

HUMAN RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: REVIEW OF 2018

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TUNISIA

Republic of Tunisia

Head of state: **Béji Caïd Essebsi**

Head of government: **Youssef Chahed**

The Truth and Dignity Commission (IVD) finalized its work investigating past human rights violations despite an attempt by the parliament to end its work prematurely. Transitional justice trials on grave past human rights violations began before specialized criminal chambers. The authorities repeatedly renewed the state of emergency and used it to justify arbitrary restrictions on freedom of movement. Torture and other ill-treatment of detainees continued, but complaints hardly ever reached trial. The authorities arbitrarily arrested protesters and prosecuted people for the peaceful expression of their views. Police and other security forces at times used excessive force during law enforcement operations. The Law on Eliminating Violence against Women came into effect. Proposed legal reforms to establish equality between men and women in matters of inheritance and to decriminalize same-sex sexual relations were submitted to the parliament. Lesbian, gay, bisexual, transgender and intersex (LGBTI) people continued to face harassment, arrest and imprisonment. Water shortages and inadequate water distribution resulted in repeated water cuts in several regions, prompting protests, particularly in the hottest months of the year. Death sentences were handed down, but there were no executions.

BACKGROUND

The authorities renewed the nationwide state of emergency five times; emergency measures had been in place since late 2015. Protests against unemployment, poor living conditions and water shortages continued, particularly in marginalized and underdeveloped regions. On 24 December, protests took place in Kasserine following the death of journalist Abderrazak Zorgui, who set himself on fire to protest against economic conditions. Protesters clashed with security forces for three consecutive nights, during which police used tear gas to disperse protesters allegedly throwing stones and burning tyres.

The parliament again failed to elect the first third of the members of the Constitutional Court, a step due since 2015.

An acute political crisis between the two major political parties, al-Nahda and Nidaa Tounes, ended their coalition in September.

TRANSITIONAL JUSTICE

In March, the parliament voted against a decision by the IVD to extend its mandate by seven months in order to complete its final report and referrals of cases of past human rights violations to specialized criminal chambers. However, the government announced in May that it would give the IVD the necessary time to finalize its work. In December, the IVD presented its final report to the president and at the end of the year was waiting for a response to requests for meetings with the head of government and the parliament to share the report with them before publication. The report included the IVD's verified findings, the identification of individuals responsible for human rights violations, the reasons underlying grave violations and recommendations to ensure non-recurrence of such violations.

Between March and December, the IVD referred 72 cases to trial before 13 specialized criminal chambers. These included cases of enforced disappearance, death under torture, unnecessary or excessive use of force against peaceful protesters, and killings of peaceful protesters. In May, the first trial opened in the court of first instance in Gabes in the south of the country; it concerned the enforced disappearance of Kamal Matmati in 1991. Very few of the various hearings saw the alleged perpetrators appear in court. Victims' lawyers urged judges to issue the accused with travel bans and official summons.

FREEDOM OF MOVEMENT

The authorities continued to impose emergency measures, often in an arbitrary manner. The Ministry of the Interior used border control orders, known as S17 orders, to unlawfully restrict the right to freedom of movement of thousands of individuals. In many cases, the orders amounted to travel bans, restricting people to their governorate of residence. Such measures were often imposed in a discriminatory manner based on appearance, religious practices or previous criminal convictions and without providing the reason or obtaining a court order. This often left those affected unable to challenge the restrictions in court or seek justice for violations suffered. The measures negatively affected individuals' livelihoods and sometimes led to arbitrary arrest and short-term detention.¹ In November, the spokesperson of the administrative court in Tunis stated that the Ministry of the Interior's use of S17 orders should be considered unlawful. In December, a ministry official told Amnesty International that the interior minister had set up a working group to reform the S17 measure and end its arbitrary implementation and had issued an instruction not to tie the denial of travel documents to S17 orders.

TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment of detainees continued, mostly during arrest and in pre-charge detention. The vast majority of complaints filed by lawyers failed to reach trial.

In February, four police officers allegedly beat up a man in a police station in Ben Arous, a city just south of Tunis. They were also reported to have forced him to strip naked, sprayed him with tear gas and made him stand naked in the rain with a tyre around his waist. The four officers were charged with torture. In response, on 26 February a union of law enforcement officials called on officers not to perform their functions at the Ben Arous court of first instance until the accused officers were released. The same day, armed security forces protested inside the court to put pressure on the investigative judge to release their colleagues, which is what occurred later that day.

FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

The authorities arbitrarily arrested protesters and prosecuted people for the peaceful expression of their views.²

In January, police arrested Kais Bouazizi, a blogger, and charged him with "harming public order" after he shared Facebook posts that urged people to take to the streets to protest against the government's economic policies. Later that month, the interior minister said the ministry would prosecute bloggers if they misled protesters. The same month, police or National Guard officers detained and interrogated at least four journalists in relation to their reporting of the protests. The National Guard summoned freelance journalist Mathieu Galtier on 10 January and asked him to reveal his sources, which he refused to do.

Courts continued to use Penal Code provisions to imprison people for defamation and to prosecute others for conduct protected by the right to freedom of expression. In January, the court of first instance in the city of Jendouba in north-west Tunisia sentenced Abdelaziz Aljaridi and Abdelaziz Alkhazri to six months' imprisonment each for defaming the president by allegedly spreading rumours about his death. On 7 December, a military court of appeal increased the sentence against parliamentarian and blogger Yassine Ayari in his absence to two months' imprisonment for a Facebook post in which he mocked the appointment of a senior military commander. The same court sentenced him in June to an additional three months' imprisonment for "undermining the morale of the army" and for causing "offence to the President of the Republic" for a Facebook post in which he criticized senior military commanders and the president.

EXCESSIVE USE OF FORCE

Police and other security forces at times used excessive force when policing protests and sports events and conducting other law enforcement operations.

In January, following widespread protests against the new finance law, the authorities arbitrarily arrested hundreds of protesters. Police used unnecessary or excessive force against protesters and denied those arrested access to a lawyer. One protester, Khomsi Yeferni, died in Tebourba, a town 35km west of Tunis. Witnesses said that a police car ran over him; the Ministry of the Interior stated that he had a chronic respiratory condition and died as a result of tear gas inhalation.

In March, Omar Laabidi drowned after a police officer pushed him into a river near Rades sports stadium in the capital, Tunis, when he was trying to escape police officers chasing fans after a match ended in clashes. Witnesses said he had

¹ Amnesty International, *Tunisia: Arbitrary and abusive travel restrictions breach human rights* (News story, 24 October).

² Amnesty International, *Tunisia: Attack on freedom of expression must end* (News story, 2 February).

shouted out that he could not swim. In May, 17 police officers were charged with involuntary manslaughter and failure to provide assistance to a person in danger, the investigation was ongoing at the end of the year.

In October, customs officers shot dead Aymen Othmani while chasing him after a raid on a warehouse in the Sidi Hassine neighbourhood of Tunis. The prosecution indicted four officers who were investigated before being released temporarily, triggering violent confrontations between police and protesters. No progress in the investigation was announced before the end of the year.

WOMEN'S RIGHTS

In February, the Law on Eliminating Violence against Women came into effect. It included guarantees for protecting women and girls from gender-based violence.

Despite the repeal in September 2017 of the 1973 directive prohibiting marriage between “a Tunisian woman and a non-Muslim man”, in at least eight cases, Tunisian women reported difficulties in finding a local notary who would agree to register such marriages. They said notaries claimed they had yet to receive or read the new regulations on such marriages.

Women continued to be severely underrepresented in government, holding only three of 28 ministerial posts.

In June, the Individual Freedoms and Equality Committee, established by the president, released its report on issues related to individual freedoms and gender equality. Among its welcome – albeit controversial – recommendations was one to reform the inheritance law to establish equality between men and women. The president submitted to parliament a bill to this effect.

RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (LGBTI) PEOPLE

LGBTI people continued to face arrest under Article 230 of the Penal Code, which criminalizes consensual same-sex sexual relations. According to Damj, a Tunisian LGBTI NGO, in 2018 police arrested at least 115 individuals in relation to their perceived sexual orientation or gender identity, 38 of whom were later charged and convicted under Article 230 of the Penal Code.

The police continued to subject men accused of same-sex sexual relations to forced anal examinations, in violation of the prohibition of torture and other ill-treatment. Transsexual and transgender people continue to face police harassment and live with the risk of arrest under vague “public decency” articles of the Penal Code, including Article 226*bis*.

Among the recommendations of the Individual Freedoms and Equality Committee in its June report was one to decriminalize same-sex sexual relations. A draft law that included the decriminalization of such relations was submitted by a group of members of parliament in October; at the end of the year it was awaiting consideration by the parliamentary committee on rights and liberties.

RIGHT TO WATER

Water shortages became more acute after water supplies to the two main dams fell substantially. In July, the Ministry of Agriculture, Water Resources and Fisheries declared that Tunisia’s hydraulic situation was “critical”. Water shortages and inadequate water distribution resulted in repeated water cuts in several regions, prompting protests, particularly in the hottest months of the year. These shortages had been impacting people’s ability to use water for personal and domestic use. In July, protesters in Sfax, Kef, Gabes, Tabarka and Kelibia demanded solutions to the water shortages in their towns. The NGO Tunisian Water Observatory said that it had registered 404 water cuts and 104 protests related to access to water between May and June.

In March the government announced a number of projects in the framework of the Ministry of Agriculture’s strategy to secure drinking water resources, but was hampered by floods in September that damaged water infrastructure.

DEATH PENALTY

Courts continued to hand down death sentences; no executions had been carried out since 1991.