

Tunis, May 16, 2019

Press Release: Another May 17 in legal and institutional homophobia and transphobia

The signatory associations, members of the Civil Coalition for Individual Freedoms and their Allies, are celebrating this year's May 17, which coincides with the International Day against Homophobia and Transphobia, while the situation of LGBTQI++ individuals stagnates and the official institutions of the State continue to use liberticidal laws and homophobic and transphobic practices;

On the legal front, Articles that punish people with non-normative sexuality, gender identity or gender expressions, are still there, immutable and resulting in innumerable cases of harassment and intimidation, and dozens of arrests, some of which result in convictions each year; These same legal provisions renew their silence regarding the change of civil status, and leave the door open to random judicial interpretations and shameful penitentiary practices against Trans* persons;

At the judicial level, the police proceed to arrest persons with an appearance or attitude on the basis of which they assume their sexual or gender identity. The courts also continue to apply Article 230 of the Penal Code, which punishes homosexuals of 3 years of imprisonment, and Article 226 and following to extend the repression to any act or attitude contrary to "morality" and "decency". Despite the commitment of the Tunisian authorities to stop using anal tests to prove "sodomy" since 2017, the courts continue to order this practice considered internationally as a practice of torture.

For its part, the government continues its fierce fight against the association Shams and combats to dissolve it, by initiating a procedure in this direction before the courts;

On the social level, and in the face of this legal and institutional environment hostile to diversity and difference, homophobic and transphobic crimes continue in an atmosphere of impunity. An atmosphere that makes a large number of LGBTQI++ individuals suffer in silence and withdraw their most basic rights: go to court, health, education, work ... Many of them leave their home only in the cases of absolute necessity, to avoid any risk of harassment, violence or arrest. Others have been forced to leave the country.

Faced with this alarming situation, the member associations of the Civil Coalition for Individual Freedoms call:

- The Assembly of the Representatives of the People to speed up the process of setting up the Constitutional Court, the main guarantee of the respect of the rights defined by the Constitution in the laws, and the examination and adoption of the draft Code of Individual Freedoms, which has been tabled by a group of deputies since October 2018; a project that provides for the recognition of gender identity and sex change, the decriminalization of homosexuality, the sanction of homophobia ...

Civil Coalition

For Individual Freedoms

- The Head of Government to adopt a national human rights-based criminal policy "in a civil and democratic state" (Article 49 of the Constitution) and which recognizes the right to be different, including in terms of sexual identity and gender identity and expressions, as well as to ban police and judicial practices that continue to arrest and try people on the basis of their apparent or presumed identity;
- Ministers of Justice and the Interior to ensure a good implementation of the constitution by abandoning this police and judicial harassment against LGBTQI++ individuals and by establishing good practices at the level of the agents of the judicial police and agents of the penitentiary services for the respect of the human dignity of LGBTQI ++ persons;
- The magistrates of the Republic to apply the Constitution which makes them the protectors of the rights and the liberties, to exclude the application of the articles contrary to this supreme norm and in particular the articles 230 and 226, not to more order the anal test; and to adopt a jurisprudence respectful of the rights of the persons to a sexual and gender identity, which corresponds to their being and to continue in the same direction as the decision of July 9, 2018, which recognizes the right to the change of sex and the change of the legal identity in official documents;
- Forensic doctors to refuse to practice the anal test, banned by the national council of the order of physicians, and to apply their code of medical ethics which makes dignity a fundamental value of its provisions;
- The media to adopt an attitude respectful of the human rights of LGBTQI++ persons and to refrain from using any homophobic and transphobic speech.

The signatory associations:

1. Tunisian League for the Defense of Human Rights
2. Tunisian Association of Democratic Women
3. Tunisian Association for the Defense of Individual Liberties
4. Beity Association
5. Damj Association - for Justice and Equality
6. Tunisian Association for Positive Prevention
7. Shams Association
8. Mawjoudin Association
9. Chouf Association
10. Association for the promotion of the Right to Difference
11. Tunisian federation for a citizenship of both banks
12. CALAM Association
13. Legal Agenda Tunisia
14. Tunisian Association for Reproductive Health
15. Tawhida Ben Cheikh Group
16. Tahadi Association
17. Free Sight Association
18. Fanni Raghman Anni Association
19. Doustourna Association
20. Lawyers without Borders
21. International Federation for Human Rights
22. Euromed Rights Network
23. Human Rights Watch
24. World Organization Against Torture
25. Al Bawsala Association
26. Outcasts Collective
27. Alwani Association
28. Committee for Respect for Freedoms and Human Rights
29. Tunisie Terre des Hommes Association
30. Ahmed Tlili Foundation for Democratic Culture