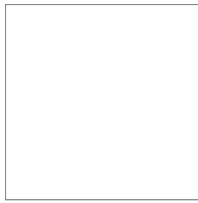




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Universal Periodic Review - Tunisia (May 2017)

A summary on Lesbian, Gay, Bisexual, Trans and Intersex issues (LGBTI+) Human Rights issues in Tunisia and recommendations by the LGBTI+ Tunisian Coalition

Since the 2011 revolution, Tunisia has made considerable progress in terms of respect for rights and freedoms particularly those enshrined in the constitution adopted on, 27 January 2014. In contrast to the progress made in terms of collective rights and freedoms, individual freedoms experience a decline with a substantial increase in human rights violations. More specifically, the situation of the LGBTI+ community deserves special attention.

Tunisia noted two recommendations - in its last UPR session (in 2012), - which requested the removal of laws that criminalize sexual activity between consenting adults of the same-sex.

Legal context:

The Tunisian government mainly uses Article 230 of the Penal Code which states that “Sodomy ... shall be punished by imprisonment for three years.” In the Arabic version which prevails over the French version, Article 230 clearly condemns male and female homosexuality with a sentence of up to 3 years of imprisonment. This article is unconstitutional because it is based on discrimination on grounds of sexual orientation while the Tunisian Constitution of 2014 in its Article 21 states that “Citizens are equal in rights and duties. They are equal before the law without discrimination.” To prove ‘homosexual’ activities, the Tunisian authorities often resort to the forced anal examinations, a practice recognized by the United Nations Committee against Torture as a cruel, degrading and inhuman treatment which can amount to a practice of torture.

The most relevant case that can highlight the application of Article 230 is that of “Marwen” and the six other students of Kairouan who have been sentenced to 3 years in prison for "homosexual practices".

No legal recognition is available to transgender and transsexual individuals. The state does not allow for changes relating to identity in official documents (National Identity Card, passport, birth certificate. etc.).

Discrimination and Violence against LGBTI+ persons:

Discriminations and violence against LGBTI+ people is numerous particularly as they are “justified” and “tolerated” by repressive laws that criminalize ‘homosexuality’. The media scene and the political sphere in Tunisia is full of examples of hate speeches and incitement to violence against the community; **(Radio and TV channel: Zeitouna, Ettounisia TV and other media sources...)**. Since January 2011, numerous homophobic crimes were reported by national organizations before the silence and denial of the authorities. **(Angelo and Massimo are among the victims of homophobia in Tunisia).**

In prisons, the situation of LGBTI+ people is very alarming. LGBTI+ are subject to segregation. Men convicted for homosexuality are placed in a separate building because of

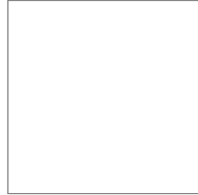
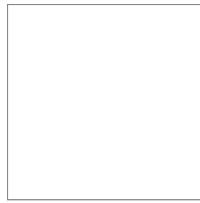
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their sexual orientation and experience all forms of abuse. **(Documented cases by journalists)**

Economic and Social Rights and Access to Services

Fearing legal action based on Article 230 of the penal code, several LGBTI+ people waive their right of access to health services especially in public health structures. LGBTI+ people are victims of many forms of stigma and discrimination in hospitals. **(LGBTI+ people are rejected by nurses and doctors in hospitals).**

Transgender people are more vulnerable to discrimination. Without adequate support, many of them are turning to self-medication, exposing themselves to the risk of complications **such as liver diseases, and blood stability issues. (Buying hormones from unreliable sources)**

There is also an employment discrimination based on sexual orientation or gender identity. Moreover, testimonies collected by organizations helped document the daily life of LGBTI+ people in the workplace which is made of non-respect of privacy, personal data disclosure (**forced “coming out”**), abuse of power, blackmail and harassment, which could even lead to unfair dismissal or job abandonment.

Recommendations

- 1/ To immediately repeal Article 230 of the Penal Code which condemns male and female homosexuality with a sentence of up to 3 years of imprisonment.
- 2/ To prohibit the practice of forced anal examinations as evidence of homosexual practices.
- 3/ Harmonize the penal code and the procedural penal code with the constitution of 2014 and the various treaties and conventions ratified by the Tunisian state.
- 4/ To allow transsexual and transgender people to be recognized in official documents relating to identity (National Identity Card, passport, birth certificate, etc).
- 5/ To grant all citizens access to justice without discrimination, including that based on sexual orientation and gender identity.
- 6/ To enact a law criminalizing all forms of discrimination based on sexual orientation and gender identity as well as incitement to hatred and violence against LGBTI+ people.
- 7/ To recognize hate crimes against LGBTI+ people and consider these crimes as aggravating circumstances for judgments.
- 8/ To guarantee all citizens access to quality care and education services without any discrimination including that based on gender identity or sexual orientation.
- 9/ To introduce into the school curriculum inclusive sex education that promotes diversity and fights against all forms of discrimination, including the one based on sexual orientation and gender identity.
- 10/ To respect the freedom of association for LGBTI+ organizations and network and provide the necessary protection of LGBTI+ rights activists.