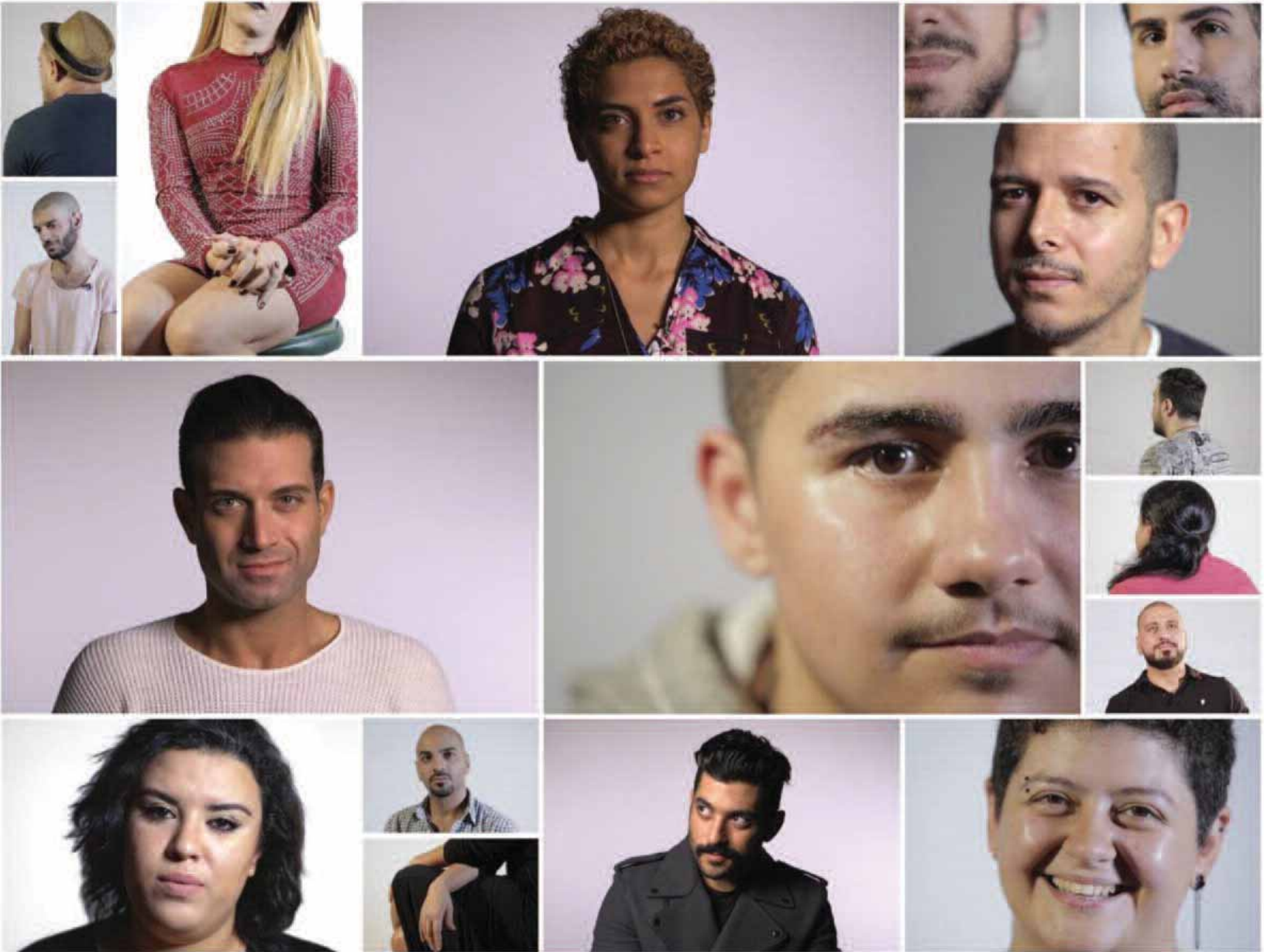


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AUDACITY IN ADVERSITY

LGBT Activism in the Middle East and North Africa



Audacity in Adversity

LGBT Activism in the Middle East and North Africa

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Glossary

Bisexual	A sexual orientation in which a person is sexually or romantically attracted to both women and men.
Cisgender	The gender identity of people whose sex assigned at birth conforms to their identified or lived gender.
Gay	Synonym in many parts of the world for homosexual; often used to refer to the sexual orientation of a male whose primary sexual and romantic attraction is towards other males.
Gender	Social and cultural codes used to distinguish what a society considers “feminine” and “masculine” conduct and/or characteristics.
Gender identity	A person’s internal, deeply felt sense of being female or male, neither, or both. A person’s gender identity does not necessarily correspond to their sex assigned at birth.
Gender non-conforming	A descriptor for people who do not conform to stereotypical appearances, behaviors, or traits associated with their sex assigned at birth.
Heterosexual	Sexual orientation of a person whose primary sexual and romantic attractions are toward people of a different sex.
Homophobia	Fear of, contempt of, or discrimination against homosexuals or homosexuality, usually based on negative stereotypes of homosexuality.
Homosexual	Sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.

Intersex	An umbrella term that refers to a range of traits and conditions that cause individuals to be born with chromosomes, gonads, and/or genitals that vary from what is considered typical for female or male bodies. “Intersex” originated as a medical term and has been reclaimed by some as a personal and political identity. Intersex is not the same as transgender, which describes individuals whose gender differs from the sex they were assigned at birth.
LGBT	Acronym for lesbian, gay, bisexual, and transgender. This report also at times makes reference to the terms LGBTI , LGBTQ , and LGBTIQ , acronyms that are inclusive of intersex people and/or people who identify as queer along with lesbian, gay, bisexual and transgender people.
Lesbian	A sexual orientation in which a female is primarily sexually or romantically attracted to other females.
Nonbinary	The gender identity of people who identify as neither female nor male.
Queer	A critique of identity-based, bounded categories of sexual or gender identities; also used as an umbrella term covering multiple identities.
Sexual orientation	A person’s sense of attraction to, or sexual desire for, individuals of the same sex, another sex, both, or neither.
Transgender	The gender identity of people whose sex assigned at birth does not conform to their identified or lived gender. A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their gender identity but may or may not desire to permanently alter their physical characteristics to conform to their gender identity.
Transphobia	Fear of, contempt of, or discrimination against transgender people, usually based on negative stereotypes of transgender identity.

Summary

Religious figures, the government, your parents—they all want to have a say in what you do between your legs. I want to tell you it's none of their business and that your body, your desires and your ideas are yours alone. If they don't like what you are, they are wrong.

—Rima, bisexual woman, Lebanon

I am a human like everyone else, and I have rights. I will defend those rights.

—Ahmed, gay man, Libya

Rima and Ahmed are not alone. Despite state-sponsored repression and social stigma, lesbian, gay, bisexual and transgender (LGBT) people in the Middle East and North Africa are finding ways to speak out. They are telling their stories, building alliances, networking across borders, developing national and regional movements, and finding creative ways to combat homophobia and transphobia.

This report accompanies a series of videos produced by Human Rights Watch and the Arab Foundation for Freedoms and Equality (AFE). The videos feature individual activists reaching out in Arabic to LGBT people living in the Middle East and North Africa with messages of support and encouragement. The report thus focuses on those parts of the region where Arabic is predominantly spoken.

The report provides context for the videos, highlighting and detailing the existence of movements that are making change in the face of significant obstacles, including criminalization of same-sex conduct (and, in a few countries, gender non-conformity), arbitrary arrests and ill-treatment, forced anal examinations, lack of gender recognition for transgender people, violence by state and non-state actors, restrictions on freedom of expression and association, family rejection and community stigma.

Activists in the countries that are the focus of this report must contend with state hostility, to varying degrees. Many governments in the region reject the concepts of “sexual orientation” and “gender identity” altogether. Faced with official intransigence, some

activists choose to work outside state structures: their activism focuses on community-building and attitudinal change. Others have taken on their governments, successfully pushing for incremental change in various forms. For example, in Lebanon and Tunisia state institutions have accepted calls to end forced anal examinations, after pressure from local and international activists as well as treaty bodies. Iraq has committed to address violence based on sexual orientation and gender identity (SOGI-based violence). In Lebanon courts have rejected an interpretation of “unnatural offenses” as including same-sex sexual acts (although the relevant court cases have not created binding legal precedent). In Morocco courts have convicted perpetrators of SOGI-based violence.

Progress can be painstakingly slow and marred by setbacks. As we were drafting this report, in September 2017, Egyptian security forces went into overdrive, arresting dozens following the display of a rainbow flag—a sign of solidarity with LGBT people—at a concert. They relied on a “debauchery” law that had been used in the early 2000s against gay men and transgender women and was revived with a vengeance following the 2013 coup, when the government, led by President Abdel Fattah al-Sisi, appeared to embrace persecution of gays and trans people as a political strategy. Even by recent standards in Egypt, the September crackdown—involving scores of arrests, forced anal examinations, and a formal media blackout on pro-LGBT speech—was severe. But activists demonstrate creativity and dynamism even in such challenging contexts, training LGBT people on how to digitally protect themselves from police surveillance and entrapment and galvanizing international pressure on their government, a tool which they employ cautiously, often reserving it for human rights emergencies.

This report examines how LGBT activism survives under severe constraints, in repressive states and conflict zones, in places where activists risk social exclusion, prison sentences, and violence by security forces, armed groups, and even their own families. It also highlights creative approaches used in less repressive contexts to gain public support, identify government allies, and mainstream the rights of LGBT people in broader conversations about human rights and gender.

Several LGBT activists from the Middle East and North Africa expressed frustration, in conversations with Human Rights Watch, at one-dimensional international media coverage portraying the region as a black hole for LGBT rights. Such coverage fails to recognize the agency of LGBT activists from the region, or renders them completely invisible. “We don’t

want the image anymore of just being victims,” Zoheir Djazeiri, an activist from Algeria, told Human Rights Watch. “We want to speak about reality, speak about violence, but also to [show what is] positive.”

This report does not seek to gloss over the severe, pervasive human rights violations that affect LGBT people in most of the Middle East and North Africa. Human Rights Watch has documented many such violations, ranging from extrajudicial killings to mass arrests to censorship of pro-LGBT speech, and will continue to do so. Rather, the report aims to capture the complexity of a movement that is opening doors for LGBT people in the region, even as some governments seek to slam those doors in their faces. In solidarity with LGBT activists in the region, it seeks to examine all that is possible beyond victimhood.

Methodology

This report was produced in close consultation with the Arab Foundation for Freedoms and Equality (AFE). The report focuses on LGBT activism and LGBT rights in Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine (and within the minority Palestinian community inside Israel), Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen. It is based primarily on Human Rights Watch interviews with 34 activists working on the rights of LGBT people in these countries.

The report does not cover LGBT activism in Iran or within the majority Jewish community of Israel. This is because the video project which accompanies this report video project, produced in partnership with AFE is aimed primarily at Arabic-speaking audiences. The report thus focuses on communities in the region where Arabic is predominantly spoken. The videos are available at: <https://www.hrw.org/no-longer-alone>.

Human rights activism is often part of a transnational movement, and this transnational dynamic is reflected in the work of LGBT activists. While most were working in their countries of origin, several had left for reasons of safety or in pursuit of opportunities, while others were engaged in regional work or had a foot in two different countries. Thus, two people doing LGBT rights work in Jordan were originally from Iraq, and two people originally from Sudan were working primarily in Egypt. Six of the interviewees—from Bahrain, Kuwait, Iraq, Oman, Syria and Morocco—had relocated to Europe for security reasons related to their identities or activism, although they continued to be involved in work in the region. The breakdown of countries in or with regard to which the activists were conducting the bulk of their work was as follows: Algeria (2) Bahrain (2), Egypt (5, two of whom were also doing regional work, including in Sudan), Iraq (3), Jordan (5), Kuwait (1), Lebanon (3, all of whom were doing primarily regional work), Libya (1), Mauritania (1), Morocco (4), Oman (1), Palestine (and within the minority Palestinian community inside Israel) (1), Qatar (1), Syria (1), and Tunisia (3). Human Rights Watch was unable to identify activists from Saudi Arabia, the United Arab Emirates or Yemen who were willing to speak about their work.

The majority of the interviewees identified as lesbian, gay, bisexual, transgender, or queer, while a few identified as heterosexual and cisgender (see glossary) but were deeply

engaged in activist work supporting LGBT people. One interviewee, from Bahrain, identified as gay but did not identify as an activist; he spoke with Human Rights Watch about the relative absence of an LGBT rights movement in Bahrain.

The report also builds upon previous research conducted by Human Rights Watch with LGBT activists and other LGBT people in Lebanon, Tunisia, Morocco, Egypt, Kuwait, Iraq, and the United Arab Emirates, and on Human Rights Watch's previous reporting on violations against LGBT people in the region, including the reports *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions* (2016); *"It's Part of the Job": Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations* (2013); *"They Hunt us Down for Fun": Discrimination and Police Violence Against Transgender Women in Kuwait* (2012); *"They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq* (2009); and *In a Time of Torture: The Assault on Justice In Egypt's Crackdown on Homosexual Conduct* (2004).¹ It also relies on desk-based research, including review of reports and websites of activist groups working in the region and studies on the history of LGBT organizing in the region.

¹ Human Rights Watch, *Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions*, July 12, 2016, <https://www.hrw.org/report/2016/07/12/dignity-debased/forced-anal-examinations-homosexuality-prosecutions>; Human Rights Watch, *"It's Part of the Job": Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations*, June 26, 2013, <https://www.hrw.org/report/2013/06/26/its-part-job/ill-treatment-and-torture-vulnerable-groups-lebanese-police-stations>; Human Rights Watch, *"They Hunt us Down for Fun": Discrimination and Police Violence Against Transgender Women in Kuwait*, January 15, 2012, <https://www.hrw.org/report/2012/01/15/they-hunt-us-down-fun/discrimination-and-police-violence-against-transgender-women>; Human Rights Watch, *"They Want Us Exterminated": Murder, Torture, Sexual Orientation and Gender in Iraq*, August 17, 2009, <https://www.hrw.org/report/2009/08/17/they-want-us-exterminated/murder-torture-sexual-orientation-and-gender-iraq>; Human Rights Watch, *In a Time of Torture: The Assault on Justice In Egypt's Crackdown on Homosexual Conduct*, February 29, 2004, <https://www.hrw.org/report/2004/02/29/time-torture/assault-justice-egypts-crackdown-homosexual-conduct>.

I. Background

Legal Context

Most of the Arab states inherited strict laws against homosexuality from the French or British colonial systems of justice.² Jordan (in 1951) and Bahrain (in 1976) did away with these laws when they passed new criminal codes after gaining their independence, but other countries maintained the colonial-era prohibitions, while sometimes modifying the language and the sentences.

In other cases, laws against same-sex sexual relations or transgender expression derive from a particular state-sanctioned interpretation of sharia (Islamic law). Sharia governs Saudi Arabia and is considered a principal source of law in many other countries in the region.³

Criminalization of Same-Sex Conduct

Laws across the region are far from uniform, although in most countries, same-sex acts between consenting adults in private are treated as a criminal offense. The annex to this report provides more details on these laws, as well as citations.

² French colonizers – despite having dropped laws against homosexuality in France itself in 1791 – imposed laws against sodomy or same-sex relations in countries including Morocco, Tunisia, Algeria, and Lebanon in the late 1800s and early 1900s. British colonizers implanted the Indian Penal Code (created by the British themselves, not by Indians) in its protectorates throughout the region in 1861, including in Bahrain, Oman, Qatar, parts of what is now Yemen, and the area that is now the United Arab Emirates (UAE); it punished “carnal knowledge against the order of nature” with a deportation for 20 years, imprisonment for ten years, or a fine. In Jordan (then the Emirate of Transjordan), as well as Mandatory Palestine, the British colonizers introduced the British Mandate Criminal Code Ordinance, No. 74 of 1936, which punished sexual acts between men with up to 10 years in prison. See Dr. Wahid Al Farchichi, *The law and homosexuality: A survey and an analytical study of the legislation of most Arab countries*, in *Homosexual Relations in the Penal Codes: General Study Regarding the Laws in the Arab Countries with a Report on Lebanon and Tunisia*, <https://www.daleel-madani.org/sites/default/files/Resources/HelemStudy.pdf> (accessed December 6, 2017); Jehoeda Sofer, “Sodomy in the Law of Muslim States,” in Arno Schmitt and Jehoeda Sofer (eds), *Sexuality and eroticism among males in Moslem societies*, New York and London, Haworth Press, 1992, p. 133; and International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A., *State Sponsored Homophobia 2016: A world survey of sexual orientation laws: criminalisation, protection and recognition* (Geneva; ILGA, May 2016), http://ilga.org/downloads/o2_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf (accessed November 7, 2017), p. 97. See also Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*, December 2008, https://www.hrw.org/sites/default/files/reports/lgbt1208_webwcover.pdf.

³ In Qatar, in some cases, sharia only applies to Muslims. Nizar Hamzeh, “Qatar: The Duality of the Legal System,” Al Mashriq, <http://almashriq.hiof.no/ddc/projects/pspa/qatar.html> (accessed November 22, 2017), originally published in *Middle Eastern Studies*, Vol. 30, No.1, January 1994, pp.79-90.

Almost all Arabic-speaking countries in the Middle East and North Africa region criminalize forms of consensual adult sexual relations which can include sex between unmarried individuals, adultery and same-sex relations. In **Bahrain, Iran, Egypt, Jordan, Libya, Mauritania, Morocco, Palestine, Oman, Qatar, Saudi Arabia, Sudan, Syria, United Arab Emirates and Yemen**, sex outside marriage (*zina*) is prohibited including between unmarried men and women. This is sometimes done through convoluted language, as in Libya, which describes sex outside marriage as “sexual assault upon a person with that person's consent.”⁴

In **Algeria, Morocco, Oman, Tunisia, Syria, Yemen**, and part of **Palestine (Gaza)**⁵, laws explicitly prohibit same-sex acts, with language that is gender-neutral or explicitly includes both women and men. **Mauritania**’s laws also criminalize same-sex conduct for both sexes; sex between adult Muslim men is subject to a sentence of “death by public stoning,” while sex between women carries a lesser sentence.

Kuwait, Sudan, and part of the **United Arab Emirates (Dubai)**⁶ prohibit consensual sex between men, or sodomy.

Lebanon, Syria and part of the **United Arab Emirates (Abu Dhabi)** prohibit vaguely defined “unnatural” sex: in Lebanon, “any sexual intercourse contrary to the order of nature,” and in Abu Dhabi, “unnatural sex with another person.” These laws have been used to criminalize same-sex relations.

Qatar, in addition to banning sex outside marriage for Muslims, provides penalties for any male, Muslim or not, who “instigates” or “entices” another male to commit an act of

⁴ *Zina* and other “moral” offenses violate international human rights law, as do the punishments associated with them, such as stoning or flogging. *Zina* offenses are often applied in a way that discriminates on the basis of sex: women are disproportionately impacted due to prevailing social attitudes and because pregnancy serves as “evidence” of the offense. International human rights law also requires decriminalization of consensual adult sexual relationships to protect a variety of human rights, including the rights to privacy, nondiscrimination, physical autonomy, and health. Sentences of flogging and stoning constitute a breach of the states’ obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment. United Nations human rights expert bodies and special rapporteurs have called for the repeal of *zina* laws.

⁵ Laws differ in Gaza and the West Bank due to colonial history. For more information, see the Annex.

⁶ The United Arab Emirates has a federal system, with one overarching federal penal code that exists alongside separate penal codes applicable in each emirate. For more information, see the Annex.

sodomy or immorality. The law does not provide for a penalty for the person who is “instigated” or “enticed.”

Several countries use gender-neutral “morality” laws to persecute people for consensual same-sex conduct. These provisions can be particularly insidious because of their vagueness: they use terms like “indecent” or “immoral,” without defining what falls into these categories.⁷ **Egypt** is a serial offender in terms of systematic use of such provisions against LGBT people: a law prohibiting “debauchery,” initially promulgated in 1951 for the purpose of criminalizing sex work and then replaced by Law 10/1961 on the Combating of Prostitution, has been used by the authorities since the 1990s to prosecute homosexual conduct between men, resulting in hundreds of arrests.⁸ **Bahrain** has also used vague “morality” and “decency” provisions to harass and detain people suspected of being LGBT, according to media reports. According to one report, 127 people were arrested at an alleged “gay party” in 2011, some dressed in drag, in spite of there being no law that clearly punishes being gay or dressing in drag.⁹ In 2016, police arrested 30 people at a private party at a swimming pool, accused them of being “the third sex,” and charged them with public indecency.¹⁰

Iraq and **Jordan** have no laws that explicitly criminalize consensual same-sex conduct, and their governments have not systematically interpreted other “morality” provisions to criminalize consensual same-sex conduct.

Prohibitions on Expression of Gender Identity

Kuwait and the **United Arab Emirates** are among the few countries in the world that explicitly criminalize gender non-conformity. **Oman** joined them in 2018, introducing a retrograde provision in its new penal code that punishes any man who “appears to dress in women’s clothing.”

⁷ Mona Eltahawy, “The Middle East’s Morality Police,” *The New York Times*, August 19, 2015, <https://www.nytimes.com/2015/08/20/opinion/mona-eltahawy-the-middle-east-s-morality-police.html> (accessed July 13, 2017).

⁸ For the history of Egypt’s debauchery law, see Human Rights Watch, *In a Time of Torture*, 2004, Appendix, <https://www.hrw.org/report/2004/02/29/time-torture/assault-justice-egypts-crackdown-homosexual-conduct#856537>.

⁹ Habib Toumi, “Bahrain Arrests Scores in Raid on Gay Party,” *Gulf News*, February 5, 2011, <http://gulfnews.com/news/gulf/bahrain/bahrain-arrests-scores-in-raid-on-gay-party-1.757328>. The article inaccurately states that homosexuality is criminalized in Bahrain. See the Annex for information on Bahrain’s penal code.

¹⁰ Human Rights Watch Skype interview with Nazeeha Saeed, October 23, 2017.

In Kuwait, a 2007 law criminalizes “imitating the opposite sex.” Under this provision, transgender people have been subjected to arbitrary arrests, accompanied by degrading treatment and torture while in police custody. As the law fails to define what “imitating” the opposite sex means, even cisgender people have been arrested under the law. One man who was arrested and beaten in 2010 under this law told Human Rights Watch:

I don’t know why I was even arrested; I am a man, I even had a full beard at the time! ... I was finally released three days later after I was forced to sign a confession and promise that I wouldn’t imitate women again. How many women do you know have beards?¹¹

In the UAE, the federal penal code punishes “any male disguised in a female apparel and enters in this disguise a place reserved for women or where entry is forbidden, at that time, for other than women.” In practice, transgender women have been arrested under this law even in mixed-gender spaces.¹²

In Bahrain, although no law explicitly criminalizes transgender identities, media reports refer to cases in which people have been charged with offenses such as “indecent behavior” and “encouraging debauchery” for wearing gender non-conforming clothing.¹³ Bahrain’s parliament debated a bill in 2016 and again in 2017 that would criminalize “anyone who looks like the other sex,” but did not pass it.¹⁴

¹¹ Human Rights Watch, *“They Hunt Us Down for Fun,”* 2012, p. 15.

¹² Human Rights Watch, “UAE: Stop Policing Gender Expression,” September 7, 2017, <https://www.hrw.org/news/2017/09/07/uae-stop-policing-gender-expression>. In addition, in August 2016, a Canadian transgender model was denied entry to the UAE on grounds of her gender identity. Asmae Bahadi, “Transgender Person Denied Entry to United Arab Emirates,” August 11, 2016, <https://www.moroccoworldnews.com/2016/08/193900/transgender-person-denied-entry-to-united-arab-emirates/> (accessed October 7, 2017).

¹³ Habib Toumi, “Crossdresser sent to Bahrain jail for indecent behavior,” Gulf News, April 4, 2012, <http://gulfnews.com/news/gulf/bahrain/crossdresser-sent-to-bahrain-jail-for-indecent-behaviour-1.1004003> (accessed November 9, 2017).

¹⁴ According to Bahraini journalist Nazeeha Saeed, “The human rights committee in parliament commented that it’s a very vague law, and unjust, especially for people with hormonal problems or those coming from different cultures with different customs.” Human Rights Watch Skype interview, October 23, 2017.

Prohibitions on Freedom of Expression and Association

While several countries in other regions have adopted laws prohibiting “promoting homosexuality,” no such law exists in the Middle East and North Africa. However, in Egypt, a provision on “incitement to debauchery” in the 1961 law on combating prostitution was used in September 2017 against young people suspected of raising the rainbow flag at a Mashrou’ Leila concert, and against other people who were prosecuted after using gay dating apps or chat rooms. Two others suspected of raising the rainbow flag were charged with establishing an association “the purpose of which is to call by any method, for interrupting the provisions of the constitution or laws.”¹⁵

Elsewhere, vaguely worded “morality” or “indecent” laws could be used to prohibit speech in support of LGBT rights. Such laws penalize, for example, anyone who possesses or distributes materials that may be considered a “breach of modesty” (Algeria, Yemen), “sings or broadcasts in a public place obscene or indecent songs or statements” (Iraq), “expresses a sign incompatible with modesty in a public place” (Jordan), or accesses or publishes materials on the internet that impinge on “public morals” or are of an “indecent” nature (Saudi Arabia).¹⁶

Restrictions on freedom of association also pose obstacles to the work of LGBT groups. According to an analysis by the International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), laws regulating non-governmental organizations in Algeria, Egypt, Libya, Morocco, Bahrain, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates make it virtually impossible for organizations working on issues of sexual

¹⁵ Ahmed Aboulenein, “Egypt arrests dozens in crackdown on gays,” Reuters, October 2, 2017, <https://www.reuters.com/article/us-egypt-rights/egypt-arrests-dozens-in-crackdown-on-gays-idUSKCN1C72BW> (accessed November 11, 2017). See Law No. 58 01 of the Year 1937 Promulgating the Penal Code, art. 86 bis, unofficial English translation available at <http://www.refworld.org/docid/3f827fc4.html> (accessed March 19, 2018).

¹⁶ Kingdom of Saudi Arabia, Bureau of Experts at the Council of Ministers, Official Translation Department, “Anti-Cyber Crime Law,” 2009, http://www.citc.gov.sa/en/RulesandSystems/CITCSys/tem/Documents/LA_004_%20E_%20Anti-Cyber%20Crime%20Law.pdf (accessed November 23, 2017), art. 6(1); Kingdom of Saudi Arabia, Telecom Act, Issued under the Council of Ministers resolution No. (74) dated 05/03/1422H (corresponding to 27/05/2001), <http://www.wipo.int/edocs/lexdocs/laws/en/sa/sao41en.pdf> (accessed November 23, 2017), art. 37(11); International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A. and Mendos, L.R., *State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalisation, protection and recognition* (Geneva: ILGA, May 2017). pp. 41-42.

orientation and gender identity to legally register.¹⁷ In most countries, LGBT organizations have not even attempted to register, preferring to work underground, or have registered without mentioning their work on LGBT rights. Akaliyat, a Moroccan organization, attempted to register in 2016; but authorities refused even to take the application and hustled those applying out of the registration office.¹⁸ In Tunisia, however, a court in 2016 upheld the right of an LGBT organization, Shams, to operate, after the government attempted to shut it down.¹⁹

Absence of Rights-Based Legal Gender Recognition²⁰

None of the states covered in this report provide a standardized procedure by which transgender people can legally change their gender marker on official documents, nor do any provide for gender categories other than “female” or “male.” This leaves transgender and gender non-conforming people vulnerable to harassment every time they need to present their documents and to arrest under laws that criminalize same-sex relations.²¹

In Lebanon, according to activist Georges Azzi, courts have developed jurisprudence such that “if three psychologists and one doctor can prove that you have a gender disorder, you

¹⁷ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A. and Mendos, L.R., *State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalisation, protection and recognition* (Geneva; ILGA, May 2017), pp. 43-46.

¹⁸ Human Rights Watch interview with Tarik H. (pseudonym), Akaliyat, Beirut, October 1, 2017.

¹⁹ Haïfa Mzalouat, “LGBT Rights in Tunisia: The Fight Will Be Televised,” June 17, 2016, Heinrich Böll Stiftung, <https://www.boell.de/en/2016/06/17/lgbt-rights-tunisia-fight-will-be-televised> (accessed November 8, 2017).

²⁰ For an overview of recent developments with regard to transgender people’s access to legal gender recognition and gender affirming surgery in the Middle East and North Africa, see Brian Whitaker, “Transgender Issues in the Middle East,” Medium, July 26, 2016, https://medium.com/@Brian_Whit/transgender-issues-in-the-middle-east-af5fc5782d1e (accessed November 8, 2017).

²¹ International best practice allows transgender people to change the gender marker on their official documents through a simple process of self-declaration, without requirements for surgery, sterilization, medical examination, psychiatric evaluation, or divorce, all of which are currently required by some countries as a precondition for legal gender recognition. See Neela Ghoshal and Kyle Knight, “Rights in Transition: Making Legal Recognition for Transgender People a Global Priority,” Human Rights Watch World Report 2016, <https://www.hrw.org/world-report/2016/rights-in-transition>. The Yogyakarta Principles plus 10 (YP+10), an authoritative, expert exposition of international human rights law as it currently applies to the grounds of sexual orientation, gender identity, gender expression and sex characteristics, asserts a right to legal recognition “without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics” and argues that while sex or gender continues to be registered, states should make available a multiplicity of gender marker options, such as an “X” or nonbinary classification for those who do not identify as female or male. *The Yogyakarta Principles Plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles*, adopted on 10 November 2017, Geneva, http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf (accessed January 25, 2018).

can change your papers.” However, Azzi explained, this process is not written into law, and lower courts’ rulings in such cases do not create binding precedent.²² In a promising development, in January 2017, an Appeals Court in Lebanon—which does set binding precedent—delivered a ruling allowing a transgender man to change his name and gender marker on his identity documents, overruling a lower court and compelling the government to change the papers. The court found that gender affirming surgery should not be a prerequisite to gender identity recognition.²³

Egypt, for several years, offered free gender affirmation surgery for people who were diagnosed with “gender identity disorder,” but a government committee in charge of issuing permits for surgery stopped doing so in 2016 due to a “debate about the morality of the operations.” According to the Egyptian Initiative for Personal Rights, even those who were authorized to have surgery often had difficulty modifying their identity documents.²⁴

In most cases it has been impossible for trans people to change their official gender marker even on a case-by-case basis. In Kuwait in 2004, a court granted Amal, a trans woman, permission to change her gender in her legal identity papers from male to female, but an appeals court overturned the ruling.²⁵ Amal lost a final appeal before the Court of Cassation in 2005.²⁶ In Bahrain, in early 2016, a court rejected an application from a transgender man who sought to change his identity documents.²⁷

In a case that was pending before a court in the United Arab Emirates in 2017, three transgender men filed a petition demanding the right to change the gender markers on

²² Email communication from Georges Azzi to Human Rights Watch, February 7, 2018.

²³ Anealla Safdar, “Transgender ruling in Lebanon an ‘empowering’ moment,” Al Jazeera, February 6, 2017, <http://www.aljazeera.com/indepth/features/2016/02/transgender-ruling-lebanon-empowering-moment-160206125311413.html> (accessed November 8, 2017).

²⁴ Heather Murdock, “Transgender Operations Stall in Egypt,” June 15, 2016, <http://www.voanews.com/a/transgender-operations-stall-egypt/3367741.html> (accessed November 9, 2017).

²⁵ Human Rights Watch, *They Hunt Us Down for Fun*, p. 17.

²⁶ “Kuwait court refuses to recognise sex change,” 3-rx.com, March 21, 2006, http://www.3-rx.com/ab/more/kuwait_court_refuses_to_recognise_sex_change/ (accessed November 8, 2017).

²⁷ “Court rejects request of woman to change to man,” AlAyam, February 1, 2016, <http://www.alayam.com/alayam/first/556691/News.html> (accessed December 15, 2017). The judge stated: “Sex cannot be definitively or fully transformed, because chromosomes determine sex (xx for females) and (xy for men) and these cannot be changed, and all that treatments do in this case - either hormones or surgery - is to try to reach satisfaction with appearance.”

their documents.²⁸ The Federal Appeal Court rejected their request in March 2018. Their lawyer said he would be appealing the ruling.²⁹

Absence of Non-Discrimination Legislation

While some countries in the Arabic-speaking region have laws or constitutional provisions that prohibit discrimination, none expressly prohibits discrimination on the grounds of sexual orientation or gender identity. Though not alone, the countries that are the focus of this report are outliers in this sense: globally, laws that protect against discrimination in housing, employment, and public accommodations on the grounds of sexual orientation—and, in a few cases, gender identity—are gaining currency.³⁰ In Arab states, those who are victims of discrimination because they are LGBT have no access to legal recourse.

Social, Political, and Religious Context

Politicized Islam and the 2011 Uprisings

In some parts of the Middle East and North Africa, intolerant forms of religious fundamentalism have set back women's rights, sexual freedoms, and religious diversity in recent years.

The Arab uprisings of 2011 ushered in new governments and reforms in a few countries, but it produced mixed outcomes for LGBT people in the short term. In Libya, the overthrow of Muammar Qaddafi resulted in a power vacuum in which militias wield significant power; several of them have conducted arbitrary arrests of men on suspicion of homosexuality.³¹

²⁸ Noah Browning and Reem Shamseddine, "In first, transgender Emiratis seek recognition as men," Reuters, May 4, 2017, <https://www.reuters.com/article/us-emirates-lgbt/in-first-transgender-emiratis-seek-recognition-as-men-idUSKBN1801EG> (accessed November 8, 2017).

²⁹ Shireena Al Nowais, "Transgender Emiratis fail in legal bid to have new sexes recognized," The National (UAE), March 22, 2018, <https://www.thenational.ae/uae/transgender-emiratis-fail-in-legal-bid-to-have-new-sexes-recognised-1.715356> (accessed April 5, 2018).

³⁰ International Lesbian, Gay, Bisexual, Transgender and Intersex Association, "Sexual Orientation Laws in the World – Protection," http://ilga.org/downloads/2017/ILGA_WorldMap_ENGLISH_Protection_2017.pdf (accessed November 8, 2017).

³¹ Human Rights Watch interview with Ahmed B., Beirut, September 30, 2017. Armed conflicts since 2014 have left the country with two rival governments claiming legitimacy. The United Nations-backed Government of National Accord (GNA), based in Tripoli, controls parts of western Libya in addition to the capital. A rival, the Interim Government, based in the eastern cities of al-Bayda and Tobruk, controls large swathes of eastern Libya, with the exception of Derna, and parts of the south. The Interim Government is linked with the House of Representatives and the Libyan National Army forces and affiliated militias, whereas the GNA is supported by multiple hybrid armed groups nominally under the interior and defense ministry.

The rise of the organization known as Islamic State (also known as ISIS), which killed dozens of gay men, as discussed below, has been credited in part to its ability to “fill the power vacuum created by failing states” in the wake of the 2011 uprisings.³²

In Egypt, the January 2011 popular revolt that overthrew former president Hosni Mubarak brought short-lived hope to LGBT activists. Mubarak’s government had overseen a massive crackdown on gay men in the early 2000s, intended in part, according to one Egyptian activist, “to present an image as the guardian of public virtue, to deflate an Islamist opposition movement that appear[ed] to be gaining support every day.”³³ But the increasingly authoritarian turn of Egypt’s governments after Mubarak’s ouster, especially under President Abdel Fattah al-Sisi, dashed hopes for radical reforms. Even worse, gains of the 2011 uprising, including enhanced freedom of speech and assembly, were erased when the military orchestrated the forcible removal of elected president Mohamed Morsy in July 2013. Since al-Sisi, then defense minister, became president in 2014, the government has adopted Mubarak’s strategy of scapegoating LGBT people, apparently as a method of proving his religiously conservative credentials and staving off Islamist challenges.

One positive outcome of the Arab uprisings has been that across the region, they galvanized countless LGBT individuals to take part in activism for the first time and left them with new tools for mobilization and alliance-building. Dalia Abdel Hameed of the Egyptian Initiative for Personal Rights (EIPR) explained that since the revolution, activists in Egypt working with LGBT groups and with what she described as leftist or revolutionary political organizations speak more freely about gender and sexuality, and articulate them within a human rights framework:

The revolution created a different imaginary and ways of advocating rights and articulating causes that was never conceivable before 2011. Specifically on gender and sexuality, there is a paradigm shift, a change in the way young people think about gender and sexuality, related to the sexual violence in Tahrir and the activism around it.³⁴

³² Noah Feldman, “Arab Spring’s Dreams Became The Islamic State Nightmare,” Bloomberg, December 17, 2015, <http://www.moroccotomorrow.org/arab-springs-dreams-became-the-islamic-state-nightmare/> (accessed November 3, 2017).

³³ Hossam Bahgat, “Explaining Egypt’s Targeting of Gays,” *Middle East Research and Information Project*, July 23, 2001, <http://www.merip.org/mero/mero072301> (accessed October 7, 2017).

³⁴ Human Rights Watch telephone interview with Dalia Abdel Hameed, EIPR, September 6, 2017.

A gay Egyptian activist, asked about what impact the 2011 uprisings had on LGBT organizing, said:

The Arab Spring? It produced me. I was involved in LGBT groups since 2008, but they were always afraid to do much. From 2011, when Mubarak was ousted, it was like there was nothing called a mountain, there was nothing that could not be destroyed.

Then I started doing oral histories and found there were six or seven LGBT groups founded in 2011-2012. People started saying, “Why not start showing up and being visible and asking for our rights.” In protests, people were just being themselves and feeling more comfortable. And society was also more ready to accept them—people were rebelling against an Islam that says you just have to do what you’re told.³⁵

Mala Badi, a Moroccan transgender activist, wrote that when she first came out to herself as trans, friends advised her to keep her identity hidden.

Then the Arab Spring hit our shores. On February 20, 2011, I found myself in the street alongside thousands of other young Moroccans, chanting “freedom, justice, dignity, equality!” out loud, for the first time. I felt as if I had been born again. At gatherings with other activists I sensed that I was among people I didn’t need to fear, because we had shouted “no more fear from today on!” together in front of government buildings and at marches of thousands of people.

So I gradually revealed my sexual orientation, and nervously wrote on placards “No to Article 489” (the part of the penal code that criminalizes same-sex activity) and “Don’t Criminalize Love.” By May, I raised a rainbow flag at a demonstration, which infuriated the Islamists there. I stood up, my body quivering, and said: “Gay rights are human rights, we need to accept

³⁵ Human Rights Watch interview Mohamed Alborgi, Rainbow Egypt, September 29, 2017.

the fact that many people shouting ‘long live the people!’ with us here are queer, and they are of the people!”³⁶

Demands from the burgeoning LGBT movement that governments respect their rights, however, are generally met with a deaf ear. The Organization of Islamic Cooperation (OIC), which includes all the states discussed in this report, has opposed international recognition of the rights of LGBT people. This stance has manifested itself in a walkout by OIC member states from a UN Human Rights Council panel discussion of abuses related to sexual orientation and gender identity in 2012,³⁷ bloc voting against UN resolutions to address violence and discrimination on the grounds of SOGI,³⁸ and refusal to cooperate with the recently established UN Independent Expert on Sexual Orientation and Gender Identity.³⁹

Violence and Conflict

Armed conflict poses unique challenges to any form of activism that touches upon controversial issues. A multiplicity of armed actors who may not welcome activists’ messages may mean that there is a high risk of violence, often in a context of impunity. Widespread breakdown of institutions also can allow members of the public to inflict violence and punishment based on their own prejudices, with disregard for the rule of law.

Violent extremists have targeted gay men, transgender women and gender non-conforming people in several countries in the region. This violence, which sometimes is outside the reach of the state (as in ISIS-controlled regions of Iraq and Syria) and sometimes takes place where weak governments depend on allied armed groups to provide security and allow them free rein to “police” as they choose (as in nominally government-controlled

³⁶ Mala Badi, “World, I’m a Woman with a Beard and Mustache,” Huffington Post, undated (2016), https://www.huffingtonpost.com/entry/world-im-a-woman-with-a-b_b_10320288.html (accessed October 13, 2017).

³⁷ International Service for Human Rights, Human Rights Monitor Quarterly, Issue 2, 2012, https://www.ishr.ch/sites/default/files/hrm/files/hrmq_april_2012.pdf (accessed November 8, 2017), p. 1.

³⁸ ARC International, “Appointing an Independent Expert on Sexual Orientation and Gender identity: An Analysis of Process, Results and Implications,” 2016, <http://arc-international.net/global-advocacy/human-rights-council/32nd-session-of-the-human-rights-council/appointing-an-independent-expert-on-sexual-orientation-and-gender-identity-an-analysis-of-process-results-and-implications/> (accessed November 8, 2017); Organisation of Islamic Cooperation, “OIC Strongly Rejects HRC Resolution on sexual orientation and gender identity,” July 2, 2016, https://www.oic-oci.org/topic/?t_id=11338&ref=4456&lan=en (accessed November 2, 2017).

³⁹ United Nations, “Intense Debate, Close Voting as Gender Identity, Sexual Orientation, Digital-age Privacy Take Centre Stage in Third Committee,” November 21, 2016, <https://www.un.org/press/en/2016/gashc4191.doc.htm> (accessed November 8, 2017).

areas of Baghdad, and parts of Libya), is one of the most severe obstacles to LGBT organizing: being an “out” LGBT activist in such circumstances can mean courting death.

ISIS seemed to welcome notoriety for killing allegedly gay and gender non-conforming people in Iraq, Syria, and Libya. ISIS reportedly executed at least 23 people in Iraq, 16 in Syria, two in border territory between Iraq and Syria, and three in Libya for alleged sodomy as of June 2016.⁴⁰ Activists worked to draw attention to ISIS killings, including at the UN Security Council, and to mobilize international responses.⁴¹

At the same time, some activists have raised concern that a narrow focus on ISIS’ horrific anti-LGBT abuses may distract from abuses by governments and their proxies who are also responsible for homophobic and transphobic violence.⁴² Fadi Saleh, an activist and academic from Syria, pointed out that Syrian government forces and other non-state armed groups in Syria have also abused LGBT people, but that these stories get overshadowed because of an excessive focus on ISIS.⁴³ Iraq has the most troublesome history in the region in terms of violence by pro-government armed groups. In 2009, fighters suspected of affiliation with Muqtada al-Sadr’s Mahdi army, an armed group which publicly vilified gay and effeminate men as “the third sex,” kidnapped, tortured and murdered as many as several hundred men in a matter of months, most of them in Baghdad.⁴⁴ The Mahdi army was allied with the government at the time. Another wave of killings, attributed in some media reports to another government-allied armed group, Asa’ib Ahl al-Haq (Leagues of the Righteous), took place in 2012 after Iraq’s interior

⁴⁰ OutRight Action International, “Timeline of Publicized Executions for Alleged Sodomy by the Islamic State Militias,” <https://www.outrightinternational.org/content/timeline-publicized-executions-alleged-sodomy-islamic-state-militias> (accessed November 3, 2017); Graeme Reid, “Islamic State’s War on Gays,” Los Angeles Times, June 8, 2015, <http://www.latimes.com/opinion/op-ed/la-oe-reid-islamic-state-gay-rights-20150608-story.html> (accessed November 3, 2017).

⁴¹ OutRight Action International, “First-Ever U.N. Security Council Briefing on Violence Against LGBTI People: Focus on ISIS in Iraq and Syria,” August 24, 2015, <https://www.outrightinternational.org/content/first-ever-un-security-council-briefing-violence-against-lgbti-people-focus-isis-iraq-and> (accessed November 8, 2017).

⁴² Human Rights Watch interview with a Syrian activist, Beirut, October 1, 2017.

⁴³ Human Rights Watch Skype interview with Fadi Saleh, January 4, 2018. Mahmoud Hassino, another Syrian gay activist living in exile in Germany, expressed similar views in a 2016 interview with the British Council: “Since 2011, gay men have been verbally and physically abused at [Assad] regime checkpoints. Many think that these LGBT human rights violations are not as dangerous as other attacks committed by radical Islamic groups. But I find them even more insidious, as they are state-sponsored and systematic.” Mahmoud Hassino, “What’s it like to be a gay refugee?” British Council, March 21, 2016, <https://www.britishcouncil.org/voices-magazine/whats-it-be-gay-refugee> (accessed January 23, 2018).

⁴⁴ Human Rights Watch, *They Want Us Exterminated*, 2009

minister condemned as “Satanist” the “emo” subculture—a subculture related to a form of punk music and marked by a particular form of dress, including tight jeans and long or spiky hair for men. The government failed to act against the killings, which targeted non-conformist young people, including but not limited to people perceived to be LGBT.⁴⁵ In 2014, Asa'ib Ahl al-Haq killed several men who were, or who were perceived to be, gay and put up “wanted” posters for others.⁴⁶ Killings of gay men attributed to Asa'ib Ahl al-Haq were reported once again in 2017.⁴⁷

Iraq does not criminalize same-sex conduct, and the government formed an LGBT committee in 2012, funded by international donors, which aimed to sensitize government officials about sexual orientation and gender identity. The committee “never produced any public reports or tangible policy results” and largely stopped operating in 2014 as the government became consumed by battling ISIS.⁴⁸ An activist told Human Rights Watch in 2017 that the committee was still existent, but had produced nothing tangible.⁴⁹ As IraQueer and several partner organizations stated in a 2015 report, “This cooperation between state forces and conservative religious militia implicated in anti-LGBT killings does not bode well for efforts aimed at preventing human rights violations and holding perpetrators accountable.”⁵⁰

⁴⁵ Ahmed Rasheed and Mohamed Ameer, “Iraq militia stone youths to death for ‘emo’ style,” Reuters, March 10, 2012, <http://www.reuters.com/article/us-iraq-emo-killings-idUSBRE829oCY20120310> (accessed October 8, 2017); Office of the High Commissioner on Human Rights, United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office, “Report on Human Rights in Iraq: January to June 2012,” October 2012, <http://www.refworld.org/publisher,UNAMI,,54c1fe754,o.html>, pp. 15-16 (accessed November 3, 2017). The victims were mostly male, but UNAMI identified two cases of women who may have been killed during this period because of their perceived sexual orientation.

⁴⁶ International Gay and Lesbian Human Rights Commission (IGLHRC, now known as OutRight Action International), MADRE, and Organization of Women’s Freedom in Iraq (OWFI), *When Coming Out is a Death Sentence: Persecution of LGBT Iraqis*, 2014, https://www.outrightinternational.org/sites/default/files/ComingOutDeathSentence_Iraq_o.pdf (accessed November 3, 2017).

⁴⁷ Human Rights Watch Skype interview with Amir Ashour, IraQueer, July 17, 2017; Tim Teeman, “Murdered for ‘Looking Gay’: How LGBT Iraqis Are Fighting for Their Lives,” The Daily Beast, July 6, 2017, <http://www.thedailybeast.com/murdered-for-looking-gay-how-lgbt-iraqis-are-fighting-for-their-lives> (accessed November 8, 2017).

⁴⁸ International Gay and Lesbian Human Rights Commission (IGLHRC, now known as OutRight Action International), MADRE, and Organization of Women’s Freedom in Iraq (OWFI), *When Coming Out is a Death Sentence: Persecution of LGBT Iraqis*, 2014, https://www.outrightinternational.org/sites/default/files/ComingOutDeathSentence_Iraq_o.pdf (accessed November 3, 2017).

⁴⁹ Human Rights Watch Skype interview with Amir Ashour, IraQueer, July 17, 2017.

⁵⁰ IraQueer et. al., *Dying to Be Free: LGBT Rights Violations in Iraq*, 2015, <http://www.law.cuny.edu/academics/clinics/hrgj/publications/ICCPR-Iraq-Shadow-Report-LGBT-ENG.pdf> (accessed November 9, 2017), p. 5.

Iraqi religious and political leaders, including Grand Ayatollah Ali al-Sistani and Moqtada al-Sadr, condemned the 2012 killings,⁵¹ and Sadr spoke out against anti-LGBT violence again in 2016.⁵² But IraQueer activist Amir Ashour, asked whether the 2016 statement made a positive impact, said: “The only thing that is positive about it is that we can refer to it. On the ground it didn’t stop the killing.” Ashour said that although the militia responsible for the killings was affiliated to al-Sadr, “his word is not law,” and his condemnation of the killings made little impact on the killers.⁵³

In Libya, where the rule of law and central authority have broken down, multiple militias with a quasi-official status provide support to the UN-backed Government of National Accord. Activists say that several of these militia have arrested, beaten, and arbitrarily detained men suspected of being gay.⁵⁴

Conflicts in Iraq, Syria, Yemen and Libya have produced hundreds of thousands of refugees and other displaced people, some of whom are LGBT and who have many specific vulnerabilities and needs. LGBT activists who are themselves refugees from conflict zones, face tremendous uncertainty about their future, which limits their ability to engage in activism. An Iraqi activist living in another country in the region said that although he is “out” as gay to a broad circle of friends, he must be cautious when organizing events that could out him more publicly—not out of fear of what might happen to him in his host country, but because of what might happen if he is ever returned to Iraq.⁵⁵ (This report does not go into depth on the subject of LGBT refugees.)

Violence in the context of armed conflict is not the only threat to LGBT people. In countries where people are arrested on the grounds of their perceived sexual orientation or gender identity, security forces have subjected them to torture and beatings. Torture sometimes

⁵¹ Scott Long, “Massacre of emos in Iraq goes to the core of a damaged society,” The Guardian, March 18, 2016, <https://www.theguardian.com/commentisfree/2012/mar/18/iraq-massacre-emos-killing-gay> (accessed November 8, 2017).

⁵² Human Rights Watch, “Iraq: Cleric’s Call Against Anti-LGBT Violence,” August 18, 2016, <https://www.hrw.org/news/2016/08/18/iraq-clerics-call-against-anti-lgbt-violence>.

⁵³ Human Rights Watch Skype interview with Amir Ashour, July 17, 2017.

⁵⁴ Human Rights Watch interview with Ahmed B. (pseudonym), Beirut, September 30, 2017; Quzah, “UPR Review Session of Libya: Based on sexual orientation, gender identity or intersex issues,” May 2015, https://www.upr-info.org/sites/default/files/document/libya/session_22_-_mai_2015/quzah_upr22_lby_e_main.pdf (accessed November 8, 2017).

⁵⁵ Human Rights Watch interview with Omar R., Beirut, October 2, 2017.

takes the form of forced anal examinations, which often involve doctors or other medical personnel forcibly inserting their fingers, and sometimes other objects, into the anus of the accused to find purported “proof” of homosexual conduct. Forced anal exams have been condemned by numerous UN agencies and the African Commission on Human and People’s Rights as a form of torture or cruel, inhuman and degrading treatment, dismissed by forensic medicine experts as bad science, and called unethical by the World Medical Association. Victims have told Human Rights Watch that being subjected to forced anal exams was physically painful and psychologically distressing; many experienced the exams as a form of sexual assault.⁵⁶

Egypt makes use of forced anal exams unapologetically.⁵⁷ Tunisia’s government has recently committed to banning them, but has not yet put a ban in place.⁵⁸ Human Rights Watch also received reports of police in Syria and the United Arab Emirates ordering gay men to undergo forced anal testing, but has not independently verified the allegations.⁵⁹ Lebanon stands out for the steps it has taken to eliminate forced anal exams (as discussed in section II below) but has not issued a blanket ban that would ensure no one is subjected to forced anal exams in the future.

Gay men and transgender women have also described other forms of torture and ill-treatment at the hands of police officers and other members of security forces in the region: being beaten with electric cables and raped with an iron rod (Lebanon)⁶⁰; police who “took off their belts and put them around our necks and made us walk like dogs”

⁵⁶ Human Rights Watch, *Dignity Debased*, 2016.

⁵⁷ J. Lester Feder and Maged Atef, “Egyptian Doctors Think This Torturous Exam Can Detect ‘Chronic Homosexuals,’” Buzzfeed, February 16, 2015, <http://www.buzzfeed.com/lesterfeder/egyptian-doctors-think-this-torturous-exam-can-detect-chroni#.armgDXGBv> (accessed April 9, 2016).

⁵⁸ Written exchange on Facebook messenger between Human Rights Watch and Badr Baabou, Damj, October 2017.

⁵⁹ Human Rights Watch, *Dignity Debased*, 2016; Human Rights Watch telephone interview with Muhamed Fadli Abdul Rahman, August 30, 2017. Abdul Rahman, a gay man from Singapore, was arrested in Abu Dhabi in August and detained with several Emirati gay men who were accused of being gay or transgender. He told Human Rights Watch that during his time in detention, one of his fellow detainees was taken for an anal examination.

⁶⁰ Human Rights Watch, *It’s Part of the Job*, 2013; Human Rights Watch, “Lebanon: Syrian Refugee’s Account of Torture,” December 21, 2016, <https://www.hrw.org/news/2016/12/21/lebanon-syrian-refugees-account-torture>.

(Egypt)⁶¹; being raped by police and then thrown out of a moving police car into the street (Kuwait)⁶²; and being hung upside down from a hook in the ceiling (Iraq).⁶³

LGBT people throughout the region also face the threat of violence from ordinary civilians. Human Rights Watch has documented such violence in Kuwait, where men sexually assault transgender women with impunity⁶⁴; in Morocco, where people perceived to be gay or transgender have been subjected to mob violence⁶⁵; and in Iraq, where gay men reported severe beatings and death threats at the hands of their own family members.⁶⁶ In all such cases, perpetrators know that anti-LGBT laws will likely dissuade their victims from seeking recourse.⁶⁷

Family and Community Pressure and the Risks of Being “Out”

In most of the region, LGBT people face tremendous social pressures to remain in the closet, or not to reveal their sexual orientation or gender identity. Even LGBT people whose immediate family members were aware and accepting of their sexuality or gender identity told Human Rights Watch that family members urged them not to share this aspect of themselves with the extended family, the community, or the general public.⁶⁸ The magnitude of family and social stigma was a challenge for activists interviewed by Human Rights Watch regardless of whether their governments actively persecuted LGBT people.

Family and social pressure to remain closeted creates challenges for personal self-acceptance, community-building, and movement-building. Activists, who in many cases are working to provide support networks for LGBT people, including victims of human rights abuses, may feel a strong sense of pride in both their own identities and in their work on behalf of LGBT communities, but they face constant reminders that their sense of

⁶¹ Human Rights Watch interview with Gamal (pseudonym), Cairo, March 24, 2017.

⁶² Human Rights Watch, *They Hunt Us Down for Fun*, 2012, p. 26.

⁶³ Human Rights Watch, *They Want Us Exterminated*, 2009, pp. 29-30.

⁶⁴ Human Rights Watch, *They Hunt Us Down for Fun*, 2012, pp. 40-41.

⁶⁵ Human Rights Watch, “Morocco: Homophobic Response to Mob Attack,” July 15, 2015, <https://www.hrw.org/news/2015/07/15/morocco-homophobic-response-mob-attack>; “Morocco: Victims of Attack Jailed for ‘Homosexual Acts’,” April 8, 2016, <https://www.hrw.org/news/2016/04/08/morocco-victims-attack-jailed-homosexual-acts>.

⁶⁶ Human Rights Watch, *They Want Us Exterminated*, 2009, pp. 43-46.

⁶⁷ TransHomosDZ has documented similar obstacles to recourse for anti-LGBT violence in Algeria. See TransHomosDZ and Arab Foundation for Freedoms and Equality, *LGBTQI in Algeria: Violence in Everyday Life*, November 2016, <http://transhomosdz.org/wp-content/uploads/2016/11/Report.pdf> (accessed February 12, 2018).

⁶⁸ Human Rights Watch interviews with activists from Bahrain, Jordan and Morocco, Beirut, September 29-October 1, 2017.

pride is not shared by some of the people closest to them. Some cannot discuss their LGBT activism with their families at all, while others who are out to their families may discuss their work, but find that it is not understood or valued, all of which can contribute to depression and burnout.

In Morocco, the authorities play on family dynamics in order to intimidate activists. Hajar El Moutaouakil, a Moroccan activist who told Human Rights Watch that she recently relocated to Europe after receiving death threats, explained that when police find that someone is involved in LGBT activism, they might not arrest that person, but they “come to your house and start asking questions about you to your family. They do this to all kinds of human rights activists, but it has a different impact on LGBT activists because it can out them to their families. They use the family as a tool of repression.”⁶⁹

Activism is often most effective when it has a public face, one that the general population can relate to. But social stigma deters LGBT activists working in most of the region from becoming the public face of their movements, even where they do not fear arrest or violence. Those who have come out publicly in either traditional or social media in order to advocate for their rights have paid a steep price, in the form of severe online harassment, expulsion from school, or family rejection.⁷⁰ Khalid Abdel-Hadi, the founder of My.Kali, a magazine in Jordan that provides positive coverage of LGBT issues, described coming out in 2007:

No one else came out in the media during this time—I was the only one. Others are out in their circles, it’s becoming less of a taboo, but the issue is the context of the family. They say, “It’s ok to be gay, but you don’t need to come out.” I had one friend who was trans and his family was on the verge of accepting him, but then he came out on social media and the family said “You don’t need to embarrass us.”⁷¹

In the Gulf countries, there is a particularly notable silence around sexual orientation and gender identity. Activists based in Lebanon who are involved in regional activism and

⁶⁹ Human Rights Watch Skype interview with Hajar El Moutaouakil, September 7, 2017.

⁷⁰ Human Rights Watch interviews with Ahmed Ben-Amor, Tunis, February 16, 2016; Hajar Mouat

⁷¹ Human Rights Watch interview with Khalid Abdel-Hadi, Beirut, September 29, 2017.

network-building said that they were not aware of any LGBT activist groups currently operating in Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, or Yemen. One interviewee from Bahrain, a gay man living in Lebanon who is not involved in activism, offered this analysis of the Gulf context:

It's a social contract—"We have oil, you're going to get wealth, shut up. And if you don't like it, get out." So generally, activism is not something you see.... The world is a stage and you have to play your role in society.⁷²

Through much of the region, though, LGBT activists are challenging the roles that have been dictated to them. The world may be a stage, but they are writing their own parts.

⁷² Human Rights Watch interview with Yousif Al Ghawas, Beirut, October 1, 2017.

II. Effective Activism in Constrained Spaces

On September 22, 2017, several young people attending a concert in Cairo featuring Lebanese band Mashrou' Leila, whose lead singer is openly gay, waved the rainbow flag—a symbol of LGBT pride and solidarity with LGBT people's struggle for equality. It was an audacious action in a country that, under President al-Sisi, has developed a reputation for severe oppression of LGBT people.⁷³ After the flag was flown, one Egyptian LGBT rights organization posted a picture of the flag display on its Facebook page, with the tag “feeling exhilarated.”⁷⁴ Another organization, however, warned its members that there might be serious consequences.⁷⁵

Activists from both organizations told Human Rights Watch that they were caught off guard by the severity of the repression that followed. The following day, the Egyptian police, using a tried-and-true strategy of entrapment through gay dating apps, made a “date” with a young man whom they had already been chatting with for a week and then arrested him, according to Egyptian activists. When they went through his phone, they found he had attended the concert. Although there was no evidence that he had waved the flag, he was rushed to trial and convicted for both “debauchery” and “incitement to debauchery.” He was sentenced to six years in prison and another six years’ probation.⁷⁶

Thus began a vicious crackdown on LGBT people and their allies.⁷⁷ Within two weeks, at least 43 people had been arrested, including two who were being held and repeatedly interrogated by National Security, an agency within the Interior Ministry that has long

⁷³ The Egyptian Initiative for Personal Rights (EIPR) documented 232 arrests on the basis of sexual orientation or gender identity from October 2013 to March 2017, “a figure far exceeding the figure of 189 individuals, with an average of 14 people per year in the 13 years prior to the start of the crackdown (2000-2013).” EIPR, *The Trap: Punishing sexual difference in Egypt*, November 2017, https://eipr.org/sites/default/files/reports/pdf/the_trap-en.pdf (accessed November 22, 2017).

⁷⁴ The organization has since taken down its Facebook page for security reasons.

⁷⁵ Human Rights Watch interview with Azza Sultan, Beirut, September 30, 2017.

⁷⁶ Human Rights Watch interviews, Beirut, September 30 and October 1, 2017.

⁷⁷ “Update: 7 arrested for ‘promoting sexual deviancy’ after raising rainbow flag at Mashrou’ Leila gig,” Mada Masr, September 26, 2017, <https://www.madamasr.com/en/2017/09/26/news/culture/egypts-musicians-syndicate-bans-mashrou-leila-over-fans-rainbow-flag/> (accessed February 19, 2018).

functioned outside the law.⁷⁸ Within a month, the number of arrests had risen to 65.⁷⁹ The Supreme Council on Media Regulation issued an order prohibiting Egyptian media from expressing positive viewpoints on LGBT rights.⁸⁰ Members of parliament proposed a ten- to 15-year sentence for homosexuality⁸¹ and a new law that would ban any “gatherings of homosexuals” or “homosexual symbols.”⁸²

The arrests took place in the context of a broader crackdown on civil society. Since the 2013 military takeover, Egypt has systematically sought to silence dissenting voices—massacring protestors,⁸³ arresting political activists, blocking websites,⁸⁴ and passing a law regulating non-governmental organizations (NGOs) that rights activists have described as a “death warrant” for independent civil society.⁸⁵

The magnitude of the crackdown recalls the Queen Boat arrests in 2001, when 52 men and a 17-year-old boy were prosecuted in a mass crackdown on homosexual conduct. LGBT Egyptians and their allies, understandably, felt demoralized.

⁷⁸ Human Rights Watch, *“We Do Unreasonable Things Here”: Torture and National Security in al-Sisi’s Egypt*, September 5, 2017, <https://www.hrw.org/report/2017/09/05/we-do-unreasonable-things-here/torture-and-national-security-al-sisis-egypt>.

⁷⁹ Human Rights Watch interviews with Egyptian activists, October 2017; Mona Eltahawy, “Why Is the Egyptian Government So Afraid of a Rainbow Flag?” *New York Times*, October 26, 2017, https://www.nytimes.com/2017/10/26/opinion/egypt-gay-lgbt-rights.html?emc=edit_tnt_20171028&nlid=60319729&ntemailo=y&r=0 (accessed November 8, 2017).

⁸⁰ Human Rights Watch, “Egypt: Mass Arrests Amid LGBT Media Blackout,” October 6, 2017, <https://www.hrw.org/news/2017/10/06/egypt-mass-arrests-amid-lgbt-media-blackout>.

⁸¹ Gehad Hesham, “The Egyptian Parliament Heads Towards Passing a Law Punishing Gays With 15 Years Imprisonment,” *Erem News*, October 5, 2017, <https://www.erenews.com/news/arab-world/egypt/1015504> (accessed October 12, 2017).

⁸² Scott Long, “Egypt’s Wipe-Out-the-Queers Bill,” *A Paper Bird* (blog), October 30, 2017, <https://paper-bird.net/2017/10/30/egypts-wipe-out-the-queers-bill/> (accessed November 8, 2017).

⁸³ Human Rights Watch, “Egypt: Rab’a Killings Likely Crimes against Humanity,” August 12, 2014, <https://www.hrw.org/news/2014/08/12/egypt-raba-killings-likely-crimes-against-humanity>.

⁸⁴ Human Rights Watch, “Egypt: Intensifying Repression of Basic Freedoms,” June 15, 2017, <https://www.hrw.org/news/2017/06/15/egypt-intensifying-repression-basic-freedoms>.

⁸⁵ Amnesty International, “Signing new NGO bill would be a “death warrant” for Egyptian rights groups,” November 18, 2016, file:///C:/Users/User/Downloads/MDE1251712016ENGLISH.PDF (accessed October 8, 2017); Neil Hicks, “Egyptian Government Doubles Down on Threats to Silence Peaceful Dissent,” *Human Rights First*, October 5, 2017 (accessed October 8, 2017).

But there are key differences. In 2001, no major human rights organization in Egypt was willing to stand up for the Queen Boat detainees.⁸⁶ No Egyptian activists circulated petitions calling for their release. Dalia Abdel Hameed of EIPR said:

At the time of Queen Boat, human rights lawyers thought they shouldn't intervene in these cases—and now they do, willingly. The human rights lawyers, the radical left—they are more vocal. Not all are active allies. Some adopt a right-to-privacy approach. Some would say they're totally for decriminalizing.⁸⁷

Nor was it possible in 2001, as it is in 2017, for Egyptian and regional activists to mobilize 50 organizations in a matter of days—most of them LGBT rights organizations from the Middle East and North Africa—to sign a statement opposing arbitrary arrests on the grounds of presumed sexual orientation or gender identity.⁸⁸

These actions in response to the crackdown reflect a sea change, not just in Egypt, but in the region. In 2001, there was no LGBT rights movement to speak of in most Arabic-speaking states. In 2017, there are dozens of LGBT organizations operating throughout the region, working on issues including homophobic and transphobic violence, decriminalization, forced anal testing, legal aid, HIV prevention, gender equality, media training, digital security, and outreach through the arts.

Progress in LGBT civil society's alliance-building work means that in Morocco in 2015, 56 lawyers turned up in court to support a transgender woman who had been the victim of a brutal mob attack.⁸⁹ It means that in Tunisia, LGBT organizations have been able to build a

⁸⁶ According to the Middle East Reporting and Information Project (MERIP), at the time of the Queen Boat arrests, the secretary-general of the Egyptian Organization for Human Rights commented in the Egyptian press that he wouldn't defend the 52 men arrested on the Queen Boat because he doesn't "like the subject of homosexuality." Hossam Baghat, "Explaining Egypt's Targeting of Gays," July 23, 2001, <http://www.merip.org/mero/mero072301> (accessed November 8, 2017).

⁸⁷ Human Rights Watch telephone interview with Dalia Abdel Hameed, September 7, 2017.

⁸⁸ "Statement: Human rights and freedom of expression in Egypt – trapped between security services and the media," October 3, 2017, <http://afemena.org/2017/10/03/statement-human-rights-and-freedom-of-expression-in-egypt-trapped-between-security-services-and-the-media/> (accessed November 8, 2017).

⁸⁹ Human Rights Watch interview with N, Beirut, September 29, 2017; The Advocate, <https://www.advocate.com/violence/2015/07/02/moroccan-mob-brutally-beats-alleged-trans-woman-bystanders-watch>.

coalition of 37 organizations, including many feminist groups, that have united in support of equality for women and LGBT people.⁹⁰

Such organizing is still in its infancy. An underground group called Club Free was established in Lebanon from 1998, and engaged in empowerment and networking activities among known and trusted LGBTIQ people. Around 2002, it evolved into the organization Helem.⁹¹ Around the same time, other organizations were founded that still operate today, including Aswat in Palestine and Damj (“Inclusion”) in Tunisia.⁹² Lebanese LGBT rights activists marched with a rainbow flag in a demonstration in Beirut against the US invasion of Iraq in 2003.⁹³ Queer magazines, blogs, and Facebook pages emerged in Lebanon, Oman, Syria, and Tunisia.⁹⁴ In 2011, the Arab uprisings galvanized movements throughout the region, and by 2017, LGBT organizations, or at least informal LGBT community networks, existed throughout most of the region, with some apparent gaps in the Gulf.

Such progress has not come without setbacks. Even Lebanon’s vibrant movement was faced with an unanticipated police shutdown of a Pride event in May 2017.⁹⁵ And the programming of LGBT rights organizations must shift, at times, in response to crackdowns. Where there is active police harassment of LGBT activists, simply staying afloat in such a repressive environment is an act of resistance. For example, an Egyptian activist acknowledged that LGBT rights organizations have had to step back from some of the ambitious goals they began pursuing after the January 2011 uprising:

⁹⁰ Human Rights Watch interviews with Rabia B., Beirut, September 29, 2017, and with Suhayla Bensaid, Abidjan, December 7, 2017.

⁹¹ Georges Azzi, “History of the LGBT movement in Lebanon,” G-AZZI (blog), December 21, 2011, <https://gazzi.wordpress.com/2011/12/21/history-of-the-lgbt-movement-in-lebanon-3/> (accessed November 17, 2017).

⁹² Luiza Toscano, « ‘Être homophobe n’est pas révolutionnaire’ – Les luttes LGBTIQ dans l’orbite du processus révolutionnaire arabe, » Europe Solidaire Sans Frontières, March 8, 2017, <https://www.europe-solidaire.org/spip.php?article40519#nh1> (accessed October 13, 2017).

⁹³ Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East*, Saqi Books, August 11, 2011.

⁹⁴ Luiza Toscano, « ‘Être homophobe n’est pas révolutionnaire’ – Les luttes LGBTIQ dans l’orbite du processus révolutionnaire arabe, » Europe Solidaire Sans Frontières, March 8, 2017, <https://www.europe-solidaire.org/spip.php?article40519#nh1> (accessed October 13, 2017).

⁹⁵ Antoun Issa, “In Lebanon, gay activism is fueling a new conversation about democracy and civil rights,” Washington Post, May 20, 2017, <https://www.washingtonpost.com/amphtml/news/democracy-post/wp/2017/05/20/in-lebanon-gay-activism-is-fueling-a-new-conversation-about-democracy-and-civil-rights/> (accessed October 13, 2017); Eliane Fersan, “Lebanon’s 2017 Pride Week: The LGBT Community persists and prevails, despite threats and conspiracy between extremist groups and government officials,” report drafted for Global Nexus Solutions, May 2017, <http://dayagainsthomophobia.org/beirut-pride-an-analysis-from-the-inside/> (accessed January 25, 2017).

The most important thing right now is preparedness, capacity building, and time to heal. I have a lot of respect for those NGOs who have kept the minimum ability to keep breathing.⁹⁶

Activists in the region are better prepared to handle setbacks—and to keep breathing—than they were a decade and a half ago. They network, discuss strategies, and provide support for one another. The establishment of regional networks, not discussed in depth in this report, has served as a lifeline to many activists in the region, especially those who are extremely isolated—such as the few in Libya and the Gulf region—and those who are under sudden or sustained attack, as in Egypt. Abdullah, a gay activist from Oman, described his first conference with other LGBT rights activists: “It was my first exposure to other gay activists from the MENA [Middle East and North Africa] region. It was amazing to interact with them and see how similar our struggles were.”⁹⁷ A Moroccan activist described how when two girls, ages 16 and 17, were arrested for kissing in Marrakech in 2016, she and her colleagues were able to get 22 organizations from throughout the Middle East and North Africa to sign on to a statement condemning the arrests.⁹⁸ The girls were eventually acquitted.⁹⁹

In 2010, activists formed the Arab Foundation for Freedoms and Equality, a regional organization based in Beirut. It conducts capacity building workshops for activists from throughout the region, hosts an annual conference, serves as a fiscal sponsor and helps to coordinate emergency support for activists at risk. MantiQitna, another regional network established in 2010 has coordinated multi-country campaigns such as “Our Colours Are Our Crime,” discussed below. At a recent AFE conference, several participants launched a new network, Queer MENA, the mission of which is to “Create spaces for reflection, communication, strategic planning, and knowledge production to influence regional action plans and strategies to support, advocate and change policies and discourse.”¹⁰⁰ This nascent regional collaboration holds promise for progress in the years to come.

⁹⁶ Human Rights Watch telephone interview with Aaliyah D. (pseudonym), August 2, 2017.

⁹⁷ Human Rights Watch Skype interview with Abdullah Al Busaidi, September 26, 2107.

⁹⁸ “Conjoint Statement,” undated (2016), on file with Human Rights Watch.

⁹⁹ “Moroccan judge acquits girls accused of homosexuality,” Agence-France Presse, December 9, 2016, <https://www.theguardian.com/world/2016/dec/09/morocco-acquits-teenage-girls-trial-homosexuality> (accessed November 9, 2017).

¹⁰⁰ “Queer MENA Initiative” two-pager, launched in Beirut, September 30, 2017, on file with Human Rights Watch.

Building Community

The first step toward developing an LGBT activist movement is often building community. Even where there is no public advocacy, where it is too risky for activists to be “out” or to make demands of their governments, there is ongoing work creating safe spaces where LGBT people can come together, find support, and speak about issues that are affecting them.

Abdullah al Busaidi was involved in creating such spaces in Oman. He explained:

I organized my first event in 2008 with an Omani guy who I met online. He said he likes to organize parties for gay guys to meet and network in a safe space, so that they can help each other in the future. He had done some before, but on a smaller scale with very close friends. So I got involved, and I was friends with everybody—my network was big and stronger. We did two or three parties per year. We would rent a farm outside the capital for a day, and people would come at noon, swim, socialize, party. In the morning we would sit and talk with others about issues affecting us individually, or we would meet and discuss as a community.¹⁰¹

Abdullah hoped to eventually use the parties as a venue to conduct educational outreach about the prevention of HIV and sexually transmitted infections, but found that other participants were not comfortable discussing these issues: “These things are handled by ministry of health and if you are caught doing these things you’ll be in trouble. HIV programming has to be authorized by the Ministry [of Health], so that’s why people were afraid to do it.”¹⁰² The purpose of the events remained limited to creating a safe space for gay men to talk with one another.

In Jordan, a group of LGBT people have organized regular screenings of films that address sexual orientation and gender identity. They screen both Arabic-language and English-language films; when some of the latter do not have Arabic subtitles, they write the subtitles themselves, so that non-English speakers can understand the films. Osama Z., one of the organizers, said that although some allies attend, the screenings are primarily a way to bring

¹⁰¹ Human Rights Watch Skype interview with Abdullah al Busaidi, September 26, 2017.

¹⁰² Ibid.

LGBT people together. The group has a partnership with an LGBT-friendly sexual health center, whose staff sometimes attend and offer HIV testing after the screenings.¹⁰³

Building community also happens in digital space. One organization in Cairo is working on producing oral histories of LGBT people in Egypt and neighboring countries. Although the materials produced may help to inform and educate non-LGBT people about LGBT issues, the primary aim is to reach LGBT people, who may access these materials online and feel affirmed by reading the stories of people like them.¹⁰⁴

In Libya, where a gay activist told Human Rights Watch that he only knew of two other people in his country that he would consider to be LGBT rights activists, along with about five other Libyans living abroad, building community is a priority—and the internet is regarded as the safest place to do it. He said:

[Our priority is] trying to raise awareness in closed and private groups on social media about gender, expression, identity. The LGBT community concept does not really exist, so it's important to raise awareness of community itself and taking care of each other.¹⁰⁵

Khawlah S., an activist in Bahrain, established an online platform for LGBTQ people in the Middle East and North Africa with the aim of building a sense of community both within countries and cross-regionally. She explained:

There is definitely a growing movement in the Gulf with the type of subtle advocacy you describe [informal community building efforts]. Most of us are still very attached to our countries of origin and still live there. And although the LGBTQ community is active, it's not yet very inviting because we all have to be extremely cautious about who we let into our support groups and tightly knit networks. That makes it very difficult for people who are newly out to surround themselves with a supportive community. That's

¹⁰³ Human Rights Watch interview with Osama Z. (pseudonym), Beirut, October 1, 2017.

¹⁰⁴ Human Rights Watch interview with Azza Sultan, Mesahat, by video link, July 17, 2017.

¹⁰⁵ Human Rights Watch interview with Ahmed B. (pseudonym), Beirut, September 30, 2017. The activist and his organization are also involved in efforts to use the Universal Periodic Review system at the UN Human Rights Council to advocate for improved policies on sexual orientation and gender identity in Libya, discussed below.

one of the main reasons I founded Ahwaa in 2010. There was a huge sense of isolation in the Gulf in particular. Many other regional LGBTQ initiatives were restricted to Lebanon or Jordan or other countries that don't really find Gulf people relatable, or who don't include us and our voices in any targeted campaigns. It was only in 2012 that I was comfortable taking Ahwaa a step further and started accepting requests for physical meetups / support networks. We'd find isolated or abandoned cafes and get together to share our inputs, our experiences, and to give ourselves a chance to live a bit more honestly offline.¹⁰⁶

Staying Safe

An activist in Egypt told Human Rights Watch her organization is focusing on “holistic security,” including “digital security, digital clinics, emotional and psychological well-being, personal safety, sexual health services, protection, sheltering, inside and outside the country.”¹⁰⁷ Indeed, there are many ways in which LGBT activists need to keep themselves, and ordinary LGBT people, safe.

Sometimes safe spaces are needed for LGBT people who have faced violence, the threat of violence, eviction, or family rejection. Activists in Egypt have focused on providing physical security and shelter for LGBT people who had been rejected by their parents or were otherwise at risk. One activist said her organization hoped to expand this initiative, after it was identified by LGBT people as a top priority in an early 2017 needs-assessment survey. However, the risk of arrest for groups of LGBT people living together in Egypt, particularly after the September 2017 rainbow flag incident, made establishing more formal shelters a challenge.¹⁰⁸ In Iraq, in response to killings and torture by the Asa'ib Ahl al-Haq and other non-state actors, an organization provides temporary shelter for LGBT people who have to

¹⁰⁶ Email communication from Khawlah S. (pseudonym) to Human Rights Watch, November 20, 2017.

¹⁰⁷ Human Rights Watch interview with Azza Sultan, by video link, July 17, 2017.

¹⁰⁸ Human Rights Watch interview with Noor Sultan, by video link, September 7, 2017; Bedayaa Organization for LGBTQI in the Nile Valley area (Egypt & Sudan) and Mesahat Foundation for Sexual and Gender Diversity, “LGBTQI Need Assessment Study in Egypt,” <https://www.hrw.org/news/2018/01/18/top-5-reforms-middle-east-governments-can-make-2018> (accessed February 9, 2018).

flee their areas of residence because of threats.¹⁰⁹ In Jordan, too, activists hope to establish a shelter for LGBT people who have been rejected by their families.¹¹⁰

In countries where people are frequently arrested on charges related to their sexual orientation or gender identity, staying safe includes legal education to reduce the risk of arrest or prosecution. Rayan, a gay Algerian lawyer, said:

I give workshops telling people that if they're arrested with condoms, or with lipstick, that they should react in a certain way so that the police don't use this against them. You don't have the right to call a lawyer or even use your telephone when you're arrested. So what you say is very important.¹¹¹

In Egypt, when al-Sisi's government stepped up the targeting of human rights organizations, some LGBT groups found that their low profile could be an asset:

We knew from the beginning that our work was sensitive. We always had to work underground, we weren't registered, we didn't get huge amounts of money to fund our activities, for example from embassies, because the government might be aware. We didn't do publicity around our work. Other human rights defenders depended on publicity about their activities, their programs. So even when the new law on civil society came out, we were not affected directly, but indirectly. Other human rights defenders were shocked when the space shrank so quickly. It was easy for the government to get to them, to monitor them, both their organizations and individuals. Whereas LGBT defenders could never come out publicly as human rights defenders. We have Facebook pages, and things like that, but we always used nicknames; we kept our real lives separate from our activism.¹¹²

¹⁰⁹ Human Rights Watch telephone interview with Semo A. (pseudonym), July 19, 2017.

¹¹⁰ Human Rights Watch interview with Rashed and Safi, Beirut, October 2, 2017.

¹¹¹ Human Rights Watch interview with Rayan A. (pseudonym), Beirut, October 1, 2017.

¹¹² Human Rights Watch interview with Azza Sultan, by video link, July 17, 2017.

Mistrust within communities, where there is fear that groups may be infiltrated, poses challenges to organizing. In Algeria, TransHomosDZ is cautious in welcoming new members, so they established a “companion” status:

They have the same rights as members, but for 12 months they don’t have access to confidential information such as names of members. People accept this because they see that it protects them. People fear being outed. During those 12 months, the [companions] contribute to discussions over email, with fake names. They work in committees and have access to just two or three members of the board. We have a system of “cellules” where one cellule doesn’t know another. We installed this, after problems in 2014, to protect people.¹¹³

Similarly, Ahwaa, the regional online platform, developed a “point system” by which participants earned points for ongoing engagement in discussions on the platform. Khawlah S., the founder of Ahwaa, explained:

Meeting online first makes it much better to verify a person's identity beforehand - not their real names, but their intentions. That's why we use a point system / gamification so that users who are not as active don't just request meetups without first having a history of supportive comments and helpful advice. I'm much more likely to meet up with someone who has 300+ points and not someone with just 30-40 because I know that person wants to skip a few steps and go right to meeting up, which makes me very nervous that could be someone infiltrating our system to find out who's behind or who's in it.¹¹⁴

¹¹³ Human Rights Watch Skype interview with Zoheir Djazeiri, TransHomosDZ, September 11, 2017.

¹¹⁴ Email communication from Khawlah S. to Human Rights Watch, November 20, 2017. Ahwaa’s website explains its game functionality further: users “unlock features of the site by making contributions to the platform that are judged positive and helpful by their peers. Trustworthy users are rewarded with the ability to create chatrooms, send private messages, and more. This functionality likewise insulates Ahwaa’s inner sanctum from those who’d seek to harm its users, creating a community-powered defense system.” See <https://majal.org/ahwaa> (accessed January 25, 2018).

Digital Security

In repressive states where police devote significant resources to monitoring their citizens' communications, both activists and ordinary LGBT people face threats linked to surveillance. Aaliyah D., a queer activist in Egypt, explained:

The government has invested huge amounts of money into electronic surveillance—high-tech devices are being used, people are being trained in and outside Egypt, based on the idea of “protecting Egypt from bad people.” In 2011 the story was that the revolution was created by Facebook, so the government is on guard against social media.¹¹⁵

Police monitoring and in some cases entrapment of gay men and transgender women on dating apps and other social media platforms is common in Egypt.¹¹⁶ One organization reported that of 274 investigations against LGBT people on “debauchery” and related charges between the end of 2013 and November 2016, 66 involved the authorities' use and surveillance of social media, dating applications and the Internet.¹¹⁷ Aaliyah D. provided a workshop for transgender Egyptians, which covered how to stay safe while using social media.

I gave a workshop on digital security for the trans community, showing tools and techniques.... I wanted to change their habits around using the internet and all electronic devices. The trans community has been attacked by the government for years, including through dating apps. They are at risk from activities like sharing photos. Two of the people in the workshop had been targeted through entrapment. One of them figured it out in time, and

¹¹⁵ Human Rights Watch telephone interview with Aaliyah D. (pseudonym), August 2, 2017.

¹¹⁶ Members of Egypt's “morality police” pose as gay men on such dating apps, send explicit messages and photos, and in some cases offer money to their interlocutors to have sex with them. When gay men and transgender women using the apps finally agree to meet in person, police arrest them. “Trapped by app: Egypt's sex chatting morality police,” Middle East Eye, October 31, 2017, <http://www.middleeasteye.net/news/entrapment-app-egypt-s-sex-chatting-morality-police-426873567> (accessed February 7, 2018).

¹¹⁷ Colin Stewart, “More than 274 LGBTQ victims of Egypt's ongoing repression,” November 17, 2016, <https://76crimes.com/2016/11/17/more-than-274-lgbtq-victims-of-egypts-ongoing-repression/> (accessed October 9, 2017).

deleted all their profiles and accounts. The other person had to leave the country for some time.¹¹⁸

Even those who are not on dating apps can be arrested simply because of the pictures they have on their phones:

There were always checkpoints, but now there are specific checkpoints for looking at peoples' mobile phones and laptops. People are imprisoned for what they post on Facebook or Twitter.¹¹⁹

Aaliyah D. found that much work remains to be done in training LGBT Egyptians on how to stay safe online:

We don't get the sense of danger around the internet. We might be afraid of a lion, a tiger, even a car, but not the internet. In the workshop the first thing they said was, "We have nothing to hide." I said, "You're doing nothing wrong, but you need to be keen about your privacy." What I had in mind was to change the mindset that "I'm not at risk" and to show them all the ways that I could get into your account or your computer.¹²⁰

In Kuwait, activists have also focused on digital security. Fawwaz Al Ajmi, a Kuwaiti transgender activist, told Human Rights Watch that the Kuwaiti government had hacking programs to spy on people perceived to be "against the government, including LGBT and atheists." He underwent a digital security training and then trained other people, including LGBT people and atheists, whom he met one-on-one, through personal connections. He explained the limitations facing this work: "I just use peoples' houses for trainings. I can't rent a hotel conference room, it's not possible." Fawwaz eventually fled Kuwait in 2016 after being arrested several times on the basis of his gender identity, but continued to provide virtual support to LGBT people and atheists in Kuwait.¹²¹

¹¹⁸ Human Rights Watch telephone interview with Aaliyah D. (pseudonym), August 2, 2017.

¹¹⁹ Human Rights Watch telephone interview with Aaliyah D. (pseudonym), August 2, 2017.

¹²⁰ Human Rights Watch telephone interview with Aaliyah D. (pseudonym), August 2, 2017.

¹²¹ Human Rights Watch Skype interview with Fawwaz Al Ajmi, August 6, 2017.

Building Alliances

Partnership with human rights and women's rights organizations has been crucial in achieving progress on the human rights situation of LGBT people. In some countries, LGBT activists work within organizations with broader objectives, such as in the Kurdistan Region of Iraq, where Rasan Organization, a women's rights organization, also formally took on LGBT rights in 2012. In Baghdad, where LGBT groups cannot have a public presence due to the risk of violence, partnerships with other human rights organizations have also been essential to carrying out day-to-day work.

Activists across the region say that building alliances with feminist and human rights organizations does not happen spontaneously; it requires work and flexibility on all sides. An activist working with Chouf, a feminist organization in Tunisia that works with women of all sexualities, said: "The feminist movement in Tunisia was not previously gay-friendly, but it's changed. They were afraid to get involved before. The change came from within associations. Young lesbian and bi women joined [feminist associations], and changed things from within."¹²²

A member of Damj, in Tunisia, said that LGBT groups' participation in the World Social Forum in 2013 and 2015 "showed to Tunisian civil society that the LGBT cause is not a side cause, it's like every other cause that they're fighting for."¹²³

A Moroccan activist said that LGBT groups strive to build alliances by showing support for other causes:

There are no pure LGBT activists, we all work for freedom of religion and other liberties—so we do actions for example in solidarity with the [activists] who were arrested and beaten in Hoceima.¹²⁴

¹²² Human Rights Watch interview, Tunis, February 16, 2016.

¹²³ Conference presentation by an activist from Damj, attended by Human Rights Watch, Beirut, October 1, 2017, cited with permission of Damj.

¹²⁴ Human Rights Watch interview with Tarik H., Beirut, October 1, 2017. Protests in Al Hoceima, a city in Morocco's Rif region, sprang from an incident in October 2016, in which a fishmonger was killed while trying to rescue his goods that authorities had just confiscated. In 2017, the authorities cracked down on the ongoing protests and arrested hundreds of protestors, many of whom alleged they were beaten by police. See Human Rights Watch, "Morocco: King Brushes Off Evidence of Police Abuse," September 5, 2017, <https://www.hrw.org/news/2017/09/05/morocco-king-brushes-evidence-police-abuse>.

Similarly, Helem, in Lebanon, considers itself part of a broader civil rights movement and collaborates with organizations working on issues such as corruption, pollution, and workers' rights.¹²⁵ Damj, in Tunisia, collaborates on non-discrimination initiatives with an organization that primarily focuses on ending racial discrimination.¹²⁶ In Jordan, a report authored by activist Khalid Abdel-Hadi, the founder of My.Kali, urged LGBT activists working online to "Develop digital media campaigns that depict LGBT individuals working on other social or environmental issues, emphasizing that they share common concerns in the public interest."¹²⁷

Rabia B., a lesbian activist, sees such coalition-building as being at the heart of the "huge developments" taking place in Tunisia. Her organization participates in the Collective for Individual Freedoms, a coalition that has grown to 37 groups, comprising both LGBT-focused groups and groups working primarily on other human rights issues, which aims to decriminalize same-sex conduct and advance feminist causes, including equity in inheritance between women and men in marriage, and the (recently successful) repeal of a law that prohibited marriage between Tunisian Muslim women and non-Muslim men.¹²⁸

An activist in Jordan said working with civil society organizations required patience and flexibility regarding their limitations:

There's an organization that does social campaigns, and we asked for help to train us. They said "Yes, we can help you but we cannot be associated with you because it's risky." We were fine with their approach.¹²⁹

A Moroccan activist seconded this view:

¹²⁵ Antoun Issa, "In Lebanon, gay activism is fueling a new conversation about democracy and civil rights," Washington Post, May 20, 2017, https://www.washingtonpost.com/news/democracy-post/wp/2017/05/20/in-lebanon-gay-activism-is-fueling-a-new-conversation-about-democracy-and-civil-rights/?utm_term=.6a81d7bec485 (accessed November 8, 2017).

¹²⁶ Written exchange on Facebook messenger between Human Rights Watch and Badr Baabou, Damj, January 24, 2018.

¹²⁷ Khalid Abdel-Hadi, "Digital threats and opportunities for LGBT activists in Jordan," November 1, 2016, <https://drive.google.com/file/d/oB-C8GvtQEpB3UTdHcoZzUzR2MoFTTExFbVNLQkxkQVBDMTco/view> (accessed January 24, 2018).

¹²⁸ Human Rights Watch interview with Rabia B. (pseudonym), Beirut, September 29, 2017; see also Le Collectif pour les Libertés Individuelles, <https://www.facebook.com/Le-collectif-pour-les-libert%C3%A9s-individuelles-1083565965010495/>

¹²⁹ Human Rights Watch interview with Samar A. (pseudonym), Beirut, September 29, 2017.

Some cannot support us publicly. We know they can't, and we understand. But they help. They let us use their office, their resources around the country. We know they come from an older generation, and the context is different, but we say, "We are trying to bring this up and we need your help."¹³⁰

Cases of violence were likely to attract more public support from mainstream civil society organizations. When a trans person was beaten by a mob in Fez in 2015, an activist said:

We had 56 lawyers We got them through NGO networks. A feminist organization gave us their space and resources in Fez. [They] said "Do what you have to do," although they could not take a public stand. The reaction from civil society was positive. That was comforting to see, given our past collaboration with them. When I was in court, the day of the pleadings, I had four or five representatives from different feminist and human rights organizations with me, and we sat in the front seats. This for me was quite moving.... When the coordinator of the defense was reading the names [of the lawyers], it took time to read the 56 names.¹³¹

Haneen Maikey, of alQaws for Sexual & Gender Diversity in Palestinian Society (alQaws), which focuses on building community for LGBT persons in Palestine, mentioned that alliance-building requires being sensitive to other social justice issues and to timing:

Our video campaign was supposed to be launched in May, but there was the biggest hunger strike in history,¹³² and then the Al Aqsa incident.¹³³ We will always have this burden of being intersectional,¹³⁴ being careful about when we bring LGBT stuff up. We don't take it personally, we take time to

¹³⁰ Human Rights Watch interview with Layal M. (pseudonym), Beirut, September 29, 2017.

¹³¹ Human Rights Watch interview with Layal M. (pseudonym), Beirut, September 29, 2017.

¹³² In April and May 2017, hundreds of Palestinian prisoners spent 40 days on hunger strike seeking better conditions, including more frequent and lengthy family visits, better prison conditions such as improved medical care, and an end to solitary confinement and administrative detention – detention without charge or trial.

¹³³ In July 2017, after Israel set up security measures outside the Al-Aqsa mosque in Jerusalem following the killing of two Israeli police officers inside the compound, several weeks of Palestinian protests took place.

¹³⁴ Intersectionality refers to an understanding of the interconnected nature of various forms of oppression, such as those based on gender identity, sexual orientation, gender, race, class, nationality, religion and ability, among others. Intersectionality in activism involves being attentive and sensitive to how one's actions affect other oppressed groups.

meet other activists and establish our legitimacy. We had about 10 days between incidents when we [launched the campaign].¹³⁵

When alQaws eventually launched the campaign, it reached 300,000 people on social media, Maikey said.¹³⁶

In Algeria, a law that prohibits the registration of organizations whose aims are inconsistent with “public morals,” and which prescribes criminal penalties for members of unregistered organizations, poses risks to LGBT groups, as well as to human rights organizations that otherwise might support them.¹³⁷ Zoheir, an Algerian activist with the organization TransHomosDZ, explained:

It’s different from Morocco or Tunisia. Ordinary human rights organizations are absolutely unwilling to work on LGBT issues—either because they are afraid of the risk under that law, because they don’t consider LGBT rights to be human rights, or because they are also homophobic or transphobic themselves.¹³⁸

But through TransHomosDZ’s work documenting violence against LGBT people, he said, they are slowly winning over allies:

Our second report talked about cases [of violence against LGBT people] in families, in universities, in prisons. That had a real impact. It was the first time we had non-LGBT people say, “This is terrible, how can we help?” For example, feminist organizations responded in this way. They saw how gender inequality has an impact on our situation. I can’t say we now have an incredible solidarity from civil society, but there is raised consciousness. It’s a first step – they recognize that there are violations, and this [awareness] didn’t exist before.¹³⁹

¹³⁵ Human Rights Watch telephone interview with Haneen Maikey, alQaws, September 11, 2017.

¹³⁶ Human Rights Watch telephone interview with Haneen Maikey, alQaws, September 11, 2017.

¹³⁷ “Loi n° 12-06 du 18 Safar 1433 correspondant au 12 janvier 2012 relative aux associations, » Chapitre III, art. 46. <http://www.icnl.org/research/library/files/Algeria/F2012002.pdf> (accessed November 8, 2017).

¹³⁸ Human Rights Watch Skype interview with Zoheir Djazeiri, TransHomoDZ, September 11, 2017.

¹³⁹ Human Rights Watch Skype interview with Zoheir Djazeiri, TransHomoDZ, September 11, 2017.

Reaching the Movable Middle

The Arts and Cultural Production

Rashed, a 21-year-old transgender man in northern Jordan, had dropped out of high school due to transphobic bullying. He suffered from depression and a sense of isolation, and experienced severe physical pain that was a result of self-medicating with hormones, with no medical advice.

Rashed did not see himself as an activist. But motivated initially by the pressing need for better health care for himself and other transgender people, he and his friend Safi approached the local authorities in the conservative northern town of Irbid, asking for public hospitals to begin providing treatment and support for transgender people, including hormone therapy. The authorities first seemed receptive to the idea. But then, Safi said, “they got scared of the society’s reaction” and rejected the idea. “At that moment we figured out we have to go a step back and deal with the society and community itself, and raise awareness among the society first.”¹⁴⁰

To do so, Safi conducted an informal analysis of Irbid residents’ understanding of gender identity. He concluded: “The degree of awareness in that city is zero. So we decided to make an awareness campaign using theater.”¹⁴¹

They developed a remarkable plan to do so. Rashed, who considered himself “shy” and had no prior experience with the arts, joined a community theater organization, Medearths, that Safi was involved with. Through theater, Rashed learned how to tell his own stories, and eventually developed his own one-man show, portraying his experience as a trans man. He told Human Rights Watch:

At the beginning, I felt that it was so difficult because I’m not used to dealing with people and now I’m facing an audience. But over time I felt that the theater was my place, because I can express my thoughts and feelings, and feel myself, my body, in the surrounding theater.

¹⁴⁰ Human Rights Watch interview with Safi, Beirut, October 2, 2017.

¹⁴¹ Human Rights Watch interview with Safi, Beirut, October 2, 2017.

Medearts produced Rashed's play in September 2017 for a group of 50 young women on an invite-only basis. Safi said, "We just invited girls because according to our study, females are more accepting of those concepts than males. We were afraid of the first reaction. We didn't want to have a high-risk adventure."¹⁴²

According to Rashed,

When I performed I was really scared. It's not only that I'm scared because it's theater, I'm scared because I'm talking [about] something really personal and emotional to me, it's my life story, and I was scared of negative reactions, as well as just being scared of performing. When I saw the positive evaluations, it gave me extra power, extra hope, and it made me feel like I'm in the right place and on the right path.¹⁴³

Rashed's initiative is one of several examples of young people using the arts to raise awareness of LGBT issues in Jordan. My.Kali, a magazine that covers LGBT issues, was launched 10 years ago, as a project of LGBT-identified students.¹⁴⁴ Khalid Abdel-Hadi, its founder, was 18 at the time. He said: "There were no out people at the time. The only news we heard was about forced disappearances in Syria, public hanging in Iran, people being arrested in Egypt—only negative things."¹⁴⁵ They published the magazine as an online blog, circulated it to friends, and held a small, private event to mark the magazine's launch. Abdel-Hadi and his friends were shocked when their small-scale initiative created a public scandal:

There were elections at the time. Extremist papers found the blog, and published articles about the "Revolution of the Fags," saying that LGBT people in Jordan were having their first event. My picture was there. I was outed.¹⁴⁶

¹⁴² Human Rights Watch interview with Safi, Beirut, October 2, 2017.

¹⁴³ Human Rights Watch interview with Rashed, Beirut, October 2, 2017.

¹⁴⁴ See <https://medium.com/my-kali-magazine>.

¹⁴⁵ Human Rights Watch interview with Khalid Abdel-Hadi, Beirut. September 29, 2017.

¹⁴⁶ Human Rights Watch interview with Khalid Abdel-Hadi, Beirut. September 29, 2017.

Although Jordan's laws do not criminalize same-sex conduct or the expression of LGBT identities, at first Abdel-Hadi feared that he would be arbitrarily arrested. When he wasn't, he felt emboldened:

We decided to claim the publicity we'd got, and put out something to inspire and empower. Friends asked, "Why don't you claim being out—not that you were outed?" So I claimed another cover [of the magazine] to come out publicly.¹⁴⁷

Then, he said, "We were reached by people from around the region who wanted to participate, write, contribute."¹⁴⁸

Although the magazine focuses on the arts, fashion, and culture, steering clear of overtly "political" subjects, its public existence creates a lifeline for LGBT people who are at risk. Khalid said: "We get contacted all the time by refugees, and we refer them. Also, Jordanians who are kicked out [of their family homes], or blackmailed. We connect them with a lawyer."¹⁴⁹

My.Kali initially published only in English, but in 2016 it published its first Arabic language edition. This created "major backlash," Khalid said. "The government blocked the site. They were aware of our existence before, but our use of Arabic was the breaking point." The government blocked the website of the magazine, and My.Kali was evicted from its office. In September 2017, it relaunched on a new platform, in both Arabic and English, using technology that makes it more difficult for the government to block it.¹⁵⁰

Samar A., a queer activist in Jordan, produces plays, mostly one-woman shows, on themes related to sexuality and gender identity, many of them based on true stories. The

¹⁴⁷ Human Rights Watch interview with Khalid Abdel-Hadi, Beirut, September 29, 2017.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Human Rights Watch interview with Khalid Abdel-Hadi, Beirut, September 29, 2017; MJ Movahedi, "Gay-Bashing in Jordan – By the Government," Human Rights Watch, August 30, 2017, <https://www.hrw.org/news/2017/08/30/gay-bashing-jordan-government>.

performances are private, limited to friends and friends-of-friends who are considered trustworthy. She explained:

Performance is a form of advocacy [and] a form of catharsis. We want to create networks and we need support. The plays also help to educate straight but queer-friendly audiences about the issues.¹⁵¹

She described the initiatives of LGBT activists in Jordan as follows:

It's not a movement as in a wave—it's personal efforts, and one day it will be put into place together. I would like to go public and say whatever I want but it will backfire more than it creates change.¹⁵²

In Tunisia, the organization Chouf organizes a feminist art festival, now in its fourth year, which features art that addresses sexual orientation and gender identity alongside other feminist art. Rabia B., one of the organizers, described the festival as a “safe space” for LGBTQ people, as well as an opportunity to reach the broader public. “We use art to show people that sexuality exists, that being different is normal,” Rabia said. “We had photography exhibits, with photos of two women holding hands, and there was no controversy around this.”¹⁵³

Activists elsewhere in the region are also looking into the possibilities offered by the arts. Haneen Maikey, of alQaws in Palestine, said:

In the next five years we need to focus more on cultural production, through media and multimedia, social media, but also offline, doing cinema, short movies, mass production, festivals.¹⁵⁴

¹⁵¹ Human Rights Watch interview with Samar A. (pseudonym), Beirut, September 29, 2017.

¹⁵² Ibid.

¹⁵³ Human Rights Watch interview with Rabia B. (pseudonym), Beirut, September 29, 2017.

¹⁵⁴ Human Rights Watch telephone interview with Haneen Maikey, alQaws, September 11, 2017.

Mainstream Media Outreach

Activists struggle to have LGBT issues portrayed objectively in the media. A study published in 2017 by OutRight Action International found that Arabic language media tended to use “degrading and derogatory terms” when discussing LGBT people, frequently used religion to justify transphobia and homophobia, and often used accusations of homosexuality “as a tool to ruin reputations of individuals regardless of the actual sexual orientation of the person who is being targeted.”¹⁵⁵

Through sustained engagement between LGBT activists and the media, this adversarial relationship is slowly beginning to change in some places. Some Iraqi activists are focusing on training Iraqi media in order to change the conversation around LGBT rights, starting with the vocabulary. Amir Ashour of IraQueer explained:

[We focus on] knowledge production, because the words in Arabic used to be like “let’s stand up for faggots’ rights!” So we tried to reinvent and invent some words in Arabic and Kurdish. We had one success when Al Sharqiya, a major TV channel in Iraq, produced a short documentary and said “the LGBT+ community” instead of “the abnormal [or deviant] community.”¹⁵⁶

A member of Akaliyat in Morocco also sees progress through media sensitization. After outreach to the media, he said:

The journalists and the websites no longer talk about “sexual deviance,” they say “homosexual” – they respect the term LGBT. They publish articles about our activities.¹⁵⁷

¹⁵⁵ OutRight Action International, *Arab Mass Media: A Monitoring Report Looking at Sexuality and Gender Identity in Arabic Mass Media from 2014 to 2017*, https://www.outrightinternational.org/sites/default/files/August%2027_WAcknow.pdf (accessed November 8, 2017).

¹⁵⁶ Human Rights Watch Skype interview with Amir Ashour, July 17, 2017.

¹⁵⁷ Human Rights Watch interview with Ghadi H., Beirut, October 1, 2017.

Another Moroccan activist provided a concrete example:

There's a bit of progress although people are still being arrested. There is a huge difference in terms of media. In the case of [the] girls of Marrakech [who were arrested in 2016 for kissing], I spoke with a major Arabic-speaking news outlet, and then he used word "shouzuz" [a derogatory term meaning "perversion"] in the title. I instantly called someone from the newspaper and they changed it.¹⁵⁸

In Egypt, the state is actively seeking to block positive or supportive media coverage of LGBT issues in the aftermath of the latest crackdown. On September 30, 2017, the Supreme Council on Media Regulation, a government body which has the power to fine or suspend media outlets, issued an order explicitly prohibiting Egyptian media from expressing positive viewpoints on LGBT rights.

The order threatens recent progress that activists in Egypt had seen in media coverage of LGBT issues, even under al-Sisi, Dalia Abdel Hameed of EIPR attributed this in part to a new openness, related to the January 2011 revolution, to discuss gender and sexuality. Abdel Hameed gave as an example a positive newspaper feature on transgender people published in mid-2017.

We see this kind of stuff and we are aware that we're truly living in a different time. These kind of discussions and portrayals were not achievable a couple years ago.¹⁵⁹

One of activists' aims is to get mainstream media to report on human rights abuses against LGBT people. EIPR published a report in November 2017 documenting human rights violations against LGBT people in Egypt, which Abdel Hameed said hoped would shift public opinion: "Part of advocacy is changing people's attitudes, and that will pressure the government to end the crackdown."¹⁶⁰

¹⁵⁸ Human Rights Watch interview with Layal M. (pseudonym), Beirut, September 29, 2017.

¹⁵⁹ Human Rights Watch telephone interview with Dalia Abdel Hameed, EIPR, September 6, 2017.

¹⁶⁰ Human Rights Watch telephone interview with Dalia Abdel Hameed, September 6, 2017. See EIPR, *The Trap: Punishing sexual difference in Egypt*, November 2017, https://eipr.org/sites/default/files/reports/pdf/the_trap-en.pdf (accessed November 22, 2017)

When mainstream media is beholden to the state, however, it can be difficult to sustain this kind of progress, and it remains to be seen whether some Egyptian media outlets will remain open to positive coverage of LGBT people or be cowed by regulators. In Oman, for example, in 2013, state media regulators forced a newspaper to issue an apology after it published an article suggesting that homosexuality is tolerated in the country, and in 2015 they suspended a radio station after it conducted an interview with a gay Omani.¹⁶¹

Social Media Campaigning

The recent rise in social media has provided alternative channels through which LGBT activists can get their messages out, although the reach is generally narrower and more customized than through traditional media.

In Palestine, alQaws released a series of videos in September 2017 that challenged anti-LGBTQ stereotypes and homophobic bullying. Haneen Maikey of alQaws explained:

We target people who see things [such as homophobic incidents], but don't frame it as violence, who are still complicit, [in thinking] that violence against these kinds of people [LGBTQ] is legitimate and funny. Our campaign reached more than 300,000 people. It's huge—no one inside alQaws believed it could reach that many people. People say LGBT should not be provocative. We say it's intentional that we provoke. We didn't bring in victims so that you can empathize with us, we brought in strong people who can talk about this.¹⁶²

To mark the International Day Against Homophobia and Transphobia (IDAHOT) in May 2017, the regional MantiQitna network coordinated a multi-country social media initiative called "Our Colours Are the Crime" which addressed "persecution, violence in public spaces and on the streets just for existing" in Algeria, Egypt, Libya, Mauritania, Morocco, Sudan, and Tunisia. Mohamed, one of the coordinators, said the campaign received

¹⁶¹ Human Rights Watch email exchange with Abdullah al Busaidi, November 9, 2017; Sebastien Usher, "Omani newspaper suspended for article on homosexuality," September 3, 2013, <http://www.bbc.com/news/world-middle-east-23948083> (accessed November 8, 2017).

¹⁶² Human Rights Watch Skype interview with Haneen Maikey, September 11, 2017. Videos available at: <http://www.alqaws.org/7amleh/English> (accessed November 8, 2017).

“314,000 engagements” on social media.¹⁶³ An activist from the Libyan group Quzah described how his organization participated in the initiative despite clear limitations, such as not being able to film any openly LGBT people:

We filmed videos in Tripoli on what people were doing, what life is like in Tripoli. I filmed the video and Amani [a Libyan activist living in exile] was narrating, talking about the laws and discrimination that goes on.¹⁶⁴

Some social media initiatives aim to challenge viewers to question their own beliefs: in Lebanon, for IDAHOT 2016, Helem produced a video that characterized anti-gay harassment as one of many examples of police abuse of authority, and questioned viewers’ reluctance to stand up for LGBT victims of such abuses of power.¹⁶⁵ Other initiatives aim to show support for LGBT communities: Crepaway, a popular restaurant chain in Lebanon, created a stir by producing a video just before Lebanon’s 2017 Pride Week that featured a same-sex couple. The video received over a million social media views, with largely positive comments.¹⁶⁶

Activists have used social media campaigning to draw attention to the crackdown on LGBT Egyptians, with hashtags like #ColorsRNotShame;¹⁶⁷ to condemn forced anal testing in Tunisia;¹⁶⁸ and to protest Jordan’s cancellation of concerts by the rock group Mashrou’ Leila.¹⁶⁹

¹⁶³ Human Rights Watch interview with Mohamed Alborgi, Beirut, September 29, 2017. Organizations involved in the campaign included: Alouen Association (Algeria), Mawjoudin Association (Tunisia), Nouakchott Solidarity Association (Mauritania), Rainbow Egypt (Egypt), Rainbow Sudan (Sudan), Quzah Magazine (Libya), and Free Feminist Union (Morocco).

¹⁶⁴ Human Rights Watch interview with Ahmed B. (pseudonym), Beirut, September 30, 2017.

¹⁶⁵ Helem, video on Facebook, May 17, 2016, <https://www.facebook.com/133916233311662/videos/1038975732805703/> (accessed December 17, 2017).

¹⁶⁶ “Inclusive ‘love-bites’: Lebanese food-chain features same-sex couple in advert,” The New Arab, May 11, 2017, <https://www.alaraby.co.uk/english/blog/2017/5/11/inclusive-love-bites-lebanese-food-chain-features-same-sex-couple-in-advert> (accessed November 8, 2017).

¹⁶⁷ See, for instance, Alliance of Egyptian Queer Organizations, “ColorsRNotShame,” <https://www.youtube.com/watch?v=RdcyyzCveDc&feature=youtu.be> (accessed November 8, 2017).

¹⁶⁸ Scott Long, “Anusbook. Be connected. Be discovered.”, A Paper Bird (blog), September 28, 2015, <https://paper-bird.net/2015/09/28/anusbook-forensic-exams-tunisia/> (accessed November 8, 2017).

¹⁶⁹ “Jordan backtracks on Mashrou’ Leila ban after uproar,” The New Arab, April 29, 2016, <https://www.alaraby.co.uk/english/news/2016/4/29/jordan-backtracks-on-mashrou-leila-ban-after-uproar> (accessed November 8, 2017).

In countries where acts of homophobic and transphobic violence may receive little attention from traditional media, social media has allowed the general public access to information on violence against LGBT people. In March 2016, in the central Moroccan city of Beni Mellal, a group of young men broke into the home of two men whom they suspected of homosexuality, beat them, and dragged them naked into the streets.¹⁷⁰ One of the perpetrators filmed the attack and uploaded the footage on YouTube. The first reaction of the authorities was to arrest the victims, and one was quickly sentenced to four months in prison. But the verdict resulted in public outcry. Three days later, when the second man was tried, the judge ordered that both men be released, and that the men who attacked them be arrested instead.¹⁷¹ Hajar El Moutaouakil, a Moroccan activist who worked on the case, explained: “The case got a lot of media attention, and people saw the video, which was really violent. Everyone was sympathetic, even people who say, ‘We don’t like gays.’”¹⁷²

Some people use social media to publicly come out as lesbian, gay, bisexual or transgender. Coming out to the entire world entails significant risks: one Yemeni activist, buoyed by his experience leading protests against the regime during the Arab Spring, came out publicly on his blog, and then had to seek asylum due to death threats.¹⁷³ Coming out online has thus been an option more commonly taken up by people already living outside their home country—but it opens conversations and can offer significant rewards. Abdullah Al Busaidi, an Omani activist, has shared videos and photos on social media platforms, sharing his life as a gay refugee in Germany. He explained:

I use my life as an example—I go to school, I have friends, I do stuff, I’m still a human. The way they see you in Oman, you’re not human anymore, so it’s ok to be hit, verbally abused, even killed if you are gay. So I’m trying to bring that aspect—yes, I’m gay, but first I’m human. Through living my life

¹⁷⁰ Human Rights Watch, “Morocco: Victims of Attack Jailed for ‘Homosexual Acts’,” April 8, 2016, <https://www.hrw.org/news/2016/04/08/morocco-victims-attack-jailed-homosexual-acts>.

¹⁷¹ “Morocco’s Court of First Instance Releases the Beni-Mellal Gays,” The Moroccan Times, April 12, 2016, <http://themoroccantimes.com/2016/04/19509/moroccos-court-of-first-instance-releases-the-beni-mellal-gays> (accessed November 8, 2017).

¹⁷² Human Rights Watch Skype interview with Hajar El Moutaouakil, September 7, 2017.

¹⁷³ Amber Hidlebrandt, “Gay Yemeni activist facing death threats seeks to stay in Canada,” CBC News, <http://www.cbc.ca/news/canada/gay-yemeni-activist-facing-death-threats-seeks-to-stay-in-canada-1.1409522> (accessed November 9, 2017).

publicly, I want to show that being gay is just a part of me, it's not my whole identity.¹⁷⁴

Abdullah hopes to reach not just the general public, but also LGBT people in Oman who are closeted or isolated:

Since I was outed and live my life publicly, with the negative messages, I also get positive messages from people saying, "We're happy to see someone who lives their life publicly as a gay man." Once in a while I get messages from someone who lives in the closet in Oman. It's very important because they don't have examples to look up to.¹⁷⁵

Dalia Alfaghal, an Egyptian lesbian living in the United States and volunteering with Solidarity with Egypt LGBTQ+, told Human Rights Watch she had long been open about her sexuality on her personal Facebook page, which she assumed was mostly read by her friends, although it was accessible to the general public. When one of her posts unexpectedly went viral and was picked up by Egyptian media, she said she received countless death threats and hate messages.¹⁷⁶ But, she told Human Rights Watch,

After I became famous in that way, or was outed, I was capable of helping the LGBT community even better. I got in touch with BuzzFeed and created a few videos, it broadened our connections, and now a lot of people hear us, not just a community of activists who like each other's posts. People got in touch with me, Egyptians who live in Egypt and who had never been involved in activism. I was amazed by the thousands of people reaching out to us, reaching out to me and telling them what they're going through.¹⁷⁷

¹⁷⁴ Human Rights Watch Skype interview with Abdullah Al Busaidi, September 26, 2017.

¹⁷⁵ Ibid.

¹⁷⁶ BuzzFeed, "This Women [sic] Is The Most Hated Lesbian In Egypt," August 20, 2017, https://www.buzzfeed.com/amrohelmy/this-women-is-the-most-hated-lesbian-in-egypt?utm_term=.mh1X14Xz1g#.wcaz98zX9E (accessed October 13, 2017).

¹⁷⁷ Human Rights Watch Skype interview with Dalia Alfaghal, December 12, 2017.

Dalia Abdel Hameed of EIPR in Egypt agreed that Alfaghal's coming out had made a positive impact:

These conversations are necessary, as happened with sexuality and violence against women. When it comes to gender and sexuality you have to have these kinds of dialogues so that people can have their convictions challenged and their misperceptions corrected and see different ways of thinking.¹⁷⁸

Repressive governments try to control social media space and the internet, just as they attempt to control mainstream media. In 2010, a blog called Community Queer was blocked to users within Oman, although it was unblocked soon after.¹⁷⁹ And in Egypt, involvement on social media can be risky: on October 6, 2017, police arrested a 22-year-old student in the town of Damanhour for allegedly administering a pro-LGBT Facebook page, and a lawyer filed a criminal complaint against the administrator of another Facebook page for “spreading debauchery.”¹⁸⁰ The risk of arrest led several Egyptian LGBT organizations to remove their public Facebook pages after the Rainbow Flag arrests began.

Underground Outreach

Social media outreach is one approach to getting messages to the broader public in contexts in which activists cannot safely speak out publicly on LGBT rights, but other creative approaches exist as well.

In Morocco, one group conducted a campaign which involved distributing letters to homes, “telling them to respect and love LGBTI communities in Morocco.”¹⁸¹ In Iraq, an

¹⁷⁸ Human Rights Watch telephone interview with Dalia Abdel Hameed, EIPR, September 7, 2017.

¹⁷⁹ <http://muscatconfidential.blogspot.co.ke/2010/02/stop-press-new-omani-blog-community.html>

¹⁸⁰ Human Rights Watch interview with Mohamed AlBorgi, Beirut, September 30, 2017; Mahmoud Abd al-Sabour, “Police Arrest the Administrator of a Facebook Page Advocating ‘Homosexuals’ Rights,” Tahrir News, October 7, 2017, <https://www.tahrirnews.com/posts/843354/%D9%85%D9%85%D8%A7%D8%B1%D8%B3%D8%A9+%D8%A7%D9%84%D8%B4%D8%Bo%D9%88%D8%Bo+%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A+%D9%81%D9%8A%D8%B3%D8%A8%D9%88%D9%83++%D8%B1%D8%A6%D9%8A%D8%B3+%D8%A7%D9%84%D9%85%D8%A8%D8%A7%D8%AD%D8%AB+%D8%A7%D9%84%D8%AC%D9%86%D8%A7%D8%A6%D9%8A%D8%A9+%D9%85%D8%AF%D9%8A%D8%B1+%D8%A3%D9%85%D9%86+%D8%A7%D9%84%D8%A8%D8%AD%D9%8A%D8%B1%D8%A9> (accessed February 20, 2018).

¹⁸¹ Conference presentation by an activist from Akaliyat, attended by Human Rights Watch, Beirut, October 1, 2017, cited with permission of the activist.

organization took its message directly to the public by clandestinely putting up posters in the streets of Baghdad at night that read “I am equal to you. Difference is the basis of life.” One of the activists behind the campaign acknowledged:

We had to do this in secret so nobody can see us hanging the posters anywhere. We leave it in a place and leave because it is very dangerous and nobody will protect us. We can be killed by militias.¹⁸²

Other organizations have put up graffiti in support of LGBT rights, including in Egypt, Tunisia, and Lebanon. As Luiza Toscane notes in an important article tracing the history of LGBT activism in the Middle East and North Africa, “These graffiti are not usually improvised individual initiatives, but campaigns initiated by associations.”¹⁸³

Direct Outreach to Potential Allies

Several organizations throughout the region are reaching out directly to opinion leaders and others who come into contact with LGBT people and need to better understand issues affecting them.

Haneen Maikey, of alQaws in Palestine, said her organization devotes significant time and resources to training, about 120 hours every year:

We have a training unit aimed at deconstructing how people think about these issues—therapists, high school teachers, civil society activists, youth movements, political movements. It could be three to ten meetings with the same group. We talk about sexual identity, awareness of sexual differences, the history of sexuality, how it’s constructed in Palestine, how it’s linked to occupation and colonialism, how we could think about LGBT stuff not from the “othering” lens, about family structures. It’s very mind-blowing, and despite the fact that Palestinian society is very traditional, people really want to talk about it. It’s not as simplistic as “I accept gay

¹⁸² Human Rights Watch interview, 2017, date and location withheld.

¹⁸³ Luiza Toscane, « ‘Être homophobe n’est pas révolutionnaire’ – Les luttes LGBTIQ dans l’orbite du processus révolutionnaire arabe, » Europe Solidaire Sans Frontières, March 8, 2017, <https://www.europe-solidaire.org/spip.php?article40519#nh1> (accessed October 13, 2017).

people,” it’s about thinking about why we think the way we do. A simple example: People say, “How do gay people really love each other?” We never really answer this. We ask, “How do you as ‘heterosexual person’ love someone? How do you choose who you want to have sex with, or your emotions [toward someone]?” We challenge these questions. ¹⁸⁴

Ayaz Shalal, a human rights activist working on LGBT rights and women’s rights in the Kurdistan Region of Iraq, conducts workshops for community leaders including imams, local government officials, school managers, doctors, and university professors. He said that the workshops involve “starting from zero, explaining what’s L, G, B, that it’s not a disease, the history of LGBT in the world, how it’s not connectable to ethics and how ethics are changeable values.”¹⁸⁵

Shalal said that the fact that his organization had strong credentials working with vulnerable groups other than LGBT people was an asset in building support among these community leaders:

It’s a plus that we work on issues other than LGBT. People trust us. We worked providing legal free services to women, psychosocial support to women, economic empowerment. We helped Yazidi women who were pregnant from ISIS, taking them to hospitals, helping them get health services. So people saw that our organization wants good for the society. So when we go and ask them to work with us on LGBT, when they attend the workshops, their views change.¹⁸⁶

In Algeria, one activist has worked on sensitizing psychologists about LGBT identities, and has now built up a corps of LGBT-friendly psychologists to whom he can refer people who are suffering from depression:

¹⁸⁴ Human Rights Watch Skype interview with Haneen Maikey, alQaws, September 11, 2017.

¹⁸⁵ Human Rights Watch interview with Ayaz Shalal, Rasan, Beirut, September 30, 2017.

¹⁸⁶ Human Rights Watch interview with Ayaz Shalal, Rasan, Beirut, September 30, 2017.

It was difficult to identify gay-friendly psychologists, but we did it, and trained them. They were saying [homosexuality is] a disease, even though the WHO [World Health Organization] says it's not a disease.¹⁸⁷

Ensuring Access to HIV Prevention and Treatment

For activists throughout the world, the urgent need for governments to comprehensively address HIV epidemics has often brought about the first formal collaboration between governments and activists working with men who have sex with men (MSM). Elie Ballan, an activist with M-Coalition in Beirut, told Human Rights Watch that in Lebanon, open discussion of LGBT rights first grew out of discussions starting in the late 1990s about the HIV crisis and the need to target key populations for prevention and treatment, including MSM (a term used by HIV service providers to include not only men who identify as gay or bisexual, but also those who may not affirm such identities but nevertheless engage in same-sex relations).

Although Lebanon has moved on to have much more open discussions around sexuality, Ballan said that elsewhere in the region, conversations around HIV are still a way to open doors. For example, he said:

In Algeria when you say MSM it's acceptable, you can do MSM work, but when you say LGBT or gay, everyone turns against you. Because MSM is an international word, used with the WHO and the UN agencies, and it refers to a key population affected by the HIV epidemic.

Most countries in the region have a National HIV/AIDS Control Program or similar government agency aimed at fighting HIV/AIDS. In some countries, these agencies work directly with representatives of MSM communities to ensure that prevention, testing and treatment efforts reach them. Still, more needs to be done, Ballan said: “[HIV] is actually on the rise in our region, because our culture thinks sex is a taboo.”¹⁸⁸

¹⁸⁷ Human Rights Watch interview with Rayan A. (pseudonym), Beirut, October 1, 2017.

¹⁸⁸ Human Rights Watch Skype interview with Elie Ballan, M-Coalition, September 6, 2017.

SIDC, a Beirut-based organization working with key populations including MSM, sex workers, transgender people, and people who inject drugs, has initiated a series of regional trainings on guidelines for HIV prevention and treatment among MSM, aimed at government health workers. SIDC staff members told Human Rights Watch that they hope the trainings will open up discussion around LGBT sexual health, including in Gulf countries, where such topics are rarely discussed openly.¹⁸⁹

Nazeeha Saeed, a journalist from Bahrain who has covered LGBT issues, said that she was unaware of any HIV prevention initiatives in Bahrain at all, let alone any initiatives targeting MSM. She said that because of general stigma against HIV-positive people, “People stopped going to public hospitals to get tested. They go outside the country to get tested, and many just use informal support circles to get medicine.”¹⁹⁰

Yousif Al Ghawas, a gay man from Bahrain living in Lebanon, agreed that there is an urgent necessity for activism around HIV and health, and that it might—even in a conservative society resistant to almost all forms of activism—open doors to deeper discussions of sexuality:

We don’t have any NGO working on HIV prevention [in Bahrain]. If there’s any form of activism that’s required, it would be sexual education. There’s no anonymous testing, there’s no sexual education to begin with, straight or gay. The best way of bringing up a conversation on sexuality and rights is to start with disease. Freedom of thought is not as compelling a driver of change as talking about health. It might be shameful, but we have to talk about it. And the best people to do that are women—that’s your foot in. “My husband may be unfaithful and I have to protect myself.” From there, you can bring up the idea of being gay and being out, and that you have to talk about being gay.¹⁹¹

¹⁸⁹ Human Rights Watch interview with Nadia Badran and Rita Wahab, SIDC, Beirut, October 6, 2017.

¹⁹⁰ Human Rights Watch Skype interview with Nazeeha Saeed, October 23, 2017.

¹⁹¹ Human Rights Watch interview with Yousif Al Ghawas, Beirut, October 1, 2017.

Changing Abusive Practices, Policies and Laws

Activism to advance the rights of LGBT people does not necessarily follow any particular sequence, and the priorities and strategies adopted may vary widely from country to country. But several activists told Human Rights Watch that it is often only after groundwork has been done to strengthen LGBT communities themselves, to establish security protocols in case of threats, to build support from broader civil society and key allies, and to begin raising awareness of LGBT rights among the general public, that movements can take the bold step of challenging discriminatory laws and policies.

A major goal for many LGBT activists throughout the region is to decriminalize same-sex conduct, and in Lebanon, Morocco, and Tunisia, activists have publicly advocated against the provisions of their penal codes that criminalize such conduct. In Lebanon, judges have also begun to issue rulings arguing that the law does not in fact criminalize same-sex conduct: four judges, between 2007 and 2017, have found that the law criminalizing “offenses against nature” does not apply to consensual sex between adults of the same sex.¹⁹² But in these and other countries, activists recognize that few, if any, politicians or government officials are willing to publicly support decriminalization, so changing legislation is a medium- to long-term goal.

In the interim, other steps can be taken to limit human rights abuses against LGBT people. Activists in several countries are taking on abusive policies and practices. For instance, in Lebanon, until a few years ago, police from the Internal Security Forces (ISF) frequently subjected persons arrested on charges of same-sex conduct to torture and ill-treatment. But organizations working on the rights of LGBT people in Lebanon, including Helem and Legal Agenda, found that by documenting abuses and publicizing the accounts of victims, they were able to successfully “shame” the ISF, and reports of abuses significantly declined.¹⁹³ On the other hand, Helem found that General Security, a security service that

¹⁹² Graeme Reid, “Lebanon Edges Closer to Decriminalizing Same-sex Conduct,” Human Rights Watch, February 2, 2017, <https://www.hrw.org/news/2017/02/02/lebanon-edges-closer-decriminalizing-same-sex-conduct>; Lama Karame, “Lebanese Article 534 Struck Down: Homosexuality No Longer ‘Contrary to Nature’,” Legal Agenda, July 11, 2016, <http://legal-agenda.com/en/article.php?id=3149> (accessed February 12, 2018). According to Georges Azzi of Arab Foundation for Freedoms and Equality, in several of these cases, the defense lawyers worked closely with LGBT rights organizations to develop argumentation according to which same-sex conduct, as a natural variant of human sexuality, should not be considered “against nature.”

¹⁹³ Human Rights Watch interview with Genwa Samhat, Helem, Beirut, March 29, 2016; Legal Agenda and Helem, *Al-Agha Bathhouse: A Raid from Another Age*, undated (2015), on file with Human Rights Watch.

deals with immigration, was less susceptible to public pressure, which has made abuses against LGBT people by General Security more difficult to counter.

Forced Anal Exams

Forced anal examinations to seek “proof” of homosexual conduct, based on long-discredited 19th century science, are a form of cruel, degrading, and inhuman treatment that can rise to the level of torture.¹⁹⁴ Activists in Lebanon, Tunisia and Egypt have all focused on forced anal examinations as an intolerable form of abuse.

In Lebanon, widespread mobilization against forced anal examinations began after police detained three men in April 2012 for “looking feminine,” according to their lawyer.¹⁹⁵ The lawyer was in the police station when the anal tests were conducted, and, outraged at the abusive practice, she and other activists organized a conference in May 2012 to call attention to the existence of forced anal exams. Then, in August 2012, police conducted a mass arrest of 36 men, who were subjected to anal exams to seek evidence of homosexual conduct.¹⁹⁶ In response, Legal Agenda launched a campaign labeling anal exams “Tests of Shame,” and calling for an end to the practice. Helem, an LGBT rights organization working in partnership with Legal Agenda, organized sit-ins in front of the Lebanese Order of Physicians and the Ministry of Justice. Tarek Zeidan, one of the activists involved with the campaign, explained: “We called it ‘rape tests,’ because it was rape—you were violating someone against their will.”¹⁹⁷ According to Genwa Samhat of Helem, “The media helped a lot. We used terms like “Tests of Shame,” “Nation of Shame” – instead of the LGBT people being described as perverts, we made the officers look like perverts.”¹⁹⁸

¹⁹⁴ Human Rights Watch, *Dignity Debased*, 2016.

¹⁹⁵ Human Rights Watch interview with Ghida Frangieh, Legal Agenda, Beirut, April 1, 2016.

¹⁹⁶ See Human Rights Watch, *“It’s Part of the Job”: Ill-treatment and Torture of Vulnerable Groups in Lebanese Police Stations*, June 26, 2013, <https://www.hrw.org/report/2013/06/26/its-part-job/ill-treatment-and-torture-vulnerable-groups-lebanese-police-stations>, and Human Rights Watch, “Lebanon: Stop ‘Tests of Shame,’” August 10, 2012, <https://www.hrw.org/news/2012/08/10/lebanon-stop-tests-shame>.

¹⁹⁷ Human Rights Watch telephone interview with Tarek Zeidan, March 11, 2016.

¹⁹⁸ Human Rights Watch interview with Genwa Samhat, Helem, Beirut, March 29, 2016.

In response, the head of the Lebanese Order of Physicians, Dr. Sharaf Abu Sharaf, issued a directive on August 7, 2012, calling for an end to the procedure.¹⁹⁹ The directive states:

It is scientifically established that this procedure is not even qualified as an experimental procedure. It does not provide the needed result and is considered a grave violation against the people who undergo it, and it is done without their prior consent. It is a humiliating practice that violates their dignity, and it is torture according to the definition of CAT [Convention against Torture].²⁰⁰

The directive further asked all doctors “not to do this kind of procedure, since whoever does it could be held responsible according to the code of ethics.”²⁰¹

After much public pressure on the Ministry of Justice to institutionalize a ban on anal examinations, Justice Minister Shakib Qortbawi issued a communication addressed to the public prosecutor on August 11, 2012, asking him to issue a directive ending the examinations completely.²⁰² The public prosecutor reportedly forwarded the Minister’s communication to prosecutors throughout the country, without actually issuing a directive ordering them to abide by it.²⁰³ The office of the prosecutor is independent from the Ministry of Justice, and human rights activists told Human Rights Watch that only a definitive order from the public prosecutor could prevent prosecutors from ordering the exams.²⁰⁴ Between 2013 and 2015, forced anal exams continued to be used occasionally, although less often

¹⁹⁹ While most doctors in Lebanon are members of the Lebanese Order of Physicians, there is a second, independent medical association based in Tripoli, which did not issue any such directive. It is unclear whether doctors in Tripoli continue to conduct forced anal examinations.

²⁰⁰ “تشرّعه التمييزية العامة والنيابة «المثلية فحص» يوقف الأطباء نقيب” (Head of Physicians Syndicate Halts “Homosexuality Tests,” Tests Legitimized by Appeals Courts’ General Prosecutor), Al-Akhbar, August 8, 2012, <http://www.al-akhbar.com/node/99597> (accessed April 25, 2016).

²⁰¹ Ibid.

²⁰² “Outraged Lebanese demand end to anal exams on gay men,” BBC News, August 8, 2012, <http://www.bbc.com/news/world-middle-east-19166156> (accessed April 6, 2016).

²⁰³ Human Rights Watch interview with Ghida Frangieh, Legal Agenda, Beirut, April 1, 2016.

²⁰⁴ Human Rights Watch interviews with Georges Azzi, Arab Foundation for Freedoms and Equality, Beirut, March 30, 2016, and Ghida Frangieh, Legal Agenda, Beirut, April 1, 2016.

than in the past.²⁰⁵ Human Rights Watch has not received any reports of the use of forced anal exams in Lebanon since 2015.²⁰⁶

In Tunisia, two high-profile cases involving the use of forced anal exams in Tunisia in late 2015, both of them involving young university students who were subjected to the exams, captured the attention of Tunisian LGBT activists and the broader human rights community. Activists took up the mantle from their Lebanese colleagues, labeling the exams “tests of shame,” seeking to mobilize popular opposition to their use, and lobbying Tunisia’s medical association, the National Council of the Medical Order, to issue a circular prohibiting the exams. The medical association did so, in April 2017, although the circular limited itself to stating that doctors should not conduct the exams “without consent,” when in fact the exams should be considered forensically worthless even if an accused person consents to them.²⁰⁷ Tunisian activists and international human rights organizations also advocated against forced anal exams before the UN Committee Against Torture and during Tunisia’s Universal Periodic Review at the UN Human Rights Council, discussed below, leading to the Tunisian delegation accepting a recommendation to end the exams.²⁰⁸ But work remains to be done: Badr Baabou of Damj told Human Rights Watch that the Tunisian government, in an apparent attempt to buy time, has asserted that it will take four years to establish “mechanisms” to implement the recommendation—something that, in fact, could be done by the stroke of a pen.²⁰⁹

In Egypt, the Forensic Medicine Authority, an arm of the Ministry of Justice, conducts such examinations systematically on men and trans women accused of “debauchery.” There was an apparent decrease in the use of anal exams identified by activists in early 2017, but new cases were reported in the wake of the rainbow flag incident in September.²¹⁰ Activists

²⁰⁵ Human Rights Watch, *Dignity Debased*, 2016, pp. 35-38.

²⁰⁶ However, in February 2016, a Lebanese military police officer raped a Syrian refugee with an iron rod. The refugee told Human Rights Watch that an officer told him: ““I will insert this into your anus to determine how many times you’ve had sex.” Human Rights Watch, “Lebanon: Syrian Refugee’s Account of Torture,” December 21, 2016, <https://www.hrw.org/news/2016/12/21/lebanon-syrian-refugees-account-torture>.

²⁰⁷ Neela Ghoshal, “‘Consent’ or No, Anal Testing in Tunisia Must Go,” Human Rights Watch, May 3, <https://www.hrw.org/news/2017/05/03/consent-or-no-anal-testing-tunisia-must-go>.

²⁰⁸ Neela Ghoshal, “Beginning of End for Forced Anal Exams,” Human Rights Watch, September 26, 2017, <https://www.hrw.org/news/2017/09/26/beginning-end-forced-anal-exams>.

²⁰⁹ Written exchange on Facebook messenger between Human Rights Watch and Badr Baabou, Damj, October 18, 2017.

²¹⁰ Human Rights Watch interviews with Egyptian activists, by phone, video link, and in Beirut, September and October 2017.

told Human Rights Watch that they plan to urge Egypt's Medical Syndicate to prohibit doctors from conducting the exams, and to raise concerns about forced anal exams with the UN Committee Against Torture, as discussed further below.²¹¹

Making Use of the International System

The Universal Periodic Review and UN Treaty Bodies

LGBT activists in the Middle East and North Africa have recently begun to make use of international advocacy opportunities, including during the Universal Periodic Review (UPR) process at the UN Human Rights Council, where every country's human rights record is evaluated by fellow member states every four to five years. Some activists have made use of the UPR to elicit commitments from their governments with regard to LGBTI rights. Although most governments in the region routinely reject any recommendations related to sexual orientation and gender identity, there have been some notable exceptions. Even when governments reject the specific recommendations put forward, they may seek to assuage the human rights community through the use of language that opens doors, intentionally or not.

In 2010, Iraq became the first predominantly Arab country to accept UPR recommendations related to sexual orientation and gender identity, including recommendations to “address extrajudicial killings of persons on the basis of their actual or presumed sexual orientation.”²¹² In 2014 Iraq accepted a recommendation to “avoid all forms of discrimination based on ethnicity, religion, gender or sexual orientation.”²¹³

Encouraged by these developments, IraQueer and its partner organizations submitted a shadow report on Iraq in 2015 to the Human Rights Committee, which evaluates countries' compliance with the International Covenant on Civil and Political Rights. The organizations made a series of recommendations related to steps Iraq should take to address violence and discrimination related to sexual orientation and gender identity. Ashour told Human Rights Watch:

²¹¹ Human Rights Watch interview with Dalia Abdel Hameed, EIPR, Beirut, September 29, 2017.

²¹² ARC International, “Iraq,” <http://arc-international.net/global-advocacy/universal-periodic-review/i/iraq/>

²¹³ ARC International, “Iraq (Cycle 2),” <http://arc-international.net/global-advocacy/universal-periodic-review/i/iraq-cycle-2/> (accessed October 9, 2017).

The Iraqi government was surprised to see this report. They accepted the recommendations—at least on paper. Now there needs to be an active statement from the Iraqi government saying that killing, regardless of the reason, is illegal.... The point that we can't negotiate is security. Of course, we also want access to health—it's also a part of security. But the killing is making it impossible for us to do anything.²¹⁴

In Algeria's 2016 review, LGBT activists from Association Alouen and MantiQitna made a submission calling for a series of reforms, including the passage of a comprehensive anti-discrimination law and hate crimes legislation, the decriminalization of same-sex conduct, police training on sexual orientation and gender identity, and the right to form LGBT associations.²¹⁵ In response, in May 2017, the Minister of Foreign Affairs Mr Ramtane Lamamra told the Human Rights Council:

A number of recommendations also have to do with practices which are not consistent with universally recognized rights. Algeria does not specifically request a given individual what his sexual practices or private practices are. We consider him as a full-fledged citizen and we do not try to enter into the way these persons conduct their private lives.²¹⁶

Zoheir Djazeiri, an Algerian activist, offered his interpretation of the Algerian government response:

The Algerian Minister of Foreign Affairs who responded to that question said we are “full citizens.” Of course, it's not really true, because the law criminalizes us. But that shows the reports have impact. They allow us to have proof. For years we were sensitizing people about the law and their

²¹⁴ Human Rights Watch Skype interview with Amir Ashour, IraQueer, July 17, 2017.

²¹⁵ Association Alouen and Mantiqitna, “Examen Périodique Universel, 3^e cycle, Algérie : Préoccupations de l'association ALOUEN concernant la situation du droit à la non-discrimination et à l'égalité : cas des LGBTI Algérien-ne-s, » May 2017, https://www.upr-info.org/sites/default/files/document/algeria/session_27_-_may_2017/js4_upr27_dza_f_main.pdf (accessed November 9, 2017).

²¹⁶ Algeria Review, 27th Session of Universal Periodic Review, May 7, 2017, Chapter 73, H.E. Mr. Ramtane Lamamra, Minister for Foreign Affairs and International Cooperation of Algeria (Comments and Answers), <http://webtv.un.org/watch/algeria-review-27th-session-of-universal-periodic-review/5425972476001#>, at 2:20: 50, (accessed February 12, 2018).

rights, but not doing documentation—so when we talked about violence, people said “What violence?” So we decided our primary focus would be to shed light on the violence.²¹⁷

It was through the UPR that Tunisia formally accepted a recommendation to end forced anal exams, in September 2017. In May 2016, the Committee Against Torture set the stage by condemning the use of such exams in Tunisia.²¹⁸ In May 2017, a coalition of five Tunisian LGBT groups produced a UPR submission, co-signed by 13 civil society organizations that work on issues other than LGBT rights, calling for an end to forced anal examinations.²¹⁹ Human Rights Watch had documented forced anal examinations in collaboration with Tunisian groups and made a submission echoing this call.²²⁰ In September, the government formally accepted a recommendation to end the exams, its human rights minister commenting that Tunisia is “committed to protecting the sexual minority from any form of stigmatisation, discrimination and violence.”²²¹

Inspired by the Tunisian example, the Egyptian Initiative for Personal Rights plans to engage with the UN Committee Against Torture (CAT). CAT already condemned the use of forced anal exams in Egypt, in 2002, the first time such exams were highlighted by an international treaty body as a grave human rights abuse.²²² EIPR has little hope that a new CAT condemnation of forced anal exams will change the Egyptian government’s virulently anti-LGBT track record overnight, but hopes that it will contribute to building a norm among medical practitioners and the general public that forced anal exams are unacceptable, a norm that will eventually filter up to the state.²²³

²¹⁷ Human Rights Watch Skype interview with Zoheir Djazeiri, TransHomosDZ, September 11, 2017.

²¹⁸ Human Rights Watch, “Tunisia: UN Panel Condemns Forced Anal Exams,” May 23, 2016, <https://www.hrw.org/news/2016/05/23/tunisia-un-panel-condemns-forced-anal-exams>.

²¹⁹ Tunisian Coalition for the Rights of LGBTIQ People, “Stakeholders Report, Universal Periodic Review of Tunisia,” May 2017, <http://lgbt.dk/wp-content/uploads/Rapport-UPR-LGBT.pdf> (accessed November 9, 2017).

²²⁰ Human Rights Watch, “Submission to the United Nations Committee against Torture on Tunisia,” April 4, 2016, <https://www.hrw.org/news/2016/04/04/submission-united-nations-committee-against-torture-tunisia>.

²²¹ “Tunisia bans forced anal exams for homosexuality,” AFP, September 22, 2017, <http://www.news24.com/Africa/News/tunisia-bans-forced-anal-exams-for-homosexuality-20170922> (accessed October 13, 2017).

²²² Committee against Torture, “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Conclusions and recommendations of the Committee against Torture, Egypt,” CAT/C/CR/29/4, December 23, 2002, <http://www.refworld.org/docid/4f213bf92.html> (accessed February 15, 2018), para. 6(k).

²²³ Human Rights Watch interview with Dalia Abdel Hameed, Beirut, September 28, 2017.

The African Commission on Human and Peoples' Rights

The Arab Foundation for Freedoms and Equality (AFE) and LGBT organizations in North Africa have only recently begun to engage with the African Commission on Human and Peoples' Rights, an organ of the African Union, based in Banjul, the Gambia, that is charged with promoting and protecting human rights on the African continent. Like the UN Human Rights Council, the ACHPR evaluates member states' human rights records, conducts investigations, and issues general comments, resolutions and guidelines. In 2014 the ACHPR adopted resolution 275 on protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity. It has also highlighted states' obligations to refrain from torture on the grounds of sexual orientation or gender identity and to ensure freedom of assembly and protection of human rights defenders working on issues related to SOGI.²²⁴ In 2017, a North African activist working with AFE attended a session of the African Commission for the first time and met with commissioners to raise concern about violations against LGBT people in North African countries, including Egypt and Tunisia. AFE intends to continue engaging with the African Commission on the rights of LGBT people throughout the region.²²⁵

²²⁴ Wendy Isaack, "African Commission Tackles Sexual Orientation, Gender Identity," Human Rights Watch, June 1, 2017, <https://www.hrw.org/news/2017/06/01/african-commission-tackles-sexual-orientation-gender-identity>.

²²⁵ Human Rights Watch Skype interview with Zoheir Djazeiri, January 26, 2018.

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Annex: Laws Prohibiting or Used to Punish Same-Sex Conduct and Gender Expression in the Middle East and North Africa

Algeria

Article 338 of the Penal Code punishes anyone guilty of a homosexual act with imprisonment of up to two years and a fine of up to 2,000 Algerian dinars (US\$18).²²⁶

Under **article 333**, an “outrage to public decency” is punishable by imprisonment of two months to two years and a fine of 500 to 2,000 Algerian dinars (US\$4-18). However, when such act involves “an act against nature with an individual of the same sex,” the penalty is imprisonment for six months to three years and a fine of 1,000 to 10,000 Algerian dinars (US\$9-90).²²⁷

Bahrain

Same-sex conduct between adults over 21 years has not been criminalized since the repeal of the 1955 British-imposed Penal Code in 1976. **Article 347** punishes, with a prison sentence of unspecified length, “anyone who assaults a person who is more than fourteen years but less than twenty-one years, with his consent,” presumably a reference to same-sex conduct.²²⁸

²²⁶ Article 338 also states that if one of the participants is a minor under eighteen years old, the penalty for the adult may be raised to three years imprisonment and a fine of 10,000 Algerian dinars. No such law punishes sexual relations between partners of different sexes if one is under 18 years old. Code Pénal (promulgué par l'Ordonnance n° 66-156 du 18 Safar 1386 correspondant au 8 juin 1966), http://www.wipo.int/wipolex/en/text.jsp?file_id=200279.

²²⁷ Article 333 bis also outlaws the distribution of materials that are “contrary to decency,” including writings, drawings, and photos. Human Rights Watch is unaware of any cases in which anyone has been charged under this article for distributing materials related to sexual orientation or gender identity.

²²⁸ Bahrain Penal Code, 1976, https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf (accessed February 7, 2018). In contrast, sex with a woman under 21 is punished as follows: “A prison sentence for a period not exceeding twenty years shall be the punishment for any person who has sexual intercourse with a female who is more than fourteen years but has not reached the age of sixteen years, with her consent. A prison sentence of no more than 10 years shall be the sentence for any person who has sexual intercourse with a female who is more than sixteen years but less than twenty one years, with her consent.”

As noted in Section I above, alleged homosexual or gender non-conforming acts, such as organizing a “gay party” or cross-dressing, have been prosecuted under vague and undefined penal code provisions against “indecent” and “immorality.” Most media reports on these cases fail to cite the precise penal code provisions under which people have been charged, and Human Rights Watch has not been able to access legal documents in these cases, but charges may include:

- **article 324**, which punishes anyone “who entices a male or a female to commit acts of immorality or prostitution” (the penal code does not provide an exact sentence);
- **article 328**, which punishes anyone who establishes or runs premises for purposes of “immorality or prostitution” with a prison sentence of up to 5 years;
- **article 350**, which outlaws any public “indecent act,” prescribing a prison sentence for a period not exceeding one year or a fine not exceeding 100 Bahraini dinars (US\$ 266).²²⁹

Egypt

Article 9 of the **Law 10/1961 on the Combating of Prostitution** punishes anyone who “habitually engages in debauchery or prostitution,” or who offers, owns, or manages establishments for the purpose of such activities, with up to three years in prison and a fine up to 300 Egyptian pounds (US\$ 17), while **article 14** of the same law punishes “incitement to debauchery.”²³⁰ Since the late 1990s, law enforcement authorities and courts have generally stretched the interpretation of the term to apply to consensual same-sex conduct between men.²³¹

Several Penal Code provisions are also commonly used to criminalize LGBT people and their supporters, including:

²²⁹ Bahrain Penal Code, 1976, https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf (accessed November 9, 2017).

²³⁰ Law 10/1961 on the Combating of Prostitution, <http://www.refworld.org/docid/5492d8784.html> (accessed January 25, 2018).

²³¹ Human Rights Watch, *In a Time of Torture*, 2004.

- **article 178**, which punishes anyone who trades or distributes materials, including photographs, that violate “public morals” with imprisonment for up to two years and a fine up to 10,000 Egyptian pounds (US \$566).²³²
- **article 269 bis**, which punishes anyone who is found to incite passersby with “signals or words to commit indecency” with imprisonment for up to one month and heightened penalties for repeat offenders.²³³
- **article 278** punishes whoever publicly commits “a scandalous act against shame” with detention for up to one year or a fine not exceeding 300 Egyptian pounds (US \$17).²³⁴

Iraq

Iraq does not criminalize consensual adult homosexual intercourse.

Paragraph 401 of the Code holds that any person who commits an “immodest act” in public can be put in prison for up to six months, a vague provision that could be used to target sexual and gender minorities, although such cases have not been documented.²³⁵

In addition, other provisions restrict the freedoms of expression, association, and assembly relating to unpopular issues, which can impact human rights defenders working on LGBT rights. **Paragraph 210** prohibits the dissemination of any information or idea that “disturbs the public peace,” while **paragraphs 403** and **404** penalize any “obscene or indecent publication or speech.”²³⁶ In one case, Kurdish Regional Government prosecutors used paragraph 403 to sentence a doctor to six months imprisonment for publishing an article on health issues impacting men who have sex with men. He was later pardoned.²³⁷

²³² Ibid., p. 137. An English translation of the penal code is available here: https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf, p. 76 (accessed February 13, 2018).

²³³ Ibid., p. 139.

²³⁴ Ibid., p. 140.

²³⁵ Iraq Penal Code, no. 111 of 1969, para. 401. An English translation of the penal code is available here: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=57206&p_country=IRQ&p_count=232&p_classification=01.04&p_classcount=5 (accessed March 19, 2018).

²³⁶ Ibid., paras. 403 and 404.

²³⁷ Reporters San Frontières, “Kurdish President Pardons Doctor who Was Jailed for Writing about Homosexuality,” December 8, 2008, <https://rsf.org/en/news/kurdish-president-pardons-doctor-who-was-jailed-writing-about-homosexuality>, accessed November 9, 2017.

Jordan

Consensual adult homosexual intercourse in Jordan has been decriminalized since 1951.

The penal code includes vague “morality” provisions that could be used abusively to target same-sex conduct.²³⁸ **Article 319** punishes selling, displaying, advertising, or taking part in a business that distributes any “any obscene printed or written matter, or any obscene picture, photograph, model, or any other object tending to corrupt morals” with three months’ imprisonment or a fine not exceeding 50 Jordanian dinars (US \$70), and **article 320** punishes anyone who commits an “indecent act” in public with imprisonment for no more than six months or with a fine of no more than 50 Jordanian dinars (US \$70).²³⁹

Kuwait

Article 193 of Kuwait’s Penal Code punishes same-sex relations between men with up to seven years in prison.²⁴⁰

In 2007, Kuwait’s National Assembly voted to amend **article 198** of the Code. A previously generic public decency law now stipulates that anyone “imitating the opposite sex in any way” faces one year in prison, a 1,000 Kuwaiti dinar fine (US \$3322), or both.²⁴¹

²³⁸ Khalid Abdel-Hadi of My.Kali told Human Rights Watch that he was aware of occasional incidents in which police harassed LGBT people on the basis of these laws, but did not ultimately charge them. Abdel-Hadi also said the laws may inhibit balanced media coverage of LGBT issues. Email from Khalid Abdel-Hadi to Human Rights Watch, December 6, 2017; Khalid Abdel-Hadi, “Report: Digital Threats and Opportunities for LGBT Activists in Jordan,” Medium, March 9, 2017, <https://medium.com/my-kali-magazine/report-digital-threats-and-opportunities-for-lgbt-activists-in-jordan-ef60672dcac1>, full report available at <https://drive.google.com/file/d/oB-C8GvtQEpB3UTdHcoZzUzR2MoFTTExFbVNLQkxkQVBDMTco/view> (accessed December 18, 2017).

²³⁹ Penal Code of Jordan (no. 16 of 1960), <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/joo64ar.pdf>. (Arabic); English translation from Jordan’s National Commission to Prevent Human Trafficking available at http://www.ahtnc.org.jo/sites/default/files/penal_code.pdf (accessed February 12, 2018).

²⁴⁰ Law No. 16 of 1960 promulgating the Penal Code, http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf (in Arabic), art. 193

²⁴¹ Ibid. art. 198; Human Rights Watch, *They Hunt Us Down for Fun*, 2012

Lebanon

Article 534 of Lebanon’s penal code punishes “any sexual intercourse contrary to the order of nature” with up to one year in prison, a provision that has been used frequently to prosecute people suspected of homosexuality.²⁴²

However, in four cases in the last 10 years, courts have ruled that this article cannot be used to prosecute consensual sex between people of the same sex.²⁴³ In the first such case, in 2007, a judge challenged the language of the law itself:

Man is part of nature and one [of] its elements... no one can say that any act of his acts or behavior is contradicting nature even if the act is criminal or offending simply because these are the rules of nature. If the sky is raining during summertime or if we have hot weather during winter or if a tree is giving unusual fruits, all these can be according to and in harmony with nature and are part of its rules themselves.²⁴⁴

Though the rulings do not have legal precedent, the Lebanese organization Legal Agenda argues that they are helping to deconstruct article 534 among the judiciary and the public and may eventually contribute to a decision to strike down the article.²⁴⁵

²⁴² Lebanon Penal Code 1943 https://www.unodc.org/res/cld/document/lebanon-penal-code_html/Lebanon_Penal_Code_1943.pdf

²⁴³ For a discussion of the first three such judgments, see Lama Karame, “Lebanese Article 534 Struck Down: Homosexuality No Longer ‘Contrary to Nature’,” Legal Agenda, July 11, 2016, <http://legal-agenda.com/en/article.php?id=3149> (accessed February 12, 2018). A fourth judgment was delivered in 2017. Graeme Reid, “Lebanon Edges Closer to Decriminalizing Same-sex Conduct,” February 2, 2017, <https://www.hrw.org/news/2017/02/02/lebanon-edges-closer-decriminalizing-same-sex-conduct>.

²⁴⁴ International Commission of Jurists (ICJ), Sexual Orientation, Gender Identity, and Justice: A Comparative Law Casebook (Geneva: ICJ, 2011), p. 43.

²⁴⁵ Lama Karame, “Lebanese Article 534 Struck Down: Homosexuality No Longer ‘Contrary to Nature’,” Legal Agenda, July 11, 2016, <http://legal-agenda.com/en/article.php?id=3149> (accessed February 12, 2018).

Libya

Libya's penal code outlaws all sexual activity outside of marriage, thus criminalizing same-sex activities. Under **Article 407(4)**, "If anyone has sexual intercourse with a person with that person's consent, both he and his partner shall be punished by imprisonment for a period not exceeding five years." **Article 408(4)** mandates that anyone who commits an "indecent act" with a person with that person's consent will be punished with his partner with imprisonment of an unspecified term.²⁴⁶

Libya's penal code include provisions that can be used to limit public expression for LGBT people. **Article 421** punishes "indecent acts" in public space with detention of up to one year and a fine of up to 50 Libyan dinars (US \$37), and the same penalty for distribution or sale of "indecent letters, pictures, or other articles."²⁴⁷

Mauritania

Article 308 of Mauritania's penal code criminalizes same-sex conduct for both sexes. Any "indecent act or act against nature" between adult Muslim men is subject to a sentence of "death by public stoning." Such acts between adult Muslim women are punishable by three months to two years in prison and a fine ranging from 5,000 to 60,000 ouguiya (US \$142-1702).²⁴⁸

Morocco

Article 489 of the penal code prohibits "lewd or unnatural acts with an individual of the same sex" and punishes such acts with imprisonment of up to three years and a fine of up to 1,000 dirhams (US \$109).

²⁴⁶ Libya Penal Code of 1953. An English version published by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) is available here: <http://security-legislation.ly/node/33464> (accessed February 13, 2018).

²⁴⁷ Ibid.

²⁴⁸ Journal Officiel de la République Islamique de Mauritanie, no. 608-609, Ordonnance 83-162 du 09 juillet 1983 portant institution d'un Code Pénal, <http://www.refworld.org/pdfid/491c1ffc2.pdf> (accessed December 18, 2017), art. 308, 306.

Article 483 punishes “public indecency” with imprisonment for up to two years and a fine of up to 500 dirhams (US \$54).²⁴⁹

Oman

Oman promulgated a new penal code in January 2018.²⁵⁰ The new penal code, for the first time, criminalizes non-normative gender expression. **Article 266** provides for a prison sentence of one month to one year, a fine of 100 to 300 riyals (US \$260-780), or both for any man who “appears dressed in women’s clothing.”

While the previous penal code punished same-sex relations only if the led to a “public scandal,”²⁵¹ **article 261** of the new penal code punishes any consensual sexual intercourse between men with six months to three years in prison. **Article 262** more closely echoes the language of the previous penal code, providing for six months to three years in prison for any sexual act between people of the same sex if a spouse or guardian files a complaint.

Articles 253-256 criminalize “debauchery,” which is undefined, while **articles 265, 267 and 268** prohibit “shameful acts” and the publication or transmission of “words, images or programs contrary to the public order or morals.”

Oman also punishes all sex outside of marriage with six months to three years in prison, under **article 259** of the penal code.

Under the previous penal code, article 33 described “homosexual and lesbian intercourses” as a “disgracing crime,” and article 48 provided for the expulsion of a

²⁴⁹ Code pénal (promulgué par Dahir n° 1-59-413 du 26 novembre 1962 (28 jourmada II 1382), http://www.wipo.int/wipolex/en/text.jsp?file_id=190447 (accessed February 19, 2018).

²⁵⁰ Oman Penal Code, 2018, <http://qanoon.om/p/2018/rd2018007/> (accessed March 2, 2018).

²⁵¹ Royal Decree N. 7/74. Relevant portions of the penal code in English, are available at <http://www.fiu.gov.om/files/english/Omani%20Penal%20Code/Royal%20Decree%20No.%207-74-1.pdf>, and <http://www.fiu.gov.om/files/english/Omani%20Penal%20Code/Royal%20Decree%20No.%207-74-4.pdf> (accessed November 9, 2017).

foreigner “if his offence is disgracing.”²⁵² The new penal code does not address the expulsion of foreigners for this offence.²⁵³

Palestine

Gaza and the West Bank have different Penal Codes. In Gaza, the British Mandate Criminal Code Ordinance, No. 74 of 1936 is in force. **Article 152(2)** of the Code criminalizes “carnal knowledge against the order of nature” with a penalty of up to 10 years.²⁵⁴

In the West Bank, the Jordanian Penal Code of 1951 is in force. It does not prohibit sexual acts between persons of the same sex.²⁵⁵

Qatar

Qatar’s 1971 Penal Code penalized “sexual acts against nature” with up to 5 years in prison.²⁵⁶ That provision was removed when the law was modified in 2004. Under **article 296** of the new law, “[l]eading, instigating or seducing a male anyhow for sodomy or dissipation” and “[i]nducing or seducing a male or a female anyhow to commit illegal or immoral actions” is punishable by up to three years.²⁵⁷ It is unclear whether this law is intended to prohibit all same-sex acts between men, and whether only one partner is considered legally liable.

²⁵² Ibid.

²⁵³ Royal Decree N. 7/74. Relevant portions of the penal code in English, are available at <http://www.fiu.gov.om/files/english/Omani%20Penal%20Code/Royal%20Decree%20No.%207-74-1.pdf>, and <http://www.fiu.gov.om/files/english/Omani%20Penal%20Code/Royal%20Decree%20No.%207-74-4.pdf> (accessed November 9, 2017).

²⁵⁴ Penal Code (74) 1936 – Gaza, https://www.nevo.co.il/law_html/law21/PG-e-0633.pdf (accessed November 9, 2017).

²⁵⁵ Penal Code of Jordan (no. 16 of 1960), <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/joo64ar.pdf> (in Arabic) (accessed February 19, 2018).

²⁵⁶ The Penal Code of Qatar issued by Law No. 14 of 1971, <http://www.almeezan.qa/LawArticles.aspx?LawArticleID=34068&LawId=2505&language=ar> (in Arabic) (accessed February 19, 2018).

²⁵⁷ Law No. 11 of 2004 Issuing the Penal Code 11 / 2004, <http://portal.www.gov.qa/wps/wcm/connect/8abaea8046be1deaae97ef70b3652ad8/Penal+Code.pdf?MOD=AJPERES&useDefaultText=o&useDefaultDesc=o> (accessed February 19, 2018).

Under sharia, which applies only to Muslims in Qatar,²⁵⁸ any sexual act by a married person outside of marriage is punishable by death, while sexual acts by non-married persons are punishable by flogging.²⁵⁹ As far as Human Rights Watch is aware, these provisions have never been used to punish consensual same-sex conduct.

Saudi Arabia

Saudi Arabia has no codified Penal Code and, thus, no written laws concerning sexual orientation or gender identity. Nevertheless, judges use principles of uncoded Islamic law to sanction people suspected of committing homosexual or other “immoral” acts.

If such activity occurs online, judges and prosecutors utilize vague provisions of the cyber crime law that criminalize online activity that impinges on “public order, religious values, public morals, and privacy.” In 2015, an appeals court upheld a sentence of three years in prison and 100,000 Saudi riyals (US \$26,667) against a Saudi man for using social media “in order to practice homosexuality.” The ruling relied in part on the cyber crime law.²⁶⁰

Sudan

Article 148 of the Sudanese penal code punishes “sodomy”—defined as an act in which a man “inserts his penis or its equivalent into a woman's or a man's anus or permitted another man to insert his penis or its equivalent in his anus”—with flogging of one hundred lashes and five years imprisonment. The same penalty applies on a second offence; on the third offense, the punishment is death or life imprisonment.²⁶¹

²⁵⁸ See article 1(1) of the Penal Code, *op. cit.*

²⁵⁹ “Hadd,” Oxford Islamic Studies Online, <http://www.oxfordislamicstudies.com/article/opr/t125/e757> (accessed February 20, 2018).

²⁶⁰ “الشرقية استئناف” ريال ألف 100 وغرامة سنوات 3 شاذ بسجن الحكم تؤيد “(“Eastern Appeals Court” Upholds a Ruling of 3 Years in Prison for a Gay Man and a Fine of 100,000 Riyals”), Sabq Online Newspaper, February 16, 2015, <https://sabq.org/KEygde> (accessed November 26, 2017).

²⁶¹ The Penal Code 1991, English translation available at: https://www.ecoi.net/en/file/local/1219135/1329_1202725629_sb106-sud-criminalact1991.pdf (accessed February 13, 2018).

Under **article 151**, any “act of gross indecency” or other “sexual act which does not amount to Zina or Sodomy” is punishable by forty lashes, along with imprisonment for a term not exceeding one year, or an unspecified fine.²⁶²

Sudanese law also may inhibit freedom of expression for LGBT people, including gender expression. **Article 152** states that whoever “does in a public place an indecent act or an act contrary to public morals or wears an obscene outfit or contrary to public morals or causing an annoyance to public feelings” will be punished with up to 40 lashes, a fine, or both. It specifies that an act is considered contrary to public morals “if it is regarded as such according to the standard of the person's religion or the custom of the country where the act takes place.” Under **article 153**, making, possessing, or circulating “materials contrary to public morals” is subject to up to one month in prison or 40 lashes, as well as a fine, while running any “exhibition, theatre, cinema or public place” where such materials are exhibited or presented is punished by up to sixty lashes, up to three years in prison, or with both.²⁶³

Syria

Article 520 of the Syrian Penal Code of 1949 prohibits “unnatural sexual intercourse.” It is punishable by imprisonment by up to three years. **Article 517** of the Code punishes crimes “against public decency” that are carried out in public with imprisonment of three months to three years.”²⁶⁴

Tunisia

Article 230 of Tunisia’s penal code punishes both female and male homosexual acts with up to three years in prison. While the French version of the penal code only uses the term

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ (1949/148 رقم التشريعي الصادر بالمرسوم التشريعي) القانون الجنائي [The Syrian Penal Code – Legislative Decree No. 148 of 1949], http://www.wipo.int/wipolex/en/text.jsp?file_id=243237.

“sodomy,” the official Arabic version refers to same-sex relations between men (“liouat”) and between women (“Mousahaga”).²⁶⁵

Article 226 bis punishes public indecency or public immorality with six months in prison and a fine of 1,000 Tunisian dinars (US \$416).²⁶⁶

United Arab Emirates

Article 356 of the federal penal code criminalizes all sexual acts outside of heterosexual marriage with a minimum sentence of one year in prison.²⁶⁷

Article 359 punishes “any man who disguises himself in a woman's clothing and enters a place the entry into which is reserved for women” with one year imprisonment, a fine of up to 10,000 dirhams (US \$2,723), or both. In practice, this article is used against transgender women in spaces that are not “reserved for women.”

In addition, article 368 punishes “whoever habitually practices debauchery” with an unspecified prison sentence. Human Rights Watch is unaware of whether this article has been used to punish consensual same-sex conduct.

While the UAE penal code does not expressly criminalize homosexual intercourse, **article 80 of Abu Dhabi’s** penal code punishes “unnatural” sex acts with up to 14 years in

²⁶⁵ République Tunisienne, Code Pénal, Décret du 9 juillet 1913 (5 châbane 1331), <http://www.refworld.org/docid/3ae6b559o.html> (accessed November 9, 2017) ; Loi n° 2005-46 du 6 juin 2005, portant approbation de la réorganisation de quelques dispositions du code pénal et leur rédaction, http://www.wipo.int/wipolex/en/text.jsp?file_id=201808 (accessed February 13, 2018). The Arabic version of the penal code is available at http://www.legislation.tn/affich-code/Code-p%C3%A9nal__89 (accessed February 19, 2018).

²⁶⁶ Loi n° 2005-46 du 6 juin 2005, portant approbation de la réorganisation de quelques dispositions du code pénal et leur rédaction, http://www.wipo.int/wipolex/en/text.jsp?file_id=201808 (accessed February 13, 2018).

²⁶⁷ Government of Dubai, UAE laws, [http://www.dxbpp.gov.ae/Law_Page.aspx?Law_ID=479&Grand_ID=2](http://www.dxbpp.gov.ae/Law_Page.aspx?Law_ID=479&Grand_ID=2;); (in Arabic), <http://mublegal.com/wp-content/uploads/2014/07/Federal-law-penal-code.pdf>. An English translation of the federal penal code, issued by the Abu Dhabi Justice Department, is available at <https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/PDFs/Penal%20Code.pdf> (accessed February 12, 2018).

prison.²⁶⁸ Similarly, **article 177** of the penal code of the Emirate of **Dubai** punishes consensual sodomy by imprisonment of up to 10 years.²⁶⁹

Yemen

Yemen's penal code prohibits same-sex relations. **Article 264** punishes anal sex with 100 lashes and, possibly, one year imprisonment if participants are not married. If married, the same article prescribes death by stoning. **Article 268** punishes sex between women with up to three years in prison.

Article 273 and **274** punish any act “indicating a breach of modesty and contrary to etiquette” with up to six months in prison.²⁷⁰

²⁶⁸ Abu Dhabi Penal Code, <https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/LocalPublications/Local.AbuDhabi.Penal.Code/HTML5/index.html> (accessed November 28, 2017).

²⁶⁹ Dubai Penal Code, <http://qistas.com/legislations/uae/view/3979792> (accessed December 12, 2017).

²⁷⁰ “Republican Decree for Law No 12 for the Year 1994 Concerning Crimes and Penalties,” <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83557/92354/F1549605860/YEM83557.pdf>.

AUDACITY IN ADVERSITY

LGBT Activism in the Middle East and North Africa

Despite state-sponsored repression and social stigma, lesbian, gay, bisexual and transgender (LGBT) people in Arabic-speaking countries in the Middle East and North Africa are finding ways to speak out. They are telling their stories, building alliances, networking across borders, developing national and regional movements, and finding creative ways to combat discrimination based on sexual orientation and gender identity.

Based on interviews with 34 activists representing almost every Arabic-speaking country in the Middle East and North Africa, *Audacity in Adversity* shines a spotlight on movements that are making change in the face of significant obstacles. These include the criminalization of same-sex conduct and gender non-conformity, arbitrary arrests and ill-treatment, violence by state and non-state actors, restrictions on freedom of expression and association, family rejection, and social stigma. The report highlights creative approaches that activists are using to build communities, ensure the safety of activists and ordinary LGBT people, provide avenues for expression through media and the arts, gain public support, identify government allies, and advocate for legal, political and social change.



Collage depicting lesbian, gay, bisexual and transgender (LGBT) activists and artists from Arabic-speaking countries who participated in “No Longer Alone,” a series of videos produced by Human Rights Watch and the Arab Foundation for Freedoms and Equality (AFE).

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