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Amnesty International Report 2017/18 - The State of the World's Human Rights - Tunisia

The authorities continued to renew the state of emergency and used it to justify imposing arbitrary restrictions on freedom of movement. Torture and other ill-treatment of detainees continued in an environment of impunity. Police carried out arbitrary arrests and house raids without judicial warrants. Lesbian, gay, bisexual, transgender and intersex people were arrested and prosecuted for consensual same-sex sexual relations. Prosecutions of peaceful protesters increased in several regions.

Background

The authorities renewed the nationwide state of emergency five times during the year for periods of one to three months. A major cabinet reshuffle in September brought 13 new ministers into government.

Protests against unemployment, poor living conditions and marginalizing development policies continued, particularly in underdeveloped regions.

In May, Parliament adopted an amendment to the Passport Law introducing positive provisions requiring that people affected by a travel ban be informed of the decision promptly, and guaranteeing that they have the right to challenge the decision.¹

(<https://www.amnesty.org/en/countries/middle-east-and-north-africa/tunisia/report-tunisia/#endnote-1>)

In May, Tunisia's human rights record was examined for the third time under the UN UPR process. Recommendations to Tunisia were adopted by the UN Human Rights Council in September.

Local municipal elections scheduled to take place in December were postponed to May 2018 because of delays in making appointments to the National Independent Elections Commission. Parliament failed to elect its allotted quota of Constitutional Court members as required by law, thereby impeding the establishment of the Court.

Counter-terror and security

Emergency measures in place since November 2015 continued to give the Minister of the Interior broad additional powers, including the ability to conduct house raids without judicial warrants and impose restrictions on freedom of movement. The Ministry of the Interior continued to restrict freedom of movement through arbitrary and indefinite S17 orders that confined hundreds to their governorate of residence, justifying this as a measure to prevent Tunisians from travelling to join armed groups. Human rights lawyers reported instances of arbitrary arrest and short-term detention of people subjected to S17 border control measures. The Minister of the Interior told Parliament in April that 134 individuals had filed complaints with the Administrative Court challenging S17 orders. In April, the Minister announced that 537 individuals were facing trial for “terrorism-related” activities.

Family members of individuals suspected of joining or supporting armed groups faced harassment and intimidation by the police. The Malik family’s home in Tozeur was regularly raided by police because they suspected one member of the family of affiliation to armed groups abroad. In May, two members of the family, journalists Salam and Salwa Malik, were prosecuted and sentenced to six months’ imprisonment, later reduced to a fine, after they criticized the conduct of police during a particularly violent raid on their home.² (<https://www.amnesty.org/en/countries/middle-east-and-north-africa/tunisia/report-tunisia/#endnote-2>)

Police harassed individuals on account of their appearance, arresting and interrogating men with beards and men and women dressed in what officials deemed to be conservative religious clothing.

Torture and other ill-treatment

Human rights lawyers continued to report cases of torture and other ill-treatment of detainees, mostly during arrest and in pre-charge detention in regular criminal cases and national security cases. In March and April, the Parliamentary Committee on Rights, Liberties and External Relations invited Amnesty International to brief them after the Prime Minister said that the government would investigate claims made by Amnesty International regarding abuses by security forces, including torture.³ (<https://www.amnesty.org/en/countries/middle-east-and-north-africa/tunisia/report-tunisia/#endnote-3>) It subsequently held four further sessions on torture: one session each with Amnesty International, two Tunisian NGOs, and the Minister of the Interior.

The work of Tunisia’s National Preventive Mechanism (NPM) – the National Body for the Prevention of Torture, which was established in 2013 as part of Tunisia’s obligations as a party to the Optional Protocol to the UN Convention against Torture – continued to be hampered by a lack of co-operation from the Ministry of the Interior and inadequate financial support from the government. In April, police at Tunis Carthage International Airport denied members of the NPM access to monitor the handover of a “terrorism” suspect deported from Germany.

Rights of lesbian, gay, bisexual, transgender and intersex people

LGBTI people continued to be at risk of arrest under Article 230 of the Penal Code, which criminalizes consensual same-sex sexual relations. Police arrested at least 44 individuals who were later charged and prosecuted under Article 230. In June, a judge in Sousse sentenced a 16-year-old boy in his absence to four months' imprisonment under Article 230.

LGBTI people also faced violence, exploitation and sexual and other abuse by police, including when they tried to seek a remedy for violations of their rights. In July, police officers in Sousse arbitrarily arrested and beat two men because of their perceived sexual orientation. In August, police officers in Sidi Bousaid, near the capital, Tunis, assaulted a transgender resident of Tunis when he went to the police station to file a complaint for harassment on the grounds of his gender.

The police continued to subject men accused of same-sex sexual relations to forced anal examinations, in violation of the prohibition of torture. In September, Tunisia accepted a recommendation under the UN UPR process to end the use of anal examinations.

Freedoms of expression, association and assembly

On 10 May, President Essebsi announced the deployment of the army to protect key economic installations from disruption by social and labour protests. In the following days, police forces used excessive force including tear gas against peaceful protesters in the southern city of Tataouine. A young protester was killed when a National Guard vehicle ran him over in what the Ministry of Health said was an accident. On 18 September, a group of officers beat journalist Hamdi Souissi with batons while he was covering a sit-in in Sfax. Throughout the year, courts increasingly prosecuted peaceful protesters. In Gafsa alone, courts tried hundreds of individuals, at least 80 of them in their absence, on charges of “disrupting the freedom of work” following social protests related to unemployment.

Courts continued to use arbitrary Penal Code provisions to prosecute people for conduct protected by the right to freedom of expression. In May, the Court of First Instance in Sousse sentenced two young men to two months' imprisonment for “public indecency” for designing and wearing a T-shirt with a slogan suggesting that police officers are morally corrupt. In July, rap singer Ahmed Ben Ahmed was assaulted by a group of police officers who were supposed to be providing security for his concert, because they were offended that his songs were insulting to the police. A police union later filed a complaint before the Court of First Instance in Mahdia against Ahmed Ben Ahmed for the Penal Code crime of “insulting state officials”.

In June, the Court of First Instance in Bizert convicted at least five people of “public indecency” for publicly smoking during the day during Ramadan.⁴
 (https://www.amnesty.org/en/countries/middle-east-and-north-africa/tunisia/report-tunisia/#endnote-4)

On 8 September, the authorities arbitrarily expelled Prince Hicham Al Alaoui, a cousin and vocal critic of Morocco’s King Mohamed VI, from Tunisia as he arrived to attend a conference on democratic transitions.

Women’s rights

In July, Parliament adopted the Law on Eliminating Violence against Women which brought several guarantees for the protection of women and girls from gender-based violence. It repealed Penal Code Article 227 bis that had allowed men accused of raping a woman or girl under the age of 20 to escape prosecution by marrying her.

In August, President Essebsi called on Parliament to reform the discriminatory inheritance law and created a commission mandated to propose legal reforms to ensure gender equality. The commission had not delivered its report by the end of the year. In September, the Ministry of Justice repealed the 1973 directive prohibiting marriage between a Tunisian woman and a non-Muslim man.

In a cabinet reshuffle in September the number of women ministers was decreased from four to three out of 28 ministerial posts, leaving women severely under-represented in government.

Transitional justice

The Truth and Dignity Commission (IVD), created in 2013 to address human rights violations committed between July 1955 and December 2013, held 11 public sessions during the year. During these sessions, victims and perpetrators testified on a range of violations including election fraud, enforced disappearance and torture. There was no progress on the adoption of a memorandum of understanding between the IVD and the Ministry of Justice to allow for the referral of cases to specialized judicial chambers. Government institutions including the Ministries of the Interior, Defence, and Justice continued to fail to provide the IVD with the information it requested for its investigations. The Military Justice system refused to hand over to the IVD the case files of the trials of those accused of killing protesters during the 2011 uprising and of victims of police repression during Siliana protests in 2012.

In September, Parliament passed a controversial Administrative Reconciliation Law, first proposed by President Essebsi in 2015. The law had been long opposed by opposition political parties, civil society groups and the campaign group Manich Msameh (“I will not forgive”) because it offers immunity to public servants involved in corruption and misappropriation of public funds if they were obeying orders and had derived no

personal benefit. A group of MPs filed a challenge before the Provisional Authority for the Examination of the Constitutionality of Draft Laws, arguing that the law was unconstitutional; the Provisional Authority's inability to reach a majority decision resulted in the law being enacted.

Right to water

The water shortage in Tunisia became more acute with water supplies to dams falling 42% below the annual average. In August, the Minister of Agriculture, Water Resources and Fisheries stated that the government did not have a national strategy for water distribution, thereby making it impossible to ensure equitable access.

Water shortages in recent years disproportionately affected the distribution of water and resulted in repeated water cuts in marginalized regions leading to local protests throughout 2017. In September, residents of the small town of Deguech in Tozeur region organized a protest in front of the local authority's office demanding a solution to the regular cuts in running water that the region had suffered throughout the summer. In July, some neighbourhoods of Redeyef in the region of Gafsa suffered more than one month without running water, and towns including Moulares had running water for only a few hours per day. In March, the NGO Tunisian Water Observatory announced that it had registered 615 water cuts and 250 protests related to access to water.

Death penalty

Courts handed down at least 25 death sentences following trials related to national security. Defence lawyers appealed against the sentences. No executions have been carried out since 1991.

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