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ACTIVISM AND RESILIENCE: LGBTQ PROGRESS IN THE MIDDLE EAST AND NORTH AFRICA CASE STUDIES FROM JORDAN, LEBANON, MOROCCO AND TUNISIA

Consensual same-sex relations remain criminalized in the majority of Arabic-speaking states in the Middle East and North Africa (MENA) region. Sodomy, debauchery and public morality laws are among the tools used by states to violate the rights of lesbian, bisexual, transgender and queer (LGBTQ) people. In addition to the risk of arrest, LGBTQ people are subject to violence and discrimination across both the public and private spheres.

Violations against LGBTQ people in the region have been explored in detail in human rights documentation, media coverage, and academic and policy discourse. However, the complex realities of LGBTQ people, including resilience, activism, and hard-fought legal and social progress remains largely neglected. Additionally, LGBTQ people are often misrepresented by select states from the region at international forums such as the United Nations General Assembly and Human Rights Council. Using arguments based on religious and

cultural values, certain states undermine the rights of LGBTQ people, and project Arabic-speaking and Muslim-majority states as a homogenous entity with a uniform view on LGBTQ people.

The Arab Foundation for Freedoms and Equality (AFE) and OutRight Action International (OutRight) conceived this report to expand on the narrow discourse surrounding LGBTQ people's experiences in the MENA region. The report aims to provide an insight into legal and social contexts; organizing and movement-building; and progress, challenges and opportunities, as told by LGBTQ people in four different countries in the region with distinct contexts: **Jordan, Lebanon, Morocco, and Tunisia**. The report's findings are based on over 40 interviews with LGBTQ activists; members of feminist and human rights organizations; academics with expertise in gender and sexuality in the region; and legal and medical professionals. Key findings in the four focus countries include:

JORDAN

- 1951: Same-sex sexual relations are decriminalized under the Jordanian penal code
- 2007 ● *My.Kali*, Jordan's first LGBTQ magazine, is launched
- 2009 ● Rejection of applications to register LGBTQ+ Organizations
- 2014 ● An unidentified blogger published nearly 100 photos of Jordanian users of Grindr and Scruff dating applications
- 2015 ● International Day against Homophobia, Transphobia and Biphobia (IDAHOBIT) commemoration in Amman leads to backlash against LGBTQ activists and the broader community
- 2016 ● Banning of *My.Kali* on July 14th 2016 after its launch in Arabic
- 2016 ● New groups established A3deh (2016) and Cinamji (2017)
- 2017 ● Open letter by the Jordanian LGBT+ community to a Jordanian parliament member is published publicly
- 2017 ● The Interior Minister responds to an inquiry in an intolerant way against the LGBT+ community but does use the right terminology "meem community" for the first time

effectively decriminalized since 1951, activists reported cases of morality laws being used primarily to target transwomen. Additionally, structures of family, tribe and honor, contributed to violence and discrimination against LGBTQ Jordanians. Since 2009, applications to register an LGBTQ organization have been rejected by the Ministry of Social Development. However, LGBTQ organizing continues to take place through informal mechanisms such as individual initiatives, community groups, online platforms, the arts, and the media. LGBTQ activists carefully negotiate a balance in their initiatives in light of adverse media representation and increased scrutiny from the members of the executive and parliamentarians following high-profile events associated with the community. Key initiatives include *My.Kali*, Jordan's first LGBTQ magazine, which continues to operate despite challenges; the use of theatre, art and cinema as a catalyst to promote

discussion and awareness of LGBTQ people; sexual health outreach; and service provision for LGBTQ refugees. Ongoing challenges and opportunities include greater collaboration between activists and organizations; creating space for LGBTQ women; and engagement with UN mechanisms. ■

LEBANON

- 1942: Lebanese Penal Code adopted, including Article 534, which criminalizes sexual acts which "contradict the laws of nature"
- 2002-2004 ● Formation of Helem, the first LGBTQ organization in an Arabic-speaking state in the region
- 2005 ● IDAHOBIT commemorated for the first time in Lebanon
- 2007 ● Founding of Meem, a Queer feminist organization
- 2008 ● The first LGBTQ-led protest against police violence
- 2009 ● Batroun court decision where the judge refused to apply Article 534, stating same-sex sexual relations could not be considered against the "rules of nature"
- 2012 ● The Lebanese Order of Physicians and Minister of Justice issue circulars calling for an end to forced anal testing
- 2013 ● The Lebanese Psychological Association (LPA) and Lebanese Psychiatric Society (LPS) issue statements recognizing that homosexuality is not a mental illness and attempts to change one's sexual orientation is futile and potentially harmful
- 2014 ● Jdeide court decision where the judge questioned the ability to define "unnatural" under Article 534, and recognized the defendant's gender identity
- 2016 ● el-Metn court decision where the judge refused to apply Article 534, citing international human rights conventions and the International Statistical Classification of Diseases and Related Health Problems
- 2017 ● el-Metn court decision where the judge refused to apply Article 534, adopting a rights-based approach and incorporating arguments related to freedom of expression
- 2018 ● Mount Lebanon Court of Criminal Appeal upheld 2017 el-Metn court acquittal

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LGBTQ people continue to be targeted by a series of laws under the Lebanese Penal Code, including Article 534 which criminalizes sexual acts which are “contrary to nature.” Activists reported that transwomen, LGBTQ refugees and GBQ men belonging to a low socio-economic status are particularly susceptible to arrest. While many noted that violence, discrimination, and negative perceptions of LGBTQ are widespread, they also highlighted the role of LGBTQ organizing in challenging violations. Structured LGBTQ activism in Lebanese dates back to the mid-1990s.

Subsequent milestones include the founding of Helem, the first LGBTQ organization in an Arabic-speaking state in the MENA region, and Meem, a queer feminist organization which set the foundations for LBTQ organizing. Today, the majority of organizations working with LGBTQ people are registered and have diverse briefs including legal representation, sexual and reproductive health, and service provision for marginalized groups including LGBTQ refugees.

Key successes include lobbying for an end to forced anal testing as part of evidence in convictions; effective engagement of healthcare professionals in LGBTQ advocacy; progressive court rulings relating to the interpretation of Article 534; queer feminist organizing; and the creation of safe spaces.

Ongoing challenges and opportunities include documentation of arrests; engagement with political parties; coalition-building and intersectional work; and continued engagement with UN mechanisms. ■

MOROCCO

- 1913:** Consensual same-sex sexual relations criminalized under the French colonial Penal Code
- 2011** ● The 20th February Movement and demands for freedoms and liberties leads to growth in civil society and LGBTQ activism
- 2016** ● Case of “Beni Mellal”
Case of “The Two Girls of Marrakech”
- 2017** ● Morocco accepts three Universal Periodic Review recommendations relating to sexual orientation and gender identity/expression
- 2018** ● L’Union Feministe formally registered

LGBTQ Moroccans continue to be targeted by Article 489 which criminalizes consensual same-sex sexual relations, and laws relating to public decency. This is despite the fact that these laws contravene provisions of the Morocco’s 2011 Constitution. LGBTQ Moroccans have also been the subject of negative statements from former and serving members of the Moroccan executive and adverse representations by sections of the media. The 20 February Movement in 2011 contributed to a growth in civil society and LGBTQ organizing. Today there are numerous LGBTQ organizations and collectives, the majority of which remain unregistered. Despite this challenge, activists have been able to effectively intervene in high-profile cases of arrests; form partnerships with legal and medical professionals; and engage in community building and the creation of a safe space. Ongoing challenges and opportunities include addressing violence against LGBTQ people; advocacy through UN mechanisms; and legal reform and sensitization. ■

TUNISIA

- 1913: Consensual same-sex sexual relations criminalized under the French colonial penal code
- 2002 ● Damj, Tunisia's First LGBTQ organization is founded
- 2011 ● The Tunisian Revolution
- 2014 ● International Day against Homophobia is publicly marked for the first time in Tunisia
- 2015 ● Launch of *Chouftouhonna*, a feminist art festival with LGBTQ themes
The "Marwen" case
- 2015-2016 ● The "Kairouan 6" case
- 2016 ● The Civil Collective for Individual Liberties, consisting of over 35 civil society organizations including LGBTQ organizations, is launched

Restaurants, shops and internet cafes place signs which say "no homosexuals allowed"
- 2017 ● Tunisia accepts Universal Periodic Review recommendations relating to banning forced anal examination and countering discrimination based on sexual orientation and gender identity/expression
- 2018 ● LGBTQ film festival launched in Tunis

Tunisian Commission appointed by the President recommends for Article 230 criminalizing same-sex sexual relations to be repealed

Article 230 of the Tunisian Penal Code, which criminalizes consensual same-sex sexual relations, and laws related to "moral standards" and "public decency" are used against LGBTQ people. Members of the transgender community and GBQ men are at particular risk. Notably, these laws contravene provisions of the 2014 Tunisian Constitution. Tunisian LGBTQ people continue to live in a challenging social context. Challenges include restrictions to the mobility of LBQ women by family structures and documented hate crimes against LGBTQ people.

Since the Tunisian revolution in 2011, several new membership based organizations which work on LGBTQ advocacy have emerged. In 2016, the Civil Collective for Individual Liberties which consists of over 35 civil society organizations, including LGBTQ organizations, was formed. LGBTQ rights is part of the Collective's agenda, which activists state has contributed to increased security, credibility, and visibility for LGBTQ organizations. Key successes of the Tunisian LGBTQ movement include effective campaigning around high-profile cases of arrests; utilizing UN mechanisms to communicate with and hold the government accountable; legal and social progress impacting LGBTQ women; and the use of art as a tool in activism. In a key sign of progress, in 2018 the Commission des libertés individuelles et de l'égalité appointed by the President recommended for Article 230 to be repealed. Activists have identified the Commission's recommendations as well as the Tunisian Constitutional Court, which is yet to be created, as avenues for achieving legal reform. Additional challenges and opportunities include increased data collection of violence and discrimination against LGBTQ people; ensuring accountability for the use of forced anal examinations as part of evidence in convictions; and the creation of an LGBTQ shelter.

While there are clear distinctions in each country context, there were also common strategies adopted by activists to achieve progress. The report provides evidence that LGBTQ rights in the region can be supported through a multi-pronged approach with local LGBTQ organizations, coalition-building, feminist organizing and artistic production at the forefront. The findings also suggest that carefully-tailored intersectional regional and international engagement can support and accelerate local progress. ■