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TUNISIA 2022

President Kaïs Saïed continued efforts to concentrate power in his hands following his power grab in 2021. He also issued decree-laws to dismantle key institutional safeguards for human rights, notably attacking judicial independence and the right to freedom of expression. Authorities used unlawful force to disperse protesters, and targeted high-profile critics and perceived enemies of the president with prosecutions and arbitrary detentions. The right to freedom of association was threatened. A decree-law to amend the electoral law undid legislative measures to promote women's participation in parliament. Tunisia continued to penalize consensual same-sex relations between adults.

Background

On 18 February, President Saïed renewed the state of emergency until the end of the year, and on 30 December, renewed it again until 30 January 2023. He also

granted himself new powers by overseeing the adoption of a new constitution on 17 August that concentrated authority in the executive branch.

On 30 March, President Saïed dissolved the then-suspended parliament after around 120 of the 217 members held an online plenary session as a gesture of defiance against him. Authorities imposed arbitrary travel bans on at least three people, including members of the recently dissolved parliament from parties that had publicly opposed President Saïed.

The economic crisis worsened, with unemployment reaching 15.3% and inflation 10.1%. There were shortages of staple foods and officials said they planned to cut long-standing energy and food subsidies. In October, the authorities reached a staff-level agreement with the International Monetary Fund (IMF) to try to secure USD 1.9 billion in financial support. The IMF executive board postponed discussion of the loan scheduled for 19 December without immediately setting a new date.

Experts assessed the country to be extremely vulnerable to climate change and food insecurity given its limited water resources and the expectation that drought and high temperatures will become more frequent.

Right to a fair trial

Independence of the judiciary

President Saïed passed two new decree-laws that, with provisions in the new constitution, granted him powers to intervene in judicial careers, dismiss judges summarily and approve judicial appointments, thereby undermining judicial independence.¹

On 1 June, President Saïed summarily dismissed 57 judges who he accused of misconduct, including obstructing investigations, corruption and adultery. The Administrative Tribunal overturned 49 of the dismissals, but the Ministry of Justice refused to reinstate the judges.²

As in previous years, the authorities failed to create a long-overdue constitutional court. While the new constitution includes provisions to create such a court, they grant the president final word on appointing its members.

Military courts continued to prosecute civilians, but less often than in 2021. Trials before military courts opened against at least two men in connection with their public remarks, one about the police, the other about President Saïed and the army.

Freedom of expression

President Saïed undermined freedom of expression by issuing two decree-laws mandating prison terms for maliciously spreading “fake news” or defamatory statements. Decree-Law 2022-14, which took effect on 21 March, mandates prison terms from 10 years to life for people “engaged in economic activity” who wilfully spread “false or incorrect news or information” about supplies of goods.³ Decree-Law 2022-54, a new cybercrime law issued on 13 September, mandates prison terms of up to 10 years for wilful misuse of telecommunications networks to produce, send or spread “fake news” or other false or defamatory content, and allows authorities to dissolve entities found to have violated it. It also threatens the right to privacy by granting authorities sweeping powers to monitor how people use the internet, intercept private communications and share personal data with foreign governments.

Judicial authorities investigated or prosecuted at least 32 high-profile critics and perceived opponents of the president for exercising their right to freedom of expression. Among them were members of the now-dissolved parliament as well as lawyers and journalists.

In May, a military court convicted lawyer Abderrazak Kilani of insulting a public official and sentenced him to a suspended one-month prison term. A military prosecutor had charged him in January after he had a verbal confrontation with police officers who barred him from visiting a client. The military appeals court later overturned the conviction, but a military prosecutor lodged an appeal.

In early April, judicial authorities opened investigations into at least 20 MPs who joined an online plenary session held to protest against President Saïed’s decision to dissolve parliament, summoning at least 10 for questioning.⁴ At the end of the year, the investigations had not progressed.

On 12 May, judicial authorities opened a criminal investigation against Ghazi Chaouachi, head of the opposition Democratic Current party, for defaming a public official and spreading false information in relation to a radio interview in which he criticized the authorities and said that Prime Minister Najla Bouden had resigned but President Saïed had refused to accept the resignation.

On 11 June, police arrested journalist Salah Attia in connection with a TV interview in which he said that the army had refused a request from President Saïed to close the office of Tunisia’s main trade union and place political leaders under house arrest. On 16 August, a military court jailed Salah Attia for three months beginning from the time of his arrest for defaming the president and insulting the army. He was released on 16 September, having served his sentence.⁵

Prosecutors opened investigations under the Decree-Law 2022-54 against at least five people, including Nizar Bahloul, editor of Business News, for an article criticizing Prime Minister Najla Bouden, and lawyer Mehdi Zagrouba for a Facebook post criticizing justice minister Leila Jeffal. The justice minister initiated an investigation under the decree-law against political leader Ghazi Chaouachi for remarks made to media.

Freedom of association

In February, a draft law on associations was leaked that would grant authorities powers to regulate the establishment, activities and overseas funding of civil society groups, and dissolve them either for inactivity or, under ambiguous provisions, at will. On 24 February, President Saïed said that he intended to ban all foreign funding for civil society groups.⁶ In a written report and spoken remarks in November for Tunisia's fourth UPR, authorities cited plans to amend Tunisia's law on associations without giving clear details.

Freedom of assembly and excessive use of force

Demonstrations were held in the capital, Tunis, both for and against President Saïed during the year. Authorities allowed most to proceed, but used unlawful force to disperse at least three gatherings critical of the president.

On 14 January, police in Tunis violently dispersed anti-president protesters who had assembled in defiance of a two-week ban on public gatherings imposed two days earlier on grounds of combating Covid-19. Police beat protesters with batons, used water cannons against them, and arrested at least 31 people. A judge acquitted 14 of them but fined 15 for breaking health regulations.

On 4 June, police used metal barricades and chemical irritant spray to prevent anti-president protesters from gathering outside the electoral commission office.

On 22 July, police violently dispersed anti-president protesters in Tunis after several protesters tried to remove crowd-control barriers. Police used chemical irritant spray, beat some protesters with batons, and arrested at least 11. Four of those arrested told Amnesty International that police beat them after taking them into custody.

Impunity

Authorities largely failed to hold to account members of security forces credibly accused of human rights violations.

Courts did not issue verdicts or other rulings in any of the 10 trials, which opened in 2018 after the Truth and Dignity Commission referred them to specialized tribunals, of security force members accused of abuses during Tunisia's December 2010 to January 2011 revolution.²

On 13 January, the trial opened of 14 policemen accused of causing the death of Omar Laabidi, a young man who witnesses said drowned after police pushed him into a canal despite his pleas that he could not swim. On 3 November, the court sentenced 12 of them to two years in prison for manslaughter, and acquitted two.

Authorities did not effectively investigate complaints filed by the families of Nouredine Bhiri, a former justice minister, and Fathi Beldi, a security official, for their arbitrary detention that began on 31 December 2021. Authorities held both men for 67 days without access to lawyers before releasing them without charge.

Women's and girls' rights

Decree-Law 2022-55, issued on 15 September, amended Tunisia's electoral law to remove provisions intended partly to promote women's representation in parliament. Previously, the law required that lists of candidates for parliamentary elections comprise an equal number of men and women. Under the amended law, Tunisians will elect members of parliament individually, with no provisions to guarantee gender parity among candidates.

Tunisian law continued to discriminate against women in matters of inheritance. Under the Personal Status Law, brothers are entitled to inherit twice what their sisters inherit in cases where wealth passes to both male and female heirs.

Although Tunisia adopted a ground-breaking law on violence against women in 2017, known as Law 58, authorities continued to be slow in providing police adequate resources and training to investigate reports of abuse and provide protection to women at risk.

Women continued to face domestic abuse and other forms of gender-based violence, according to Tunisian women's rights groups, who reported a lack of up-to-date official statistics on reported killings and other violence against women.

LGBTI people's rights

Tunisia continued to penalize consensual sexual activity between adults under Article 230 of the Penal Code, which mandates three years in prison for same-sex

sexual relations. According to Damj, a Tunisian rights group that defends LGBTI rights, courts tried people under Article 230 in at least 47 separate cases.

1. *Tunisia: A Year of Human Rights Regression Since President's Power-Grab*, 21 July
2. "Tunisia: Reinstate revoked judges and prosecutors", 16 September
3. "Tunisia: New anti-speculation law threatens freedom of expression", 25 March
4. "Tunisia: Drop politically motivated investigation against opposition MPs", 8 April
5. "Tunisia: Drop all charges against journalist Salah Attia", 15 August
6. "Tunisia: Looming curbs on civil society must be stopped", 11 March
7. "Tunisia: Struggle for justice and reparation continues for victims 10 years after the revolution", 14 January