
Amnesty International

MONTHLY ACTION

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TUNISIA: Show solidarity with the LGBTI community

The Tunisian Penal Code criminalises same-sex sexual relations between adults. It also includes articles that criminalise acts and expression that are “offensive or undermine public morals and decency” and which are used to prosecute people based on the expression of their gender identity. These laws put LGBTI people at risk of arrest and prosecution on the basis of their real or perceived sexual orientation or gender identity and create a climate of abuse from State and non-State actors with little accountability.

Because same-sex sexual relations are criminalised, many LGBTI people are afraid to report the violence and harassment they are subjected to because they fear that they will be arrested and prosecuted instead. This creates a permissive environment for homophobic and transphobic hate crimes and provides little protection from harassment and intimidation by family members and others in the community. Because of the associated stigma, many LGBTI people prefer to hide their gender identity and sexual orientation from their families and communities. The possibility of exposure or of being arrested also puts LGBTI people at risk of abuse and exploitation at the hands of the police who take advantage of this fear to blackmail, extort or even sexually abuse LGBTI people.

“Once a police officer took my number and then kept calling me, harassing me and threatening me. He would say, ‘Be careful, I will tell your family.’ He would call me every time he drank and ask me to come over to his place wanting to sleep with me... The police always come and ask me for money or for my phone. If I don’t give it to them, they threaten me.” – a gay man from Djerba

In some instances, gay men are forced to pay bribes to escape arrest, even though the police hardly ever have “proof” of them engaging in same-sex sexual relations. Arrests are usually based on gender stereotypes of appearance, behaviour and expression which are used to determine a person’s real or perceived sexual orientation or gender identity.

Men accused of engaging in consensual same-sex sexual activity are routinely subjected to an anal examination by medical doctors. The test is usually ordered by a judge in an attempt to find “proof” of anal sex. There is no scientific basis for such examinations and, as the UN Special Rapporteur on Torture has said, as well as being medically worthless they constitute a form of torture and other ill-treatment when carried out against someone’s will.

Seeking justice for LGBTI survivors of sexual and gender-based violence is especially difficult as they cannot always rely on their families for support. Families often reject them, subject them to violence or simply dismiss their suffering. A 21-year-old gay student who was raped on 3 October 2015 by two men in a small town near Bizerte decided not to file a complaint. Activists who reported his case to Amnesty International said he was too scared of prosecution and of further rejection by his family. The man told a journalist why he would not file a complaint: *“Instead of the victim who should be protected, I would become the criminal who must go to prison.”*

Those who have openly campaigned against discriminatory laws and practices have faced a backlash from both the government and from society. LGBTI activists and organisations who call for LGBTI rights to be protected in law and practice are threatened with threats and harassment.

WHAT YOU NEED TO DO

1) Show solidarity with the LGBTI community in Tunisia.

Many of the LGBTI activists and people that spoke to Amnesty International were rejected by their families and communities and were turned away when they reached out for help.

The solidarity action aims to show support from Amnesty International members worldwide towards LGBTI survivors of sexual and gender-based violence and LGBTI activists who are working to make Tunisia a safer place for LGBTI people.

To show your support, write your solidarity message on Amnesty International UK's "Love is a human right" balloon. Take a photo of you with the balloon and email them to iar@amnesty.org.uk. You can also share them on social media including the #Tunisia and #Article230. Photos we receive via email will be used to create posters and postcards which will be shared with LGBTI organisations and activists in Tunisia who will in turn share them with LGBTI survivors of sexual and gender-based violence.

Don't forget, you can take your balloons along to any events that you have coming up over Pride season, from your monthly meeting, to your local Pride event. You could even arrange a balloon release as part of the action if you collect multiple messages at your events. **Order your Pride Balloons from MDA by calling 01788 545 553.**

If you are asking members of the public to take part, please make sure they know the plans for the usage of the photographs. You can do this simply by printing out the following on an A4 sheet and having it at your stand:

"The photographs we take today will be sent to Amnesty International who will use them to create posters and postcards which will be shared with LGBTI organisations and activists in Tunisia who will in turn share them with LGBTI survivors of sexual and gender-based violence. By agreeing to have your photo taken, you are agreeing to the use of the photo in this manner. If you have any concerns, please contact iar@amnesty.org.uk.

Thank you for supporting LGBTI survivors of sexual and gender-based violence."

2) Write to the Tunisian authorities urging them to:

- Publicly condemn all forms of sexual and gender-based violence against LGBTI people, whether committed by state or non-state actors in the home, the community, public sphere or detention.
- Immediately and unconditionally release anyone detained because of their actual or perceived sexual orientation or gender identity and expression.
- Repeal Article 230 of the Penal Code criminalising consensual same-sex sexual activity.
- Immediately stop the use of forced anal examinations against people accused of same-sex sexual relations as a means to obtain "proof" of anal sex.
- Ensure that all complaints of sexual and gender-based violence against LGBT people are taken seriously by the authorities, and are promptly and independently investigated without discrimination.

Write to Prime Minister Habib Essid at:

Place du Gouvernement

La Kasbah 1008

Tunis Tunisie

Email: prm@ministeres.tn

And send a copy to:

His Excellency The Ambassador of Tunisia

Embassy of Tunisia

29 Princes Gate

London, SW7 1QG

If you have any queries about this action and for updates please contact:

activism@amnesty.org.uk / 020 7033 1675

Local group's monthly mailing can be downloaded from: www.amnesty.org.uk/groups

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Background Information

Same-sex consensual sexual relations are criminalised under Article 230 of the Penal Code, which provides for a three-year prison sentence for “sodomy and lesbianism”. The true scale of the application of the Article is unknown. Activists told Amnesty International that the legislation is never applied to prosecute lesbian women, and its application against gay men is not systematic. Damj, an NGO working on minority rights, including LGBTI rights, documents approximately 60 arrests of gay men every year, although it is not entirely clear whether all those arrested are prosecuted solely for engaging in same-sex activity. In most cases, the length of sentence ranges from six-18 months in prison, and is sometimes reduced on appeal. According to Damj, since 2008 there has only been one known case where a man accused to consensual same-sex activity was sentenced to two years in prison, and one unconfirmed report of a three-year maximum sentence against two individuals. Others may have gone unreported.

On 28 September 2015, then Minister of Justice Mohamed Salah Ben Aissa made a ground-breaking public call for the decriminalisation of same-sex relations. He stated that Article 230 undermines the right to private life and personal freedoms and choices, including sexual ones, guaranteed under the Constitution. His statement was prompted by a public campaign led by LGBTI groups and supported by Tunisia’s main human rights organisations calling for the release of a 22-year-old man known as “Marwan” who was sentenced to one year in prison for engaging in same-sex activity after being forced to undergo an anal examination to establish “proof” of anal sex. Amnesty International UK worked on his case. The Minister of Justice also called on civil society to work towards repealing the Article, raising the hope of Tunisia’s LGBTI people. These hopes were quickly undermined when, days later, President Béji Caïd Essebsi stated that the Minister’s statements did not reflect the state’s position and that Article 230 would not be repealed. The statement showed how same-sex activity continues to be a social taboo in Tunisia.

According to Damj, since 2011, 15 men, including four foreign nationals, are believed to have been murdered in hate crimes. The organisation has documented approximately 80 cases a year of hate-motivated violence against LGBTI people on account of their real or perceived sexual orientation and gender identity, but states that the true number is likely to be much higher. The homophobic nature of these crimes is rarely publicly recognised, which only emboldens perpetrators to commit further violent acts.

For further information please see: <https://www.amnesty.org/en/documents/mde30/2814/2015/en/>

For past UAs supporting the LGBTI community in Tunisia please see: <https://www.amnesty.org/en/documents/mde30/3216/2016/en/> and <https://www.amnesty.org/en/documents/MDE30/2842/2015/en/>