



**“WE WERE ONLY ASKING FOR  
OUR RIGHTS AND DIGNITY”**

TUNISIA: OBSTRUCTION CHARGES USED TO PUNISH PEACEFUL  
ASSEMBLY

**AMNESTY  
INTERNATIONAL**



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**Cover photo:** Sfax - Tunisia, 17 November 2022. Tunisians protest in Tunisia's second city Sfax over a renewed trash crisis that has seen household waste pile up in the streets and pollute the air in front of the provincial government headquarters on November 17, 2022 in Sfax, Tunisia. (Hasan Mrad/DeFodi Images via Getty Images)

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# 1. EXECUTIVE SUMMARY

Since he first came to power, President Kais Said has publicly committed to fighting poverty and upholding economic and social justice for the most disadvantaged Tunisians. Using populist and nationalist discourse to garner support from Tunisians disillusioned with the 2010-2011 Revolution, his rhetoric has been critical of the political elite, railing against political opposition actors and civil society organizations as corrupt and pursuing the agenda of foreign parties.

At odds with the President's discourse, this report has found that the Tunisian authorities have been increasingly targeting people from marginalized and impoverished communities, for attempting to raise socioeconomic and environmental issues such as poor working conditions, pollution and access to water. Within the broader context of crackdown on the rule of law and civil and political freedoms in Tunisia over the past three years, this pattern of unjust criminalization is another, less visible, manifestation of the repression of peaceful dissent in the country, seeking to stifle various expressions of dissatisfaction with public policies and actions.

In parallel, the socio-economic and environmental rights of people in Tunisia have been negatively impacted by the deepening economic crisis, characterized by the rampant inflation, rising food costs and unemployment, as well as environmental degradation, including a severe drought. According to the Tunisian Forum for Economic and Social Rights (FTDES), 2,639 localized protests took place in 2024 notably in relation to access to food, education, work and natural resources.

Over the past years, authorities in Tunisia have repeatedly used vague "obstruction of work" charges, to arbitrarily investigate, detain, prosecute and convict 90 individuals simply for exercising their rights to freedom of peaceful assembly, association and expression, which include the right to form and join a union and to organize and participate in a strike. Individuals prosecuted include peaceful activists, protesters, and unionists, as well as one judge and one political opposition figure.

Among them, 16 were arrested and detained for periods ranging between three days and 20 months. Almost half of the group were prosecuted in connection to protests related to the right to water or to a healthy environment, while the rest were prosecuted following protests related to working conditions, strikes or union activism. This targeting of peaceful protesters, activists, trade unionists, workers and residents of marginalized and impoverished communities, further threatens civic space in the country and will have a strong chilling effect on individuals considering voicing concerns over their social, economic and environmental rights.

The authorities have used vaguely formulated "obstruction" charges under Articles 136 and 107 of the Penal Code to punish peaceful protesters, striking workers, trade unionists and others voicing socio-economic, environment and other grievances, in relation to nine separate protest actions that took place between February 2020 and October 2024. In eight of these nine cases, authorities applied the "obstruction" charge which provides for three years' imprisonment and a fine of 720 dinars (approximately 214 EUR) for "anyone who, through violence, assault, threats or fraudulent manoeuvres, causes or maintains or attempts to cause or maintain an individual or collective cessation of work". This vaguely formulated provision, which does not define what constitutes a "cessation of work", does not meet the principle of legality and does not proscribe an internationally recognized offence.

Amnesty International found the prosecutions to be in reprisal against peaceful assemblies or union activism, often affiliated with the Tunisian General Labour Union (UGTT), and sought to deter protesters and others from participating in future protests and strikes.

In February 2020, the police asked a group of women forestry maintenance workers summoned following a sit-in to protest their working conditions in the town of Skhira, about 80km from the eastern city of Sfax, to sign police statements in which they would commit not to protest again, infringing on their right to peaceful assembly. More recently, between 8-11 November 2024, in the town of Metbassta, in the north-central city of Kairouan, police summoned and arrested striking workers of a shoe factory along with a local unionist shortly before they were supposed to participate in a constitutive meeting to form a new union, leading to their conviction and sentencing to suspended prison terms of three to six months.

**“[The police] wanted us to say that [local unionist Jamel Cherif] had manipulated us into doing something illegal, or that we had other suspicious motives, but there was no basis to it. We were only asking for our rights and our dignity.”**

A striking worker at a shoe factory in the town of Metbassta, in the north-central city of Kairouan.

In another incident, authorities applied Article 107 of the Penal Code, which similarly punishes by two years’ imprisonment “the agreement, formed between two or more civil servants or similar [positions] with a view to obstructing, by collective resignation or [by other means], the execution of laws or a public service”. Despite specifying that “this provision does not hinder the exercise, by public agents, of their union rights, for the defence of their corporate interests within the framework of the laws which regulate it,” it has been used to punish union activism.

To investigate the misuse of “obstruction” charges to criminalize peaceful protests and strikes, Amnesty International interviewed 26 prosecuted protesters, workers, and other directly affected individuals, as well as eight lawyers and four family members of those detained. Based on their accounts, and the review of legal documents including judgments, official complaints and police statements, as well as audiovisual materials related to the protests, Amnesty International was able to document the investigations and prosecutions of a total of 90 individuals in relation to nine separate peaceful protests or strikes, in the regions of Kairouan, Monastir, Tunis, Sfax and Siliana.

On 5 June 2025, Amnesty International shared its findings and recommendations with the Tunisian authorities for their comment, which is included in the annex. We had not received a response by the time of publication.

This crackdown is taking place against the backdrop of a severely deteriorating human rights situation in the country since President Kais Saied’s power grab on 25 July 2021, and relentless attacks on peaceful dissent and civic space. Over 70 people, including political opponents, lawyers, journalists, activists, human rights defenders, and social media users have been unfairly prosecuted since the end of 2022. At least 40 remain arbitrarily detained in connection with the exercise of their internationally protected rights.

Under international law, states have an obligation to tolerate temporary obstruction caused by a peaceful assembly, such as a disruption of road traffic, pedestrian movements or economic activity. According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association:

**“Access to public space means concretely that organizers and participants should be able to use public streets, roads and squares to conduct (static or moving) peaceful assemblies... Spaces in the vicinity of iconic buildings such as presidential palaces, parliaments or memorials should also be considered public space, and peaceful assemblies should be allowed to take place in those locations”.**

According to the UN Human Rights Committee, which interprets states obligations under the International Covenant on Civil and Political Rights (ICCPR), the mere obstruction of movement or traffic cannot be equated with violence, which in the context of assemblies would involve the use of force by participants that is likely to result in injuries or serious damage to property.

Some of the protests targeted were in relation to environmental and water rights, such as residents of the town of Bargou, in the northern region of Siliana, who protested a decision from the authorities to grant a private company permission to drill for water in their town amidst a drought. Or the case of environmental activists among the co-founders of the “Manish Msab” [I am not a dump] environmental protest movement in Agareb, in the eastern city of Sfax, who protested against the pollution from a nearby garbage dump; and environmental activists, factory workers and union members, also in Agareb, who protested the environmental damage and health impact they attributed to three local factories.

Authorities also prosecuted workers and unionists who spoke out against dire working conditions, such as shoe factory workers in Metbassta, in the city of Kairouan, who went on strike, along with a union member who supported their protest; nine women forestry maintenance workers employed by the Skhira local authorities, in the region of Sfax, protesting their unpaid labour; and a group of unionists in Tunis, who held a spontaneous protest within the offices of the Ministry of Transport in Tunis over working conditions in the public transportation sector. In one particularly egregious case, authorities prosecuted union leader Anis Kaabi and arbitrarily detained him for nearly 15 months solely based on radio interviews in which he commented on an upcoming strike in the public highway company.

The authorities have at times also used “obstruction charges” as part of a set of charges brought against prominent political and civil society figures who expressed their opposition to President Kais Saïd, such as judge Anas Hmedi, who is facing a criminal investigation in the northwestern city of Kef in reprisal for his defence of the independence of the judiciary as head of the Tunisian Judges Association (known by its French acronym AMT, Association des Magistrats Tunisiens), including through a month-long strike between June and July 2022. Judicial authorities in Tunis are also prosecuting opposition party leader Abir Moussi, president of the Free Destourian Party (PDL), under criminal charges including “obstruction” for protesting against the police barring her from submitting an appeal against presidential decrees related to local elections.

Most of these protests took place in front of a company or a public administration. Authorities initiated the prosecutions in the aftermath of the protests following complaints of private companies or individuals in five cases and complaints by public officials or public companies in three cases. In one case, the proceedings were initiated by the public prosecution.

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In six cases, individuals were convicted and sentenced to fines or suspended prison terms between February 2023 and January 2025. In two cases, those targeted are at liberty pending trial or pending the closure of the investigation, while political opposition leader Abir Moussi has remained in arbitrary pre-trial detention since October 2023 for exercising her right to freedom of peaceful assembly. As previously documented by Amnesty International, Tunisian authorities have abused pre-trial detention provisions to silence perceived critics.

In all nine cases, Amnesty International found the investigations and prosecutions based on Article 136 and Article 107 to be baseless and solely stemmed from the individuals' peaceful exercise of their human rights. Authorities failed to present any evidence pointing to the reasonable suspicion of the involvement of the individuals prosecuted in any violence conduct or other conduct that could constitute an internationally recognized crime.

These provisions have, in contrast, been used to curtail the legitimate rights to freedom of peaceful assembly, expression and association, which include the right to form and join trade unions and the right to strike. For instance, on 8 June 2023, the Sfax 2 Court of First Instance convicted and sentenced four environmental activists, among the co-founders of the "Manish Msab" [I am not a dump] environmental movement, to eight months in prison for "obstructing work" without any evidence of their involvement in any internationally recognized offence.

**"We thought the case was abandoned in 2020, we did not know we were being prosecuted. We learned about the trial by chance, we were not summoned."**

An environmental activist and co-founder of the "Manish Msab" environmental movement.

In five of the cases documented, serious violations of the right to a fair trial and due process took place, and specifically the defendants' rights to information and to adequate defence. The authorities failed to inform those prosecuted about the nature and basis of the charges against them. In some cases, defendants were not even informed that they had been indicted and their cases referred to trial and were left in the dark about the dates of their trials hearing or even their verdict, severely undermining their right to adequate defence including their ability to access to a lawyer.

In the town of Bargou, in the northern region of Siliana, in February and March 2023, authorities arbitrarily detained eight local residents for periods ranging from two to eight days solely for participating in a peaceful sit-in expressing grievances in relation to access to water. Four of them were later sentenced to prison without being informed of their trial. Authorities also violated the right to adequate defence, in questioning defendants upon their arrest without their lawyers present.

To comply by their obligations under international human rights law and begin reversing the human rights downward spiral, the Tunisian authorities must put an immediate end to prosecution of people for exercising their rights to freedom of expression, association and peaceful assembly by using vaguely formulated charges, including articles 107 and 136 of the Penal code ("obstruction of a public service" and "obstruction of work" respectively). They must quash the convictions and drop charges stemming from individuals' exercise of their rights to freedom of expression, association and peaceful assembly, including through participating in peaceful street protests and labour strikes.

Authorities must also repeal overly broad and vague legal provisions used to curtail the exercise of the rights of to freedom of expression, association and peaceful assembly notably Articles 107 and 136 of the Penal Code or amend them to bring them in line with international law and standards.

## 2. METHODOLOGY

This report documents the use of “obstruction” charges under Articles 136 and 107 of the Penal Code by the Tunisian authorities to investigate, prosecute, convict and detain peaceful protesters, activists and other individuals between February 2020 and January 2025. It provides an in-depth investigation of nine prosecutions and investigations on charges of “obstruction” in the regions of Kairouan, Monastir, Sfax, Siliana and Tunis.

On 5 June 2025, Amnesty International shared its findings and recommendations with the Tunisian authorities for their comment, which is included in the annex. We had not received a response by the time of publication.

Between November 2023 and December 2024, Amnesty International gathered the testimonies of 26 individuals, 15 men and 11 women, who have been investigated and prosecuted on “obstruction” charges, in cases together with 71 others. Among them, were 16, who were arrested and detained for periods ranging between three days and 20 months. The organization also interviewed eight lawyers representing those prosecuted and four family members of those detained.

Five interviews were carried out in person in Tunisia, while the remainder were conducted over voice calls, mainly via secure messaging applications. In line with Amnesty International’s research standards, all interviewees were informed about the nature and purpose of the research as well as how the information provided would be used and shared. Informed consent was obtained from each person, and no incentives were provided for interviewees in exchange for their accounts.

Most names and other identifying information have been omitted due to privacy and security concerns and/or out of respect for their wishes.

The organization also reviewed legal documents provided by the defendants and/or their lawyers, including casefiles, verdicts, official complaints and police statements in all nine cases. The organization reviewed videos and audiovisual materials related to the protests and strikes in the town of Bargou, in the northern region of Siliana region, in the town of Metbassta, in the north-central city of Kairouan, and in Tunis, publicly available online or directly shared by the protesters.

Due to the barriers to documentation encountered by Amnesty International, including a general lack of access to human rights organizations by affected communities, under-reporting by national and international media and fear of reprisals from authorities or employers and loss of livelihoods, the organization finds it likely that there is a much higher number cases of criminalization of peaceful assemblies under “obstruction” charges, which often involve marginalized and impoverished communities. Amnesty International has focused on the nine analyzed in this report as illustrative examples.



# 3. BACKGROUND

Since President Kais Saied's power grab on 25 July 2021, the human rights situation in the country has continued to deteriorate, with institutional safeguards for their protection severely weakened, and the independence of the judiciary undermined.<sup>1</sup> Tunisian authorities have over the past three years in particular ramped up their targeting opposition figures and other perceived critics of President Saied for exercising their rights to freedom expression, association and peaceful assembly.<sup>2</sup> Leaders of opposition political parties across the political spectrum have been subjected to politically motivated prosecutions, long-term pretrial detention and unjust convictions.<sup>3</sup>

The clampdown on dissent has also targeted human rights defenders, activists, artists, journalists and lawyers, notably through the use of Decree-law 54 of 2022 on cybercrimes.<sup>4</sup> Over 70 people, including political opponents, lawyers, journalists, activists, human rights defenders, and social media users have been unfairly prosecuted since the end of 2022.<sup>5</sup> Over 40 people remain arbitrarily detained, most of them in connection with the exercise of their internationally protected rights.

Tunisian authorities have also targeted non-governmental organizations (NGOs), which the Tunisian president has repeatedly accused of meddling in Tunisia's internal affairs, financing corruption and supporting irregular migration since July 2023. In October 2023, parliamentarians submitted a draft NGO law which would severely threaten NGOs' ability to work independently.<sup>6</sup> In May 2024, Tunisian authorities further launched an unprecedented crackdown against NGOs supporting refugees and migrants, arresting, summoning and investigating the heads, former staff or members of at least 12 organizations.<sup>7</sup> On 6 May 2024, President Kais Saied made inflammatory remarks in which he described organizations working on migration as "traitors" and "[foreign] agents".<sup>8</sup> At least 10 human rights defenders, NGO staff and former local officials remain in detention, pending investigation for alleged financial crimes and for providing aid to refugees and migrants.

Tunisian authorities have in most cases tolerated Tunis-based political protests since 2021, allowing them to take place without interference. However, there have been some instances of disruption of protests by the police or of periodic summons and investigations of protesters. On 20 June 2024, police in the northwestern city of Tabarka summoned and questioned environmental and human rights defender Rania Mechergui in relation to her participation in a peaceful protest conducted by local women residents on 11 June to demand access to drinking water, which they have been deprived of since late 2020. Police dispersed the protest shortly after it started, claiming that it was illegal as authorities had not been notified. In August 2024, police in Tunis also summoned and questioned trade unionists and workers in the southern city of Kebili in relation to a series of protests they organized in the summer over employment demands.

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1 Amnesty International, Tunisia: A Year of Human Rights Regression since President's Power-Grab (Index: MDE 30/5876/2022), 21 July 2022, <https://www.amnesty.org/en/latest/campaigns/2023/07/human-rights-under-assault-two-years-after-president-saieds-power-grab/>; Amnesty International, "Tunisia: President's moves to shut down High Judicial Council pose grave threat to human rights", 8 February 2022,

<https://www.amnesty.org/en/latest/news/2022/02/tunisia-presidents-moves-to-shut-down-high-judicial-council-poses-grave-threat-to-human-rights/>

2 Amnesty International, "Tunisia: Authorities must release Ennahda party leader and end crackdown on political opposition", 16 July 2024, <https://www.amnesty.org/en/latest/news/2024/07/tunisia-authorities-must-release-ennahda-party-leader-and-end-crackdown-on-political-opposition/>

3 Amnesty International, "Tunisia: Release and drop charges against opposition activists arbitrarily detained for a year", 23 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/tunisia-release-and-drop-charges-against-opposition-activists-arbitrarily-detained-for-a-year/>

4 Amnesty International, "Tunisia: Repeal draconian cybercrime decree" (Index: MDE 30/6290/2022), 12 December 2022, <https://www.amnesty.org/en/documents/mde30/6290/2022/en/>

5 Amnesty International and Human Rights Watch, "Tunisia: Authorities escalate clampdown on media, freedom of expression", 30 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/tunisia-authorities-escalate-clampdown-on-media-freedom-of-expression/>

6 Amnesty International, "Tunisia: Repressive NGO draft law threatens independent civil society", 21 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/tunisia-repressive-ngo-draft-law-threatens-independent-civil-society/>

7 Amnesty International, "Tunisia: Repressive crackdown on civil society organizations following months of escalating violence against migrants and refugees", 16 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/tunisia-repressive-crackdown-on-civil-society-organizations-following-months-of-escalating-violence-against-migrants-and-refugees/>

8 Amnesty International, "Tunisia: Repressive crackdown on civil society organizations following months of escalating violence against migrants and refugees" (previously cited).

In November 2021, protesters in Agareb, in the region of Sfax, took to the streets to oppose the reopening of a garbage dump against which local activists and residents had protested for several years within the “Manish Msab” [I am not a dump] environmental protest movement, claiming it had a harmful environmental and health impact.<sup>9</sup> Authorities had closed the dump in September 2021 in implementation of a 2019 decision of the Administrative Court. On 8 November, Abderrazek Lachhab, a local resident, died by asphyxiation. Authorities stated that he died after a fall at home, several miles away from the protest site,<sup>10</sup> however witnesses and family members told human rights organizations that he had died due to tear gas inhalation.<sup>11</sup> A Sfax public prosecutor ordered the opening of an investigation into the death.<sup>12</sup>

The crackdown on civic and political space has been taking place against the backdrop of Tunisia’s deepening cost of living and environmental crisis. Food inflation stood at 9,4% in 2024<sup>13</sup> and shortages of staple food and essential goods have become chronic, while the unemployment rate stood at 40.5% for people between 15-24 years old in October 2024.<sup>14</sup> Tunisia has also been suffering from a persisting and record-level drought.<sup>15</sup>

As a result, social and environmental protests have continued to regularly take place across the country, although they are often under-reported by the media and civil society groups because they often take place outside of Tunis and in remote locations, are smaller and are usually not connected to political circles. According to the Tunisian Forum for Economic and Social Rights (FTDES), a Tunisian organization, at least 2,638 localized protests took place in 2024, the vast majority of which were organized in relation to socio-economic grievances and involved demands related to workers’ rights and labour conditions, to the rights to water, health and education.<sup>16</sup> Most protests took place in the regions of Gafsa, Tunis, Kairouan, Nabeul and Bizerte, with an estimated 19% of the protests taking place spontaneously.

<sup>9</sup> Section 4.1.2 “Right to healthy environment protests in Agareb, Sfax”.

<sup>10</sup> Tunisian Ministry of Interior, Facebook post “بلاغ” [Announcement], 9 November 2021, <https://www.facebook.com/ministere.interieur.tunisie/posts/pfbid02eMB3LUvLof12o7wz6wKBevi2hRVP5UwqPcSkRecimrJDUKnhzp2CDGAmip9LxYQCI> (in Arabic).

<sup>11</sup> Tunisian League for Human Rights (LTDH), Facebook post: “٢٠٢١ و ٩ نوفمبر ٨” [“Public statement following the events in the town of Agareb on 8 and 9 November 2021”], 11 November 2021, <https://www.facebook.com/ltah.tn/posts/pfbid0fgPNSzRAbQ2HaSWCmMftV7cgx6NsAycVH4w2emEmJLYweKeAnoCJB7c4jdBfvMQI> (in Arabic); Intersection Association for Rights and Freedoms, “Abderrazek Lachhab”, 13 November 2021, <https://intersection.uno/freedom-faces/%D8%B9%D8%A8%D8%AF-%D8%A7%D9%84%D8%B1%D8%B2%D8%A7%D9%82-%D9%84%D8%B4%D9%87%D8%A8/>

<sup>12</sup> Mosaïque FM, “Sfax: Enquête sur les circonstances du décès d’un jeune à Agareb” [“Sfax: Investigation into the circumstances of the death of a young man in Agareb”], 9 November 2021, <https://www.mosaicquefm.net/fr/actualite-regional-tunisie/983105/sfax-enquete-sur-les-circonstances-du-deces-d-un-jeune-a-agareb> (in French).

<sup>13</sup> National Statistics Institute (INS), “Indice des prix à la consommation, Décembre 2024” [“Consumer Price Index, December 2024”], <https://www.ins.tn/publication/indice-des-prix-la-consommation-decembre-2024> (in French).

<sup>14</sup> INS, “Indicateurs de l’emploi et du chômage – Troisième trimestre 2024” [“Employment and unemployment indicators – Third quarter 2024”], <https://www.ins.tn/publication/indicateurs-de-lemploi-et-du-chomage-troisieme-trimestre-2024> (in French).

<sup>15</sup> Agenzia Nova, “Tunisia faces severe water crisis: dam filling level drops to 20,5 percent”, 22 November 2024, <https://www.agenzianova.com/en/news/grave-crisi-idrica-in-tunisia-il-livello-di-riempimento-delle-dighe-scende-al-205-percento/#:~:text=Tunisia%20is%20facing%20a%20serious,of%20the%20last%20three%20years>.

<sup>16</sup> Tunisian Forum for Economic and Social Rights (FTDES), Tunisian Social Observatory Digital Report – November 2024, 2 December 2024, <https://al-forum.org/en/tunisian-social-observatory-digital-report-november-2024/>

# 4. ARBITRARY PROSECUTIONS ON “OBSTRUCTION OF WORK” CHARGES

Since President Kais Saïd came to power in October 2019, he has publicly committed to fight poverty and uphold economic and social justice for the most disadvantaged Tunisians.<sup>17</sup> The Tunisian president has generally used populist and nationalist discourse to garner support from Tunisians disillusioned with the 2010-2011 Revolution.<sup>18</sup> His rhetoric has been both critical of the political elite and framed within a narrative of restoring justice and Tunisia's dignity and sovereignty post-revolution.

Yet, at odds with this discourse, the present report finds that Tunisian security and judicial authorities have used “obstruction charges” to silence and punish individuals, often from marginalized and impoverished communities, who attempted to peacefully raise concerns in relation to socioeconomic and environmental issues such as poor working conditions, pollution and access to water. In 2019, Amnesty International analyzed the authorities’ judicial harassment of peaceful protesters demanding employment rights in the Gafsa region.<sup>19</sup>

This report finds that authorities have been using these charges throughout the country in reprisal against individuals’ exercise of their human rights, such as participation in a local protest movement, in a civil society organization, in a political party or, in most cases, participation in peaceful union activities often affiliated with the Tunisian General Labour Union (UGTT). Within a context of crackdown on the rule of law and civil and political freedoms, this pattern of unjust criminalization is another, less visible, manifestation of the repression of peaceful dissent in Tunisia which further threatens civic space in the country by silencing individuals voicing concerns mostly over social, economic and environmental rights and expressing dissatisfaction with public policies and actions.

Between February 2020 and January 2025, the Tunisian authorities arbitrarily investigated and prosecuted 90 peaceful protesters, striking workers, trade unionists as well as prominent public figures on vaguely worded “obstruction” charges simply for exercising their rights to freedom of association, peaceful assembly, and expression, which include the right to form and join a union and to organize and participate in a strike. Authorities arrested and detained 16 of them for periods ranging between three days and 20 months.

Amnesty International investigated nine cases as illustrations of the criminalization of peaceful assemblies using “obstruction” charges. In eight of these cases, the authorities used Article 136 of Penal Code on “obstruction of work”,

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<sup>17</sup> Arab Reform Initiative, “Social protection under Kais Saïd’s political project: Crumbs and clues in search of a vision”, 3 November 2023, <https://www.arab-reform.net/publication/social-protection-under-kais-saïds-political-project-crumbs-and-clues-in-search-of-a-vision/>

<sup>18</sup> Arab Reform Initiative, “The ghost people and populism from above: The Kais Saïd case”, 23 March 2022, <https://www.arab-reform.net/publication/the-ghost-people-and-populism-from-above-the-kais-saïd-case/>; Eric Gobe, “Kais Saïd’s populism as the crystallization of the crisis of the Tunisian parliamentary regime” [“Le populisme de Kais Saïd comme cristallisation de la crise du régime parlementaire tunisien”], March 2022, <https://shs.hal.science/halshs-03613984/document> (in French); Hatem Nafti, “The Kais Saïd system: An authoritarian populist project carried out with the help of the elites”, [“Le système de Kais Saïd : Un projet populiste autoritaire porté avec le concours des élites”], Confluences Méditerranée, volume 125, number 2, August 2023, <https://doi.org/10.3917/come.125.0029> (in French), pp. 27-40.

<sup>19</sup> Amnesty International, “Tunisia: Hundreds of protesters tried in their absence in Gafsa” (Index: MDE 30/0380/2019), 22 May 2019, <https://www.amnesty.org/en/documents/mde30/0380/2019/en/>

and in one case, they used Article 107 of the Penal Code on “obstruction of a public service”, which applies to civil servants.

In these nine cases, judicial authorities investigated and prosecuted a total of 90 individuals in relation to peaceful protests, union activism or strikes, in the regions of Kairouan, Monastir, Tunis, Sfax and Siliana. The protests took place between February 2020 and October 2024, often in front of a company or a public administration.

Individuals prosecuted include peaceful activists, protesters, and unionists, as well as one judge and one political opposition figure. They included 38 people prosecuted in connection to protests related to the right to water or to a healthy environment, such as residents of the town of Bargou, in the northern region of Siliana, who protested a decision from the authorities to grant a private company permission to drill for water in their town amidst a drought; environmental activists among the co-founders of the “Manish Msab” [I am not a dump] environmental protest movement in Agareb, in the eastern city of Sfax, who protested against the pollution from a nearby garbage dump; and environmental activists, factory workers and union members, also in Agareb, who protested the environmental damage and health impact they attributed to three local factories.

Authorities further prosecuted 50 people following protests related to poor working conditions, strikes or union activism, including shoe factory workers in Metbassta, in the city of Kairouan, who went on strike following a pay cut they deemed unjust, along with a union member who supported their protest; nine women forestry maintenance workers employed by the Skhira local authorities, in the region of Sfax, who complained of unpaid labour; 15 unionists in Tunis, who held a spontaneous protest within the offices of the Ministry of Transport in Tunis over working conditions in the public transportation sector; along with union leader Anis Kaabi, prosecuted in relation to statements he made on the radio about a strike in the public highway company.

Authorities also prosecuted two prominent civil society and political opposition figures in relation to a protest and a strike. They include judge Anas Hmedi, who has been facing a criminal investigation initiated in the city of Monastir in reprisal for his defence of the independence of the judiciary as head of the Tunisian Judges Association (known by its French acronym AMT, Association des Magistrats Tunisiens), through a month-long strike in June 2022; and opposition party leader Abir Moussi, president of the Free Destourian Party (PDL), facing prosecution in Tunis under criminal charges including “obstruction” for protesting against the police barring her from submitting an appeal against presidential decrees related to local elections.

Out of these nine protest actions documented by Amnesty International, protesters expressed their grievances against a private company in two cases; against a public company, authority or official in five cases; and against both a private company and public authorities in two cases.

Authorities initiated the prosecutions following complaints by private companies or individuals in five cases and complaints by a public official or company in three cases, including a Minister of Transport and a head of district.

For instance, in December 2022, the Minister of Transport lodged a complaint against a group of unionists who held a spontaneous peaceful protest inside the offices of the ministry in Tunis, in connection with a larger strike and protest movement against what union members described as the withholding of salaries and annual bonuses to public transport employees. This ultimately led to their conviction for “obstruction” and “causing damage to private property”, which is likely to stifle the right of trade unions to function freely, free of harassment and reprisals.

In six cases, individuals were convicted and sentenced to fines or suspended prison terms between February 2023 and January 2025. In two cases, those targeted are at liberty pending trial or pending the closure of the investigation. Anas Hmedi, head of the Tunisian Judges Association (known by its French acronym AMT, Association des Magistrats Tunisiens) and a judge at the Monastir Court of Appeal, has been facing both disciplinary and judicial proceedings solely in reprisal for his role in the association’s defence of the independence of the judiciary, notably through a month-long strike between June and July 2022. Authorities have been investigating the judge for “obstruction” under Article 136 of the Penal Code but his hearing in front of an investigative judge has been repeatedly postponed since August 2023.

In one case, political opposition leader Abir Moussi has remained in arbitrary pre-trial detention since October 2023, while in another case, union leader Anis Kaabi was arbitrarily detained for nearly 15 months before being released pending trial following a cassation appeal ruling. As previously documented by Amnesty International, Tunisian authorities continue to abuse pre-trial detention provisions to silence perceived critics who should never be prosecuted and arbitrarily detained in the very first place.<sup>20</sup>

In all nine cases, Amnesty International found the investigations and prosecutions based on Article 136 and Article 107 to be baseless. Authorities failed to present any evidence pointing to the reasonable suspicion of the involvement of the individuals prosecuted in any violent conduct or another internationally recognizable offence. These provisions have, in contrast, been used to curtail the legitimate rights to freedom of expression and peaceful assembly, as well as the rights to form and join trade unions and to strike.

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<sup>20</sup> Amnesty International, “Tunisia: The abuse of pre-trial detention to silence political opponents, authorities targeting political opposition with vague pretrial detention laws”, 22 September 2023, <https://www.amnesty.org/en/documents/mde30/7207/2023/en/>

For instance, on 8 June 2023, the Sfax 2 Court of First Instance convicted and sentenced four environmental activists, among the co-founders of the “Manish Msab” environmental protest movement, to eight months in prison for “obstructing work”. During police interrogations and court hearings, security and judicial authorities repeatedly focused their questions on whether the individuals prosecuted had blocked roads or building entrances and obstructed traffic. Questioning also focused on individuals’ political motives and/or affiliations to and support by political actors. At no point was any evidence of a recognizable offense under international law presented.

Under international law, states have an obligation to tolerate temporary obstructions caused by assemblies such as a disruption of road traffic, pedestrian movements or economic activity to enable the exercise of the right to freedom of peaceful assembly.<sup>21</sup> According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association:

**“Access to public space means concretely that organizers and participants should be able to use public streets, roads and squares to conduct (static or moving) peaceful assemblies... Spaces in the vicinity of iconic buildings such as presidential palaces, parliaments or memorials should also be considered public space, and peaceful assemblies should be allowed to take place in those locations”.**<sup>22</sup>

According to the UN Human Rights Committee, which interprets states obligations under the International Covenant on Civil and Political Rights (ICCPR), the mere obstruction of movement or traffic cannot be equated with violence, which in the context of assemblies would involve the use of force by participants that is likely to result in injuries or serious damage to property.<sup>23</sup>

In one case, in February 2020, the police asked a group of women forestry maintenance workers summoned for a sit-in in the town of Skhira, about 80km from the eastern city of Sfax, to sign police statements in which they would commit not to protest again, which infringes on their right to peaceful assembly. In another case in the town of Metbassta, in the north-central city of Kairouan, between 8-11 November 2024, authorities summoned and arrested striking workers and protesters shortly before they were supposed to participate in a constitutive meeting to form a new union, leading to their conviction and sentencing to suspended prison terms of three to six months.

In addition, a number of serious violations of the right to a fair trial and due process took place where the defendants’ rights to information and to adequate defence were violated. In at least five of the cases documented, the authorities failed to inform those prosecuted about the nature and basis of the charges against them.

In some cases, defendants were not even informed that they had been indicted and their cases referred to trial and were left in the dark about the dates of their trials hearing or even their verdict, severely undermining their right to adequate defence including their ability to access to a lawyer. In the town of Bargou, in the northern region of Siliana, in February and March 2023, authorities arbitrarily detained eight local residents for periods ranging from two to eight days solely for participating in a peaceful sit-in expressing grievances in relation to access to water after authorities granted a private company permission to drill for water while refusing similar requests from local farmers. A Siliana court then sentenced four of them to prison in absentia without even informing them of their trial. Authorities also violated the right to adequate defence, in questioning defendants upon their arrest without their lawyers present.

In addition, the right to presumption of innocence was not upheld in the case of union leader Anis Kaabi, after President Kais Saied made a public statement on the day of his arrest condemning the obstruction of roads, linking it to conspiracy against the state and its public facilities, in apparent reference to the strike led by the union leader in the public highway company in January 2023.<sup>24</sup>

Amnesty International calls on judicial authorities to drop the investigation and prosecutions or quash the convictions pertaining to unfounded “obstruction” charges presented in the nine cases below and to guarantee the individuals’ rights to freedom of expression, association and peaceful assembly. In the case of Abir Moussi, the organization calls for her release from arbitrary pre-trial detention as well as the dropping of the charges.

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<sup>21</sup> UN Human Rights Committee, General Comment 37: The Right to Peaceful Assembly (Art. 21), 17 September 2020, UN Doc. CCPR/C/GC/37, para. 15.

<sup>22</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, Report, 24 April 2013, UN Doc. A/HRC/23/39, para. 66.

<sup>23</sup> UN Human Rights Committee, General Comment 37 (previously cited), para. 15.

<sup>24</sup> Tunisian Presidency, Facebook post: “زيارة رئيس الجمهورية قيس سعيّد إلى ثكنة الحرس الوطني بالعويّة” [“Visit of the President of the Republic, Kais Saied, to the National Guard military center in El Aouina”], 31 January 2023, <https://www.facebook.com/Presidence.tn/videos/5793483284083106/> (in Arabic), minute 6:00-9:00.

## 4.1 PROSECUTIONS RELATED TO WATER AND ENVIRONMENTAL RIGHTS PROTESTS

### 4.1.1 RIGHT TO WATER PROTESTERS IN BARGOU, SILIANA

On a number of occasions in February and March 2023, a group of local protesters from the town of Bargou, in the Siliana region, northern Tunisia gathered to protest the authorities' decision to grant a private company permission to drill for water in the town, while refusing requests from local farmers to drill wells. Shortly after the first protest, the owner of the company, filed a complaint against a group of the protesters according to information obtained by Amnesty International from four protesters and one of their lawyers. Authorities arbitrarily prosecuted at least 21 of the group in two separate cases and detained eight of them for periods ranging from two to eight days, before releasing them pending investigations. In a first case, judicial authorities convicted 17 protesters of charges of "obstruction" under Article 136 and sentenced them to fines in January 2025 while, in another case related to the same protests, in December 2024, authorities convicted four other protesters of "obstruction" and sentenced them to fines.

According to Nasser Kasrawi, a local farmer and one of the organizers of the sit-in, residents protested due to concerns over their region facing a drought threatening their access to water, which is essential for their survival and livelihoods, reliant on local agriculture. Before the protest, Kasrawi explained that residents had mandated a bailiff to assess the impact of the presence of water conditioning companies in Bargou on the drought, as well as the damage caused by the production process to their land. According to the Tunisian Forum for Economic and Social Rights (FTDES), her assessment confirmed the drying out of local agricultural lands as well as four water springs and irrigation canals surrounding the local water sources. She also observed damage to the path leading to the agricultural lands adjacent to the water drilling site and pollution of the surrounding water.<sup>25</sup>

The sit-in started on 3 February 2023 when about 400 people gathered peacefully, on the side of the road facing the water drilling unit of the company, according to Nasser Kasrawi. He explained that he notified the local police orally about the protest beforehand and that the police were present. The sit-in continued until 10 February.

The residents held another sit-in on 11 March 2023, this time along one of the main roads in Bargou. According to testimonies of the four protesters, both sit-ins remained entirely peaceful and did not obstruct traffic. Their testimonies are corroborated by pictures of the sit-in published on the Facebook page of the Tunisian Union of Agriculture and Fisheries on 11 March 2023 and reviewed by Amnesty International.<sup>26</sup> They show individuals standing in peaceful protest and holding slogans such as "No to hijacking water resources", and "We ask for the drilling of deep wells in the region to stop immediately".

The police summoned at least 40 residents over the weeks following the first sit-in, including people who had not participated in the protest. A prosecutor at the Siliana Court of First Instance placed four protesters in custody between 7 and 9 February 2023 for "obstructing work" under Article 136; they were subsequently released pending trial. Two of them, who spoke to Amnesty International, were questioned by the police for about three hours about their actions during the protest and its purpose, as well as whether it led to public roads being blocked.

On 14 December 2023, the four defendants learned that in July 2023, a court had convicted and sentenced them, in their absence, to three or four months of prison and a fine, without notifying them of the referral of their case to trial or the hearing date. They remained at liberty pending their appeal. On 25 December 2024, the Siliana Court of Appeal confirmed the conviction but reduced their sentence to fines ranging from 300 and 400 Tunisian dinars (respectively 90 and 120 EUR).

In a second separate case, authorities have prosecuted another group of 17 protesters based on a testimony from an employee of the water company who claimed that the protesters blocked road traffic and prevented him from getting to work, allegations which they deny. No other evidence was provided. Selim Al-Barkawi, one of the protesters prosecuted, told Amnesty International that on 8 March 2023, an investigative judge at the Siliana Court of First Instance placed him, along with three other men, in pretrial detention pending investigations. Neither the prosecution nor the investigative judge informed him of the charges against him, only asking him in court whether he was a "criminal" and had "blocked traffic". According to one of his lawyers, Ahlem Al-Thayri, Selim Al-Barkawi, along with 16 other residents, are prosecuted under the charges of "obstructing work" and "joining a gathering likely to disturb public peace in order to commit an offence or oppose the execution of a law" (Article 79 of the Penal Code) which carry a maximum sentence of five years upon conviction. On 16 March 2023, the investigative judge released the four men pending their trial. In January 2025,

<sup>25</sup> Tunisian Forum for Economic and Social Rights (FTDES), *سياسة مرتجلة لإيقاف استنزاف الموارد المائية: رخص تمنح لشركات مياه التعليل وتُرفض* [Improvised Policy to Stop the Depletion of Water Resources: Licenses Granted to Water Bottling Companies and Denied to Farmers], 29 August 2023, <https://ftdes.net/ar/une-politique-improvisee-pour-arreter-la-surexploitation-des-eaux-des-licences-sont-accordees-aux-entreprises-de-mise-en-bouteille-deau-et-refusees-aux-agriculteurs/>, pp.93-94 (in Arabic).

<sup>26</sup> Tunisian Union of Agriculture and Fisheries (UTAP), Facebook post: *"تواصل احتجاج فلاحي وأهالي البحيرين بسبب رخصة جديدة لتعليل المياه قرب المنطقة السوقية"* ["Farmers and residents of Bhirine continue to protest the granting of a new license for water drilling near the irrigated area"], 11 March 2023, <https://www.facebook.com/bargouseliana/posts/pfbidOXGMvNE6rMNBzCFcnjHooHuSYMgCKBxUJxbwd4zhTjGVQjzvtHnTWYHLJB4kb7GiEI> (in Arabic).

the Siliana Court of First Instance convicted the 17 protesters for “obstruction” and sentenced them each to a fine of 300 Tunisian dinars (about 90 EUR).

As there is no evidence that this peaceful assembly has caused any serious and sustained disruption or led to another internationally recognizable offence, Amnesty International finds this prosecution and conviction to be solely based on the protesters’ exercise of their right to freedom of peaceful assembly. The use of Article 136 is excessive and unjustified, while Article 79 lacks legal clarity.

In addition, the defendants’ rights to information and to adequate defence were violated, with authorities failing to inform those prosecuted about the nature and basis of the charges against them and failing to inform them that they had been indicted and tried.

## 4.1.2 RIGHT TO HEALTHY ENVIRONMENT PROTESTERS IN AGAREB, SFAX

In another case, in June 2023, the Sfax 2 Court of First Instance convicted and sentenced four environmental activists to eight months in prison for “obstructing work” in connection with an August 2020 protest against pollution. At the time of writing, they remained at liberty pending an appeal ruling.

The four men are among the co-founders of the “Manish Msab” [I am not a dump] environmental protest movement, launched in 2017 in the town of Agareb, approximately 20km from the eastern city of Sfax. Thameur Ben Khaled, one of the convicted activists told Amnesty International that the movement had started out as a cultural and artistic initiative. Its focus later evolved into protesting against the pollution emanating from a nearby garbage dump and its health consequences on residents, as well as the discharging of wastewater into a local natural reserve.

In 2019, the group lodged a complaint in front of the Administrative Court against the Ministry of the Environment and the National Agency for Environmental Protection (ANEP), ultimately leading to the closure of the garbage dump in September 2021.

Peaceful protests were organized in 2019 and 2020 in Agareb, always after notifying local authorities in writing and generally without interference, according to Ben Khaled. However, one of those protests in August 2020 led to a complaint by the private company managing the dump site, which claimed that the four men had obstructed its work when some of the protesters, including Ben Khaled, prevented a truck from accessing the dump site. Noomen Mzid, one of their lawyers and member of the Tunisian League for the Defence of Human Rights (LTDH), told Amnesty International that the protest on 17 August 2020 was peaceful and had taken place along a main road near the dumpsite in Agareb without traffic obstruction.

Ben Khaled shared with Amnesty International a certificate from his employer, which he also submitted to the public prosecution and the judge, showing that he was working in a hotel in central Sfax at the time of the protest and could not have been present in Agareb. According to Mzid, the police also provided a report confirming that there were no road obstructions on that day.

The four men confirmed that they were interrogated by a public prosecutor in September 2020 but were not informed about the conclusion of the investigation and their referral to trial.

One of the four convicted activists, who preferred to remain anonymous, told the organization:

**“We thought the case was abandoned in 2020, we did not know we were being prosecuted. We learned about the trial by chance, we were not summoned. I was at court in December 2022 [for another matter] ... The judge suddenly brought up this case with the four of us instead, then postponed the trial to February, then June 2023”.**

Amnesty International found that their prosecution solely stemmed from their exercise of their right to freedom of expression, association and peaceful assembly. No evidence was presented to establish a reasonable suspicion of the four activists’ involvement in any internationally recognized offence, and they were prosecuted under Article 136 which lacks legal clarity. In addition, the trial was marred by the non-compliance with fair trial standards. Judicial authorities failed to adequately inform the defendants about the exact nature and basis of charges against them and failed to even notify them of the referral of their case to trial or their hearing dates. Mzid also explained that the court recorded Ben Khaled – who lives abroad and was not able to travel – as having attended the trial of 8 June 2023 with the other three defendants.

## 4.1.3 LABOUR AND ENVIRONMENTAL RIGHTS IN EL MARAANIA, SFAX

On 8 June 2023, the Sfax 2 Court of First Instance convicted 14 activists, protesters and union members in relation to protests in the town of El Maraania, in Agareb over environmental degradation, and sentenced them to two years and four months in prison. The group has remained at liberty pending their appeal trial scheduled in June 2025.

Amnesty International was able to speak to five of the convicted men who explained that their prosecution and conviction stemmed from their involvement in an environmental protest movement active between 2014 and 2022 in El Maraania. The protesters sought to defend residents' right to a clean, healthy and sustainable environment and to protest the environmental damage and health impact they attributed to three local factories, including a privately-owned olive oil factory. Activists shared information on social media and sent petitions and complaints to several official bodies, including the National Agency for Environmental Protection (ANEP).

According to the activists, their prosecution is also related to a strike and protest organized by workers at the olive oil factory in December 2021 against their conditions of employment, with the support of the regional section of the Tunisian General Labour Union (UGTT).

Hamida Chaieb, one of their lawyers and a member of the LTDH, told Amnesty International that the owner of the factory had submitted a complaint, claiming that the activists "obstructed" factory work in two separate incidents in December 2021 and in March 2022. The owner claimed that a group of protesters came to the factory in March 2022 and threatened him verbally and with "bladed weapons". According to the five men and information provided by their lawyer, the plaintiff did not present evidence to back up his claims during the investigation or in court; and the activists denied these claims in court.

However, the court convicted the five men on charges of "obstruction," "threatening someone with a weapon" and defamation, respectively under Articles 136, 223, 245 and 247 of the Penal Code.

In addition to the lack of evidence presented to establish a reasonable suspicion of the involvement of the men in an international recognizable criminal offence, the prosecution and conviction for "obstruction" is unjustified as the provision lacks legal clarity and is solely based on their exercise of their right to freedom of expression, association and peaceful assembly.

According to Chaieb, between 2020 and 2022, the same individual, the owner of the olive oil factory, lodged multiple other complaints against activists associated with the environmental movement or the workers' strike.

On 8 June 2023, at least five activists from the same group were in addition sentenced to eight months imprisonment in two separate cases. They were convicted of defamation against the owner of the factory based on statements they made in traditional and social media accusing the olive oil factory of generating pollution leading to health conditions among the local population as well as environmental degradation. They remain at liberty pending their appeal.

Mohamed Ltaiem, president of the Maraania association for arts and development, who was involved in the protest movement, told Amnesty International: "Everyone was taken to court. It was a way for him to silence us, multiplying the complaints, to say close your mouth or you will go to prison".

Under international human rights law, criminal sanctions to punish defamation constitute a disproportionate restriction of the right to freedom of expression. Civil damages are sufficient to redress any harm to individuals' reputation and strike a better balance between protecting individual reputation and respecting freedom of expression.

## 4.2 PROSECUTIONS RELATED TO STRIKES AND OTHER LABOUR RIGHTS PROTESTS

### 4.2.1 SHOE FACTORY WORKERS IN METBASSTA, KAIROUAN

In another illustrative case, a strike and peaceful sit-in organized by shoe factory workers over a period of 10 days in the town of Metbassta, in the city of Kairouan, 150 km from the capital Tunis, to protest dire working conditions was followed by targeted prosecutions and convictions of those most actively involved in the protest, in addition to local labour union leader Jamal Cherif. The complaint was initiated by the factory.

In October 2024, several hundred employees from the privately owned shoe factory went on strike and started a spontaneous sit-in protest in front of the factory after the administration decided to withhold three days' worth of pay from the employees who were not able to come to work on 17 October due to a transportation issue. Some of the workers on strike contacted Jamel Cherif, secretary general of the local labour union affiliated to the UGTT, for help. One of the workers explained:

**"It was the last straw, we decided to take action, and we called Jamel [Cherif] to support us, not just because of this pay cut; there have been multiple problems... We are not protected from chemicals we use in the factory. We need a ventilator at least; in the summer we have to work in very high temperatures; there is no water, no respect for our welfare... If you get sick you get a pay cut; if an injury happens during work, there is no support. You pay for everything**



**yourself and you are dismissed if unable to work... There are also amounts cut from our salaries that are not justified... In addition to this, there is always a lot of verbal abuse and insults."**

Amnesty International spoke to a union representative, six convicted workers and one of their lawyers who all asked to remain anonymous. According to the interviewed workers, the sit-in at the entrance of the factory, which lasted between 18 and 27 October, was peaceful. Amnesty International reviewed three videos recorded by two workers on 19, 22 and 24 October as well as one video and ten pictures posted online by a media outlet on 28 and 31 October.<sup>27</sup> The videos and pictures show several hundred protesters, most of them women, holding a sit-in around the entrance of the factory. The footage shows trucks entering the site, suggesting that it remained open. Police vehicles are seen in some of the videos and pictures. On 19 October, the group also organized a peaceful march in Metbassta. A video, which circulated online on 19 October and was reviewed by Amnesty International, shows several hundred people marching peacefully on an empty road, some of them holding Tunisian flags, singing the Tunisian national hymn and chanting "Work, freedom, national dignity".<sup>28</sup>

On 27 October, the governor of Kairouan visited the sit-in and spoke with the protesters and union representatives. One of the workers who spoke with the governor told Amnesty International: "He urged us to go back to work, but we were scared of reprisals. He guaranteed that nothing would happen to us and told us to trust him."

The protesters agreed to end the sit in and returned to work on 28 October, and on 30 October announced on social media their intent to form a new union affiliated to the UGTT branch in Kairouan.<sup>29</sup> A constitutive meeting was scheduled for 10 November.

However, on 5 November, the factory informed 27 workers – who were among the protesters – of their immediate dismissal, without providing any clear grounds. One of the employees who was dismissed explained to Amnesty International:

**"They said they decided to 'arbitrary dismiss us,' that the factory did not need us anymore... The other workers stopped working again for the next two days, in solidarity with us, but then the administration of the factory closed it [the entire factory] for ten days. That is when the summons and the arrests started, before the constitutive meeting... They did not fire the 27 people by accident, I think they chose the people who were the most vocal in the protest and [advocated] for the creation of the new union."**

Between 8 and 11 November, police in Kairouan summoned dozens of workers in addition to Jamel Cherif for interrogations, among them workers who were previously dismissed. One of them related:

**"They asked me about the protest, why it happened, who organized it. They said we blocked the entrance and obstructed the work, but they knew it was not true. We did not block anything and employees and trucks were still able to enter. There were surveillance cameras and the police was present."**

Another summoned worker explained:

**"They were asking about Jamel [Cherif]'s involvement, they wanted us to say that he manipulated us into doing something illegal, or that we had other suspicious motives, but there was no basis to it. We were only asking for our rights and our dignity."**

Jamel Cherif as well as three other male workers spent nearly two weeks in pre-trial detention, between 8 and 21 November, while two female workers were held in police custody for three days between 8 and 11 November. They did not have the opportunity to meaningfully challenge their detention. On 11 November, an investigative judge at the Kairouan Court of First Instance charged 24 workers and Jamel Cherif with "obstruction" under Article 136 and referred their case to court. Just 20 days later, on 21 November 2024, the same court convicted them all of "obstruction" and sentenced them to suspended prison terms of six and three months.

Amnesty International found that the workers and Jamel Cherif were prosecuted and subsequently convicted solely for exercising their right to freedom of expression, peaceful assembly, including their right to form and join trade unions. No evidence was presented during investigations or in court pointing to the involvement of the workers in committing any internationally recognizable offence. The summoning of the workers and Jamel Cherif ahead of the attempted establishment of a new union indicated that the complaint and subsequent prosecution was intended to stifle the exercise of their freedom of assembly and their right to form and join a union.

<sup>27</sup> Three videos filmed by two interviewed workers, 19, 22 and 24 October 2024, on file with Amnesty International; Al Hayet FM, Facebook post: القبروان: "Kairouan: Workers at the shoe factory in Metbassta go on strike to demand their material and moral rights", 28 October 2024, <https://www.facebook.com/alhayetfm/posts/pfbid02arCEn1CH5rJwu8gNF9CRup5N1oQZUGJ7GJ3H9Y6wq5ST1Bw4dex2Kh8MSjxPgPvI> (in Arabic); Al Hayet FM, Facebook post: القبروان: إضراب عمال مصنع "الأحذية بالمتبسة للمطالبة بحقوقهم", 31 October 2024, <https://www.facebook.com/watch/?v=3738705203038825> (in Arabic).

<sup>28</sup> Video filmed by an interviewed worker, 19 October 2024, on file with Amnesty International.  
<sup>29</sup> Kairouan Regional Labor Union, Announcement, 30 October 2024, on file with Amnesty International.

## 4.2.2 FORESTRY MAINTENANCE WORKERS IN SKHIRA, SFAX

In February 2020, authorities decided to initiate prosecutions against nine women forestry maintenance workers who peacefully protested their conditions of employment by the Skhira local authorities, about 80km south from the city of Sfax.

On 4 February 2020, outside of their working hours, the women organized a sit-in for a few hours in front of the Skhira district office to protest their working conditions alleging that they were working more days than contracted without additional pay. After that, the head of district lodged a complaint with the police claiming that the women's sit-in blocked the entrance to the district office for the whole day, a claim the women interviewed by Amnesty International deny insisting that they protested on the street in front of the building.

Amnesty International spoke to five of the nine women, who asked to remain anonymous, as well as to one of their lawyers, Hamida Chaieb. The women's statements as recorded by the police and reviewed by Amnesty International – the exact same one for all of them – indicate that the women “admitted” to blocking the entrance during the protest and that they pledged not to repeat the same behaviour.

Four of the women told Amnesty International in separate interviews that the police had summoned them for questioning on 11 February 2020. They said they had been questioned without a lawyer present and that they had been asked to sign statements without being aware of the contents. The police officers did not give them time to read the statement, saying only that it was a commitment not to protest again and ordered them to sign, which they felt compelled to do, fearing arrest and other reprisals. One of them said: “It was very fast, the officer told us to come in, sit down, took our identity cards, asked us to sign and leave.”

The women were not notified about their referral to trial or hearing date, which was scheduled through expedited proceedings for 11 March 2020. On that same day the court sentenced them to four months imprisonment in their absence. As Tunisian law allows for those tried in absentia, a re-trial took place in front of the Sfax 2 Court of First Instance on 16 February 2023.

In the retrial on 16 February 2023, the Sfax 2 Court of First Instance acquitted eight of the women of the accusation of “obstruction” under Article 136 of the Penal Code. Another woman, who was not present in the courtroom at the time of the ruling, was convicted and sentenced to four months in prison. She appealed the verdict and remained free pending the appeal. While most of the women were acquitted, their prosecution had a chilling impact on the workers' activism and their ability to collectively demand better working conditions and the respect of their labour rights.

The workers told Amnesty International that their working conditions did not improve after the protest. One of them told the organization that, whenever she raised concerns over working conditions, district officials and the police threatened her with arrest or prosecution if she protested again.

The prosecution of the nine workers under Article 136 of the Penal Code amounts to a violation of their right to freedom of peaceful assembly, which is protected under international law and standards even in instances where peaceful assemblies may result in disruptions. Moreover, authorities violated the workers' fair trial rights, including their rights to adequate defence not to self-incriminate or admit guilt, and their right to information, with authorities failing to inform them that they had been indicted and tried.

## 4.2.3 GENERAL TRANSPORT FEDERATION IN TUNIS

Between February and November 2023, authorities prosecuted and convicted 15 unionists, members of the General Transport Federation, affiliated to the UGTT, under “obstruction” and other charges for a spontaneous and peaceful protest they organized within the offices of the Ministry of Transport in Tunis in relation to working conditions. The prosecution followed a complaint by the Minister of Transport.

The conviction came against the backdrop of protests and strikes between December 2022 and January 2023 by the General Transport Federation throughout the country against what union members described as the withholding of salaries and annual bonuses to public transport employees. Protesters also denounced what they described as the deterioration of the situation of public transport companies and the lack of means allocated to them by the state.

According to a member of the committee for the defence of union members, on 29 December 2022, dozens of unionists, including the 15 convicted men, attended a meeting with the head of cabinet of the Minister of Transport, at the ministry in the capital. Subsequently, while waiting to meet the Minister, the group organized a spontaneous protest within the offices' corridors lasting several hours. According to the lawyer, the Minister's complaint claimed that the group of unionists occupied the offices and flipped desks.

Amnesty International reviewed nine pictures and five videos posted on Facebook by the union, on the day of the protest, which depicted peaceful scenes of protest.<sup>30</sup> Pictures showed 20 to 30 men holding a sit-in in the corridors of an office building or sitting around an oval meeting table. Three videos showed the same men sitting in a corridor and chanting slogans such as “Protest, protest, until the worker gets paid” or “Holding on, holding on, for [our] rights”. A fourth video shows the Minister of Transport surrounded by protesters and being confronted and verbally criticized by one of them, accusing the ministry of reneging on a previous commitment to pay his delayed salary. The final video showed the meeting between the unionists and the Minister held after the protest.

On the next day, 30 December 2022, the Gorjani police investigation unit in Tunis informed 15 unionists of the complaint lodged by the Minister of Transport against them for participating in the protest. They were subsequently summoned for interrogation. On 24 February 2023, an investigative judge at the Tunis Court of First Instance closed the investigation and referred them to trial. On 10 March 2023, the Tunis Court of First Instance sentenced the 15 unionists to four months of imprisonment for “obstruction” under Article 136 of the Penal Code. The court acquitted them of the charge of “causing damage to private property”, under Article 304 of the same code. They remained at liberty pending their appeal. On 22 November 2023, the Tunis Court of Appeal upheld their conviction for “obstruction” and convicted them of “causing damage to private property” but reduced their sentence to a fine of 400 dinars (about 120 EUR) each under Article 136 and 300 dinars each (89 EUR) under Article 309.

In a separate case, in November 2023, the Tunis Court of Appeal acquitted one of the unionists who was among the protesters of the accusation of “spreading false news with the aim of infringing the rights of others”, pursuant to Article 24 of Decree-Law 2022-54 on cybercrimes, which Tunisian authorities have used repeatedly to clampdown on freedom of expression.<sup>31</sup> The Ministry of Transport had lodged a complaint based on public statements the union member made on social media and in the media in October 2022 criticizing the deteriorating state of Tunisian public transportation.

Amnesty International found that the unionists were prosecuted and subsequently convicted solely for exercising their rights to freedom of expression, association and peaceful assembly, including their right to form and join trade unions. No evidence was presented during investigations or in court pointing to their involvement in committing damage to property that could justify a prosecution, which is likely to stifle the right of trade unions to function freely without undue limitations, free of harassment and reprisals.

## 4.2.4 GENERAL SECRETARY OF THE HIGHWAY WORKERS UNION IN TUNIS

Judicial authorities are prosecuting Anis Kaabi, general secretary of the highway workers’ union, affiliated with the trade union UGTT, in relation to statements he made on a radio show about a strike organized on 30 and 31 January 2023 by tollbooth workers at the public highway company to demand better working conditions. Tunisian authorities arbitrarily detained Kaabi for nearly 15 months solely for exercising his right to freedom of expression and association, until his provisional release on 18 April 2024.

Men in plainclothes took Kaabi from his home in Tunis at around 9:00pm on 31 January 2023, without presenting an arrest warrant, and subsequently informed his family that he was being taken to the Gorjani detention centre in Tunis, where Tunisian police formally placed him under arrest on 1 February 2023.

According to one of Kaabi’s lawyers, Boubaker Bethabet, the union leader is prosecuted for “exploiting his position as a public agent to harm the administration” and “participating in an agreement to obstruct the execution of a public service”, respectively based on Articles 96 and 107 of the Penal Code, following a complaint lodged by the public highway company. If convicted under both charges, he risks a prison sentence of up to 12 years.

His lawyers’ requests for provisional release were denied by an investigative judge at the Tunis Court of First Instance and later by the indictment chamber at the Tunis Court of Appeal. On 18 April 2024, following an appeal in cassation lodged by Kaabi’s lawyers, the indictment chamber at the Tunis Court of Appeal ordered Kaabi’s release from pretrial detention. However, the court still referred his case to the criminal chamber of the Tunis Court of First Instance for trial, under the same charges. Kaabi’s lawyers subsequently lodged another cassation appeal against this decision, which was still pending at the time of writing.

Bethabet explained to Amnesty International that the complaint is based on two radio interviews by Kaabi on 27 and 29 January 2023 commenting on the strike, which the organization reviewed. In his interview on radio Mosaïque FM on 27 January 2023, Kaabi explained that the union decided to boycott a negotiation meeting with the Minister of Housing and Equipment in relation to the strike after they learned that it would not be a formal negotiation session. In another interview on radio Amal on 29 January 2023, Kaabi also explained that workers on strike normally raise the highway toll booth barriers to allow cars to circulate without paying the highway fees, an act the public company claimed caused significant financial losses in its complaint against the union leader, according to Bethabet. He also said that workers on strike were

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<sup>30</sup> General Transport Federation, Nine Facebook posts, 29 December 2022, <https://www.facebook.com/UGTT.fed.gen.du.transport>, nine successive publications between 11h32 and 14h32 (in Arabic).

<sup>31</sup> Amnesty International and Human Rights Watch, “Tunisia: Authorities escalate clampdown on media, freedom of expression”, 30 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/tunisia-authorities-escalate-clampdown-on-media-freedom-of-expression/>

ready to escalate by closing booths altogether in response to the company threatening to dismiss those joining the strike and if their demands for better working conditions were not met.

Kaabi's public statements and activism are protected by the rights to freedom of expression and association, in line with Tunisian law and its obligations under international law. Kaabi is prosecuted for exercising his right to freedom of expression and labour rights under Article 107 which unduly criminalizes "the obstruction of the execution of a public service", and which lacks legal clarity.

Kaabi's prosecution further highlights the Tunisian authorities' use of judicial harassment and other draconian tactics to silence those expressing dissent, including union leaders. On the day of Kaabi's arrest, President Kais Saied visited the military facility of El Aouina and publicly stated:

**"Anyone who blocks roads or threatens to block roads for cars cannot remain exempt from accountability. (...) Union rights are guaranteed in the constitution, but union rights cannot turn into a cover for political objectives that are clear to everyone".<sup>32</sup>**

The Tunisian president also linked "those who conspire against the state and its public facilities and, in some sectors, those who block roads" with "groups who conspire against Tunisia and its people".

Kaabi told Amnesty International that the public highway company also dismissed him in June 2023, alleging that his actions caused significant financial losses. The unionist lodged a complaint in front of a labour court for unfair dismissal in May 2024, following his release from prison. A decision was pending at the time of writing.

## 4.3 PROSECUTIONS OF PROMINENT PUBLIC FIGURES

The authorities have at times also used "obstruction charges" as part of a set of charges brought against prominent political and civil society figures, as part of a broader attempt to silence them or punish them for their legitimate opposition activities against President Kais Saied.

### 4.3.1 JUDGE ANAS HMEDI IN MONASTIR

In July 2022, judicial authorities launched baseless criminal proceedings against Anas Hmedi, head of the Tunisian Judges Association (known by its French acronym AMT, Association des Magistrats Tunisiens) and a judge at the Monastir Court of Appeal, in reprisal for his role in the association's defence of the independence of the judiciary, including through a month-long strike between June and July 2022.<sup>33</sup>

Authorities are investigating Anas Hmedi for "obstruction" under Article 136 of the Penal Code. His hearing in front of an investigative judge, initially planned for 21 August 2023, has been repeatedly postponed. The judge, who remains at liberty, is also facing disciplinary proceedings by the Temporary High Judicial Council (THJC) as well as an online smear campaign by several social media accounts supportive of the president.<sup>34</sup>

After the summary dismissal of 57 magistrates on 1 June 2022 by President Kais Saied,<sup>35</sup> the AMT, together with other judges' associations, led a nationwide four-week strike to protest these arbitrary dismissals.<sup>36</sup> Following the strike, as head of the association, Anas Hmedi was summoned for questioning four times between July and August 2022 by the General Inspection Service of the Ministry of Justice.

In October 2022, following a decision by the THJC to lift his immunity from prosecution, the deputy prosecutor at the Monastir Tribunal of First Instance opened a criminal investigation against Anas Hmedi for "obstruction" in relation to his alleged "incitement" of other judges of the Monastir Tribunal to go on strike in June and July 2022.

In December 2022, his lawyers lodged a request to appeal the decision to lift his immunity pursuant to an urgent procedure in front of the Administrative Court, but the request remains pending. Under Tunisian law, requests for

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<sup>32</sup> Tunisian Presidency, Facebook post: "زيارة رئيس الجمهورية قيس سعيد إلى ثكنة الحرس الوطني بالعوينة" ["Visit of the President of the Republic, Kais Saied, to the National Guard military center in El Aouina"], 31 January 2023, <https://www.facebook.com/Presidence.tn/videos/5793483284083106/> (in Arabic), minute 6:00-9:00.

<sup>33</sup> Amnesty International, "Tunisia: Authorities must end erosion of judicial independence", 31 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/tunisia-authorities-must-end-erosion-of-judicial-independence/>

<sup>34</sup> UN Special Rapporteur on the Independence of Judges and Lawyers and UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "Tunisia: Judges' right to association and protest must be respected, say UN experts", 14 September 2022, <https://www.ohchr.org/en/press-releases/2022/09/tunisia-judges-right-association-and-protest-must-be-respected-say-un>

<sup>35</sup> Amnesty International, "Tunisia: Arbitrary dismissals a blow to judicial independence", 10 June 2022, <https://www.amnesty.org/en/latest/news/2022/06/tunisia-arbitrary-dismissals-a-blow-to-judicial-independence/>

<sup>36</sup> France 24, "Tunisia: Judges go on strike over Saied interference after 57 colleagues sacked", 6 June 2022, <https://www.france24.com/en/africa/20220606-tunisia-judges-go-on-strike-over-saied-interference-after-57-colleagues-sacked>

suspension of administrative decisions are considered urgent<sup>37</sup> and, in practice, are usually adjudicated within three months.

In February 2023, the General Prosecutor of the Tunis Court of Appeal moved the case against Anas Hmedi from the Monastir Tribunal to the El Kef Tribunal of First Instance, without specifying a reason for the transfer and despite the ongoing appeal against the decision to lift his immunity. Anas Hmedi was summoned by an investigating judge for investigation on 21 August 2023, but his hearing has been postponed several times. In parallel, separate disciplinary procedures have also been opened against him by the THJC.

The AMT publicly opposed measures taken by President Kais Saied against the judiciary and denounced the undue and unlawful interference of the executive in the judiciary. According to the AMT in a statement issued on 16 April 2024,<sup>38</sup> since August 2023 the Minister of Justice has ordered the appointment, transfer and suspension of at least 105 judges and prosecutors through executive memorandums, without any legal basis.<sup>39</sup> In the same statement, the AMT states that there have been several suspensions from work with or without pay, outside any disciplinary process.

The ongoing prosecution of judge Anas Hmedi constitutes a reprisal for his defence of judicial independence and his right to freedom of expression, association and peaceful assembly. In accordance with international human rights law and standards, members of the judiciary are entitled to freedom of expression, association, and assembly, and to form and join associations to represent their interests.<sup>40</sup> The 2022 Constitution imposes a blanket prohibition on judges' right to strike, which constitutes a disproportionate restriction of the right. While this right may be subjected to specific restrictions due to the status of judges, authorities must show that restrictions meet the requirements of legality, necessity, and proportionality.

### 4.3.2 OPPOSITION PARTY LEADER ABIR MOUSSI IN TUNIS

Since her arrest in October 2023, judicial authorities have initiated multiple politically motivated investigations and prosecutions against opposition party leader and lawyer Abir Moussi, president of the Free Destourian Party (PDL) since she first expressed her intention to run in presidential elections. In the first of these cases, authorities used "obstruction" charges under Article 136 along with other criminal charges to arrest Abir Moussi in October 2023, while she was carrying out a peaceful protest, and used these charges to arbitrarily hold her in prolonged pretrial detention. Authorities subsequently opened at least four separate investigations into the political opposition leader and, in November 2024, convicted and sentenced her to 16 months in prison for her critical opinions.<sup>41</sup> As her arbitrary detention is solely related to her exercise of her right to freedom of expression and assembly, Amnesty International calls for her immediate and unconditional release, the quashing of her unjust conviction and sentence, and the dropping of all charges against her.

Defence lawyer Nafaa Laaribi, told Amnesty International that on 3 October 2023, just 11 days after Abir Moussi expressed her interest in being a candidate in the 2024 presidential elections, police officers arrested her in front of a public administration office annexed to the presidential palace in Carthage, northeast Tunis. The arrest took place while she was live streaming on Facebook her protest against the police barring her from submitting an appeal against presidential decrees related to local elections.

Laaribi told Amnesty International that her lawyers were only informed of the prosecution's decision to place her in custody after she had already been detained for 48 hours, contrary to Tunisian law which requires the police to notify at least a family member of the placement in custody.<sup>42</sup> According to her lawyer, during her first night in custody, officers ignored her request for medicine, which resulted in health complications that led to her brief hospitalization.

On 5 October 2023, an investigative judge at the Tunis Court of First Instance interrogated Abir Moussi in relation to charges of "obstruction", under Article 136 of the Penal Code, in addition to seeking to "change the form of government", "inciting violence on the Tunisian territory", and "assault with the aim of provoking disorder" under Article 72 of the same code, and "processing personal data without the consent of the data subject" under Articles 27 and 87 of the Data Protection Law, in relation to her live streaming online her protest in front of a public administration building in the presence of a member of the police. The judge ordered her pretrial detention. On 30 January 2024, the judge closed the

<sup>37</sup> Tunisia, Loi 72-40 relative au Tribunal Administratif [Law 72-40 relating to the Administrative Court], <https://legislation-securite.tn/latest-laws/loi-n-72-40-du-1-juin-1972-relative-au-tribunal-administratif/>, 1972, Articles 39 and 81 (in French).

<sup>38</sup> Tunisian Judges Association (AMT), "حول الأوضاع بالغة الخطورة التي إليها القضاء التونسي" ["About the extremely dangerous situation of the Tunisian judiciary"], 16 April 2024, <https://www.facebook.com/photo?fbid=732478842335489&set=pcb.732478925668814> (in Arabic).

<sup>39</sup> According to the AMT, two members of the Temporary High Judicial Council (THJC) were transferred out of the THJC during the move of judges between positions in August 2023 and two others retired. No other members were appointed, which prevented the THJC from meeting for more than six months due to a lack of quorum and led to its paralysis. The Ministry of Justice has subsequently been bypassing the THJC and using "executive memorandums", which have no legal basis, to make decisions relating to the composition of courts and the nomination of judicial officials.

<sup>40</sup> UN Basic Principles on the Independence of the Judiciary, adopted on 6 September 1985, Principles 8 and 9.

<sup>41</sup> Amnesty International, "Tunisia: Opposition figure handed two-year sentence – Abir Moussi" (Index: MDE 30/8455/2024), 2 September 2024, <https://www.amnesty.org/en/documents/mde30/8455/2024/en/>

<sup>42</sup> Tunisia, Loi 68-23 du 24 juillet 1968 portant refonte du code de procédure pénale [Law 68-23 of 24 July 1968 overhauling the Code of Penal Procedures], 1968, <https://legislation-securite.tn/latest-laws/loi-n-68-23-du-24-juillet-1968-portant-refonte-du-code-de-procedure-penale/#:~:text=%C3%A0%20la%20justice.,Art.,%C3%A9crites%20qu'il%20juge%20opportunes> (in French), Article 13 bis (as amended on 16 February 2016).

investigation and referred her case to trial, dropping the charges under Article 72 but ordered for Abir Moussi to remain in pretrial detention. Following an appeal from the public prosecution, on 29 February 2024, the indictment chamber at the Tunis Court of Appeals confirmed the judge's decision. The public prosecution subsequently lodged an appeal in cassation to protest against the dropping of the charges under Article 72. On 18 November 2024, the judge reintroduced the criminal charges, a decision subsequently upheld by the indictment chamber. Abir Moussi's lawyers lodged another appeal in cassation.

Tunisian law allows investigative judges to remand suspects to pretrial detention during criminal investigations for an initial period of up to six months, which may be renewed once for up to three months for alleged misdemeanours, and twice for up to four months each time for alleged felonies.<sup>43</sup> While the investigation in Abir Moussi's case was closed and the judge's decision to refer her to trial was suspended pending the outcome of the cassation appeal, according to Laaribi, no judicial authority has renewed her detention since April 2024, or six months after her arrest, thus rendering it unlawful under Tunisian law.

In a separate case, on 5 August 2024, the Tunis Court of First Instance convicted and sentenced Abir Moussi to two years in prison under Article 24 of Decree-Law 2022-54 on cybercrimes following a complaint filed by the Independent High Authority for Elections (ISIE), based on public statements she had made in November 2022 and January 2023 criticizing the legislative electoral process, which are protected by the right to freedom of expression. The Tunis Court of Appeals reduced her sentence to 16 months in prison on 22 November 2024. Moussi's lawyers appealed the sentence in cassation.

Abir Moussi is also facing three separate investigations based on three other complaints from the ISIE, also related to her public criticism of the electoral process and of the Tunisian president, under Article 24 of Decree-Law 2022-54 on cybercrimes. Her lawyers argue that the four complaints should have been consolidated into a single investigation, as they are related to the same alleged criminal conduct, as required by law, but are instead being handled separately by different judges, seemingly with the intent to intensify the judicial harassment against her.

The party leader is also facing several other charges in separate investigations related to the exercise of her rights to freedom of expression and peaceful assembly.<sup>44</sup>

Abir Moussi carried out a 16-day hunger strike in November 2023 and another hunger and water strike between 26 and 28 January 2024 to protest against her arbitrary detention. The political opposition leader suffers from arthritis and back pain. Although authorities eventually granted her access to physiotherapy sessions, a back belt and a seat booster to alleviate her pain, her lawyers expressed concern that she faced significant delays in obtaining them.

Amnesty International is further concerned by the violation of Abir Moussi's right to have adequate time and facilities to communicate confidentially with her lawyers. According to Laaribi, on four separate instances in January 2025, security officers at the women's prison of Manouba, northwest Tunis, interrupted Moussi's visits with her lawyers, asking to see what files they were discussing and claiming that they were not allowed to discuss specific files, putting an end to the visit.

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<sup>43</sup> Tunisia, Loi 68-23 [Law 68-23] (previously cited), Articles 84-85 (as amended on 22 November 1993).

<sup>44</sup> Amnesty International, "Tunisia: Opposition figure handed two-year sentence – Abir Moussi" (previously cited).

# 5. LEGAL FRAMEWORK

## 5.1 INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

The rights to freedom of association and peaceful assembly are safeguarded under Article 20 of the Universal Declaration of Human Rights (UDHR). They are also prescribed by Articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), and Articles 10 and 11 of the African Charter on Human and Peoples' Rights, to which Tunisia is a state party. As a state party, Tunisia must respect, protect and fulfil these rights without discrimination and has a positive obligation to facilitate the right to peaceful assembly in law and practice which may include meetings, marches, rallies, sit-ins as well as strikes.

As stated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, assemblies play a fundamental role in allowing people to formulate grievances and aspirations and influence states' public policy.<sup>45</sup> They are a vehicle for the exercise of many other civil, cultural, economic, political and social rights. The exercise of the right to freedom of peaceful assembly does not require permission of governmental authorities.<sup>46</sup>

States may require the organizers of a peaceful assembly to inform the authorities in advance under a notification system. The latter is distinct from an authorization system, which is at odds with international human rights law and standards. Notification systems should support the authorities in facilitating public assemblies and protecting the rights of others. However, the failure to comply with notification requirements must not lead to undue sanctions, especially criminal sanctions and there should be exceptions for spontaneous assemblies, for which notification should not be required.<sup>47</sup> Organizers should be able to notify the authorities in the simplest and fastest way and the authorities should expeditiously provide a receipt acknowledging that timely notification has been submitted.<sup>48</sup> Those organizing or participating in peaceful assemblies should not be held liable for the conduct of others.<sup>49</sup>

Any restrictions to peaceful assemblies must be formulated with sufficient clarity in the law and must be strictly necessary and proportionate to protect a legitimate aim recognized under international human rights law and be the less restrictive measure to achieve the purported aim.<sup>50</sup>

Peaceful protests that temporarily obstruct the activity of a third party, such as by disrupting road traffic, pedestrian movements or economic activity, including spontaneous ones, are protected under the right to freedom of peaceful assembly.<sup>51</sup> According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association:

**"Access to public space means concretely that organizers and participants should be able to use public streets, roads and squares to conduct (static or moving) peaceful assemblies... Spaces in the vicinity of iconic buildings such as presidential palaces, parliaments or memorials should also be considered public space, and peaceful assemblies should be allowed to take place in those locations".<sup>52</sup>**

"Violence" in the context of assemblies would involve the use of force by participants that is likely to result in injuries or serious damage to property, not merely obstructing movement by pedestrians or traffic.<sup>53</sup> Concerns about the free flow

<sup>45</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 21 May 2012, UN Doc. A/HRC/20/27, para. 12 and 24.

<sup>46</sup> UN Human Rights Committee, *General Comment 37: The Right to Peaceful Assembly (Art. 21)*, 17 September 2020, UN Doc. CCPR/C/GC/37, para. 70; UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 24 April 2013, UN Doc. A/HRC/23/39, para. 51.

<sup>47</sup> UN Human Rights Committee, *General Comment 37 (previously cited)*, para. 70-73; UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 24 April 2013, UN Doc. A/HRC/23/39, para. 51.

<sup>48</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 24 April 2013, UN Doc. A/HRC/23/39, para. 52-58.

<sup>49</sup> UN Human Rights Committee, *General Comment 37 (previously cited)*, para. 17; UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 24 April 2013, UN Doc. A/HRC/23/39, para. 78.

<sup>50</sup> UN Human Rights Committee, *General Comment 37 (previously cited)*, para. 36-47; UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 21 May 2012, UN Doc. A/HRC/20/27, para. 39-42.

<sup>51</sup> UN Human Rights Committee, *General Comment 37 (previously cited)*, para. 15.

<sup>52</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, *Report*, 24 April 2013, UN Doc. A/HRC/23/39, para. 66.

<sup>53</sup> UN Human Rights Committee, *General Comment 37 (previously cited)*, para. 15.

of traffic should not automatically take precedence over freedom of peaceful assembly. The UN Human Rights Committee, which interprets states obligations under the ICCPR, has called on states to ensure that the definition of violent conduct in the context of demonstrations is narrowly construed, and to set a high threshold for considering prosecution in cases of property damage, which should amount to “serious damage”.<sup>54</sup>

Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Tunisia, further protects the right to strike, the right of everyone to form trade unions and join the trade union of their choice and the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society. The right to form and join trade unions is also part of the right to freedom of association, which is protected by Article 22 of the ICCPR.

This right requires that trade unionists be protected from any discrimination, harassment, intimidation, or reprisals.<sup>55</sup> The right to form and join trade unions also implies that trade unions should be allowed to function freely, without excessive restrictions.

Tunisia is also a member of the International Labour Organisation (ILO) and has ratified core ILO Conventions including on freedom of association (number 87) and on the right to organize and collective bargaining (number 88). The right to strike is recognized by the ILO as an intrinsic corollary of the right to organize protected by Convention number 87.<sup>56</sup>

The very purpose of the right to strike is to be able to disrupt services or production. As a result, in line with the state’s obligation to protect the right to freedom of peaceful assembly, the right to strike may be restricted only in exceptional circumstances, such as for public servants providing essential services, interpreted in the most restrictive sense.<sup>57</sup> The Committee on Freedom of Association of the ILO has also stated that economic considerations should not be invoked as justification for restrictions on the right to strike.<sup>58</sup> As the purpose of a strike is to disrupt services or production, alleging that a strike would cause even serious financial loss is not sufficient justification to restrict it or criminally prosecute its organizers.

## 5.2 NATIONAL LEGISLATION

Articles 40, 41 and 42 of the 2022 Tunisian Constitution guarantee the right to freedom of association, including the right to form and join trade unions, the right to strike and the right to peaceful assembly. The 2022 Constitution however imposes a blanket prohibition on the right to strike of members of the judiciary, military, security forces and customs authorities which constitutes a disproportionate restriction. While this right may be subjected to specific restrictions due to the status of certain public servants, authorities must show that restrictions meet the requirement of legality, necessity, and proportionality without undermining their rights to freedom of peaceful assembly and association.

Law 69-4 of 1969 regulating public meetings, processions, parades, demonstrations and gatherings stipulates that the local governor or head of district, or the National Security Directorate in Tunis, must be informed at least three days before the planned event, which they can then prohibit if they deem it likely to disturb “public order and security”, based on unclear criteria.<sup>59</sup> The law does not contain provisions pertaining to spontaneous assemblies. Individuals participating in assemblies that took place without notice or that have been prohibited risk being fined or imprisoned for periods ranging from three months to a year in prison.<sup>60</sup>

Under the section of the Penal Code entitled “obstruction of freedom of work”, which does not clearly define what constitutes “freedom of work”, Article 136 provides for three years’ imprisonment and a fine of 720 dinars [approximately 214 EUR] for “anyone who, through violence, assault, threats or fraudulent manoeuvres, causes or maintains or attempts to cause or maintain an individual or collective cessation of work”.<sup>61</sup> This provision is vaguely formulated, does not proscribe an internationally recognizable offence. Indeed, it does not specify what constitutes a “cessation of work”, which has resulted in its enforcement against peaceful protesters and union members. International human rights law requires that the law must be formulated with enough precision for people to understand what specific conduct is prohibited.

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<sup>54</sup> UN Human Rights Committee, General Comment 37 (previously cited), para. 15.

<sup>55</sup> UN Human Rights Committee and UN Committee on Economic, Social and Cultural Rights, Freedom of Association, including the Right to Form and Join Trade Unions, 23 October 2019, UN Doc. E/C.12/2019/3-CCPR/C/2019/1, para. 3-4.

<sup>56</sup> UN Human Rights Committee and UN Committee on Economic, Social and Cultural Rights, “Freedom of association, including the right to form and join trade unions” (previously cited), para. 4.

<sup>57</sup> International Labour Organization (ILO), Compilation of decisions of the Committee on Freedom of Association, [https://normlex.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:70002:0::NO:70002:P70002\\_HIER\\_ELEMENT\\_ID,P70002\\_HIER\\_LEVEL:3945366,1](https://normlex.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3945366,1), (accessed on 30 August 2024), “Right to strike”.

<sup>58</sup> ILO, Committee on Freedom of Association: Case 2841 (France), 17 February 2011; ILO, Committee on Freedom of Association: Case 2894 (Canada), 15 August 2011.

<sup>59</sup> Tunisia, Loi 69-4 réglementant les réunions publiques, cortèges, défilés, manifestations et attroupements [Law 69-4 regulating public meetings, processions, parades, demonstrations and gatherings], 1969, <https://legislation-securite.tn/latest-laws/loi-n-69-4-du-24-janvier-1969-reglementant-les-reunions-publiques-corteges-defiles-manifestations-et-attroupements/> (in French), Articles 2, 9, 10 and 12.

<sup>60</sup> Tunisia, Loi 69-4 [Law 69-4] (previously cited), Article 26.

<sup>61</sup> Unofficial translation from Amnesty International.



Article 107 of the Penal Code similarly punishes by two years' imprisonment "the agreement, formed between two or more civil servants or similar [positions] with a view to obstructing, by collective resignation or [by other means], the execution of laws or a public service".<sup>62</sup> Despite specifying that "this provision does not hinder the exercise, by public agents, of their rights to join and participate in a trade union, for the defence of their corporate interests within the framework of the laws which regulate it", this provision has been used against union members and peaceful protesters in violation of their rights, pointing to its lack of legal clarity.

Tunisian prosecutors' recurrent use of Penal Code provisions, notably Article 136, to prosecute individuals for engaging in peaceful acts of protest or strikes contravenes Articles 21 and 22 of the ICCPR and Article 8 of the ICESCR. The arbitrary arrest and detention of peaceful protesters and trade union members, and their unjust criminalization, create an environment stifling individuals' ability to exercise their rights to freedom of association, expression and peaceful assembly, which are key components of a thriving civic space.

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<sup>62</sup> Unofficial translation from Amnesty International.

# 6. CONCLUSION AND RECOMMENDATIONS

Amnesty International's documentation since February 2020 indicates that the Tunisian authorities have been using overbroad "obstruction" charges, punishable by imprisonment and fine under Article 136 and Article 107 of the Penal Code, to suppress legitimate protests and strikes demanding basic economic, social and environmental rights. The authorities have arbitrarily arrested, detained and prosecuted peaceful protesters, workers, trade unionists, environmental activists, political opponents simply for their exercise of the rights to freedom of peaceful assembly and association, including the right to form and join a union and to organize and participate in a strike, and in some cases for exercising their right to freedom of expression in relation to a strike or protest. Among those targeted under "obstruction" charges are workers and local residents in marginalized and impoverished communities taking part in localized protests and strikes to voice their concerns over social, economic and environmental rights against the backdrop of a deepening economic and cost of living crisis. These arrests and prosecutions have a chilling impact of silencing those advocating for better working and living conditions.

The authorities' crackdown of these localized protests and strikes is taking place in a wider context of rollback on human rights, characterized by growing intolerance of any forms of dissent and stifling attacks on civil society. Instead of criminalizing peaceful forms of protest, the Tunisian authorities must foster an environment conducive to open discussions on matters of public interest, including socio-economic and environmental concerns, without fear of reprisals.

To meet their obligations under international law to uphold the rights to freedom of expression, association and peaceful assembly, Amnesty International recommends that the Tunisian authorities:

- Quash the convictions or drop the charges levelled against people solely for exercising their rights to freedom of expression, association and peaceful assembly including through participating in peaceful street protests and labour strikes and immediately and unconditionally release all those arbitrarily detained on these grounds including Abir Moussi.
- Refrain from prosecuting people who exercised their rights to freedom of peaceful assembly and association by using vaguely formulated provisions, including Articles 107 and 136 of the Penal code ("obstruction of a public service" and "obstruction of work" respectively).
- Repeal overly broad and vague legal provisions used to curtail the exercise of the rights of to freedom of expression, association and peaceful assembly including Articles 107 and 136 of the Penal Code or amend them to bring them in line with international law and standards.
- Stop the misuse of pretrial detention to detain peaceful protesters and other critics, and ensure that pre-trial detention is only used as a measure of last resort following an individualized assessment showing that the detention is necessary and proportionate to address the risk of absconding, interfering with an investigation or the course of justice or committing a serious crime, and amend relevant provisions in the Code of Criminal Procedures to render such assessment mandatory and based on clear criteria.
- Fully uphold defendants' right to a fair trial including the right to be informed of the exact nature and basis of charges against them and the available evidence; the right to prepare an adequate defence and the right to be tried in their presence.
- End all undue executive interference in the judiciary and respect the rights of all members of the judiciary to freedom of expression, association and peaceful assembly without fear of reprisals.
- Guarantee to everybody the rights to form and join a union and to organize and participate in a strike in accordance with international human rights law and standards.

# 7. ANNEXES

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4 June 2025

## **TUNISIA: UPCOMING REPORT ON THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY**

Your Excellency,

I am writing to you as a representative of Amnesty International's International Secretariat based in London.

Amnesty International is a global independent human rights organization of more than 10 million people in more than 64 countries working to end human rights violations. The International Secretariat headquarters is based in London, which is where most of our legal and policy experts are based, in the Middle East and North Africa, we have regional offices in Tunis, Ramallah and Beirut. We regularly seek to engage with the authorities to share our findings and recommendations.

I am writing today to share below summary findings of Amnesty International's research on the right to freedom of peaceful assembly in Tunisia which we expect to publish in an upcoming report on 11 June 2025, examining judicial and security authorities' response to peaceful assemblies expressing grievances relating to social, economic and environmental rights, including protests and strikes.

The report specifically investigates the use of "obstruction" charges under Articles 136 and 107 of the Penal Code to investigate, detain, prosecute and convict protesters, activists, workers and unionists between February 2020 and January 2025.

We are sharing our main findings summarized below for comments from your ministry or other relevant ministries and would welcome receiving your response by 9 June 2025 at the latest to ensure that we can fully reflect the Tunisian authorities' position in the report. We commit to publishing your response in full.

We look forward to your response. If you have any questions, please contact us by email at: [tunisiateam@amnesty.org](mailto:tunisiateam@amnesty.org).

Please accept the assurance of our highest considerations,

Sara Hashash, Deputy Regional Director for the Middle East and North Africa  
Amnesty International  
International Secretariat  
1 Easton Street, London, WC1X 0DW, UK

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### Summary of findings of Amnesty International's upcoming report:

In our investigation of the use of "obstruction" charges in the context of peaceful protests and strikes, Amnesty International was able to document the investigations and prosecutions of a total of 90 individuals in relation to nine separate peaceful protests or strikes, in the regions of Kairouan, Monastir, Tunis, Sfax and Siliana that took place between February 2020 and October 2024.

We welcome your comments and any additional information you wish to provide in response to our findings.

- We have found that Tunisian authorities have repeatedly used vaguely formulated "obstruction" charges under Articles 136 and 107 of the Penal Code to arbitrarily investigate, detain, prosecute and convict these individuals simply for exercising their rights to freedom of peaceful assembly, association and expression, which include the right to form and join a union and to organize and participate in a strike.
- Individuals prosecuted include peaceful activists, protesters, and unionists, as well as one judge and one political opposition figure. Among them, 16 were arrested and detained for periods ranging between three days and 20 months.
- Some of the protests were in relation to environmental and water rights, while in other cases workers and unionists spoke out against dire working conditions. The authorities have at times also used "obstruction" charges as part of a set of charges brought against political and civil society figures.
- In eight of these nine cases, authorities applied the "obstruction" charge under Article 136 of the Penal Code which provides for three years' imprisonment and a fine of 720 dinars for "anyone who, through violence, assault, threats or fraudulent manoeuvres, causes or maintains or attempts to cause or maintain an individual or collective cessation of work". Under international law, this vaguely formulated provision, which does not define what constitutes a "cessation of work", does not meet the principle of legality and does not proscribe an internationally recognized offence.
- In another case, judicial authorities applied Article 107 of the Penal Code, which similarly punishes by two years' imprisonment "the agreement, formed between two or more civil servants or similar [positions] with a view to obstructing, by collective resignation or [by other means], the execution of laws or a public service". Despite specifying that "this provision does not hinder the exercise, by public agents, of their union rights, for the defence of their corporate interests within the framework of the laws which regulate it," it has been used to punish union activism.
- In all nine cases, Amnesty International found the investigations and prosecutions based on Article 136 and Article 107 to be baseless and solely stemmed from the individuals' peaceful exercise of their human rights. Authorities failed to present any evidence pointing to the reasonable suspicion of the involvement of the individuals prosecuted in any violence conduct or other conduct that could constitute an internationally recognized crime. Amnesty International found the legal proceedings to have been initiated in reprisal against peaceful assemblies or union activism, often affiliated with the Tunisian General Labour Union (UGTT), and to deter protesters and others from participating in future protests and strikes.
- Individuals were convicted and sentenced to fines or suspended prison terms or are at liberty pending trial or pending the closure of the investigation. Others have remained in prolonged arbitrary pretrial detention.

Under international law, states have an obligation to tolerate temporary obstruction caused by a peaceful assembly, such as by a disruption of road traffic, pedestrian movements or economic activity. According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association:

*"Access to public space means concretely that organizers and participants should be able to use public streets, roads and squares to conduct (static or moving) peaceful assemblies... Spaces in the vicinity of iconic buildings such as presidential palaces, parliaments or memorials should also be considered public space, and peaceful assemblies should be allowed to take place in those locations".*

According to the UN Human Rights Committee, which interprets states obligations under the International Covenant on Civil and Political Rights (ICCPR), the mere obstruction of movement or traffic cannot be equated with violence, which in the context of assemblies would involve the use of force by participants that is likely to result in injuries or serious damage to property.

Serious violations of the right to a fair trial and due process were also documented in five cases, specifically the defendants' rights to information and to adequate defence. The authorities failed to inform those prosecuted about the nature and basis of the charges against them. In some cases, defendants were not even informed that they had been indicted and their cases referred to trial and were left in the dark about the dates of their trials hearing or even their verdict, severely undermining their right to adequate defence including their ability to access to a lawyer.

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MATTERS TO US ALL.**

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# **“WE WERE ONLY ASKING FOR OUR RIGHTS AND DIGNITY”**

## **TUNISIA: OBSTRUCTION CHARGES USED TO PUNISH PEACEFUL ASSEMBLY**

At odds with official discourse emphasizing the pursuit of economic and social justice for the most disadvantaged, the Tunisian authorities have repeatedly targeted and punished individuals from marginalized and impoverished communities by arresting, investigating or prosecuting them for attempting to raise concerns through peaceful protests and strikes in relation to socioeconomic and environmental issues such as poor working conditions, pollution and access to water.

This report examines the use of vaguely formulated “obstruction” charges under Articles 136 and 107 of the Penal Code to punish 90 peaceful protesters, activists, trade unionists and workers simply for exercising their rights to freedom of peaceful assembly, to form and join a union and to organize and participate in strikes. Individuals targeted include local residents and environmental activists who protested in relation to their right to water and to a healthy environment and workers and unionists who organized protests and strikes over employment and working conditions.

Within the context of the broader crackdown on human rights, this pattern of unjust criminalization of peaceful activism for socio-economic and environmental rights is another, less visible, manifestation of the repression of peaceful dissent in the country and will have a chilling effect.