

Dossier „Zwangsanaluntersuchungen in Tunesien“ (LSVD – Update vom 18.09.2023)

1. Zu „Zwangsanaluntersuchungen“

Die Bundesregierung hat im Mai 2018 zum Internationalen Tag gegen Homophobie, Transphobie und Biphobie (IDAHOBIT) gemeinsam mit **31 weiteren VN-Mitgliedsstaaten**¹ im Rahmen der Equal Rights Coalition diese Form der Folter verurteilt².

Das **VN-Komitee gegen Folter**³, der **VN-Sonderberichterstatter zu Folter**, die **WHO**⁴, die **World Medical Association**⁵, die **Independent Forensic Expert Group**⁶ und weitere **elf UNO-Institutionen (ILO, OHCHR, UNAIDS Sekretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women und WFP)**⁷ haben dies ebenfalls als Folter bezeichnet und verurteilt.

2. Zu „Zwangsanaluntersuchungen in Tunesien“

Insgesamt sind 19 Fälle von Zwangsanaluntersuchungen in Tunesien dokumentiert (**siehe Anlagen A bis C**).

Human Rights Watch hat bereits 2016 über die Zwangsanaluntersuchungen in Tunesien berichtet im Report **Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions**⁸. Das Kapitel zu Tunesien findet sich in **Anlage A** – und enthält die Schilderungen von fünf Männern.

Die Informationen zu Tunesien hat HRW auch 2016 dem VN-Komitee gegen Folter vorgelegt⁹.

Das **VN-Komitee gegen Folter**¹⁰ hat daraufhin diese Art der Folter verurteilt:

Forensic examinations as proof of sexual acts

41. The Committee notes with concern that consensual relations between persons of the same sex are criminalized in the State party and that persons suspected of being homosexual are forced by a judge's order to submit to an anal examination conducted by a forensic physician to prove their homosexuality. Notwithstanding the right to refuse to submit to such examinations, the Committee is concerned about information that several persons have accepted them, under

¹ Albanien, Argentinien, Australien, Belgien, Chile, Dänemark, Estland, Finnland, Frankreich, Griechenland, Island, Italien, Kanada, Kap Verde, Litauen, Luxemburg, Montenegro, Niederlande, Neuseeland, Norwegen, Österreich, Serbien, Schweden, Schweiz, Slowenien, Spanien, Tschechische Republik, Vereinigtes Königreich, Vereinigte Staaten von Amerika und Uruguay.

² https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/efae-feaf.aspx?lang=eng

³ CAT – UN Committee Against Torture: Concluding observations on the third periodic report of Tunisia [CAT/C/TUN/CO/3], 10 June 2016.

https://www.ecoi.net/en/file/local/1201775/1930_1472127406_g1611741.pdf

⁴ <https://www.who.int/mediacentre/news/statements/fundamental-human-right/en/>

⁵ <https://www.wma.net/policies-post/wma-resolution-on-prohibition-of-forced-anal-examinations-to-substantiate-same-sex-sexual-activity/>

⁶ <https://irct.org/assets/uploads/Vol%2026%20No%202%20Statement%20on%20anal%20by%20Independent%20Forensic.pdf>

⁷ <https://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx>

⁸ HRW – Human Rights Watch: Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions, July 2016, Seiten 40-47 <https://www.hrw.org/news/2016/07/12/ban-forced-anal-exams-around-world>, https://www.ecoi.net/en/file/local/1176121/1002_1468686184_globalgbtanalexams0716web.pdf

⁹ HRW – Human Rights Watch: Human Rights Watch Submission to the United Nations Committee Against Torture on Tunisia, April 2016

¹⁰ CAT – UN Committee Against Torture: Concluding observations on the third periodic report of Tunisia [CAT/C/TUN/CO/3], 10 June 2016 https://www.ecoi.net/en/file/local/1201775/1930_1472127406_g1611741.pdf

threat from the police, who contend among other things that a refusal would be interpreted as incriminating. The Committee also notes with concern reports of vaginal examinations, sometimes performed without consent, conducted to prove sexual acts such as extramarital relations and acts of prostitution (arts. 2 and 6).

42. The State party should repeal article 230 of the Criminal Code, which makes consensual relations between adults of the same sex a crime. It should also prohibit intrusive medical examinations that have no medical justification and cannot be performed with the free and informed consent of the persons subjected to them, who consequently will then be prosecuted.

Human Rights Watch hat 2018 in einem weiteren Bericht¹¹ unter anderem über Zwangsanaluntersuchungen in Tunesien berichtet. Die Schilderungen von fünf Männern finden sich in **Anlage B**.

Laut sehr vielen Quellen werden weiterhin an (vermeintlich) schwulen oder bisexuellen Männern in Tunesien Zwangsanaluntersuchungen durchgeführt:

Der **Bericht über die asyl- und abschiebungsrelevante Lage in der Republik Tunesien** (Stand: Januar 2019)¹² des **Auswärtigen Amt** :

Im Zuge der Ermittlungen ordnen die Strafverfolgungsbehörden häufig Untersuchungen im Analbereich an, die von Kritikern als Verstoß gegen das Folterverbot gewertet werden [...]

Der **BAMF-Länderreport 11 - Algerien, Marokko, Tunesien**¹³:

Bei der Strafverfolgung von Männern sollen immer wieder Rektaluntersuchungen bei Verdächtigen vorgekommen sein, deren Ergebnisse vor Gericht als Hauptbeweis für Homosexualität herangezogen werden¹⁴. Die Regierung hatte im Rahmen ihrer Universal Periodic Review im UN-Menschenrechtsrat im Mai 2017 eine Empfehlung angenommen, die Praxis der Durchführung von Analtests zum "Nachweis" der Homosexualität zu beenden. Im Jahr 2017 gab der Nationalrat der Medizinischen Fakultät in Tunesien eine Erklärung heraus, in der er die Ärzte aufforderte, die Durchführung von erzwungenen Anal- und Genitaluntersuchungen einzustellen¹⁵. Es wurden bisher jedoch noch keine durchgreifenden Schritte unternommen, um dies zu erfüllen¹⁶. Die tunesische LGBTI-NGO Shams Association berichtete zwar von einem Rückgang der Analuntersuchungen durch die Polizei, aber einem Anstieg der „freiwilligen“ Analuntersuchungen, da Polizei- und Justizbeamte die Weigerung der Personen, sich der Prüfung zu unterziehen, häufig als "Beweis" ihrer Homosexualität verwendeten¹⁷.

US Department of State Country Report on Human Rights Practices 2022 - Tunisia 20 March 2023¹⁸:

¹¹ HRW, 8 November 2018, Tunisia: Privacy Threatened by 'Homosexuality' Arrests . Government Using Personal Data. Anal 'Tests' for Prosecutions. Accounts by Men Prosecuted
<https://www.hrw.org/news/2018/11/08/tunisia-privacy-threatened-homosexuality-arrests>

¹² Datum 02.03.2019 - Gz.: 508-516.80/3 TUN In geschwärzter Fassung veröffentlicht:

<https://fragdenstaat.de/blog/2020/07/27/lageberichte-auswaertiges-amt-asyl/>

¹³ BAMF Länderreport 11 - Tunesien, Marokko, Tunesien - Menschenrechtslage - Im Fokus: Vulnerable Personen, 3 Juni 2019, Seiten 15-19,

https://www.bamf.de/SharedDocs/Anlagen/DE/Behoerde/Informationszentrum/Laenderberichte/2019/laenderreport-11-algerien-marokko-tunesien.pdf?__blob=publicationFile&v=5

¹⁴ Mersch, Sarah (März 2019): Tunesien – Gesellschaft, <http://liportal.giz.de/tunesien/gesellschaft>

¹⁵ Human Rights Watch (08.11.2018): Tunisia: Privacy Threatened by Homosexuality Arrests, <https://www.ecoi.net/de/dokument/1449459.html>

¹⁶ Human Rights Watch (17.01.2019): World Report 2019 - Tunisia, <https://www.ecoi.net/de/dokument/2002169.html>

¹⁷ U.S. Department of State (13.03.2019): Country Report on Human Rights Practices 2018 - Tunisia, <https://www.ecoi.net/de/dokument/2004225.html>

¹⁸ USDOS – US Department of State: 2020 Country Report on Human Rights Practices: Tunisia, 30 March 2021, <https://www.ecoi.net/de/dokument/2089227.html>

According to Damj and ASF, 121 individuals were convicted under Article 230 in 2019, with anal examinations used as the basis for the majority of these convictions. In March-September, Damj registered 21 cases of violence against transgender individuals in public places, 10 cases of torture, and two cases of bullying by security forces in detention facilities. Authorities also issued 12 prison sentences against transgender individuals and gay men under Articles 230, 226, and 125 of the criminal code, which criminalize, respectively, "sodomy," "deliberately declaring immorality," and "insulting a public official." Human rights organizations and LGBTI-focused NGOs stated that since judges often assumed guilt of individuals who refused to submit voluntarily to an exam, individuals felt coerced to submit to anal examinations. On May 17, a coalition of NGOs, the Civil Collective for Individual Liberties, called on the government to accelerate the establishment of the Constitutional Court as a guarantor of rights, decriminalize consensual same-sex conduct, end forced or coerced anal examinations, recognize the rights of transgender individuals, and end harassment of LGBTI-rights organizations. The collective noted, "despite the commitment by Tunisian authorities since 2017 not to resort to the use of anal examinations, courts continue to order this practice."

Das VN Menschenrechtskomitee¹⁹:

19. [...] Persons suspected of being homosexuals continue to be compelled by the courts to undergo anal examinations (arts. 2, 6, 19, 20 and 26).

Der Independent expert on protection against violence and discrimination based on sexual orientation and gender identity²⁰:

A large part of Tunisian legislation is not in conformity with the 2014 Constitution and international and regional instruments for the protection of human rights, in particular article 230 of the Penal Code, which criminalizes anal penetration, and the section of the Penal Code entitled "attacks on morals", which contains article 226 bis, which penalizes without really defining it "offences against good morals or public mores by gesture or word" and article 226 which penalizes "public indecency". According to my information, however, these articles allow the judiciary and the security forces to prosecute and convict people on the basis of their mere non-normative appearance or what could be associated with behaviour suggesting homosexuality or by having access to information relating to their personal data. The criminal treatment of these cases seems to reflect a moral judgment of the facts rather than a legal judgment, and when they apply article 230 judges often argue their decision with moral statements and arguments aimed at recalling social order and social roles²¹. The information available to me also indicates an almost systematic use of the practice of anal testing to prove homosexual relations, in violation of international texts relating to the prevention of torture and in complete inadequacy with the scientific data on the probative value of this test and the negative impact on the persons subjected to it. I note with astonishment the confusion between the tests carried out to prove sexual assault and those carried out in order to prove supposed homosexuality.

Der UN Special Rapporteur on freedom of religion or belief²²:

72. Tunisian laws continue to criminalize sexual relations between homosexuals, and the lesbian, gay, bisexual and transgender community continues to be a target of verbal and physical attacks.

¹⁹ UN Human Rights Committee: Concluding observations on the sixth periodic report of Tunisia [CCPR/C/TUN/CO/6], 24 April 2020, <https://www.ecoi.net/en/file/local/2029848/G2009870.pdf>

²⁰ OHCHR – UN Office of the High Commissioner for Human Rights: Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity, 18 June 2021 <https://www.ecoi.net/en/document/2054305.html>

²¹ PNUD, État des lieux des inégalités de genre et celles basées sur les orientations sexuelles en droit tunisien, 2021.

²² HRC – UN Human Rights Council (formerly UN Commission on Human Rights): Visit to Tunisia; Report of the Special Rapporteur on freedom of religion or belief [A/HRC/40/58/Add.1], 3 October 2019, <https://www.ecoi.net/en/file/local/2003572/G1929518.pdf>

Individuals are subjected to forced anal examinations by medical practitioners on the order of judges to establish proof of same-sex activity.

Die **Working Group on Arbitrary Detentions; Special Rapporteur on the independence of judges and lawyers** sowie **Special Rapporteur on torture and other cruel, inhuman or degrading treatments or punishments** als auch **Special Rapporteur on the right of everyone to enjoyment of the highest standard of physical and mental health** in einem Bericht ²³

Article 19 im Report Digital Crime Scenes: The Role of Digital Evidence in the Persecution of LGBTQ People in Egypt, Lebanon and Tunisia²⁴:

A report published in June of 2018 urged the Tunisian state government to eliminate all legal charges against homosexuality and therefore abrogating Article 230; and if this recommendation was to be rejected, to reduce the 3-year imprisonment to a small fee and to completely abolish anal testing. To date, there continues to be documented use of the anal test and the use of Article 230 continues.

Im Dezember 2021 hat **ILGA in Our Identities Under Arrest. A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions** auch zahlreiche konkrete Beispiele für Verfolgung und Kriminalisierung in Tunesien aufgezählt²⁵ und geht dabei wie auch in den Berichten von 2019²⁶ und 2020²⁷ unter anderem auf die anhaltende Praxis der Zwangsanaluntersuchungen ein (Siehe Anlage C). Insgesamt stellt ILGA weitere neun Fälle dar, die nicht von HRW in den beiden Berichten mit Schilderungen der Opfer dokumentiert wurden.

Anlage A

HRW – Human Rights Watch: Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions

Kapitel zu Tunesien²⁸

Article 230 of Tunisia's penal code, which dates to the French colonial era, punishes "sodomy" with up to three years in prison²⁹. Several recent high-profile cases have cast the spotlight on Tunisia's sodomy law and the use of forced anal examinations, although LGBT activists in Tunisia told Human Rights Watch

²³ Auf Französisch: TUN 2/2015, 2 November 2015.,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=18516>

²⁴ ARTICLE 19: Digital Crime Scenes: The Role of Digital Evidence in the Persecution of LGBTQ People in Egypt, Lebanon and Tunisia, 2021, Seiten 24-28.

<https://www.ecoi.net/en/file/local/2069084/Digital-Crime-Scenes-Report-3.pdf>

²⁵ ILGA, Our Identities Under Arrest. A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions, Dezember 2021, Seiten 108-111, [https://ilga.org/downloads/Our Identities Under Arrest 2021.pdf](https://ilga.org/downloads/Our_Identities_Under_Arrest_2021.pdf)

²⁶ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State Sponsored Homophobia 2019, Pages 380-82, March 2019,

[https://ilga.org/downloads/ILGA State Sponsored Homophobia 2019.pdf](https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf)

²⁷ ILGA – International Lesbian, Gay, Bisexual, Trans and Intersex Association: State-Sponsored Homophobia; Global Legislation Overview Update, December 2020,

[https://ilga.org/downloads/ILGA World State Sponsored Homophobia report global legislation overview update December 2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf)

²⁸ HRW – Human Rights Watch: Dignity Debased: Forced Anal Examinations in Homosexuality Prosecutions, July 2016, Seiten 40-47, <https://www.hrw.org/news/2016/07/12/ban-forced-anal-exams-around-world>,

https://www.ecoi.net/en/file/local/1176121/1002_1468686184_globalgbtanalexams0716web.pdf

²⁹ République Tunisienne, Code Pénal, 2012,

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/61250/60936/F1198127290/TUN-61250.pdf>. The sodomy law was originally imposed by French colonizers in 1913, and was retained when most of the Penal Code was revised in 1964 following independence.

that they have been quietly documenting arrests and forced anal exams for many years³⁰.

When police arrest men suspected of sodomy, they request a court order to conduct an anal exam, and then take the accused to a forensic doctor³¹. In recent cases, doctors have requested “consent” from the accused, but often proceed to conduct exams without it, as discussed below. The results are handed over to the police and have been used as a key element in prosecutions. Badr Baabou of the Tunis-based LGBT rights group, Damj (“Inclusion”), told Human Rights Watch that he had analyzed 34 consensual sodomy cases between 2008 and 2015, and that in nearly all of those cases—the only exception being when witnesses actually caught men in the act of having sex—the accused were subjected to forced anal exams. He said that because there is often no evidence other than hearsay, “Medical exam reports are the key element of proof against them in court cases.”³²

Doctors conduct the tests by penetrating victims with their fingers. Four victims interviewed individually by Human Rights Watch also described the use of a tube that was inserted in the anus, following digital penetration, although a doctor familiar with the use of anal exams in Tunisia denied that any object was used³³.

Marwen, a 22-year-old student, was supporting himself during his studies by working in a clothing shop in Sousse, located 120 kilometers south of Tunis. On September 6, 2015, police from Hammam Sousse, a neighboring town, summoned him for questioning as a witness after they found his telephone number on the phone of a man murdered a week earlier. Police then began questioning him about his supposed sexual relationship with the murder victim. Marwen reported to Human Rights Watch:

They started slapping me in the face, several of them. They said, ‘If you don’t talk we’ll use other methods. We’ll make you sit on a glass bottle of Fanta.’ They threatened, ‘We will abuse you, we will rape you.’³⁴

Under the threat of torture, Marwen told Human Rights Watch, he “invented a story about a relationship with that man.” The police then placed him in pre-charge detention. Marwen said that two days after the first interrogation, police took him to the Farhat Hached Hospital, in Sousse, and brought him to the examination room, where a doctor told him that he was going to check him for “sperm from the man who was killed.” Marwen told Human Rights Watch:

The doctor told me to strip completely and get on the examination table. The doctor told me to bend over. The police were not in the room. There were two female trainees. The doctor put his finger inside me. He moved the finger around. The two women were watching³⁵.

Marwen described to Human Rights Watch the emotional impact of the exam:

The anal exam was difficult both physically and emotionally. It was physically painful to have the doctor put his fingers in me. Emotionally, I felt like I didn’t have any rights in Tunisia³⁶.

The doctor did not inform Marwen of the “results” of the test, nor did he inform him that the test would in fact be used against him in court as general evidence of homosexual conduct.

Human Rights Watch reviewed the forensic report, in which the doctor states that he found “a non-tonic anal sphincter and absence of visible signs of traumatic anal penetration.” He concludes that the “anatomic injuries are compatible with a habit of anal penetration.”³⁷

The judge relied on the forensic report as well as Marwen’s coerced confession as evidence to sentence

³⁰ In one earlier high-profile case, Mounir Baatour, an opposition politician, was arrested on sodomy charges and subjected to an anal exam in 2013. Tristan Dreisbach, “Politician Arrested for Sodomy Subjected to Invasive Examination,” Tunisia Live, April 19, 2013, <http://www.tunisia-live.net/2013/04/19/politician-arrested-on-sodomy-charges-remains-in-jail/#sthash.q1zcpbaD.dpuf>. Baatour was sentenced to three months in prison.

³¹ Human Rights Watch interview with Badr Baabou, Damj, by telephone, April 25, 2016. However, Baabou said that police sometimes take the accused for anal exams first and request a court order later.

³² Human Rights Watch interview with Badr Baabou, Damj, by telephone, April 25, 2016. However, Baabou said that police sometimes take the accused for anal exams first and request a court order later.

³³ Human Rights Watch interviews with Badr Baabou, Damj, Tunis, February 15, 2016, and by telephone, April 25, 2016.

³⁴ Human Rights Watch interview with a forensic doctor, Tunisia, February 2016, exact location and date withheld at the doctor’s request.

³⁵ Human Rights Watch interview with Marwen (pseudonym), Tunis, February 16, 2016.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Forensic report on file with Human Rights Watch.

Marwen to one year in prison on September 22, 2015³⁸. On December 17, the appeals court in Sousse reduced the sentence to two months, which Marwen had already spent in detention, and a 300 dinar fine (US\$145).

Marwen's case spurred protest from LGBT groups and other human rights organizations in Tunisia and internationally. The LGBT rights organizations Shams and Damj launched campaigns calling for an end to forced anal exams and an end to the criminalization of consensual same-sex conduct³⁹. Even the minister of justice spoke out in support of decriminalization⁴⁰. (The prime minister fired him a month later, apparently for reasons unrelated to his position on LGBT rights.)

However, in December, police again relied on forced anal exams after arresting six students in the university town of Kairouan on suspicion of homosexual conduct. Police interrogated them, detained them in the Kairouan police detention center, and took them to Ibn Jazzar hospital, in Kairouan, the following morning for forced anal examinations.

Human Rights Watch interviewed four of the students about their experiences. All four provided similar details with regard to the anal test. They said that the doctor asked them to bend on the examination table, in the Muslim prayer position. They said that he inserted one finger in their anuses. They said that he also inserted a long, thin transparent tube, about the size of a pen, apparently to look for semen⁴¹.

One of the students, Amar, said that the police beat him after he refused to take the anal test:

I was the first to enter to the room where the doctor was. I asked the doctor, 'What is the test?' He said, 'A test like a woman'—meaning a virginity test.

I said, 'No, I will not do that test.' The policeman screamed at me, 'Respect the doctor!' I said, 'I am respecting the doctor, but I refuse the test.' The policeman told me to write that I refuse the test, so I wrote it.

Then the policeman took me outside to a small garden. He hit me. He slapped me on the face and punched me on the shoulder and said, 'You will do the test.' The doctor was not watching, but he knew I was being beaten. The policeman pushed me back into the room and said to the doctor, 'He will do the test.' The doctor saw him push me.

The policeman told me to write on another paper that I will do the test.

The doctor told me to go on an examination table and said, 'Stay like you're praying' [in the typical Muslim prayer position]. I took my pants off and had to get on the table.

He entered one finger inside my anus, with cream on it. He put his finger in and was looking. While putting his finger in, he asked, 'Are you okay now?'

I said 'No, I'm not okay.' It was painful.

Then he put in a tube. It was to see if there was sperm. He pushed the tube far inside. It was about the length of a finger. It felt painful. I felt like I was an animal, because I felt like I didn't have any respect. I felt like they were violating me. I feel that up to now. It's very hard for me.

The doctor seemed angry with all of us during the exam. He didn't say

anything, but I saw it in his face. I felt that if I did the exam or if I didn't, he was going to say I was gay⁴².

According to Wassim, another student whose case is cited at length at the beginning of this report, the emotional abuse began when the police were driving the students to the hospital for the tests. Wassim said that when he asked what tests they were going for, a police officer responded: "It's a test to see if you are a Sodomite, if you are fucking like a Sodomite."⁴³ The abuse continued at the hospital, where

³⁸ Judgment on file with Human Rights Watch.

³⁹ Tunisie : des associations de défense LGBT dénoncent 'les tests de la honte.' » MYTF1 News, September 23, 2015, <http://lci.tf1.fr/monde/afrique/tunisie-des-associations-de-defense-lgbt-denoncent-les-tests-8661238.html>; Scott Long, "Anusbook. Be connected. Be discovered.," A Paper Bird (blog), September 28, 2015, <https://paper-bird.net/2015/09/28/anusbook-forensic-exams-tunisia/>

⁴⁰ Amnesty International, "Challenging Tunisia's homophobic taboos," September 30, 2015, <https://www.amnesty.org/en/latest/news/2015/09/challenging-tunisia-homophobic-taboos/>

⁴¹ Human Rights Watch interviews with Amar, Wassim, and Mehdi (pseudonyms), Tunis, February 15, 2016, and with Kais (pseudonym), Carthage, February 16, 2016.

⁴² Human Rights Watch interview with Amar (pseudonym), Tunis, February 15, 2016.

⁴³ Human Rights Watch interview with Wassim (pseudonym), Tunis, February 15, 2016.

he attempted to refuse the test; in response, he said, "The policeman came and took me by the neck and said, 'Fucking go on the examination bed, now are you trying to be a man?'"

Wassim described how the doctor inserted his fingers and then a plastic tube, about the size of a pen, into his anus, which was "physically painful." He said two police officers were in the room, observing the exam. As he left the room, crying, Wassim said that the doctor recited, "There is no higher power than God," while laughing⁴⁴.

According to another student, Kais,

At the hospital I saw a sign for 'Forensic Doctor' and I asked why we were there. The police officer said, 'I'm going to check if you're a virgin or not.' ...

I said to the policeman, 'You don't have the right, why are you doing this to us?' The police said, 'Because you are mouabna [an offensive term for homosexual].'

I said, 'But article 23 of the constitution protects physical integrity.' One of the two policemen said, 'I will show you what these rights mean.'⁴⁵

Kais said that police physically held him down during the anal examination:

When they took me inside, I said, 'I don't want to get the test,' and one of the policemen forced me onto the examination table. He grabbed me by the hips and pushed me onto the examination table, and then pushed me into a kneeling position and pulled down my trousers. I tried to pull them back up, and the other policeman grabbed and held onto my arms. ... One policeman was holding my arms throughout the examination. The doctor first used his fingers. He was opening the anus and inserting his finger. ... Then the doctor took a tube and started inserting it and pulling it out, several times.

It was very emotionally painful. Physical pain goes away, but the psychological and emotional pain does not go away⁴⁶.

Mehdi, another student from Kairouan, described the psychological impact of the anal examination:

I felt like I was an animal. I felt I wasn't human. ... When I got dressed they put handcuffs on me and I went out, feeling completely in shock. I couldn't absorb what was going on. The two police were standing and watching what the doctor was doing. I felt violated. I didn't want to be naked in front of people—not just one person, but three people. ... It was the first time anything like this had happened to me and I couldn't absorb anything⁴⁷.

A forensic medical specialist familiar with the details of the Kairouan case insisted to Human Rights Watch that the students all signed papers indicating their "consent" for the examinations to take place⁴⁸. However, all four told Human Rights Watch they only did so as a result of violence or the threat of violence from police.

Human Rights Watch reviewed the requisition order issued by the head of the judicial police in the Kairouan police station on December 5, 2015. It requested that the forensic doctor of the Ibn Jazzar hospital, in Kairouan, determine whether any of the students was "used to anal sexual intercourse. In the case the answer is positive, the date of the last anal sexual intercourse."⁴⁹

Human Rights Watch also reviewed the forensic doctor's report, which concludes that "There are signs of habitual passive homosexuality with anal penetration. There are signs indicating that the person has recently, in the last days, had an anal penetration with a solid object such as a male penis in erection."⁵⁰

The judge relied almost exclusively on the medical reports in convicting the six young men on December 10—International Human Rights Day—and sentencing them to three years in prison and five years' banishment from Kairouan⁵¹.

⁴⁴ Ibid

⁴⁵ Human Rights Watch interview with Kais, Carthage (pseudonym), February 16, 2016.

⁴⁶ Ibid.

⁴⁷ Human Rights Watch interview with Mehdi (pseudonym), Tunis, February 15, 2016.

⁴⁸ Human Rights Watch interview with a forensic doctor, Tunisia, February 2016, exact location and date withheld at the doctor's request.

⁴⁹ Kairouan judicial police, order number 3/1610, dated December 5, 2015, on file with Human Rights Watch.

⁵⁰ Forensic doctor reports, dated December 5, 2015, on file with Human Rights Watch.

⁵¹ Wassim told Human Rights Watch: "The judge said that in the forensic report the same thing was written on all of them, which meant to him that we had all had sex that night with each other or with someone. The medical report and the dresses were presented as evidence in trial – the only evidence." Human Rights Watch interview with Wassim (pseudonym), Tunis, February 15, 2016. The judgment is on file with Human Rights Watch.

On March 3, 2016, the Sousse appeals court reduced the prison sentence to one month, which they had already served, and a 400 dinar (US\$195) fine, and quashed the banishment sentence.

On March 26, three of the six students from Kairouan were re-arrested in Tunis, together with five other men and two women, when police raided the house where they were staying, allegedly on the grounds of suspicion that the house was being used for sex work⁵². The women were released without charge, but the men were charged with both sodomy and drug possession. Once again, police attempted to subject them to anal examinations, but the men refused—this time, successfully. With no evidence of any kind suggesting their involvement in same-sex conduct, they were acquitted on sodomy charges but convicted of drug possession⁵³.

Advocacy against anal exams continues in Tunisia, but Baabou of Damj expressed concern that the National Medical Council had retreated from an initially strong position, condemning the practice of anal exams after Marwen's case made headlines⁵⁴. He said, "But after this, there was a lot of media pressure against homosexuals and they quieted down and didn't make any statement during the Kairouan affair."⁵⁵ Damj has called on the National Medical Council to adopt a formal position prohibiting doctors from conducting anal exams, similar to the position of the Lebanese Order of Physicians.

Anlage B

HRW

Tunisia: Privacy Threatened by 'Homosexuality' Arrests Government Using Personal Data. Anal 'Tests' for Prosecutions. Accounts by Men Prosecuted⁵⁶

K.S., 32, engineer

K.S. used to work for an international company in Tunis. He said that on June 8, he went to spend the weekend in at a friend's house in Monastir, a coastal city. He had earlier chatted with a man from Monastir on Grindr, a social network application for gays. They made a date and they met that day in a café. The man invited K.S. to his house, but once there, the man became aggressive and showed K.S. a police badge. Two other men arrived, and they started insulting him, calling him "sick." "One said, 'You people of Loth [a demeaning term derived from the Biblical and Quranic story of Lot], you deserve to be killed, you are like microbes.'"

They punched and slapped him on the face, he said. Then the man who had invited him said, "We will show you what sodomy is like." The men then forced him to take off his clothes and bend over. Two of them held K.S. by the arms while the third inserted a baton in his anus. "It was unbearable, I felt that I will faint," K.S. said. They finally let him leave.

I was shivering and bleeding [when I reached my friend's house]. The next day, I went to Fattouma Bourguiba hospital in Monastir. I just wanted to get medical treatment and to check that I did not have internal hemorrhaging.

But, he said, the doctor refused to examine him without a police order:

I went to the Skanes district police station in Monastir, to try to get the requisition order. I did not want to tell the police the full story, so I just said that three men had raped me. The policeman who was typing my statement left the room at some point, and that's when I saw on the screen that he

⁵² Conor McCormick-Cavanagh, "Three of the Kairouan Six Charged in Connection to Prostitution Ring," Tunisia Live, March 26, 2016, <https://www.tunisia-live.net/2016/03/26/three-of-the-kairouan-six-arrested-in-connection-to-prostitution-ring/>

⁵³ Conor McCormick-Cavanagh, "Court acquits eight youths charged with homosexual acts for first time ever in Tunisia," conormichaelblog, April 6, 2016, <https://conormichaelblog.wordpress.com/2016/04/06/court-acquits-eight-youths-charged-with-homosexual-acts-for-first-time-ever-in-tunisia/>

⁵⁴ FIDH, "Tunisie : Trois ans de prison pour homosexualité," December 16, 2015, <https://www.fidh.org/fr/regions/maghreb-moyen-orient/tunisie/tunisie-trois-ans-de-prison-pour-homosexualite>

⁵⁵ Human Rights Watch interview with Badr Baabou, Damj, Tunis, February 15, 2016.

⁵⁶ HRW, 8 November 2018, Tunisia: Privacy Threatened by 'Homosexuality' Arrests Government Using Personal Data. Anal 'Tests' for Prosecutions. Accounts by Men Prosecuted <https://www.hrw.org/news/2018/11/08/tunisia-privacy-threatened-homosexuality-arrests>

was instructing the doctor at Fatouma Bourguiba hospital to examine whether I am 'used to practicing sodomy.' I felt the blood freeze in my body.

Human Rights Watch reviewed the June 9 police requisition order, in which the chief instructs the doctor to examine whether K.S. was "used to practicing sodomy" and whether he was victim of anal rape.

K.S. said that, when the policeman returned to the office, K.S. asked if he could leave. The policeman replied: "And go where? You can't leave before we check what kind of stuff you do." The policeman called for a patrol car to drive K.S. to the hospital.

The doctor told me that he has a requisition order to perform an anal test. "We want to check whether this is a habit," he said. I was terrified. I told him that I didn't want to do the test. But he insisted that he had to perform it. He told me to remove my pants and assume a prayer position [on hand and knees] on top of the medical bed. He put on gloves and started to examine me with his fingers. As soon as he did, I felt sick and told him I wanted to go to the toilet. I wanted to stop this humiliation. He let me go. I managed to avoid the policemen who were waiting for me in the corridor and left the hospital. Once in the parking lot, I started running until I felt safe, and then went to my friend's house.

K.S. said he took a flight on June 13 to Belgium, where he has filed a request for asylum.

K. B., 41, documentary filmmaker

K.B. spent 13 months in pretrial detention on accusation of sodomy and unlawful detention. He is married and the father of an 8-year-old girl. He told Human Rights Watch that on March 3, 2017, at around 9 p.m., he went to downtown Tunis for drinks. While he was sitting in a bar, S.Z., a young man, approached him. They chatted for a while, then K.B. invited him to his place. He said that, after having sex, he went to the kitchen to prepare some food. When he came back to the living room, he caught the man stealing money from his wallet. K.B. tried to force him out of his apartment, but the man locked himself in a bedroom, went to the balcony, and screamed for help. Policemen arrived, arrested them, and took them to the Aouina district police station.

Police treated me with contempt. The first question the interrogator asked was whether I had sex with S.Z. I denied it categorically and told him we only had drinks together. But he said that S.Z. had confessed. The interrogator asked me: "Aren't you ashamed of yourself?"

K.B. said the police at the station confiscated his phone and looked at his social media history and his photo archives. They switched the phone off and did not allow him to call his family or a lawyer. They presented him with a statement to sign, but he refused. At 4 a.m., they transferred both men to Bouchoucha detention center. Later that morning, the police took the men to the Tunis first instance court, where a prosecutor ordered them to undergo an anal test. The police took them to Charles Nicole hospital, K.B. said, where he refused the test. "The idea of them intruding into my intimacy and into my body was so humiliating to me."

He was returned to detention and after a few weeks decided to undergo the test in the hope that negative results would prove his innocence. He said he informed the investigative judge during a hearing and the judge issued a requisition. Police officers took him again to Charles Nicole Hospital.

It was the worst thing that ever happened to me. The doctor asked me to strip and get on the examination table. He asked me to bend over. There was one policeman in the room and one medical assistant, watching. The doctor put one finger into my anus and moved it around. I was so ashamed. It was very dehumanizing.

K.B. said that even though the test result was negative, the investigative judge indicted him for sodomy. The order referring the case to trial said that the time elapsed between the alleged act and the test prevented the court from ruling out that K.B. was "used to the practice of sodomy."

In May 2018, 13 months after the court placed K.B. in pretrial detention, it acquitted and freed him.

In the indictment, the investigative judge wrote that S.Z. had confessed to the police to "committing the crime of sodomy in exchange for money" and that he admitted that he "approached and dated men he met via Facebook." The judge quotes the police report, which describes in crude terms the sexual intercourse between K.B. and S.Z. The judge also states that K.B. has denied the accusation of sodomy, and instead stated that he and S.Z. were only having drinks at his place and did not have

sex.

The investigative judge notes that S.Z. later retracted his confession and says that he gave instructions for the forensic doctor in the Charles Nicole Hospital to administer an anal test to determine whether K.B. "bore signs of the practice of homosexual activity" recently or whether he "practices sodomy in a habitual way."

The judge's indictment of K. B. was based on S.Z.'s confession to the police, later repudiated, from "the circumstances of the case, which show that the two men had no other reason to go to K. B.'s house" and K. B.'s refusal to take the anal test. The judge wrote: "given that the test was performed 20 days after the reported incident, the forensic doctor was not able to find signs of anal penetration because those signs disappear five days after the act." [...]

S.C., 24 and A.B., 22

Police arrested S.C. and A.B. in Sousse on December 8, 2016, when they were allegedly caught committing sodomy in public. They were sentenced, on March 10, 2017, to eight months in prison under article 230 of the penal code and not on charges related to public indecency. The police report describes their sexual intercourse in detail and concludes that S.C. "committed active sodomy," while A.B. was a "passive sodomite."

The judgment from the first instance court in Sousse, which Human Rights Watch reviewed, states that both denied committing sodomy or being homosexuals. It states that they were both subjected to anal examinations on December 9, 2016, that turned out "negative." The judge concluded that: "the results of the anal tests cannot exonerate the accused of the crime, especially given that the [tests] were performed sometime after the facts." The court based the guilty verdict only on the declarations by police officers and wrote that: "it is appropriate to sentence them to eight months as an adequate and dissuasive sentence proportional to the offense that they have committed."

A.C., 18, student

A.C. was arrested three times for sodomy. The first time was in August 2017, when he was 17. Police forces arrested him at his house after his two sisters denounced him as gay and took him to the Kasba police station in Tunis. He said that they interrogated him extensively about his sexual orientation and took his smart phone and searched his personal data. The next day, they took him to a forensic doctor in the Charles Nicole hospital for an anal examination. He said he did not have a lawyer and that the police did not inform him of his right to have one.

I did not understand what was going on. The police told me that the test is mandatory. The doctor told me to go on an examination bed and to bend, and then he inserted his fingers in my insides. The doctor did not explain what the test is about.

A.C. said he was released without charge after spending two days in the Kasba police station.

On May 15, 2018, he went to the police station in Sijoumi, in Tunis, in response to a summons. He said police officers told him his family had filed a complaint and questioned him for almost four hours. A.C. confessed to being gay. The police took him to Bouchoucha detention center in Tunis, where he spent the night. The next day, May 16, he appeared before the Tunis first instance court in Sidi Hassine, where an investigative judge interviewed him. The judge asked him: "Why are you like this? Don't you know that what you're doing is haram [forbidden under Islam]?"

I told the judge that I didn't break any laws, that what I do is my personal business. I did not hurt anyone. This is my private life and should not be the concern of anyone else.

He said the judge ordered his detention for two months in a juvenile rehabilitation center, as he was still a child, and forced him to undergo "conversion therapy," a thoroughly discredited method to change someone's sexual orientation or gender identity. At the center, a psychiatrist visited him twice, telling him that "he should work on changing himself and his mind." He appeared before another investigative judge, on June 25, who released him.

A.C. said that on September 2, he was running some errands with his boyfriend when the police stopped them and asked for their identity cards. The police told A.C. that his family had filed a complaint against him. They took him to Hay Hlel police station in Tunis, where they questioned him about his sexual life, confiscated his phone, and looked at his photos and personal conversations. A prosecutor issued a warrant to detain him, and he spent eight days in the Bouchoucha detention

center. On September 20, he appeared before a judge, who released him without charge. [...]

Anlage C

ILGA

Our Identities Under Arrest. A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions⁵⁷

Dezember 2021

Kapitel zu Tunesien

Criminalising Provisions

Article 230 of the Penal Code (2010)⁵⁸ prohibits "sodomy" and prescribes the penalty of imprisonment of up to three years. Additionally, under Article 226, anyone found guilty of deliberately and publicly promoting indecency is liable to six months' imprisonment and a fine.⁵⁹

In practice, trans and gender-diverse people have been indirectly criminalised (de facto criminalisation) under provisions regarding consensual same-sex sexual acts and public indecency provisions.⁶⁰

Enforcement Overview

ILGA World notes 30 individual examples of criminal enforcement, police harassment, and other forms of official State-backed targeting between 2012 and 2021. These represent only a few disaggregated cases, however, with some organisations putting forward much higher numbers.

In 2020, a Tunisian organisation called Damj reportedly provided legal assistance to LGBT people at police stations in 116 cases and responded to 185 requests for legal consultations. "These figures are five times higher than those we recorded in 2019, indicating an alarming increase in the persecution of LGBT people during the Covid-19 pandemic," said one member of the organisation. Damj has further claimed that since the Tunisian revolution in 2011, they have recorded 1,458 convictions, ranging between one month to three years in prison, based on Article 230 of the Penal Code.⁶¹ This seems to be corroborated by international reporting in 2019 which indicated that convictions for "sodomy" were on the rise, as was the reliance by authorities on pseudo-scientific anal examinations as a means to supposedly find evidence of anal intercourse.⁶²

The issue of anal examinations came to an apparent head in 2015 when a young man was sentenced to a year in prison after being made to undergo such a procedure. The young man's treatment led the National Council of Tunisian Physicians to condemn the practice of non-consensual medical examinations.⁶³ On 21 September 2017, during the Universal Periodic Review at the United Nations Human Rights Council, Tunisia formally accepted a recommendation to end *forced* anal exams. However, Tunisia's delegation stated: "Medical examinations will be conducted based on the consent of the person and in the presence of a medical expert."⁶⁴ [...]

⁵⁷ ILGA, *Our Identities Under Arrest. A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, Dezember 2021, Seiten 108-11, <https://ilga.org/our-identities-under-arrest-2021>

⁵⁸ <https://learningpartnership.org/sites/default/files/resources/pdfs/Tunisia-Penal-Code-2010-French.pdf>

⁵⁹ ILGA World: Lucas Ramón Mendos, Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Ilia Savelev and Daron Tan, *State-Sponsored Homophobia: Global Legislation Overview Update* (2020), 124.

⁶⁰ ILGA World: Zhan Chiam, Sandra Duffy, Matilda González Gil, Lara Goodwin, and Nigel Timothy Mpemba Patel, *Trans Legal Mapping Report 2019: Recognition before the law* (2020), 60.

⁶¹ "Tunisia: Police Arrest, Use Violence Against LGBTI Activists", *Human Rights Watch*, 23 February 2021.

⁶² "Tunisia is jailing men for having gay sex and forcing them to undergo anal exams, human rights group claims", *Independent*, 30 March 2016; "Tunisia: tra abusi e test anali, condanna per sodomia aumentate del 60%" [Tunisia: between abuse and anal tests, sentences for sodomy increased by 60%], *Gay.it*, 10 October 2019.

⁶³ "Tunisia's LGBT activists push forward", *Al-Monitor*, 12 December 2015; Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 34-35; 37; "Tunisian court cuts off student's homosexuality sentence", *Erasing 76 Crimes*, 17 December 2015.

⁶⁴ "Tunisia: Privacy Threatened by 'Homosexuality' Arrests", *Human Rights Watch Website*, 8 November 2018;

Examples of Enforcement

On **20 October 2012** a trans woman in the capital, Tunis, was arrested when a police officer, who had been sexually harassing her, demanded her identity document and found out she was not cisgender. A forced anal examination did not convince examiners that any anal intercourse had occurred, and so the woman was sentenced to six months' imprisonment for "offending public morals" instead. Her sentence was carried out in a men's prison.⁶⁵ [...]

On **6 September 2015** the judicial police in Hammam-Sousse summoned a young man for questioning as part of an investigation into the murder of another man. The young man admitted that he had previously had sex with the victim of the murder, which led to the police assaulting and detaining him. They threatened to rape him and to charge him with murder. No evidence was ever found that the accused was involved in the killing. He was made to undergo forced anal examinations before being sentenced to one year in prison. The public campaign by local activists calling for his release led the then-Minister of Justice to publicly state that Tunisia should begin working toward decriminalisation. The President denounced the statement as not being in line with government policy, and on **20 October 2015** the Minister was fired for making statements that "lacked seriousness", though it is unclear if his call for decriminalisation was considered to be one such statement. The young man's treatment also led the National Council of Tunisian Physicians to condemn the practice of non-consensual medical examinations. After an appeal, a court reduced the young man's sentence to two months (served) plus a fine of 300 dinars (about USD 150).⁶⁶

On **4 December 2015** six university students in Kairouan were arrested in their dormitory under suspicion of being gay. Police assaulted and abused them while in detention and they were made to undergo forced anal examinations. They were sentenced to three years' imprisonment and fines of 400 dinars each (USD 195), as well as being banished from Kairouan for five years. However, the sentence was reduced to one month (served) after an appeal, and their ban from the Kairouan area was lifted. The group allege sexual abuse and violence from guards and other inmates during their incarceration.⁶⁷ [...]

In **December 2016** it was also reported that a university student and his friend were arrested on the streets of Sousse on suspicion on homosexuality. Police allegedly assaulted the pair and told them they were "bringing the curse on the country". They were forced to undergo anal examinations, which did not provide the evidence sought by authorities, though the pair were sentenced in **January 2017** to eight months' imprisonment.⁶⁸

And on **8 December 2016**, two men in Sousse were arrested for allegedly engaging in anal sex in public. Both denied this, and even the pseudo-scientific anal examinations performed on them came back "negative", but they were sentenced to eight months' imprisonment anyway based on the weight of the testimony from police. The judge stated that "the results of the anal tests cannot exonerate the accused of the crime, especially given that the [tests] were performed sometime after the facts."⁶⁹ [...]

On **3 March 2017** a local filmmaker went out for drinks in Tunis and was approached by a stranger. The two went to an apartment, but the stranger allegedly then tried to steal money. The commotion attracted police who arrested the filmmaker and confiscated his phone so that he could not contact his family or a lawyer. They sought to get him to sign a confession that he had participated in same-sex

"Tunisia's Assault on Gay Men's -and Everyone's- Right to Privacy", *Human Rights Watch Website*, 3 December 2018.

⁶⁵ Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 38.

⁶⁶ "Tunisia's LGBT activists push forward", *Al-Monitor*, 12 December 2015; Amnesty International, *Assaulted and Accused: Sexual and Gender-based Violence in Tunisia* (2015), 34-35; 37; "Tunisian court cuts off student's homosexuality sentence", *Erasing 76 Crimes*, 17 December 2015.

⁶⁷ "After anti-gay trial, tortures in Tunisian prison", *Erasing 76 Crimes*, 10 January 2016; "6 Tunisians' prison time reduced to time already served", *Erasing 76 Crimes*, 4 March 2016; "LGBT rights in Tunisia: The fight will be televised", *Heinrich Böll Stiftung*, 17 June 2016; "Six Tunisian students freed from 'sodomy' prison sentence after appeal", *Amnesty International*, 5 June 2018.

⁶⁸ "[Tunisie: deux jeunes hommes poursuivis pour homosexualité à Sousse](#)", *L'Express*, 13 December 2016; "[2 young Tunisians sentenced to 8 months for gay sex](#)", *Erasing 76 Crimes*, 10 March 2017.

⁶⁹ "Tunisia: Privacy Threatened by 'Homosexuality' Arrests", *Human Rights Watch Website*, 8 November 2018.

sexual activity but he refused. He also refused to participate in an anal examination, and so was held for several weeks in Bouchoucha Detention Centre. In the hopes of being vindicated by the results of an anal exam, he later agreed to go back to the hospital. Despite being cleared by the exam, however, the judge still indicted him for “sodomy”, claiming that the time which had elapsed between the incident and the test meant it could not be used to rule out a history of same-sex sexual activity. He thus remained in pre-trial detention for 13 months before being acquitted by a court in **May 2018**.⁷⁰

In **August 2017** a teenager was arrested by police, dragged from his home and had his belongings searched, on suspicion of being gay. He was subjected to forced anal examinations and released after two days without being charged. He was arrested again in **May 2018** at the request of his family and sent to a juvenile detention centre for two months, where he was subjected to so-called “conversion therapy” practices. In **September 2018** his family laid another complaint about him, leading to a further eight days’ detention in a police cell.⁷¹

In **November 2017** a gay man in Terbouba was raped by another man who he had met online. He filed a rape case with police, but when they found out that he had initially planned to meet the attacker, they told him “you were the one who initiated this, you are an accomplice to the crime, there is no rape here—you deserve this”. They instructed him to undergo an anal examination, but on the advice of the local organisation, Shams, he refused. The judge at the First Instance Court in Manouba charged him with sodomy (and charged his attacker with sodomy and rape), and granted him pre-trial release. However, the pending trial led to him being fired from his job and the scandal of the incident resulted in violence and harassment from his own family. Sometime between **December 2017** and **May 2018** he fled to France to seek asylum, with the court case continuing despite his absence.⁷² [...]

On **8 June 2018** a man in Monastir was lured by a presumed police officer on a dating app to an apartment where several individuals trapped and raped him. He was later allowed to leave and sought medical attention, but doctors refused to assist without a police order. At the police station, officers said that they needed to determine if the victim was “used to practicing sodomy”, and took him to a hospital where the doctor performed an anal examination. He requested to go to the bathroom and once in the hallway fled the hospital. A few days later, on **13 June**, he fled to Belgium to seek asylum.⁷³ [...]

In early **2019**, media outlets reported that a 23-year-old Tunisian man who had been raped was subjected to a judicial forced anal examination upon reporting the crime. He was eventually sentenced to six months in prison on charges of “homosexual conduct”.⁷⁴ [...]

In **July 2020** a judge handed down a prison sentence to two men suspected of being gay for their refusal to submit to an anal examination, ruling that their refusal constituted “sufficient evidence” that the “crime” of same-sex sexual activity had been committed.⁷⁵ [...]

⁷⁰ *Ibid.*

⁷¹ “Tunisia’s Assault on Gay Men’s -and Everyone’s- Right to Privacy”, *Human Rights Watch Website*, 3 December 2018.

⁷² “Tunisia: Privacy Threatened by ‘Homosexuality’ Arrests”, *Human Rights Watch Website*, 8 November 2018.

⁷³ *Ibid.*

⁷⁴ “Sfax: Agressé et violé, un homo se fait arreter pour... homosexualité!” [Sfax: Assaulted and raped, a homosexual is arrested for... homosexuality!], *Kapitalis*, 30 January 2019; “Tunisia rape victim jailed for homosexuality”, *Middle East Monitor*, 12 February 2019; “Tunisian victim jailed for sodomy raises alarm on systemic homophobia” *The New Arab*, 7 March 2019.

⁷⁵ “تعلق «شمس» وجمعية... الكاف في سنتين لمدة جنسيا مثليين بسجن الحكم: الشرجي للفحص الخضوع رفضا” [They refused to undergo anal examinations: Homosexuals were sentenced to two years in prison in El Kef... and the Shams Association commented], *Turess*, 12 July 2020; “Túnez continúa torturando y encarcelando a los gays”, *TVN*, 14 August 2020.