity, but a lack of political will. This is starkly illustrated by comparing the HIV response to the state's campaign against Hepatitis C. Faced with an epidemic that affected an estimated 9 million people, the Egyptian government launched an ambitious and highly successful eradication program that reduced the prevalence from 10% to 0.38% in just over a decade, earning gold-tier recognition from the World Health Organization (WHO 2023). This achievement proves that the state possesses the institutional, logistical, and technical capacity to execute a world-class public health initiative. Its failure to apply the same vigor to the HIV epidemic reveals a deliberate political choice. HIV is inextricably linked in the public and political imagination with KPs—groups the state actively criminalizes and stigmatizes. The state is willing to expend vast resources to save its citizens from a «blameless» disease like Hepatitis C but is unwilling to do the same for a disease associated with «immoral» populations. The national HIV response is thus held hostage by the state's broader moral and political agenda, prioritizing public morality over public health.

Rights on Paper, Stigma in Practice

While some legal and social protections for PLHIV exist, they are often insufficient to counteract the pervasive stigma and discrimination that define their lived reality. On paper, PLHIV are entitled to a pension from the Ministry of Social Affairs, and it is illegal to dismiss them from their jobs solely based on their HIV status. A 2016 Cairo court ruling, for example, deemed the termination of a plumber living with HIV to be unlawful, as his work posed no risk of transmission (UNAIDS 2016). However, in practice, the burden of proof in such cases lies with the dismissed employee, making it extremely difficult to win a wrongful termination lawsuit.

Discrimination remains rampant in key sectors. One in five PLHIV reported being forced to leave their homes in 2019 due to pressure from family, landlords, or neighbors. Perhaps most disturbingly, stigma persists within the healthcare sector itself. Studies from 2022 and 2023 revealed negative attitudes towards PLHIV among healthcare providers, driven by insufficient knowledge about transmis-

sion, inadequate infection control resources, and societal biases (Aziz, Abdelrheem, and Mohammed 2023). This can lead to humiliating and dangerous situations, as exemplified by a 2019 incident where a PLHIV was forcibly removed from a government hospital. The situation for PLHIV in prisons is also a matter of grave concern, with a lack of hygiene and awareness leading to severe stigma from other inmates and an absence of reliable data on the number of PLHIV in detention.

Criminalizing the Virus: Legal Liability for Transmission

The Egyptian legal system's approach to HIV transmission is punitive rather than preventative. Individuals who intentionally transmit the virus can be sued in civil court for compensation. In a 2020 judgment, a court ordered a husband to pay his wife one million EGP in compensation for infecting her with HIV after marrying her without disclosing his status, ruling that his actions constituted fraud and deception (Sky News Arabia 2020).

More recently, the state has turned to the criminal code. In 2024, a husband was prosecuted under Article 278 of the Penal Code, which pertains to public obscenity, after his wife accused him of transmitting HIV to her and their child as a result of his engagement in homosexual activities. He was sentenced to three years in absentia by a Court of First Instance (Masrawy 2024). The use of a «public obscenity» charge in a case of transmission within a marriage is a legally tenuous but ideologically significant move, demonstrating the state's instinct to frame HIV transmission not as a public health failure but as a moral crime. This punitive approach risks further stigmatizing PLHIV and discouraging testing and disclosure, ultimately undermining public health goals.

Between Punishment and Neglect: People Who Use Drugs

A Punitive and Ambiguous Legal Framework

Egypt's legal framework for drug control, primarily governed by Law No. 182 of 1960, is characterized by its extreme punitiveness and a critical lack of legal clarity (Suleiman 2021). The law's underlying philosophy is centered on imposing draconian penalties on those involved in the drug trade. Article 33, for instance, mandates the death penalty for exporting, importing, or producing narcotic substances with the intent to trade. Other articles prescribe life imprisonment or death for various trafficking-related offenses. Despite the severity of these punishments, they have largely failed to deter the lucrative drug trade.

For individuals who use drugs, the law is dangerously ambiguous. Article 37 criminalizes the possession or acquisition of drugs for personal use, with penalties including hard labor and significant fines (Eid 1981). Crucially, the law fails to define the specific quantities of a substance that differentiate personal use from trafficking. This determination is left entirely to the discretion of the prosecution and the courts, creating a system ripe for arbitrary and inconsistent application. An individual possessing a small amount of a substance can easily be charged with trafficking, facing a potential death sentence, based on the subjective judgment of law enforcement officials (Parlmany 2023).

The law does contain a theoretically progressive provision within Article 37, which allows a court to order an individual with a proven addiction to be interned in a sanatorium for treatment instead of being incarcerated (Eid 1981). This suggests a legislative acknowledgment, at least in principle, that addiction is a health issue requiring medical support. However, this rehabilitative option has been rendered meaningless in practice. The Ministries of Justice and Health have never published data on how many individuals have benefited from this alternative, suggesting it is rarely, if ever, used. The state's failure to fund, implement, or even track this provision demonstrates a clear preference for a punitive over a therapeutic approach.

The Failing Rehabilitation System

The infrastructure for drug rehabilitation in Egypt is woefully inadequate and, in many cases, actively harmful. There are only approximately 28 governmental rehabilitation centers in the entire country, a number far too low to serve the population in need (Sky News Arabia 2021). These public facilities, supervised by the Mental Health Secretariat under the Ministry of Health, suffer from chronic resource shortages and a lack of qualified medical professionals willing to work under poor conditions.

This gap has been filled by a sprawling and poorly regulated private sector. While some high-end centers cater to the wealthy, many lower-cost private facilities operate without licenses or proper supervision (Khatt30 2023). These unregistered centers are notorious for their prison-like conditions, where patients are subjected to physical and verbal abuse, provided with inadequate food, and in some cases, even sold drugs by staff. Although authorities have periodically claimed to be cracking down on these facilities, the problem persists.

The principle of voluntary treatment is also systematically undermined. Law No. 71/2009 On Providing Mental Health states that adults cannot be compelled to enter rehab against their will. However, the law contains a significant loophole in Article 13, which mandates forced entry for individuals whose condition poses a «danger to themselves or others» (Al-Masry Al-Youm 2023). The ambiguity of this clause is routinely exploited by families and rehab centers to coerce individuals into treatment, a practice that violates the law and contradicts established medical evidence showing that voluntary participation is essential for successful recovery.

The State's Punitive Turn: Law No. 73/2021

Any remaining pretense that the state views drug use through a public health lens was definitively abandoned with the passage of Law No. 73/2021 (Mansurat Qanunia 2021). This law mandates the

termination of any public service employee who tests positive for drugs. The law makes no distinction between casual use and drug dependency; a single positive test, confirmed by a second analysis, results in immediate dismissal (Manshurat Qanunia 2021). It also imposes criminal penalties on anyone who facilitates the employment of a person who uses drugs or who falsifies test results.

This law marks a significant regression in state policy. It codifies a purely punitive approach, officially replacing the «addict as patient» model with the «user as social deviant.» The state's primary concern is clearly not the health and well-being of its citizens but the discipline and control of its workforce. This policy shift reveals that, for the Egyptian state, drug use is fundamentally a matter of moral failing and a threat to state authority, to be purged rather than treated.

The Constrained Space for Advocacy: Civil Soci- ety Under Siege

A Legal Framework of Repression

The space for independent civil society and human rights organizing in Egypt has been systematically constricted since 2013 through a legal framework designed to stifle dissent and control associational life. The Sisi administration has utilized a suite of repressive statutes—including the Anti-Terrorism Act of 2015, Protest Law 107 of 2013, and the long-standing Emergency Law—to silence opposition (Human Rights Watch 2021). A key pillar of this framework is the new NGO Law 149/2019, which, despite being presented as an improvement on its predecessor, maintains significant state control over the formation, funding, and activities of non-governmental organizations (Amnesty International 2023). This legal architecture is enforced through a campaign of judicial intimidation. The most prominent example is Case 173/2011, commonly known as the «foreign funding case,» a protracted criminal investigation into the legitimate work of numerous human rights NGOs and their staff. This case, along with the routine use of spurious charges like «membership in an unlawful organization» and «dissemination of false information,» has created a chilling effect, forcing many organizations to close and activists to flee the country or cease their work. Estimates suggest that approximately 60,000 political prisoners are detained in Egypt (The New Arab n.d.). The policy-making process itself is a top-down affair, with legislation formulated by the executive and rubber-stamped by parliament, with no meaningful consultation with affected communities or independent civil society (Noralla 2023f; Elagati 2012).

The Representation Gap and Its Consequences

Within this hostile environment, the civil society landscape for HIV Key Populations is deeply fractured. A clear bifurcation exists between officially registered organizations and informal, unregistered groups. Registered groups, in order to maintain their legal status, must operate within the government's prescribed boundaries. They often function as service-delivery arms of the state, implementing aspects of the official HIV strategy, such as testing and counseling. A significant issue with these entities is a lack of representation; KPs are rarely in leadership positions, leading to programs that are designed without adequate community consultation.

Conversely, informal groups are typically grassroots initiatives led by community members, primarily from the queer and feminist movements. While they are more representative, they operate under constant threat of state persecution and are hampered by a severe lack of resources and capacity. Their services, while vital, often reach only a small segment of the community with whom they already have connections. This structure creates a critical «representation gap,» particularly for the most marginalized KPs. These communities are thus largely unrepresented in both the formal and informal civil society sectors, leaving their specific needs and rights unaddressed.

The Shift in Advocacy Strategies

Given that direct advocacy and lobbying of the Egyptian government on legislative and policy matters is nearly impossible, civil society has been forced to adapt its strategies. In a democratic context, advocacy typically flows «upwards» from civil society to the state to influence policy. In Sisi's Egypt, this channel is effectively blocked. Consequently, advocacy has been forced to «invert».

Instead of flowing up, advocacy now flows «outwards» to international bodies. Local groups engage with United Nations human rights mechanisms, such as the Universal Periodic Review (UPR), submitting shadow reports to document violations and pressure the Egyptian government on the international stage. Advocacy also flows «sideways» to the judiciary through strategic litigation. By bringing carefully selected cases before domestic courts, organizations aim to challenge the constitutionality of repressive laws or secure favorable precedents that can protect the rights of KPs. Finally, service provision itself has become a form of «downward» advocacy. By providing essential services like legal aid or healthcare, informal groups not only meet immediate needs but also gather crucial data on rights violations and empower community members, building a foundation for future, evidence-based advocacy. This inversion is a necessary survival tactic, but it also fragments the movement and pre-

vents the formation of a unified front, a strategic outcome that ultimately benefits the repressive state (Human Rights Watch 2024).

A Pragmatic Path Forward: Policy and Legal Recommendations

The preceding analysis demonstrates that the challenges facing HIV Key Populations in Egypt are systemic, deeply embedded in the country's legal, political, and social structures. In such a constrained environment, calls for radical, immediate reforms like the full decriminalization of sex work or drug use are unlikely to be implemented in the near term. Therefore, the following recommendations are grounded in a pragmatic strategy of «Harmonization and Expansion.» This approach seeks to identify feasible entry points within the existing governmental framework to augment or refine current programs, laws, and policies. It involves leveraging the state's own constitutional principles, international commitments, and stated policy goals, arguing that these should be harmonized with international human rights standards and expanded to protect the rights and health of all citizens, including marginalized KPs.

1. Recommendations for the Egyptian Government

Public Health

- **Expand STI Services:** Build on the existing infrastructure for HIV testing by expanding government-led initiatives to include free or low-cost testing and treatment for all sexually transmitted infections (STIs). This would destigmatize sexual health services and provide a crucial entry point for engaging sex workers and other KPs in the healthcare system.
- **Invest in Localized Manufacturing:** Support and expand ongoing efforts to localize the manufacturing of HIV medications and harm reduction tools, such as auto-disabled syringes. This aligns with the state's economic goals and can be expanded to include other essential health commodities, such as pre-exposure prophylaxis (PrEP) and hormone therapies.
- **Establish Specialized Medical Centers:** Create comprehensive medical centers dedicated to providing healthcare for intersex individuals, including psychiatric support and surgical interventions. These centers could serve as a foundational step and a model for eventually expanding services to include gender-affirming healthcare for transgender individuals, given the similarities in treatment approaches.
- **Enhance Medical Education:** Collaborate with the Ministries of Health and Education, and public universities, to revise medical and nursing school curricula. The focus should be on aligning education with contemporary global standards in HIV care, intersex healthcare, addiction medicine, and gender-affirming healthcare to combat stigma and improve the quality of care within the medical profession.

Legal and Judicial Reform

Clarify Drug Laws: Amend Law No. 182 of 1960 to establish clear, quantitative parameters that distinguish personal drug use from drug trafficking. This would reduce the potential for arbitrary convictions and ensure more consistent application of the law.

- **Activate Rehabilitation Provisions:** Allocate the necessary resources to implement the rehabilitation option stipulated in Article 37 of the drug law, providing a therapeutic alternative to incarceration for individuals with drug dependency.
- **Initiate Dialogue on Sex Work Laws:** Begin discussions with legal experts and judicial authorities on reforming Law 10/1961 to enhance due process rights for people prosecuted under its provisions.

Data and Transparency

- **Resume Statistical Reporting:** The Ministries of Interior, Justice, and Health must resume the consistent publication of official reports detailing arrest and conviction data for vice and drug-related offenses, as well as statistics on individuals in rehabilitation programs. This is essential for

evidence-based policymaking.

- **Ensure HIV Strategy Transparency:** Enhance the transparency of the National AIDS Program by allowing independent researchers access to raw data to evaluate the impact of national strategies and by publishing detailed implementation reports. Create safe and confidential mechanisms for KPs to participate in community consultations.

2. Recommendations for International Partners and Development Funders

- **Leverage Diplomatic and Financial Influence:** Condition medical development funding on the expansion of inclusive healthcare services for all KPs. Encourage Western corporations operating in Egypt to implement comprehensive anti-discrimination policies and offer private health-care coverage that includes gender-affirming and intersex care.
- **Utilize International Mechanisms Strategically:** During Egypt's Universal Periodic Review (UPR) and other international forums, provide pragmatic recommendations that frame KP rights within the universally accepted right to health. This approach is more likely to gain traction than politically sensitive demands for decriminalization.
- **Provide Technical and Financial Support:** Offer technical assistance to Egyptian authorities for developing evidence-based treatment protocols for drug addiction and healthcare for transgender and intersex individuals. Invest in the localization of medical manufacturing to support Egypt's public health independence.

3. Recommendations for Local NGOs, Allies, and Activists

- **Invest in Research for Advocacy:** Continue to invest in rigorous, evidence-based research to challenge the state's dominant narratives and support advocacy efforts. Service provision should be integrated with data collection to document rights violations and inform strategic interventions.
- **Fill Critical Gaps in Services and Advocacy:** Broaden advocacy and service initiatives to include underserved KPs, particularly sex workers and people who use drugs. Efforts should be made to decentralize services beyond Cairo to reach communities nationwide.
- **Continue Strategic Litigation:** Pursue strategic litigation in domestic courts as a viable alternative to direct lobbying. Key areas include: challenging the vague and overly broad provisions of the Cybercrime Law; litigating on the constitutional right to health to compel the government to improve access to care for transgender and intersex individuals; and seeking favorable precedents from the Court of Cassation on the definition of drug use versus trafficking.
- **Build Capacity:** Seek technical support and training in research, data analysis, report writing, and strategic litigation to enhance the effectiveness of grassroots advocacy efforts and maximize the impact of the «advocacy inversion» strategy in a challenging political climate.

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القاهرة ٥٢

للأبحاث القانونية

CAIRO 52

LEGAL RESEARCH INSTITUTE

Criminalized and Marginalized:
A Socio-Legal Analysis of HIV Key Populations and
People Living with HIV in Egypt

