

URGENT ACTION

STUDENT STILL FACING JAIL FOR HOMOSEXUAL ACTS

A Tunisian student who has been sentenced to one year in prison for engaging in homosexual relations was released on bail on 5 November. However, his appeal trial is ongoing and he is still at risk of being imprisoned.

A 22-year student known by the pseudonym “**Marwan**” was released on a bail of 500 Dinar (247USD) on 5 November. He 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 sexual relations.

Marwan appealed the Court’s decision and his first appeal session was held on 5 November. According to his lawyer, the judge was receptive to Marwan’s request that he be released so he can complete his final university exams. Marwan was released later that night after the 500 Dinar bail was paid. However, his appeal is ongoing and his next court session will be held on 10 December.

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 would be considered a prisoner of conscience, and must be released immediately and unconditionally.

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.

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

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

PLEASE SEND APPEALS BEFORE 21 DECEMBER 2015 TO

Minister of Justice

Farhat Horchani
31, boulevard Bab Bnet
1006 Tunis
Tunisia
Fax: +216 71 561 804
Email: mju@ministeres.tn

Salutation: Your Excellency

President

Béji Caïd Essebsi
Presidential Palace
Carthage, Tunis
Tunisia
Fax: +216 71 744 721
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

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. This is the first update of UA 216/15. Further information:

<https://www.amnesty.org/en/documents/mde30/2586/2015/en/>

**AMNESTY
INTERNATIONAL**



URGENT ACTION

STUDENT STILL FACING JAIL FOR HOMOSEXUAL ACTS

ADDITIONAL INFORMATION

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. Soon thereafter, 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 an 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.

Marwan's case has generated unprecedented civil society mobilization in Tunisia against the criminalization of same-sex sexual relations and forced anal examinations. The former Minister of Justice Mohamed Salah Ben Aissa, acknowledged on 28 September that Article 230 of the Penal Code violated personal freedoms and choices and should be repealed, and encouraged civil society to work towards that end. He has since been asked to step down from his position.

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.

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).

Name: "Marwan"

Gender: Male

Further information on UA: 216/15 Index: MDE 30/2842/2015 Issue Date: 9 November 2015