**Submission for the Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

*Topic: Freedom of religion or belief and freedom from violence and discrimination based on sexual orientation and gender identity*

**Country: Tunisia**

This submission is made by Minority Rights Group International in partnership with Attalaki, a Tunisian civil society association advocating for freedom of religion and which is composed of individuals belonging to religious minorities.

In Tunisia, consensual same-sex relations between adults are criminalized by article 230 of the Penal Code. This article, being in force since the French colonization, contains no direct reference to religion. However, religion and respect for religious values are used on a regular basis as an argument against the abolition of this article. Arbitrary arrests are conducted, including based on suspicion relying on appearance and gender expression (often accompanied by breaches of the right to private life, such as confiscation of mobile phones). Those detained on these grounds are regularly harassed, assaulted or subjected to anal examinations.

Transgender individuals commonly face violence and threats of violence by relatives and the population at large. They do not receive protection from authorities or law enforcement agencies. On the contrary, they are commonly subjected to arbitrary arrests and detention, and are assaulted by law enforcement officials. Arbitrary arrests are typically based on a loose interpretation of vague concepts that can be found in a series of articles from the Penal Code: article 226 "public indecency”; and article 226bis "offences against good morals or public mores by gesture or word". Concepts such as “good morals” and “public mores” are often justified by making reference to presumed religious values.

Whenever a person’s sexual orientation or gender identity is expressed or presumed (through appearance, words, etc.), s/he faces the risk of being exposed to discrimination and/or violence, because of the legal criminalisation as well as the general strong societal rejection from the Tunisian society at large against LGBT+ individuals. When it comes to individuals who leave Islam to convert to another religion who also belong to a sexual minority or have a non-heteronormative sexual identity or expression, the discrimination becomes double.

Over the past year, Attalaki documented 5 cases of intersectional discrimination concerning Tunisian lesbian girls from religious minorities who were exposed to discrimination from their families and also from the minority they belong to. In one case, the father of a girl rejected that her daughter completed her studies and she is currently living in a vulnerable situation. In another case, a girl was rejected from the evangelical church to which she belonged, thus having a strong impact in her daily life. The argument used by the pastor was that being lesbian is against the religion, and he referred to some passages of the Bible. After the pastor made the suggestion to exclude her from the church, most persons belonging to the community supported the suggestion and accused her of being mentally unstable. In another case, a woman was discriminated against in the workplace. In this instance, the director of a public institution refused to approve her career progression because she was not Muslim and because he perceived that she was lesbian. |In cases such as this one concerning state institutions, there are no official written decisions or decrees. The decisions are simply at the discretion of the person in charge, based on societal prejudice.

In all these cases, the victims did not want to file a complaint, first of all because there is no legal basis and secondly because they are scared of their family and entourage and prefer to remain silent. Since the state discriminates institutionally against LGBT+ individuals, if a victim wants to file a complaint, they might end up finding themselves accused of a crime, thus not granting access to justice for all. Moreover, when wanting to file a complaint, LGBT+ individuals find themselves discriminated against in the police centres and are often harassed both verbally and physically. They are insulted and accused of immorality. This also happens to religious minorities who are treated as “non-believers” (*kuffar* in Arabic) by state officials.

Attalaki has also documented a case of a practicing Muslim lawyer who refused to defend someone who had converted from Islam to another religion, affirming that they needed mental health support. The lawyer said that this person was acting against the religion by quoting the Qur’an. Judges also often follow this mentality and thus enforce penal code articles based on a loose interpretation of the concept of “good morals”. These concepts are strongly rooted in societal stigmatisation against individuals belonging to religious minorities and/or LGBTI+ (or both), rather than on a juridical basis.

In terms of positive practices, Attalaki reported that the aforementioned girl who was rejected by the Evangelical church was then accepted by another church. Although the majority of the society at large maintains a negative vision against LGBT+ individuals, there is a slightly increasing group of accepting people in the society at large and within religious minorities. It must be stressed that the stigmatisation of LGBT+ individuals affects the Tunisian society as a whole, regardless of their religion.

There is also a growing trend of private businesses who are willing to work with CSO representing LGBT+ and sign partnership agreements with them. This is the case especially for hotels, bars, restaurants, and other spaces where training sessions and gatherings take place. However, we have observed that when the business goes through a change, for instance at the management level or within the security personnel, incidents are often reported where LGBT+ individuals are discriminated against and even reported by the same spaces they previously deemed as safe.