

URGENT ACTION

STUDENT JAILED FOR HOMOSEXUAL ACTS

A Tunisian student has been sentenced to one year in prison for engaging in homosexual relations. He was forced to undergo an anal examination to “prove” that he had had anal sex. He has appealed, and is awaiting the verdict.

A 22-year student known by the pseudonym “**Marwan**” was sentenced to one year in prison on 22 September, by the First Instance Court in Sousse, under Article 230 of the Penal Code, which criminalizes same-sex relations. The judicial police in Hammam-Sousse had summoned Marwan for questioning on 6 September after officers found his number on the phone of a man who had been murdered. During interrogation, Marwan was questioned about his relationship with the murdered man. According to his lawyer, he confessed that he had engaged in homosexual relations with the man after police officers slapped him and threatened to undress and rape him, and charge him with murder if he did not confess.

At the Court’s request, Marwan was subjected to anal examination on 11 September, conducted by the forensics department in Farhat Hached Hospital in Sousse, to establish “proof” of anal sex. According to Marwan’s lawyer, he was intimidated by the presence of the police outside the examining room and was not aware that he could object to such an examination, which he found humiliating. Amnesty International believes that there is no scientific basis for such anal examinations and that they constitute a form of torture or other ill-treatment when carried out against the person’s will.

Amnesty International believes that to imprison anyone for their real or perceived sexual orientation or gender identity, or for any consensual same-sex relations between adults in private, is a grave violation of human rights. Anyone held solely on that basis is a prisoner of conscience, and must be released immediately and unconditionally.

Please write immediately in Arabic, French, English or your own language:

- Urging the Tunisian authorities to quash Marwan’s conviction;
- Calling on them to release Marwan immediately and unconditionally;
- Calling on them to repeal Article 230 of the Penal Code which criminalizes consensual same-sex relations.

PLEASE SEND APPEALS BEFORE 16 NOVEMBER 2015 TO

Minister of Justice

Mohamed Salah Ben Aissa
31, boulevard Bab Bnet
1006 Tunis
Tunisia
Fax: +216 71 56 18 04
Email: mju@ministeres.tn
Salutation: Your Excellency

President

Béji Caïd Essebsi
Presidential Palace
Carthage, Tunis
Tunisia
Fax: +21671744721
Email: contact@carthage.tn
Salutation: Your Excellency

And copies to:

Speaker of Parliament

President Mohamed Naceur
Assembly of the Representatives of the
People
Bardo 2000
Tunis
Tunisia
Fax: +216 71 514 608
Email: anc@anc.tn

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Marwan's case has generated unprecedented civil society mobilization in Tunisia against the criminalization of same-sex sexual relations and forced anal examinations. In a ground-breaking move, Tunisia's Minister of Justice, Mohamed Salah Ben Aissa, acknowledged on 28 September, that Article 230 of the Penal Code violated personal freedoms and choices, including in the realm of sexuality, and the right to private life, which are guaranteed under the new Constitution adopted in January 2014. The Minister also said that Article 230 should be repealed and encouraged civil society to work towards that end.

As well as violating Tunisia's Constitution, the criminalization of consensual sexual relations between adults of the same sex is discriminatory and contrary to Tunisia's international human rights obligations under numerous treaties. The UN Human Rights Committee (the international expert body which interprets and oversees compliance with the International Covenant on Civil and Political Rights), has confirmed that states (including Tunisia) have an obligation to prohibit discrimination based on sexual orientation and gender identity (Articles 2 and 26); and to respect freedom of expression (Article 19); freedom from arbitrary interference with the right to privacy (Article 17); and freedom of conscience (Article 18).

Amnesty International has found evidence that the criminalization of same-sex sexual relations under Article 230 of the Penal Code fosters violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Tunisia. It creates an environment where homophobic and transphobic crimes can be more easily accepted, and where survivors of violence do not report crimes for fear of being prosecuted.

Name: "Marwan"

Gender m/f: m

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