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Responses to Information Requests

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28 October 2013

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Morocco: Situation of sexual minorities, including treatment by the authorities and society; the application of Article 489 of the Penal Code and cases with convictions for homosexuality; state protection and support services (2010-October 2013)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Laws and treatment of sexual minorities by the authorities

In Morocco, sexual relations between persons of the same sex are illegal (US 19 Apr. 2013, 29; ILGA May 2013, 53; Kifkif n.d.). Article 489 of the Moroccan Penal Code applies to acts of homosexuality:

[translation]

[a]ny person who commits a lewd or unnatural act with a person of the same sex shall be punished by a term of imprisonment of six months to three years and a fine of 200 to 1,000 dirhams [approx. C\$25 to C\$125 (XE 18 Oct. 2013)], unless the facts of the case constitute a more serious offence. (Morocco 1963)

According to a Reuters article of 19 May 2010, convictions for homosexuality in Morocco are "rare". Likewise, the US Department of State *Country Reports on Human Rights Practices for 2012* notes that the articles of the Moroccan Penal Code criminalizing homosexual acts are "infrequently enforced" (US 19 Apr. 2013, 29).

The website of Kifkif, an LGBT organization [translation] "established in 2004 by Moroccan homosexual activists and whose administration is based in Spain," states that, according to its estimates, [translation] "since Moroccan independence in 1956, more than 5,000 homosexuals, mostly men, have been tried by the courts for violating article 489" (n.d.). An article by the Associated Press (AP), dated 22 May 2013, states that, according to statistics from the Ministry of Justice, there were 81 trials involving charges of homosexuality in 2011. Additional information on statistics regarding trials involving charges of homosexuality could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that two Moroccans were sentenced to three years' imprisonment in 2013, in Souk El Arbaa (Afrik.com 17 May 2013; *Yabiladi* 24 May 2013). The online Moroccan magazine *Yabiladi* states that these two men were convicted for having engaged in a homosexual relationship for 10 years (ibid.). The Associated Press noted that, according to an article published on 9 May 2013 in the daily newspaper *al-Akhbar*, three Moroccans from the city of Souk El Arbaa, in northern Morocco, had just been sentenced to three years' [imprisonment] for homosexuality (AP 22 May 2013). Also in May 2013, a court in Temara, near Rabat, sentenced two men to four months in prison for homosexual acts (ibid.; AFP 20 May 2013; Bladi.net 20 Sept. 2013). According to the Moroccan news site Bladi.net, [translation] "two young Moroccans arrested while engaging in a homosexual act" in Fes in September 2013 were allegedly being detained pending sentencing (20 Sept. 2013).

An article dated 20 April 2010 on the website of the African news magazine *Jeune Afrique* states that, according to the president of the Moroccan Association for Human Rights (Association marocaine des droits humains), [translation] "the law applies when people are caught in the act, but the arrests often take place on the street or in homosexual gathering spots." The article also quotes the coordinator general of Kifkif who states that arrests are [translation] "particularly frequent in the areas such as Meknès, where Islamists have a lot of power" (*Jeune Afrique* 20 Apr. 2010). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2012 states that the Moroccan government deems lesbian, gay, bisexual, or transgender orientation or identity to be illegal and that, consequently, there were no official reports of discrimination based on sexual orientation or gender identity in employment, housing, statelessness or access to education and healthcare (US 19 Apr. 2013, 29-30). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

An article about Kifkif, dated 3 January 2010, on the news site *Aujourd'hui le Maroc*, states that the Moroccan government prevented Kifkif from organizing a conference on homosexuality. It was reported that the Moroccan authorities prevented a gay cruise from making a scheduled stop in Casablanca (Pink News 2 July 2012; US 19 Apr. 2013, 30). The Moroccan authorities denied having prevented the ship from docking (Pink News 2 July 2012; US 19 Apr. 2013, 30).

2. Treatment of Sexual Minorities by Society

Homosexuality is taboo in Morocco (AP 22 May 2013; Kifkif n.d.). However, an article on the situation of sexual minorities in Africa that appeared in the *Independent*, a Ugandan daily newspaper based in Kampala, states that, in Morocco, [translation] "homosexuality is tolerated ... as long as homosexuals do not flaunt their different sexual orientation" (28 Feb. 2012). A Senegalese activist was quoted in an article about policy and advocacy for the rights of sexual minorities in Africa, which was published by the UN Integrated Regional Information Networks (IRIN), as saying that, in Morocco, "homosexuality is tolerated, even if it's just by allowing gay bars" (UN 18 July 2013).

According to an article by Reuters on 19 May 2010, some members of Kifkif were thrown out of their home by their family or had problems in university or at work. A 13 October 2010 article about three Moroccan lesbians on the website of the homosexual magazine *Têtu*, states that [translation] "society does not look kindly upon gay and lesbian relationships, considering them to be prohibited by Islam." The article quotes a sexologist in Casablanca, who states that lesbians are [translation] "better off than gays" (*Têtu* 13 Oct. 2010). However, the article states that there are no places reserved for lesbians in Morocco, and that they risk imprisonment, being shunned by their families, discrimination, hazing, forced marriage, and violence, including physical and verbal assault (ibid.). Further information on the treatment of lesbians in particular could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2012 notes that, although the frequency of incidents has diminished, there are still incidents of social violence, harassment and blackmail based on sexual orientation or gender identity (US 19 Apr. 2013, 29). Although "infrequent," there have been reports of discrimination and physical violence based on sexual orientation or gender identity (ibid.). The University of El Djedida [also written as El Jadida] had to cancel a seminar featuring the work of a homosexual writer after some students strongly protested against the event (Les inRocks 12 July 2012; *Tel quel* 8 June 2012).

An 3 June 2012 article about hermaphroditism on the website of the magazine *L'Observateur du Maroc* notes that [translation] "a young hermaphrodite ... was attacked by about 20 people in the center of [the city of Nador, in Morocco] because of her physique, which was deemed by her attackers to be 'unnatural'." The article quotes a representative of the Democratic Association for the Rights of Women (Association démocratique des droits des femmes) who stated that Moroccan society [translation] "refuses to be open and accept the dialogue on intersex" (*L'Observateur du Maroc* 3 June 2012). The article also states that people in Morocco who feel that they belong to gender other than their official gender do not openly discuss their situation for fear of being [translation] "banished" by society. Corroborating information or information about intersex in Morocco could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Support services and activities of the LGBT community

Sources indicate that Kifkif is an organization that works for the rights of sexual minorities (Afrik News 4 May 2010; *Jeune Afrique* 20 Apr. 2010). Its website indicates that Kifkif, which was established in 2004, is the only LGBT organization working in Morocco (n.d.). Kifkif is based in Spain [Madrid (*Aujourd'hui le Maroc* 3 Jan. 2010; Afrik News 4 May 2010)] because its requests for legal recognition as an organization, presented to the Ministry of the Interior of the Moroccan government, were rejected (Kifkif n.d.; Rue 89 19 Apr. 2010).

Aujourd'hui le Maroc notes that Kifkif has [translation] "50 members in Morocco and 500 abroad" (3 Jan. 2010). According to the coordinator general of Kifkif, who was quoted in an article published by Afrik News on 4 May 2010, over 90 percent of the organization's activities are based in Morocco, and they include "cultural, educational, and sexual education classes." The website of the International Gay and Lesbian Human Rights Commission noted on 23 October 2010 that Kifkif had organized an event in Rabat to recognize national LGBT Day in Morocco, which included a roundtable discussion on the difficulties encountered by Moroccan LGBT.

In 2011, Kifkif put together the Menna w Fena group, [translation] "an internal group within the Kifkif organization that is dedicated specifically to lesbians, and female bisexuals, transsexuals and queers," whose goal is to protect LGBT women in Morocco (Kifkif n.d.). According to the magazine *Têtu*, the Menna w Fena website includes [translation] "various information, a discussion forum and telephone assistance on Tuesday nights" (13 Oct. 2010).

The first LGBT magazine in the Arab world, *Mithly*, was launched by Kifkif in April 2010 to provide a voice for the LGBT community (Afrik News 4 May 2010; *Jeune Afrique* 20 Apr. 2010). The Kifkif website notes that *Mithly* is the first LGBT magazine in Morocco (Kifkif n.d.). *Mithly* is funded by the European Union (Rue 89 19 Apr. 2010; *Jeune Afrique* 20 Apr. 2010) and Kifkif (ibid.). Two-hundred hard copies of the first edition were distributed clandestinely (Kifkif n.d.; Afrik News 4 May 2010; *Jeune Afrique* 20 Apr. 2010) because the magazine had not received the required legal permission to publish (Kifkif n.d.; Afrik News 4 May 2010; Reuters 19 May 2010). There is also an Internet version of the magazine (Kifkif n.d.; Afrik News 4 May 2010).

The European LGBT news site Pink News notes that the online magazine *Aswat* launched a campaign entitled "Love for All," in which photographs have been posted on the magazine's Facebook page of people holding messages denouncing homophobia and the media's silence on the issues of sexual minorities (10 May 2013). An article published on 17 May 2013 by Afrik.com also notes that [translation] "the Moroccan LGBT magazine *Aswat* is entering the cyber struggle" with an [translation] "on-line campaign against homophobia: 'Love for All'." According to an AP article, *Aswat*, which is written by young Moroccan homosexuals, contains articles that promote the rights of sexual minorities (22 May 2013).

3.1 Access to Health Care

Quoted in a 4 May 2010 article on the Afrik News website, the coordinator general of Kifkif stated that sexual minorities are not always well received by healthcare workers and that Kifkif refers them to doctors [and psychologists] with whom the organization collaborates. Corroborating information or information on access to health care for sexual minorities could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to contact representatives of the following organizations were unsuccessful:

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Internet sites, including: Al Arabiya; All Africa; Amnesty International; Arc International; Association de défense des droits de l'homme au Maroc; Association marocaine des droits humains; ecoi.net; Factiva; Freedom House; Gay Law Net; Human Rights Watch; Kaos GL; LGBT Asylum News; LGBTmaroc; Morocco – Adala Maroc, Gendarmerie royale, National Human Rights Council, Royal Moroccan Armed Forces, Portail juridique et judiciaire du ministère de la Justice et des Libertés; *Le Matin*; Menna w Fena;; News 24; Organisation marocaine des droits humains; United Nations – Office of the High Commissioner for Human Rights, Refworld.

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