



Tunisia: One-Year Sentence for Homosexuality

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A 22-year-old Tunisian man accused of engaging in homosexual acts was sentenced to a year in prison on September 22, 2015, in violation of Tunisia's constitution and international law, Human Rights Watch said today. Tunisian authorities forced him to undergo an anal examination, ostensibly to use as evidence in the case.

Tunisian authorities should immediately revoke the man's prison term and release him, Human Rights Watch said. Tunisia's parliament should repeal penal code article 230, which criminalizes sodomy and punishes it with three years in prison. Police should also cease forensic anal examinations of people suspected of homosexual acts. Such examinations are intrusive, invasive, and amount to cruel, inhuman, and degrading treatment that violates international law. State-sponsored forcible anal exams violate medical ethics and have been recognized as torture by the United Nations Committee Against Torture.

"The Tunisian government should not be prosecuting people for private and consensual sexual acts," said Eric Goldstein, deputy Middle East and North Africa director. "If Tunisia truly aspires to be a regional leader on human rights, it should lead the way in decriminalizing homosexual conduct," Goldstein said.

Police in Hammam Sousse, a town 120 kilometers south of Tunis, arrested the man, whose name is being withheld to protect him, on September 6. His lawyer, Fadoua Braham, said that police summoned the man for questioning as a witness after they found his telephone number on the phone of a man murdered a week earlier. The lawyer said the man summoned for questioning was then questioned about his homosexuality. He confessed to committing sodomy because, he told the lawyer, the police threatened him to bring a murder charge against him unless he did.

The police then opened a separate investigation for alleged homosexuality and required the man to undergo an anal examination by a forensic medical doctor at the Sahloul Hospital in Sousse on September 9, the lawyer said. The prosecutor of the Sousse First Instance Tribunal then charged the man with "homosexual acts" under article 230 of the penal code, which calls for prison terms of up to three years. The prosecution introduced the results of the anal exams as evidence. The man is being held in jail pending the appeal of his conviction.

Tunisia's constitution, as well as international law, obligates the government to respect the privacy and personal liberty of everyone in Tunisia, and to cease prosecuting people for consensual adult sex, Human Rights Watch said. The Ministries of Interior, Justice, and Health should immediately order an end to the use of forced anal examinations by police investigating consensual sexual conduct.

Authorities in a number of countries subject suspected gay and bisexual men to forensic anal examinations as part of their effort to "prove" that they have engaged in "habitual" anal penetration, Human Rights Watch said. Such examinations are grossly intrusive, invasive, and abusive, violating the individual's rights to integrity, dignity, and privacy. They constitute cruel, inhuman, and degrading treatment that may amount to torture, violating the African Charter on Human and Peoples' Rights, the Convention Against Torture, and the International Covenant on Civil and Political Rights, all of which Tunisia has ratified.

Forced forensic anal examinations are also contrary to medical ethics, according to the World Medical Association and the UN Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

Principle 4 of the UN principles states, "it is a contravention of medical ethics for health personnel, particularly physicians ... to apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments."

"Medical professionals who participate in forced anal examinations of people suspected of homosexuality violate medical ethics and facilitate serious miscarriages of justice," Goldstein said.

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