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World Report 2012 - Tunisia

Events of 2011

Tunisia experienced historic changes in 2011. Street protests triggered by the self-immolation of Mohamed Bouazizi, a street vendor in Sidi Bouzid, on December 17, 2010, spread from city to city. The protests persisted, despite police using live ammunition against mostly peaceful demonstrators until President Zine el-Abidine Ben Ali fled the country on January 14. The protests were fuelled by long-simmering grievances against a government that had relentlessly stifled dissent and meaningful pluralism, and whose repressive laws suffocated Tunisians' freedom of expression, association, and assembly.

Human rights advanced during the year, most significantly with the adoption of the pluralist electoral law for choosing the Constituent Assembly; ratifying the Rome Statute, and thereby becoming a member of the International Criminal Court; the lifting of most of Tunisia's reservations on the Convention on the Elimination of All Forms of Discrimination against Women; and adoption of a new press code and decree laws on political parties and associations. Tunisians were allowed to demonstrate, express themselves, and form parties and associations to an extent unmatched since independence in 1956.

However, the consolidation of human rights protection in the post-Ben Ali era was hampered by the police resorting to excessive force against continuing protests, delays in adopting decisive reforms toward a more independent judiciary, and challenges to freedom of expression that the interim government did not properly address.

Key Political Developments

Two interim governments quickly succeeded one another after Ben Ali's ouster in January. After large-scale protests in Tunis, the capital, a third interim government formed on March 7 that pledged to organize the free and transparent election of a Constituent Assembly tasked with writing a new constitution. Elections for the assembly occurred on October 23.

More than 106 parties were legalized in the wake of the uprising, including the Islamist an-Nahdha party and the Tunisian Communist Workers Party, both of which had been illegal and the targets of repression during Ben Ali's presidency. Similarly, many

associations considered illegal under Ben Ali, such as the International Association in Support of Political Prisoners and the Tunisian Association to Combat Torture, received their official authorization soon after Ben Ali's departure.

The interim government dissolved the Democratic Constitutional Rally, Ben Ali's ruling party, and announced the dismantling of the so-called political police, whose ubiquitous plainclothes agents had monitored and harassed dissident activists.

On February 19 the interim government adopted a general amnesty law for political prisoners, which allowed for the release of the more than 500 remaining prisoners being held for political offenses. Most of these had been convicted or were facing charges under the counterterrorism law.

The interim government also ratified the International Convention for the Protection of All Persons from Enforced Disappearance and joined the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes monitoring mechanisms to fight torture, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights, which requires the state to abolish the death penalty.

Accountability for Past Crimes and Reform of the Judiciary

The interim government took some positive steps in order to investigate crimes committed during the uprising and compensate those who were injured or who lost family members. The first interim government established a national commission to investigate abuses committed during the protests, which made public its preliminary conclusions on the abuses committed between December 17, 2010, and the end of January.

The commission identified 240 civilians killed during the uprising in towns and cities around the country, most of them by police gunfire. In addition, it found that 1,464 were injured in the month-long protests, and scores of inmates perished in prison mutinies and fires between January 13 and 16. On October 24 the government promulgated a decree-law on the reparation for the victims of the uprising that provides for a monthly allocation and free access to public medical care and free public transport for them and/or their families.

On September 14 the office of the military prosecutor announced the filing of charges against Ben Ali, the two ministers of interior who held office at the time of the uprising, and 40 other high officers within the state security apparatus for committing intentional homicide during the uprising. At this writing no one had been held accountable for most killings committed by security force members, although several trials of policemen were underway in civilian and military courts.

In the first of several trials initiated, the former president, his wife Leila Trabelsi, members of their families, and close allies of the couple were convicted of embezzlement and sentenced in absentia to 35 years in prison.

While the interim authorities improved the military justice system, most importantly by adding the possibility of appellate review, they have been slow to put in place long-needed reforms of the judiciary, which played a repressive role under Ben Ali.

Freedom of Expression, Press, and Association

The arsenal of repression under the rule of Ben Ali included a wide range of laws crafted and then abusively interpreted by courts to suppress the expression of dissent. The High Commission for the Protection of the Objectives of the Revolution Political Reform and Democratic Transition approved new laws that were then promulgated by the acting president.

The decree-law on associations, promulgated on September 24, eliminates the crime of "membership in" or "providing services to" an unrecognized organization, a provision that had been used to imprison thousands of opposition party activists. The decree-law on political parties eliminated an article stating that a party may not base its principles,

activities, and programs on a religion, language, race, sex, or region, a provision used in the past to restrict the basis upon which Tunisians could found parties.

Similarly, the new press code is significantly more liberal as it eliminates criminalization of defamation against state institutions, and of "offending" the president of the republic. However, it maintains defamation as a criminal offense, although it eliminates prison terms as a punishment for it while preserving fines. It also maintains the criminal offense of defaming religions "whose practice is permitted" as well as the offense of "distributing false information," a concept that the Ben Ali government used to prosecute many dissidents and human rights activists.

On occasion the interim government availed itself of these repressive provisions. For example, on May 29 authorities detained high-ranking police officer Samir Feriani on charges under the penal code of "harming the external security of the state" and distributing information "likely to harm public order" because he wrote a letter to the interior minister that accused current high-level ministry officials of responsibility for killing protesters during the Tunisian revolution. He also accused ministry officials of destroying classified documents showing collaboration between the Ben Ali administration and Israel's secret service.

The Tunis military court provisionally released Feriani on September 22, and acquitted him one week later of the charge of harming the external security of the state. However, the charge of distributing false information was still pending at this writing.

The interim government failed at times to respond forcefully to assaults on free speech. On October 9, hundreds of protesters rallied against the decision by the private television station Nessma to broadcast the animated feature film *Persepolis*, which tells the story of a girl living in post-revolution Iran. One scene was perceived by some as violating the Islamic precept of prohibiting images personifying God. Two days later a prosecutor in Tunis announced that it would open an investigation in response to a complaint filed against the TV owners on the basis of press and penal code articles criminalizing defamation of religion and assaults on public decency.

On June 29 several dozen protesters forced their way into the screening in Tunis of a film on atheism in Tunisia. Although a police station is located close to the cinema and the organizers of the screening had already contacted the police to ask for protection, the security forces remained idle in the face of the attack.

Women's Rights

Tunisia, long viewed as the most progressive Arab country with respect to women's rights, marked additional advances in this field. The adoption of a gender parity requirement in the Constituent Assembly electoral law required political parties to alternate between males and females on each of their lists of candidates. However, few parties put women in the first place on many of the lists, with the result that only 49 women were elected to the Constituent Assembly out of 217 seats.

On August 16 the Council of Ministers adopted a draft decree to lift Tunisia's reservations to the Convention on the Elimination of All Forms of Discrimination against Women. However, the government maintained "a general declaration" suggesting that it might not implement reforms that conflict with Islam.

The Tunisian personal status code outlaws polygamy and repudiation, the practice by which a man can divorce his wife merely by declaring his decision to do so. The code gives men and women equal rights to divorce and requires they go through the courts to obtain a divorce. The code establishes 18 as the minimum age for marriage for both sexes. A 1993 amendment to the law granted women the right to pass their name and nationality to her children. However discrimination still exists in matters of inheritance and child custody.

Abuses against Protesters

Following Bouazizi's self-immolation, thousands of Tunisians took to the streets to protest against the government. The protesters were mostly peaceful, although some threw

rocks and in some cases Molotov cocktails. They braved the deadly force of the security forces, who killed more than 200 by firing into crowds, with high numbers of deaths sustained in Tunis and the inland cities of Kasserine, Thala, and Regueb.

Police violence against protesters continued after the ouster of Ben Ali, especially on January 29, February 27 and 28, and again at the beginning of May, when the police assaulted several demonstrators and bystanders, arbitrarily arrested them, and subjected them to harsh treatment that may amount to torture. This came as a disturbing reminder that, while Tunisians enjoy the right to demonstrate to a far greater degree than in the past, the security apparatus continues to rely on its violent methods of the past and has yet to implement crowd control techniques aimed at minimizing the use of force.

Refugees and Migrants

Since late February 2011, in the wake of the Libyan uprising, Tunisia has been confronted by a humanitarian crisis due to the influx of refugees and migrants crossing the borders from Libya. Tunisia hosted at least 195,241 third-country nationals as of June 30. Overall, the military authorities – aided by Tunisian civil society, international organizations, and volunteers – made significant efforts to respond to the humanitarian needs. However, in May several violent incidents took place in the refugee camps near Ras Jedir that left at least six migrants dead and parts of the camp destroyed by fire. The Tunisian military, which provided security at the camp, failed to prevent the violence and may have taken part in some attacks on camp residents.

Key International Actors

France has continued to be the closest European partner of Tunisia, although the relations between the two countries suffered during the uprising, when the French authorities showed reluctance to denounce the crackdown on the demonstrators. In January the European Union decided to freeze the assets of 46 allies and relatives of Ben Ali and his wife.

The interim authorities welcomed the visits of the United Nations special rapporteurs on torture and on counterterrorism and granted them access to detention facilities, which the International Committee of the Red Cross continued to visit on a regular basis. The interim authorities also legalized branch offices of various international human rights organizations, including Human Rights Watch, and allowed the UN Office of the High Commissioner for Human Rights to open an office in the country.

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