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Tunisia 2020

Bloggers and social media users were investigated or prosecuted for the peaceful online expression of their views, including for criticizing the government’s approach to dealing with COVID-19. Protests were staged against insufficient government aid and protection of health workers during the pandemic. Refugees and asylum-seekers were detained for irregular entry into Tunisia. Arbitrary detention of undocumented migrants in reception centres continued. Lesbian, gay, bisexual, transgender and intersex (LGBTI) people were arrested and detained for consensual same-sex sexual relations. The government published in the official gazette the final report of the Truth and Dignity Commission, and trials continued before specialized criminal chambers of people accused of human rights violations committed between 1956 and 2013.

Background

After legislative and presidential elections in October 2019, a new coalition government headed by Elyes Fakhfakh took office on 27 February. Following allegations of corruption, Elyes Fakhfakh resigned on 15 July. President Kaïs Saïed tasked former Minister of Interior Hichem Mechichi to form a new government, which took office on 2 September.

The country was put under a general lockdown from 22 March to 4 May to control the spread of COVID-19. The government allocated TND450 million (US\$155 million) in aid for poor families and people who had lost their income due to the pandemic, and adopted other measures to support businesses and low-income workers.

Protests continued over the lack of employment opportunities, poor living conditions and water shortages, particularly in marginalized and underdeveloped regions. People financially impacted by the COVID-19 crisis protested in several governorates, accusing local authorities of corruption and demanding a more transparent distribution of government aid.

The Constitutional Court, which was due to be set up in 2015, was still not established as Parliament once again failed to elect the first third of the Court’s members.

The authorities renewed four times the nationwide state of emergency in place since November 2015.

Freedom of expression

At least nine bloggers and social media users were investigated or faced criminal prosecutions for publishing online posts critical of local authorities, the police or other state officials under restrictive Penal Code and Telecommunications Code provisions that criminalize “insult”. In five of these cases the people were detained for periods ranging between a few hours and two weeks. Police unions openly threatened to press charges against people for legitimate criticism of police conduct.¹

In April, police arrested two bloggers, Anis Mabrouki and Hajer Awadi, after they criticized on Facebook local authorities’ distribution of aid during lockdown. On 13 April, the prosecution of the Court of First Instance of El-Kef city charged Hajer Awadi with “insulting a civil servant” under Article 125 of the Penal Code and “causing noises and disturbances to the public” under Article 316, in reference to an altercation that took place between her and a police officer who tried to stop her from filming live on the street.² She was detained until 20 April when the court sentenced her to a suspended 75-day prison term. On 15 April, Anis Mabrouki was charged with “causing noises and disturbances to the public” and “accusing public officials of crimes related to their jobs without furnishing proof of guilt.” He was detained until the Court of First Instance in Manouba city acquitted him on 30 April.

In July, the Court of First Instance of Tunis sentenced blogger Emna Chargui to six months in prison after convicting her on charges relating to a satirical social media post she shared that was deemed “offensive to Islam”. The charges were “inciting hatred between religions through hostile means or violence” and “offending authorized religions” under Articles 52 and 53 of the Press Code, respectively.³ On 8 October 2020, Myriam Bribri, an anti-impunity

activist, appeared before the Court of First Instance in Sfax after being charged the same day under Article 86 of the Telecommunications Code following a complaint from the Secretary General of a security forces union in Sfax, accusing her of “insulting the police”.

Freedom of assembly

In June, police used unnecessary and excessive force when dispersing a peaceful three-week protest known as the El-Kamour sit-in in the southern governorate of Tataouine. The sit-in blocked all roads to the El-Kamour oil pump station which stopped all work at the station. Overnight on 20/21 June, police fired tear gas recklessly in densely populated residential areas with some canisters landing inside homes and near to a hospital. Patients, health workers, hospital staff and soldiers guarding the hospital were exposed to tear gas which caused them breathing difficulties. At least 11 protesters who were arbitrarily arrested during the dispersal said they were insulted, kicked, dragged along the ground, beaten with batons or firearm butts, even when they did not resist. Injured protesters were left in police stations for hours before being taken to hospital to receive urgent medical care.⁴

Women’s rights

On 15 March, the Supreme Judicial Council postponed all civil case hearings, including family law cases, on the grounds that all but “emergency or necessary” court proceedings were suspended. This hindered women’s access to justice because “emergency” cases as specified by the Ministry of Justice and the Supreme Judicial Council did not take into account the situation of women as they excluded matters relating to domestic abuse, custody of children, alimony and protective measures dealt with by a family judge.

According to the UN Entity for Gender Equality and the Empowerment of Women, helplines and shelters for survivors of violence reported a sharp increase in calls for help and requests for emergency shelter during the pandemic. Between 23 March and 31 May, 9,800 calls were recorded on the Ministry of Family’s toll-free numbers, nine times more than usual. Of these, 2,700 concerned cases involving violence. According to women’s rights organizations, police failed in many cases to provide the necessary response to women at risk of domestic violence during lockdown.

Right to truth, justice and reparation

On 24 June, and after a delay of a year, the government finally published in the official gazette the report of the Truth and Dignity Commission, the entity that looked into human rights violations perpetrated between 1956 and 2013. The report exposed the multi-layered and intricate system of oppression and corruption prevalent in Tunisia for 60 years and made recommendations for reform.

Trials of people accused of human rights violations perpetrated between 1956 and 2013, referred by the Commission, continued before specialized criminal chambers, albeit at a slow pace with frequent adjournments.

Victims, and relatives of victims who had died, continued to await implementation of the reparation programme set up by the Truth and Dignity Commission. The government established a reparations fund in June that was activated on 24 December. The reparations included financial compensation, rehabilitation, professional integration or education, the restitution of rights and official apologies.

The first hearing in the trial of customs officials accused of killing Aymen Othmani in 2018 was held on 21 January at the Tunis II Court of First Instance. The two officials charged with manslaughter and three others charged with failure to provide assistance were not present at the hearing. Aymen Othmani died in Sidi Hassine neighbourhood of Tunis, the capital, after customs officials fired live bullets during a raid on a contraband warehouse. According to the forensic report, Aymen Othmani was shot in the back and upper leg.

Right to health

Between March and September, health workers in hospitals in Kasserine, Sfax, Tunis and other governorates staged protests against the authorities’ failure to protect them against COVID-19 at work. The Health Workers Union protested against the lack of sufficient personal protective equipment (PPE) in health facilities and criticized the government for failing to address their needs. In response to this, in September, the union and the Ministry of Health reached an agreement that included a commitment from the government to provide PPE for health workers, consider COVID-19 an occupational disease and give health workers priority in COVID-19 testing procedures.

Rights of refugees, asylum-seekers and migrants

Authorities continued to arrest and detain, without legal grounds, undocumented migrants and asylum-seekers. At least 50 migrants from sub-Saharan countries were detained arbitrarily between March and September in the Ouardia Reception and Orientation Centre in Tunis. In June, a group of 22 migrants detained in the Centre filed an urgent complaint before the Tunis Administrative Court challenging their arbitrary detention. On 10 July, the Court issued an order to suspend the detention of the migrants. The Ministry of Interior gradually released the detainees between July and September. The Ouardia Centre continued to receive migrants and asylum-seekers, and remained

overcrowded with at least 50 detainees sharing five rooms, two bathrooms and a communal eating area. These conditions made it impossible to prevent the spread of COVID-19, posing a grave risk to the health of all those who worked and stayed there.⁵

Rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people

LGBTI people continued to be arrested and prosecuted under laws that criminalize consensual same-sex sexual relations, “indecent” and acts deemed “offensive to public morals”. According to DAMJ, the Tunisian Association for Justice and Equality, between January and October, courts convicted at least 15 men and one woman under Article 230 of the Penal Code, which criminalizes “sodomy”.

Transgender people faced police harassment and continued to live with the risk of arrest under vague “public decency” articles of the Penal Code, including Article 226bis.

On 5 August, a police officer verbally abused Rania Amdouni, a feminist LGBTI rights activist and President of the association Chouf Minorities, in the centre of downtown Tunis. This led to a verbal altercation between the police officer and Rania Amdouni which attracted attention from passers-by who then attacked her and three of her friends. The police stood by, failing to intervene to stop the attack and inciting the violence by using homophobic and transphobic insults. The four pressed charges and an investigation was opened. Although the identity of the police officers involved was known, they were not suspended or arrested following the investigation.

Death penalty

Death sentences were handed down; there were no executions.

In September, President Saïed said he was in favour of resuming executions during a National Security Council meeting.

1. [Tunisia: Freedom of expression at risk as prosecutions rise \(Press release, 9 November\)](#)
2. [Tunisia: End prosecution of bloggers for criticizing government's response to COVID-19 \(Press Release, 21 April\)](#)
3. [Tunisia: Blogger Emna Chargui sentenced to six months in prison for social media post \(Press release, 15 July\)](#)
4. [Tunisia: Authorities must investigate excessive use of force in Tataouine \(MDE 30/2747/2020\)](#)
5. [Tunisia: Release immigration detainees amid COVID-19 pandemic \(Press release, 29 April\)](#)

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