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Tunisia: Prison Visit Ends 20-Year Ban

(Tunis) - Tunisia's interim government should ease overcrowding and reverse a policy imposed more than 15 years ago to deny inmates facing the death penalty any contact with their families, Human Rights Watch said today. Human Rights Watch made the requests to the new justice minister, Lazhar Karoui Chebbi, after visiting two Tunisian prisons. The visits ended a 20-year ban on access to Tunisian prisons by human rights organizations.

On February 2, 2011, the two-member Human Rights Watch delegation visited Bourj er-Roumi, a large prison complex near the city of Bizerte where there was an inmate mutiny as the previous government fell. The delegation visited Mornaguia Prison, Tunisia's biggest facility, on February 1. The researchers interviewed prisoners in private, including two facing the death penalty who had been deprived of all contact with their family, one for three years and the other for 10.

The events that occurred at Bourj er-Roumi will be the subject of a separate communiqué.

"By granting us access, Tunisia's transitional government has taken a step toward transparency in its prison operations that we hope will continue and extend to local organizations," said Eric Goldstein, deputy Middle East and North Africa director at Human Rights Watch. "The transitional government also needs to break with the inhumane treatment of prisoners practiced by the ousted government."

As an immediate step, Human Rights Watch said, the transitional government should allow Tunisia's 140 death-row prisoners to receive family visits like other prisoners. The transitional government should also allow prisoners confined to severely overcrowded cells more time outside them each day, Human Rights Watch said.

A Justice Ministry official told Human Rights Watch that prior to President Zine al-Abidine Ben Ali's ouster, Tunisia, a country of 10.5 million inhabitants, had 31,000 prisoners. It was the highest per capita prison population of any country in the Middle East and North Africa except Israel, according to the International Centre for Prison Studies.

One of the first promises made on behalf of the transitional government by Prime Minister Mohamed Ghannouchi was an imminent amnesty for all political prisoners. However, a draft law approved by the cabinet has yet to become law. In the meantime,

the judiciary has granted conditional release or pre-trial provisional release to about half of Tunisia's more than 500 political prisoners.

Access to Tunisia's Prisons

The Tunisian Human Rights League was the last independent human rights organization to visit a Tunisian prison, in 1991. But the government ended the group's visits shortly after it began.

Ben Ali's government [promised](#) on April 19, 2005, to give Human Rights Watch prompt access to prisons. Five-and-a-half years later, negotiations on the terms of the visits [had gone nowhere](#). The government set what Human Rights Watch considered unreasonable conditions for the visits and failed to respond to counter-proposals.

Tunisia has allowed regular visits since 2005 by the International Committee of the Red Cross (ICRC), a humanitarian organization that - in contrast to organizations like Human Rights Watch - does not make its findings public but instead presents reports to the ministries in charge. The ICRC visits Tunisia's prisons, which are administered by the Justice Ministry, as well as the official pre-arraignment detention centers (*garde À vue*) administered by the Interior Ministry.

Prison Visits for Death Row Inmates

A Justice Ministry official told Human Rights Watch that Tunisia has about 140 prisoners facing the death penalty, half of them in Mornaguia Prison, 14 kilometers west of Tunis. The previous government retained the death penalty in law, but has practiced a de facto moratorium on executions since 1994, meaning some inmates have been on death row for more than 15 years.

The prison administration decided in the mid-1990s to deny death row inmates any contact with family members. All other prisoners have been allowed brief weekly visits from family members and may also correspond with them. This policy also deprives death row prisoners of the home-cooked meals and fruit that families are allowed to deliver to other prisoners regularly. Prison staff privately expressed frustration about this policy to Human Rights Watch, saying it complicates their job of managing a uniquely challenging group of inmates.

This policy apparently has no basis in any publicly issued directive, Human Rights Watch said. It violates Tunisia's Law 2001-52, of May 14, 2001, Governing Prisons, which gives all prisoners without distinction the right to visits by their relatives "according to the laws in effect" and to exchange correspondence with them "via the administration" (article 18 (2) and (3)).

Tunisia's government should move to abolish the death penalty as a punishment that is inherently cruel and inhuman. Such a measure, if passed, should also immediately result in the commutation of the sentences of those condemned to die.

"Tunisia should abolish the death penalty first and foremost, but in any event, it should immediately give prisoners on death row the same rights to family visits and correspondence as other prisoners" Goldstein said.

Prison Conditions

The Human Rights Watch visits to Mornaguia and Bourj er-Roumi prisons each lasted seven hours, enough time for only initial impressions, Human Rights Watch said. To make a thorough evaluation and accurately prioritize the needs and problems of the prison population would require repeat visits to men's, women's, and juvenile detention centers by a delegation with medical expertise, and further interviews with staff, prisoners, their families, and former prisoners.

In Mornaguia, however, the delegation observed severe overcrowding in the larger cells and inadequate opportunities for physical activity.

Most of the prisoners are held in poorly ventilated group cells of about 50 square meters, each with about 40 prisoners. The high-ceilinged rooms have rows of barely separated double-and triple-decker beds against the side walls and a passageway less than two meters wide down the middle, leading to toilets set apart from the main room by a wall but no door. There is no room for tables or chairs.

Confined in rooms with far less than 1.5 square meters per person, prisoners have no space for exercise. The majority neither work nor receive vocational training and are only allowed to leave their cells twice a day for periods of 45 to 60 minutes and for weekly showers and weekly family visits. They eat in the cells, sitting on their beds and storing food on the floor or on a ledge above the beds. The outdoor courtyard Human Rights Watch visited where prisoners go when they are allowed out of their cells was cramped, damp, draped with prisoner laundry, and too small to permit exercise.

The cramped conditions appear to constitute inhumane and degrading treatment, Human Rights Watch said.

Interviews with former prisoners and some in these prisons who have served time in other prisons in Tunisia confirm that these crowded conditions in large group cells are the norm for most inmates in prisons around the country. They also said that the crowding and overall conditions were harsher in the 1990s than today.

International human rights instruments provide no single norm for the amount of living space that prisoners should have. One standard, recommended by the European Committee for the Prevention of Torture, is a minimum space per prisoner of four square meters. In any event, for prisoners confined to cramped quarters, having more time outside the cell makes the crowding easier to endure.

Each inmate had his own bed in the rooms visited by Human Rights Watch. However, inmates said that there have been periods when some inmates lacked their own beds and slept on the floor.

The reduction of the prison population since Ben Ali's departure should ease overcrowding. Other policy options that could also ease overcrowding include implementation of the amnesty for political prisoners, encouraging judges to hand out alternative sentences where appropriate and to consider the capacity of the prison system to absorb new prisoners when issuing sentences, paroling prisoners before the completion of their term, and the construction of additional cells. These options, however, require a public debate and in some cases sizable budgetary allocations, Human Rights Watch said.

A comparatively easy and low-cost measure to alleviate overcrowding in the short-term would be to allow prisoners additional daily time outside their cells, Human Rights Watch said. The measure would require additional staff time and the necessary logistical arrangements, but would constitute a meaningful interim step until the government is able to ensure that prisoners have adequate living space.

Political Prisoners

The Justice Ministry said that at the time the transitional government took office, slightly more than 500 prisoners were being held for politically motivated offenses. The number was close to the estimate given by the International Association for Solidarity with Political Prisoners, an independent Tunisian human rights organization.

About 150 remain incarcerated, 87 serving sentences under the anti-terrorism law and another 56 awaiting trial, according to a Justice Ministry official. A few additional prisoners are serving politically motivated sentences not under the anti-terrorism law but under the ordinary penal code or military law.

During the events surrounding the president's ouster, 11,029 prisoners escaped, of whom 2,425 had voluntarily surrendered as of February 3, a Justice Ministry official said. Since

then, the judiciary has used its prerogative under the law to release conditionally 3,240 criminal prisoners, some of them first-time offenders who had served half their sentences and others who are recidivists and who were eligible for release after having served two-thirds of their sentences.

A Justice Ministry official said that 128 prisoners convicted under Tunisia's 2003 anti-terrorism law were among those who escaped and that they have been urged to return to custody. Another 177 serving sentences under the anti-terrorism law were among those released conditionally and another 100 facing trial under that law were freed provisionally.

The escapes and releases have cut Tunisia's prison population by more than one-third in three weeks. This has reduced overcrowding, but less than might be expected because the severe damage inflicted during the recent events on some prisons, including Bourj er-Roumi, Monastir, and Kasserine, has reduced the number of available beds and led to massive transfers to other prisons.

The Anti-Terrorism Law

Nearly all of those still in detention for politically motivated offenses were convicted under the anti-terrorism law. Among this population, almost none were convicted in connection with specific terrorist acts or possession of weapons or explosives. Instead, they were charged with such offenses as "membership in a terrorist organization," planning to join jihadists in Iraq or Somalia, recruiting others for that purpose, or of having knowledge of crimes and failing to notify the police.

Only two prisoners from the banned Islamist *Nahdha* party remain in prison: Ali Farhat, 52, and Ali Abdallah Saleh Harrabi, 53, both from the southern city of Douz. Like the majority of Nahdha members imprisoned in the past, they were convicted of nonviolent offenses such as membership in, or collecting funds for, an "unrecognized" association, and attending "unauthorized" meetings. Human Rights Watch met both men at Mornaguia, where they are serving sentences of about six months.

Allegations of Torture, Unfair Trials

Those imprisoned under the anti-terrorism law, practically without exception, gave more emphasis in their interviews this week to the conditions they endured while in *garde À vue* detention at the Ministry of Interior in Tunis than to their post-conviction conditions in prison. They said that while they were held incommunicado in the Interior Ministry, officers in street clothes beat or otherwise tortured them into confessing and/or signing a statement that they were prevented from reading.

At their trials they repudiated their statements, they said. Those who said they had raised the allegations of torture got no response from the court, which ended up convicting them. In most cases, these detainees said that Judge Mehrez Hammami had presided over their trial. Hammami, who gained a reputation for his record in convicting people charged with politically motivated offenses, has reportedly been transferred since Ben Ali's departure from the courtroom to a research post in the Justice Ministry.

The allegations of torture and unfair trials raise questions about the disposition of current prisoners who are not released under any eventual amnesty law and who claim they were convicted on the basis of confessions extracted through torture, or who otherwise claim to have been the victims of patently unfair trials, Human Rights Watch said.

Given the routine practice of torture and of the multiple violations of the rights of defendants to a fair trial under the prior government, the transitional government should ensure there are effective appeal mechanisms for prisoners who believe they were unfairly excluded from the amnesty, Human Rights Watch said.

The Prison Visits

The Mornaguia administration imposed no obstacles to Human Rights Watch interviews with three prisoners whose names it had submitted in advance and four others it had

selected on the spot. They included four sentenced for politically motivated offenses and three for ordinary criminal offenses. The prisoners chose the interview locations and were told they could decline.

Bourj er-Roumi is one of several prisons where there was severe violence in the days surrounding the ouster of Ben Ali, costing the lives of 2 guards and 72 prisoners, including 48 in a fire in Monastir Prison, according to the Ministry of Justice. At Bourj er-Roumi, on January 14, prisoners broke down the doors of their cells and set fire to them. The facility's administration says that guards shot dead ten prisoners before order was restored three days later. Another died of a heart attack and a twelfth died at the hands of other prisoners.

Human Rights Watch will publish a separate communiqué about the events at Bourj er-Roumi prison.

Given the recent violence, the atmosphere was far tenser at Bourj er-Roumi. The Human Rights Watch visitors were accompanied to the cellblocks by armed soldiers and large numbers of officials. The prison was just beginning to repair the damage, so it was not possible to assess normal conditions there, even preliminarily. Four prisoners at Bourj er-Roumi agreed to speak individually to Human Rights Watch in a private office and appeared to speak candidly. Three others declined to be interviewed.

Imed Dridi, Mornaguia's director, said the prison was built in 2006 to accommodate 4,600 prisoners. It held 5,200 prisoners at the end of 2010 and now holds about 4,900, all adult men. The population includes both pre-trial and convicted prisoners.

Hilmi ech-Cherif, Bourj er-Roumi director, said the prison, built during the French colonial era, now has 1,429 prisoners, about half the population it had before the mutiny. The other prisoners were either released or transferred to other prisons; 12 died in the mutiny, as noted above.

Human Rights Watch thanked the prisoners and administration of Mornaguia and Bourj er-Roumi prisons for their willingness to receive and speak to the delegation.

"Tunisia's transitional government has taken a critical step toward transparency in opening prisons to outside observers who can share their findings publicly," Goldstein said. "It should now resolve to improve the treatment of prisoners, which was one of the darkest aspects of the human rights picture under President Ben Ali."

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