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Prison Sentence for Homosexuality in Tunisia

January 1, 2016

by Andrea Flynn-Schneider

In September 2015, a Tunisian court sentenced a 22-year-old [student](#) to one year in prison for homosexuality after he allegedly [failed](#) an anal exam that the public prosecutor's department forced him to take. In response, LGBTQ activists in Tunisia [argue](#) that the country's laws against homosexuality are not only a violation of privacy, but they also infringe on individual liberties. [Article 230](#) of Tunisia's Penal Code, [established](#) in 1913 by colonial French authorities, carries a [maximum](#) three-year prison sentence for acts of sodomy between homosexual persons and often involves an invasive [medical test](#) to determine whether the person has engaged in sexual activity. Although anyone has the right to refuse the test, Tunisian lawyers [say](#) refusal makes that person look "all the more guilty." While a number of civil society organizations called for the law to be repealed, the Ministry of Justice [rejected](#) their appeal.

In 2011, when Tunisians [ousted](#) the repressive regime of [Zine el Abidine Ben Ali](#), the LGBTQ community [hoped](#) for greater protection from the government. However, nearly four years later, activists [argue](#) that Article 230 allows for harassment, violence, and discrimination against LGBTQ persons. Yet, there is still [hope](#) that Tunisia's newly liberalized coalition government will push forward reform efforts to decriminalize consensual same-sex relations. Minister of Justice Mohamed Salah Ben Aissa recently [acknowledged](#) to the media that Article 230 violates the right to privacy. He [stated](#), "Article 230 is the problem. Since the adoption of the new constitution, authorities cannot violate individual liberties, privacy, or personal choices, even those concerning sex." However, just a few weeks later, the government relieved [Salah Ben Aissa](#) from his duties as Justice Minister. Critics [believe](#) his dismissal was because of the stance he took on decriminalizing homosexuality.

Unfortunately, Tunisian homosexuals face particularly difficult [challenges](#) due to the country's religious conservatism and cultural resistance. An [Amnesty International](#) investigation [revealed](#) that police arrested gay men in Tunisia simply because they appeared to look "effeminate" or were seen speaking to another man. Ahmed Ben Amour, vice president of [Shams](#) association, an LGBTQ activist group that fights for the decriminalization of homosexuality, [reported](#) that there are about 50 arrests a year in Tunisia and nearly 500 people being detained in prison for sodomy. Mobilization of LGBTQ groups, such as Shams, has not been easy. The [Mufti of Tunisia](#), the body responsible for issuing Islamic legal opinions, has condemned the group's existence [saying](#) it "undermines the values of Islam, morality of Muslims and principles of the former Tunisian society."

Nonetheless, [Tunisia's constitution](#) guarantees respect for human dignity, physical integrity, and the prohibition of physical and psychological torture, all of which [conflict](#) with Article 230. In fact, [Article 6](#) of the constitution states that all citizens have the equal rights and the same duties under the law. In addition, critics [argue](#) Article 230 violates a number of international treaties ratified by Tunisia, including the [African Charter on Human and People's Rights](#), the [Convention Against Torture](#), and the [International Covenant on Civil and Political Rights](#). 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](#), compulsory anal examinations are also [contrary](#) to medical ethics.

In response to the 22-year-old's arrest, the global spotlight has begun to shed light on Tunisia's struggle for equality. A number of international organizations, including [Human Rights Watch](#), are standing in defense of LGBTQ Tunisians [saying](#), "Tunisian authorities should immediately revoke the man's prison term and release him." While there is still no sign that Tunisia will abolish Article 230 any time soon, [civil society groups](#) hope that continued international pressure on Tunisia will eventually force reforms. Until then, activists [describe](#) "being gay in Tunisia is like living with a sword of Damocles over your head."

The Syrian Conflict and the Rise of Child Marriage

March 16, 2016
by Chloe Canetti

The United Nations' [Guidelines](#) for Gender-based Violence Interventions in Humanitarian Settings illustrate how armed conflict disrupts many of the institutions meant to keep order and protect the public. The Guidelines recognize how armed conflicts open the door to exponentially [increased opportunities](#) for people, especially men, to perpetrate gender-based violence against women and children. For Syrian civil war refugees migrating to places like Jordan and Egypt, the [International Rescue Committee reports](#) increases in domestic violence, sexual exploitation of refugee women in exchange for life-sustaining resources, and an increasing trend of child marriage since the beginning of the conflict.

Many families forced to flee and leave all their worldly possessions behind view marriage as a way to ensure their daughters will have the [resources](#) families can no longer provide. Additionally, with the prevalence of sexual assault against Syrians, both in refugee camps and more generally in the Middle Eastern countries where Syrians have fled, [early marriage](#) is a way for the family to protect its honor by ensuring that a woman does not lose her virginity before marriage and providing her with a male protector. In some cases, women and girls raped in the camps must marry their [rapists](#) to restore family honor.

Syria, Jordan, and Egypt all [ratified](#) the [UN Convention on the Rights of the Child](#) by the mid-1990s. [Article 6](#) places a duty on the state to protect to the greatest possible extent the life and development of the child; [Article 19](#) protects children from sexual, physical, and emotional violence; and [Article 28](#) guarantees all children a right to at least a basic education.

However, Syria's other laws fall short of such protections for women and children. While [Syria's Constitution](#) guarantees equal rights without sex discrimination, nothing in the Constitution addresses affirmative steps to ensure those rights. Furthermore, Article 20 "[encourages](#)" marriage and "protects" childhood, but does not set a minimum marrying age. Syria's [personal status law](#) sets the minimum age for girls at 16, but allows some exceptions for girls as young as 13 years old. Although Syria ratified the [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW) in 2003, it has [made exceptions](#) that leave girls without recourse to refuse marriage. [Article 16, Section 2](#) of CEDAW states that "the betrothal and the marriage of a child shall have no legal effect," but allows individual ratifying states to specify the minimum age for marriage. Although this Article allows states great flexibility in defining child marriage, Syria still ratified the Convention with a [reservation](#) for Article 16, stating that it conflicted with Sharia law. Egypt and Jordan also declared reservations to the Convention regarding the need for [certain guarantees](#) of equality for men and women in marriage.

Despite CEDAW's efforts to prevent child marriage, Syria has provided few, if any, guarantees against the practice through its Constitution or its ratification of international treaties. Even when refugees leave Syria for Egypt and Jordan, they have no guarantee of better conditions. Child

marriage amongst Syrian refugees is [proliferating](#) with grave consequences for young girls. According to the [International Rescue Committee](#), girls who are married before they reach 18 are [twice as likely](#) to experience verbal and physical violence at the hands of their husbands than those who marry later, and girls under 15 years old are [five times more likely](#) to die in childbirth than women in their twenties.

By allowing families to marry off their daughters before adulthood, Syria is likely failing to protect the lives of these girls and to [protect them](#) from sexual and physical violence. Although many marry off their young daughters to try to help them escape poverty and preserve their honor, child marriage often has detrimental [physical](#) consequences that violate girls' rights under the [Convention on the Rights of the Child](#). Aside from the physical dangers, many child brides must [discontinue](#) their educations after marriage. This denies them the benefits of an education, which violates [Article 28 of the Convention on the Rights of the Child](#). Furthermore, lack of education limits girls' economic opportunities, which continues the [cycle of poverty](#) that facilitates child marriage.

The [International Rescue Committee recommends](#) Syria create stricter laws against child marriage and better enforce of current restrictions. [Save the Children advocates](#) for community education about the benefits of delaying marriage, urges the government to provide safe access to quality education, and encourages greater economic opportunities for refugee families, especially women. These organizations hope that through their recommendations, more families will understand the detrimental long-term effects of marrying their daughters too young and, even in times of conflict, will be able to preserve some of their fundamental human rights.

Social Media: A Double-Edged Sword in the Middle East

March 17, 2016
by Isaac Morales

Any form of media, indeed any form of communication, carries the potential for both progress and harm. This is obvious, and hindsight even provides for some comedy at the expense of those who decried innovation as decay, such as a [15th century monk](#) who thought the printing press would bring about moral decay. However, such worries did not prove to be entirely groundless, with [Mein Kampf](#) becoming a paradoxical instrument for a hateful ideology that espoused the destruction of books and sparked the most violent conflict in human history. Despite the destruction that book brought, there are few who would say the printing press itself is an instrument of evil, and history has decided against not only those who decry innovation, but also those who use it for violence.

Such is the current predicament of social media in the Middle East, today's battleground between forces who use the medium for the betterment of their societies and those who use it to wage wars. As Islamic extremism has found social media its most effective tool to recruit foreign fighters and to deliver its message across the globe, the value of this ever-growing form of communication has been highly controversial even in countries whose survival depends on the right to freedom of expression.

The most lamentable example of social media's potential for destruction is the Islamic State's [sophisticated and effective](#) twitter, Facebook, and YouTube network. The group is systematically building on Al Qaeda's comparatively [rudimentary use](#) of Internet, which Al Qaeda used to spread propaganda in its early stages. The fast-paced world of social media is now the Islamic States' public channel of its atrocious crimes. In one instance, the terrorists' assault on Mosul, Iraq was precipitated by a twitter campaign using the hashtag #AllEyesOnISIS, followed by a disturbing [outpour of support](#) from around the world. So monumental was the amount of attention created by the hashtag that the [Iraqi army withdrew](#) from the specter of a mere 2,000 militants.

Furthermore, as a direct result of the ongoing civil unrests in Syria and Iraq, human traffickers have seized the opportunity to [use Facebook and YouTube](#) as advertising platforms to lure refugees into costly and dangerous voyages to Europe. In the domestic arena, social media also continues to draw criticism. According to the [2015 Arab Social Media Influencers Report](#), "[o]verall, social media is seen to be incompatible with Arab culture: pushing social boundaries; it is alien to the Arab culture to meet new people/strangers, virtual dating, etc."

Despite its downfalls, social media has its advantages in the region. The Islamic States' reliance on using the medium may prove to be its downfall, as U.S. intelligence continues to [track posts](#) in order to identify and target militants. For the victims of the conflicts, social media is a powerful tool to share their stories with the rest of world. Often, it is their only venue to seek justice and to present their firsthand evidence of brutality and oppression. For much of the world, the

unprecedented humanitarian crisis in the region was a routine scene until shocking images of a [drowned three-year-old Syrian boy](#) surfaced social media.

Social media has also given the youth in the region a unique opportunity to inform themselves and be critical despite widespread censorship. According to [Northwestern University in Qatar](#), women in Middle Eastern countries are using the medium to socialize, thereby overcoming the societal barriers that prevent them from appearing in public. Additionally, the summit that produced the Arab Social Media Influencers report also gave awards to individuals who used social media to promote worthy causes. One such person was [24-year-old blogger Meera Al Daheri](#), who created a blog about her younger brother diagnosed with Down's Syndrome in order to encourage others to welcome and equally treat children like her brother in the society. Notably, even the report critical of social media's effect on Arab society [recognizes](#) the medium's largely beneficial impact on businesses, permitting them to engage the market more and offer more goods to those who need them.

Lastly, for better or worse, social media creates awareness of the events in the region. This can manifest itself in traditional sectarian tensions of course, as when Saudis [expressed their support](#) on twitter for the Kingdom's recent execution of 47 individuals.

Iran's Nuclear Deal: A Promise to Worsen or Improve its Human Rights Record?

March 17, 2016

by Jessica Lee McKenney

For many Iranians, January 16, 2016 will always remain a day of jubilation, hope, and a new beginning for prosperity. On that day, the International Atomic Energy Agency (IAEA) verified that Iran had taken necessary steps towards implementing the multilateral nuclear agreement it had reached with major powers last July. The so called "Implementation Deal" indeed paved the way for lifting the nuclear-related sanctions on Iran that have severely crippled its economy for more than a decade. Iranian President Hassan Rouhani described the deal as a "golden page" in the country's history and as an opportunity to open "new windows for engagement with the world." U.S. President Barack Obama, in his remarks on the anniversary of the historical "peace" speech delivered by John F. Kennedy at American University, made the case that the nuclear agreement strengthens the incentive for the majority of Iranian people "to urge their government to move in a different, less provocative direction." The expected outcomes of this deal—financial benefits for Iran on one hand and security assurances for much of the world on the other hand—are promising. But whether it also be a lasting path towards alleviating or even ending grave human rights abuses in the country remains unanswered.

U.S. officials viewed the release of five imprisoned Americans by Iran immediately after the implementation of the agreement as a sign of progress, with U.S. Secretary John Kerry stating, "peace and the progress of the humanitarian talks accelerated in light of the relationships forged and the diplomatic channels unlocked over the course of the nuclear talks." He added that the international community has shown concerns over Iran's "policies and actions and choices in the region" and that this deal would allow the international community to worry and address other regional issues, such as the Syrian crisis, "without the looming threat of a nuclear-armed Iran" overhead. For Ahmed Shahid, the UN Special Rapporteur on Iran, the agreement now provides an opportunity "to focus on human rights in Iran." According to his August 2014 report to the UN General Assembly, the sanctions on the country, among other things, have caused an unprecedented shortage of medicine and rise in food prices. "These circumstances have had a dramatic effect on the standard of living and have likely further undermined the full enjoyment of a range of civil, social and economic rights," Ahmed Shahid said.

Iran is a party to the International Covenant on Economic, Social, and Cultural Rights. Article 11 of the Covenant urges States Parties to "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." But since the Islamic Revolution of 1979, the Iranian people have become too familiar with income inequality, unemployment, and the growing marginalization in much of the country's rural areas. Undoubtedly, the removal of the sanctions will help to alleviate some major obstacles in the country. While it is unlikely that the U.S. will resume all of its business ties with Iran in the near future, the government now allows limited Iranian imports like Persian rugs and permits U.S.-based private companies to sell commercial aircraft to the country.

Unlike the U.S., European countries have already taken full advantage of economic opportunities provided by the nuclear agreement. Less than two weeks after the Implementation Day, Airbus signed a \$25 billion deal to sell 118 commercial planes to Iran with several European airlines, including Air France and KLM, considering direct flights to the country. Apart from the U.S. and European economy, the lifted sanctions will allow Iran to sell its oil in the world market and to connect its banks globally.

Despite the economic prospects of the Iran nuclear agreement, basic civil and political rights remain in peril. A few months before signing the deal, Iran's Foreign Minister Javad Zarif appeared before a U.S. news program and unequivocally said: "[w]e do not jail people for their opinions." According to the 2015 report of Freedom House, though, press freedom remains limited in the country as the regime's "systematic Internet controls and pervasive censorship have continued despite Rouhani's promises to ease restrictions on media and information." Additionally, a month after the Implementation Day, an Iranian court of appeals sentenced a 30-year-old filmmaker to one year in prison with 223 lashes for "insulting sanctities" and "spreading propaganda." These allegations stem from his short documentary on political graffiti in Tehran.

Despite these human rights abuses, there remains a new hope that the economic reliefs gained through the agreement may pressure the Iranian regime to respect and protect the fundamental rights of its citizens.

Lebanon's Deportation of Syrians En Route to Turkey

March 18, 2016
by David Weinstein

On January 8, 2016, Lebanon, in an unprecedented move, [returned](#) “at least 200—and perhaps more than 400—Syrians” to their war-torn country without first assessing their individual risk of persecution. Syrian travelers arrived at Beirut International Airport with hopes of reaching Turkey as their final destination, but Turkey’s new visa regulations prevented them from boarding the plane. While the Turkish government continues to implement its “open door policy” to Syrians entering its borders by land, it [reversed](#) its six-year waiver visa agreement for Syrian nationals arriving in the country by air and sea from third countries.

According to [Human Rights Watch](#), several of the Syrians deported from Lebanon verbally expressed fear of returning to their home country. Lebanon has neither ratified [the 1951 Refugee Convention](#) nor [the 1967 Protocol Relating to the Status of Refugees](#). [Article 33](#) of the Convention expressly prohibits the Contracting States from “expel[ing] or return[ing] (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” While refugee status determination within the meaning of Article 1 of the Convention is normally carried out on individual basis, when dire situations, such as internal conflicts, result in large influxes of people fleeing their country, the Convention regards each member of that population as a *prima facie* refugee. The rationale behind this procedure, according to the [United Nations High Commissioner for Refugees \(UNHCR\) Handbook](#), is that “[i]n such situations the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status.” Currently, all Syrians entering Lebanon [can register](#) with UNHCR through the *prima facie* registration process. And because of their refugee statute, they are fully entitled to enjoy the rights afforded by the Convention, including the principle of non-refoulement.

One may argue that Lebanon, because of its non-signatory status, is not bound by the Refugee Convention, and therefore, the forcible return of Syrians was not a violation of its international obligations. But according to UNHCR’s [2013 Report on Legal Status of Individuals Feeling Syria](#), Lebanon “officially states that it is bound by the non-refoulement principle.” Additionally, the international community widely recognizes the principle as a norm of international law, irrespective of treaty ratifications and declarations. The Executive Committee of UNHCR’s [Note on Non-refoulement](#) underscores this normative value. The Committee [states](#) that “[b]ecause of its wide acceptance at universal level, [the principle] is being increasingly considered in jurisprudence and in the work of jurists as a generally recognized principle of international law.”

Furthermore, as a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Lebanon is bound by [Article 3](#), under which “no State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” Such risk

determination [requires](#) authorities to “take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.” Given the current human rights situation that has emerged from the civil war in Syria, there is a strong case against the deportation of the Syrian travelers who arrive in Lebanon.

In response to the influx of Syrian refugees to Lebanon since the beginning of the conflict in 2011, the government has [cooperated](#) with UNHCR by maintaining its open door policy and developing an unofficial cooperation framework with the agency. The government also continues to provide funding and other humanitarian assistance, including its structural support to UNHCR’s function of registering Syrian refugees. While the international community commends the government’s cooperation, there is still no concrete legal protection for refugees in Lebanon. [Article 32](#) of the Lebanese Law of Entry and Exit of 1962 permits the arrest and deportation of foreign nationals who enter the country illegally. According to a report by [ALEF-Act for Human Rights](#), the only official protection for Syrian refugees from arrest and subsequent deportation is Lebanon’s recognition of refugees’ entry papers stamped by the UNHCR and the Lebanese General Security. The travelers who were en route to Turkey had not obtained these papers and were thus subject to deportation under that law.

As of February 2016, UNHCR has [registered](#) 1,067,785 Syrian refugees in Lebanon. Notwithstanding the commendable efforts of the country to welcome and provide safety for Syrian refugees, rights groups believe the travelers attempting to pass through its borders should have protection from deportation. Lebanon’s further adherence to the vital principle of non-refoulement will undoubtedly bolster its formidable progress in supporting Syrian refugees.