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BEHIND TUNISIA'S 'ECONOMIC MIRACLE':

INEQUALITY AND CRIMINALIZATION OF PROTEST

**FREEDOM FROM DISCRIMINATION
IS A HUMAN RIGHT**

**AMNESTY
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TUNISIA'S 'ECONOMIC MIRACLE' HAS NOT BENEFITED ALL, NOR HAS IT BEEN MATCHED BY GREATER ENJOYMENT OF HUMAN RIGHTS. THIS WAS VIVIDLY ILLUSTRATED DURING UNREST IN THE SOUTH-WEST REGION OF GAFSA IN 2008, WHEN PEACEFUL PROTESTS BY WORKERS AND UNEMPLOYED YOUTHS WERE MET WITH EXCESSIVE USE OF FORCE BY SECURITY FORCES, ARBITRARY ARREST, TORTURE OR OTHER ILL-TREATMENT, AND IMPRISONMENT AFTER UNFAIR TRIALS.

THE PROTESTS WERE SPARKED IN REDEYEF BY WHAT WAS SEEN AS AN UNFAIR RECRUITMENT PROCESS BY THE GAFSA PHOSPHATE COMPANY (GPC), AND SOON SPREAD TO OTHER CITIES. THEY DREW IN A WIDE RANGE OF PEOPLE DISAFFECTED BY ECONOMIC AND OTHER SOCIAL ISSUES, AND COINCIDED WITH SIMILAR PROTESTS IN CAMEROON, EGYPT, HAITI, INDONESIA, MOROCCO AND ELSEWHERE.

Tunisian security forces arbitrarily arrested and detained some 300 protesters in the Gafsa region, many of whom were tortured or otherwise ill-treated. At least 200 people were prosecuted in connection with the protests and some are now serving eight years in prison after unfair trials.

This document is being published as part of Amnesty International's Demand Dignity Campaign, launched in May 2009. The campaign aims to expose and combat the human rights violations that drive and deepen poverty. It is initially focusing on issues, such as those raised in Gafsa in 2008, that demonstrate the connection between deprivation, insecurity, exclusion and denial of opportunities for participation by people in decisions that affect their lives. The overall goal of the campaign is to end the human rights violations that keep people poor.

ECONOMIC DEVELOPMENT

In recent decades, economic development and government efforts to eradicate poverty

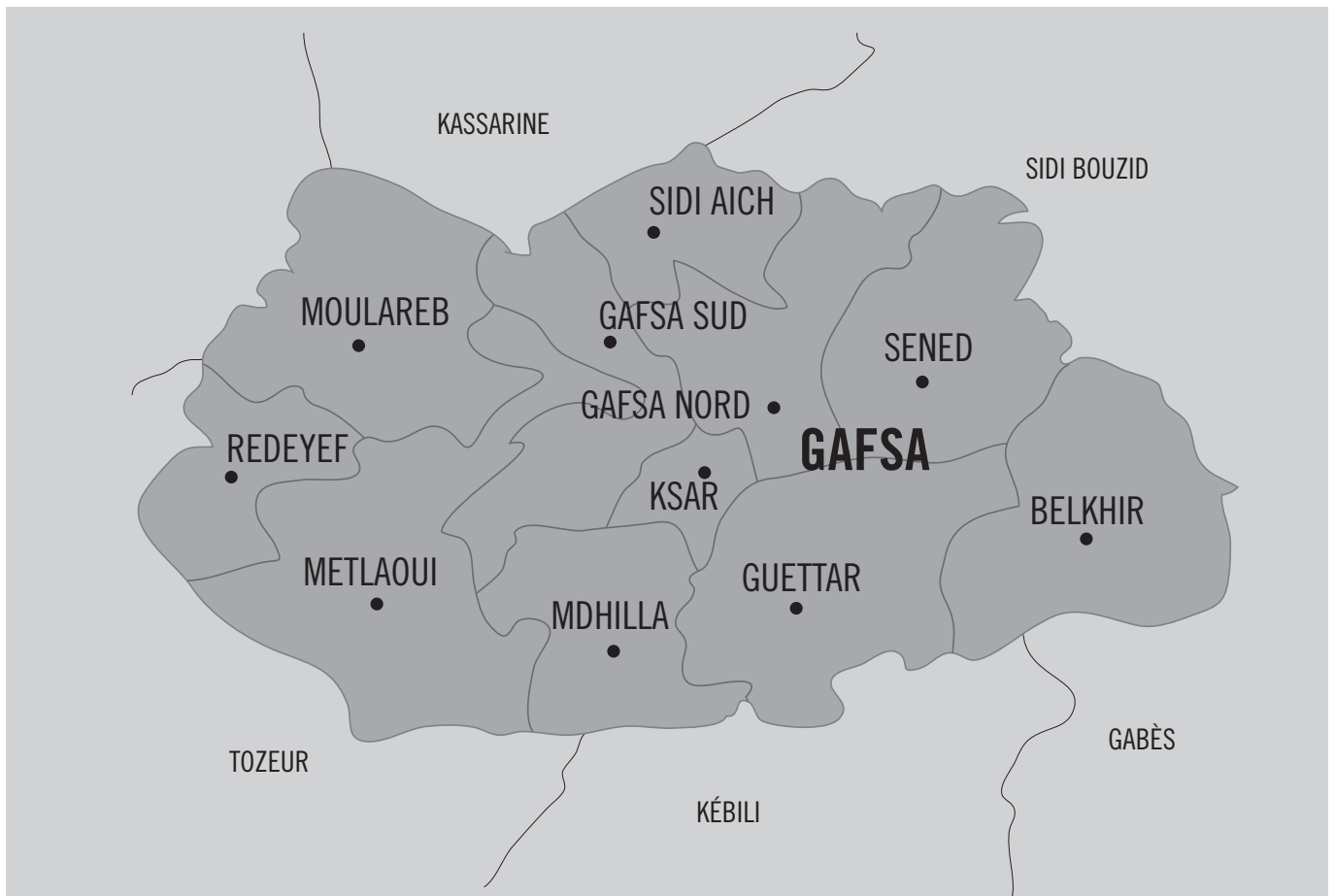
“The level of prosperity and progress our country has achieved today mirrors the sound choices and policies we have adopted”

President Zine El Abidine Ben Ali, 7 November 2008, in a speech marking the 21st anniversary of his coming to power.

have been accompanied by improved living standards for many Tunisians. According to the UN Development Programme (UNDP), Tunisia has made substantial progress towards achieving the Millennium Development Goals, especially in terms of poverty alleviation, universal primary education for boys and girls, and lowering rates of infant mortality, although it noted that efforts were still needed to reduce maternal mortality rates.

However, the progress has not been evenly spread. While the northern and coastal regions as well as Tunisia's tourist





destinations have benefited, the south and rural areas have become further marginalized. Indeed, the centre, west and south of the country have been left far behind in terms of access to basic infrastructure and social services. As a result, they have higher rates of illiteracy and unemployment. They also lack or have inadequate access to drinking water, sewage and sanitation services, electricity, household equipment and adequate housing.

As early as 1999, the UN Committee on Economic, Social and Cultural Rights called on Tunisia to “develop an immediate national plan of action in order to reduce the disparities of living standards that exist between the various regions”. Ten years later, these disparities persist.

The Tunisian government and its economic partners such as France have trumpeted the economic and social developments in the country, and cited this as a justification for authoritarian governance. The 2008 events in Gafsa, however, brought to light

“We have based our policy on the [indivisibility] between development, democracy and human rights... We have insisted on involving all political parties, organizations, and civil society components in all issues of concern to our society and our country.”

President Ben Ali, 7 November 2008

the stark socio-economic contrast between the north and south of the country, and highlighted Tunisia’s dire human rights situation. The Gafsa region, just 350km from the capital Tunis, has lagged behind economically and suffers higher rates of unemployment and poverty than other regions, even though its phosphate industry is a significant source of income for the country as a whole.

In 2008, Tunisia was the world’s fifth largest supplier of phosphate, producing more than 8 million tons supplied entirely by the GPC. Despite the wealth brought to the country by this industry, Gafsa remains underdeveloped compared to northern and coastal regions. Its unemployment rate is significantly higher than the national average of under 15 per cent, reaching an estimated 30 per cent in Redeyef and around 40 per cent in other parts of the region. This particularly affects young graduates, of whom around 40 per cent are said to be unemployed.

SUPPRESSION OF HUMAN RIGHTS

Tunisians continue to live in a climate where criticism of the government or its policies is not tolerated and where social protest is relentlessly repressed. The rights to freedom of expression, assembly and association – the prerequisites for protest – are all severely restricted in Tunisia.



Demonstration in Redeyef on 10 February 2008

RIGHTS OF PROTEST

Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights guarantee the rights to freedom of expression, assembly and association. While these articles admit some limitations to these rights, the restrictions placed on the rights must be necessary to protect national security, public order, public health or morals, or the rights or freedoms of others, and, according to the UN Human Rights Committee, “may not put in jeopardy the right itself”. Tunisia has ratified this instrument and is therefore obliged to ensure the rights specified in the Covenant to all individuals in its territory and subject to its jurisdiction.

These rights are enshrined in Article 8 of the Tunisian Constitution:

“Freedoms of opinion, expression, the press, publication, assembly and association are guaranteed and exercised within the conditions defined by the law. The right of unionization is guaranteed”.

These constitutional rights are, however, limited by other laws, decrees and ministerial circulars as well as by the practices of the security forces. Some legislative provisions restrict the scope of these fundamental rights and others are interpreted and applied by the authorities to curb their full exercise. These limitations not only violate Tunisia’s Constitution but are also contrary to Tunisia’s international human rights obligations.

In particular, certain provisions of the Penal Code criminalize social protest and repress all its manifestations, including peaceful demonstrations and public gatherings; speeches and articles, including those posted on the web, that are critical of the

authorities or allege corruption; and independent trade unions. The provisions justify restrictions to these rights on the basis of “threats to public order”, but in reality they are often used against peaceful protesters.

GAFSA PROTESTS

On 5 January 2008 the results of a recruitment competition by the GPC, the region’s major employer, triggered a wave of protests because they were widely seen as fraudulent by candidates and some members of the General Union of Tunisian Workers (Union générale tunisienne du travail, UGTT).

Candidates who did not get jobs at the GPC along with unemployed youths gathered in the regional UGTT office in Redeyef. They were later joined by other unemployed workers as well as widows and relatives of miners who had been killed or injured at work.

The protests soon spread to Metlaoui, Mdhilla and Oum Larayes, with people protesting against what they considered

ECONOMIC AND SOCIAL RIGHTS

People living in Gafsa not only face poverty and poor living conditions. They also say that the pollution generated by the phosphate industry has made the drinking water unsafe, resulting in a range of health problems.

Article 11 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The UN Committee on Economic, Social and Cultural Rights has stated that the right to adequate housing includes “sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation

and washing facilities, means of food storage, refuse disposal, site drainage and emergency services”. This right also encompasses the right to water, a right that entitles everyone to sufficient, safe, physically accessible and affordable water for personal and domestic use.

Tunisia, as a state party to the International Covenant on Economic, Social and Cultural Rights, must therefore ensure equitable distribution of safe water and take measures to ensure access to adequate sanitation. Tunisia should also take steps to ensure that everyone has an adequate standard of living, including adequate and affordable housing, and water that is free of contaminants that can damage people’s health.

to be unfair employment practices, nepotism and lack of transparency by the GPC’s administration. They believed the administration had denied employment to well-qualified candidates and caused others to lose their jobs.

The protests, joined by many local people, were also in response to the general concerns of rising unemployment, poverty and increasing living costs, as well as the corruption widely believed to have contributed to the region’s poverty.

At the request of the Governor of Gafsa, negotiations began in early January between the local authorities and a committee representing the population of Redeyef, which included local trade union leaders. The aim was to find proposals to counter unemployment and ease tension in the region. These negotiations continued until May 2008 without tangible results.

In response to the protests, on 16 July 2008 President Zine El Abidine Ben Ali acknowledged that “in some delegations

[districts] of the mineral basin, some events occurred as a result of some irregular practices committed by the executives of the Gafsa phosphate company, in their recruitment operations, arousing disillusionment and disappointment among the youths concerned by these operations”. The Governor of Gafsa and the President of GPC were subsequently replaced by the authorities.

The protesters were not, however, simply calling for the recruitment results to be annulled. They were also demanding an enhanced employment programme targeting graduate unemployed youths; the creation of industrial projects in the region; respect for international environmental norms; and accessibility for the poorest people to public services, including electricity, clean running water, education and health care against the backdrop of rising prices. In short, they were demanding their right to work and to human dignity.

Under the International Covenant on Economic, Social and Cultural Rights,

Tunisia must take steps to achieve the full realization of the right to work entailing at least the right to access employment without discrimination and free choice of employment. It must also provide a supportive structure that aids access to employment, including appropriate vocational education (Articles 6 and 7); and protect the right to form and join trade unions, which must be able to function freely, and the right to strike (Article 8).

REPRESSION OF THE PROTESTS

The protests, which were on the whole peaceful, continued intermittently until July 2008. The demonstrations, meetings, sit-ins and strikes – all involving people simply exercising their rights to freedom of expression, association and peaceful assembly – are legitimate under the Tunisian Constitution and international law.

From the start, however, security forces, including brigades specializing in securing public order, were heavily deployed against the protesters and were later reinforced by military

Demonstration in Redeyef on 17 February 2008

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contingents. All these forces committed serious human rights violations, including excessive use of force resulting in the deaths of two protesters and injuries to others.

Hafnaoui Maghzaoui, aged 25, was shot dead on 6 June 2008 when security forces used live ammunition to disperse protesters in Redeyef. Other protesters were injured, one of whom, 31-year-old Abdelkhalek Amaid, died in September 2008. The authorities said that eight people, including three police officers, were injured; according to unofficial sources, at least 26 people were injured.

Eyewitness accounts allege that the police opened fire on the demonstrators without warning and that many of the wounded sustained gunshot injuries to the back and legs. In addition to firearms, the police are reported to have used sticks, tear gas, dogs and water cannon to disperse protesters.

The same day, according to the national press agency Tunis Afrique Press, a judicial investigation was opened by the Public Prosecutor to determine the circumstances of the events and identified those responsible. The following day, 7 June, the Minister of Justice and Human Rights, Béchir Tekkari, said that he regretted the incident but denied that there had been unlawful action by the police, thereby prejudging the results of an investigation opened only hours earlier. Since then, no sign of the investigation has been reported and no result made public. Amnesty International's requests to the Tunisian authorities for information and clarification have remained unanswered.

After the death of Hafnaoui Maghzaoui, the Governor offered 10,000 dinars (about US\$7,500) to his father in compensation, which he refused. Since then, Department of State Security officers have regularly threatened and intimidated the family,





TRADE UNIONS IN TUNISIA

Article 8 of the Tunisian Constitution guarantees workers the right to join and form trade unions. The Labour Code, which sets out the conditions for the exercise of this right, stipulates that the sole objective of trade unions is to examine and defend the social and economic interests of trade union members.

No prior authorization is required to form a trade union; only the statute and the list and details of the people in charge of the trade union have to be sent to the local authorities, which send a copy to other relevant authorities, including the Interior Ministry. One copy is stamped, dated and sent back to the applicants as proof of registration.

In practice, the UGTT is the sole confederation of officially registered trade unions in Tunisia. It has regional unions in the 23 regions and local unions in around

100 districts, with most of the unions associated with particular economic sectors.

The right to strike is recognized. Unions, especially those representing workers in the public sector, have the right to strike provided they give 10 days' notice and receive authorization to strike from the UGTT. The authorization is conditional on the workers maintaining a "minimum service" in order not to affect public order and security. Any strike not authorized by the UGTT is considered illegal and participants can face up to eight months in prison.

In 1999, the UN Committee on Economic, Social and Cultural Rights expressed its concern that a single trade union confederation "may not be able to represent the plurality of views" and stated that the required authorization of all strikes by the UGTT "severely curtails the rights to strike and to freedom of association".

In 2006, several former UGTT members established the General Confederation of Tunisian Workers (Confédération générale tunisienne du travail, CGTT) to revitalize the trade union movement and decrease the influence of the UGTT, generally seen as too close to the authorities and not representative of workers' demands. In 2007, the CGTT created local trade unions in various regions, including Gafsa.

The CGTT has not yet been able to obtain legal recognition by the authorities. In Tunis and Gafsa, requests to send the statute and composition of the new CGTT affiliates were left unanswered. In May 2008 one of the CGTT's founding members was reportedly summoned by the Interior Ministry and interrogated about his activities within the CGTT, and in November 2008 police prevented the CGTT from holding a meeting in Tunis.

especially when they have tried to contact human rights organizations, including Amnesty International, human rights lawyers and journalists. On 11 May, Hafnaoui Maghzaoui's father was arrested after his daughter had contacted a human rights lawyer. He was interrogated all day and released.

The Tunisian authorities are duty bound to uphold law and order and may sometimes be required to use forcible means in response to activities that genuinely threaten public safety. In such circumstances, however, the government and law enforcement agencies must act strictly in accordance with the law and the conditions of necessity and proportionality set out in the International Covenant on Civil and Political Rights.

Any action to disperse protesters must also comply with international standards governing the use of force by law enforcement officials, as set out in the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of

Force and Firearms by Law Enforcement Officials, and with full respect for the human rights of the demonstrators. These standards specify that the use of firearms is an extreme measure and that force should not be used unless strictly necessary and to the extent required for the performance of law enforcement officers' duties.

ARBITRARY ARRESTS, TORTURE AND OTHER ABUSES

Tunisian security forces arrested around 300 protesters in Gafsa, including labourers, teachers, trade unionists, members of the Movement of Families of Striking Miners, and human rights defenders, especially between April and June 2008. Many of those arrested were reported to have been tortured or otherwise ill-treated while in the custody of Department of State Security officers; some were later charged and brought to trial; others were released without charge.

On 7 April 2008, for example, the security forces arrested dozens of people in

Redeyef, including Boujemaa Chraïti, Tayeb Ben Othman and Adnan Hajji, spokesperson for the Movement of Families of Striking Miners and Secretary-General of the local section of the UGTT. The three were arrested when they went to express solidarity with job-seekers staging a sit-in at the UGTT building in Redeyef. They said that they were tortured and otherwise ill-treated by security officers while in custody.

Boujemaa Chraïti was arrested when he tried to protect Adnan Hajji from police violence. He was kicked all over his body during arrest and again at Redeyef police station until he fainted. He was then taken to Gafsa police station, stripped of his clothes, beaten and kicked by police officers. All three were released on 10 April without charge.

At least 150 other people were arrested in Redeyef following demonstrations in June and July. Some were detained in the street and taken away in unmarked cars; others were arrested at their homes or workplaces without being informed of the reason for



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arrest or shown an arrest warrant – in violation of the Tunisian Code of Criminal Procedure (Articles 78 and 81).

Many detainees told their lawyers, relatives and in some cases the trial judge that they had been kicked, beaten all over the body and on the soles of the feet, burned with cigarettes on sensitive parts of the body, suspended in contorted position, raped by the insertion of objects in the anus, or threatened with rape or sexual abuse of female relatives. In virtually all cases, the authorities failed to carry out investigations or bring alleged perpetrators to justice.

For example, Jaber Tabbabi, 26, who was arrested on 5 June 2008, says that police stripped him of his clothes in the street, beat him repeatedly and dragged him for about 400 metres to the police station in Redeyef where he was tortured and otherwise ill-treated. Later, he was taken to the police station in Metlaoui, where he was blindfolded, put in a contorted position and had a stick inserted into his anus. A cut on his head required 16

stitches. He was kept naked until he was taken before the investigating judge in the Gafsa Court of First Instance, which rejected his lawyers' request that he be medically examined with a view to establishing whether he had been tortured. However, the court did order the release of Jaber Tabbabi without charge, and he was freed on 9 June 2008.

Amnesty International fears that the arbitrary arrests, torture and other human rights violations were intended to punish or intimidate people in Gafsa for seeking to exercise their right to freedom of expression and assembly.

UNFAIR TRIALS

The authorities have prosecuted at least 200 people in connection with the protests, including human rights defenders and trade unionists, some of whom have been sentenced to up to eight years in prison after unfair trials. Protesters, most of whom had acted peacefully, were charged with an array of criminal offences, including setting up a

Djemaa Hajji, wife of union leader Adnan Hajji, taking part in the women's demonstration in April 2008

Fahem Boukadous, aged 39, was among the 38 trade unionists and protesters tried and convicted for leading the protests. He was covering the protests, as a journalist, for the private channel Al-Hiwar Ettounsi and in this capacity transmitted images of the unrest. The investigating judge concluded that he did not participate directly in the protests, but was an active member of the group leading the unrest because he spread information in Tunisia and abroad for propaganda.

Fahem Boukadous, who went on the run to avoid arrest, was sentenced in his absence to six years' imprisonment. Amnesty International would consider him a prisoner of conscience if imprisoned.



Right: Army reinforcements in Redeyef, June 2008

Left: Adnan Hajji

School teacher Adnan Hajji, aged 50, is Secretary General of the local UGTT office in Redeyef. In this capacity, he was part of the local committee representing the population of Redeyef set up to negotiate with the local authorities.

He was arrested on 7 April 2008 while on his way to the UGTT building in Redeyef to show solidarity with protesters. He was thrown to the floor and kicked on the body. His hands were handcuffed behind his back and he was struck repeatedly while being taken to the police station. There, he told his lawyer, he was burned on the head by Department of State Security officers with lighted cigarettes. He was released without charge on 10 April after four days in police custody.

He was rearrested on 21 June and detained pending trial in the prison of Kasserine for his participation in the Gafsa protests. He was considered a leader of the protest. His defence lawyers were prevented by the Kasserine prison authorities from visiting him on several occasions between July and August, and in September the Kasserine prison administration refused to allow Adnan Hajji, who suffers from a renal ailment, to receive medication brought by his wife.

Together with 37 others, he was convicted on charges including forming a criminal group with the aim of causing damage to public and private property, armed rebellion and assault of officials during the exercise of their duties. He was sentenced to 10 years in prison in December 2008, reduced to eight years on appeal in February 2009. He is a prisoner of conscience.

He was detained in the prison of Kasserine, more than 100km from Redeyef where his wife and daughter live. Conditions there are harsh – overcrowded, unhygienic and lacking medical care. In May, he was moved to the Mornaguia prison near Tunis to receive medical care.

His wife, Djemaa Hajji, together with wives and mothers of the other detainees, are campaigning for the release of their husbands and sons. They hold regular, peaceful demonstrations. Djemaa Hajji has been harassed and attacked by Department of State Security officers on several occasions. Her financial situation is dire because of her husband's imprisonment and the costly journeys to Tunis for medical treatment following her kidney transplant.

criminal group with the aim of destroying public and private property (Article 131 of the Penal Code), and assault of public officials during the exercise of their duties (Article 119 of the Penal Code), and referred to trial.

In most cases, Tunisian procedural rules on arrest and detention were breached, including falsification by police of the date and place of arrest. Such breaches were not investigated even though they were brought to the attention of the authorities by defendants' lawyers. Courts also accepted as evidence statements and information allegedly extracted under torture or other ill-treatment when detainees were held incommunicado in pre-arraignment custody.

In December 2008 on first instance and in January and February 2009 on appeal, 38 trade unionists and protesters were sentenced after unfair trials to prison terms for leading the unrest. Before the lower court in December 2008, the defence lawyers could not present the case of their clients, the defendants were not interrogated in court, and the lawyers' demands to call and



LAWS OF REPRESSION

The following provisions have been used by the Tunisian authorities to prosecute and convict union leaders and peaceful protesters in Gafsa.

TUNISIAN PENAL CODE

Article 121 forbids the distribution, sale, display or possession with a view to distribute, sell or display of pamphlets, bulletins, leaflets of local or foreign origin likely to harm public order or “good morality”. This offence carries a penalty of six months’ to five years’ imprisonment and a fine.

Article 321 criminalizes anyone who, without permission from the competent authorities, occupies or digs up a public road in a way likely to compromise safety or freedom of movement. This offence is punishable by up to 15 days’ imprisonment and a fine.

Article 316 provides for up to 15 days’ imprisonment and a fine for those found guilty of making a noise or otherwise likely to disturb the peace.

Other provisions criminalize taking part in an armed or unarmed rebellion during which a public officer is assaulted in the exercise of his/her duties (Article 119); the incitement to rebellion by speeches in public meetings or places, by posters or written bills (Article 121); the formation of a group established to prepare or commit an attack against people or property (Articles 131 and 132); providing a meeting place, accommodation, sanctuary or financial contribution to criminals (Article 133); and throwing objects or rubbish at cars, houses, buildings and other property (Article 320).

The offences listed above are overly broad and vague, thus failing to meet the clarity and

precision required by criminal law. Indeed, they may not amount to recognizably criminal offences under international human rights law.

Law No.69-4 of 24 January 1969 regulating public meetings, processions, parades, demonstrations and gatherings stipulates that the authorities must be informed before such an event takes place, which they can then forbid if they deem it likely to disturb the peace.

A Ministry of Higher Education circular issued in January 1997 requires that anyone organizing a meeting or conference in Tunisia must submit in advance to the Interior Ministry a list of participants, the time, date and place of the meeting and its agenda. Seemingly under the authority of this circular, even meetings in private homes have been disrupted by the authorities or banned.



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Front: The diplomas of unemployed young graduates, hung from the wall near the local union in Oum Larayes, alongside banners asking for their right to work

Left: Women demonstrating for the release of those arrested in April 2008

RECOMMENDATIONS

Amnesty International calls on the Tunisian government to:

- repeal all laws criminalizing peaceful protest to ensure full respect of the rights to freedom of expression, assembly and association;
- immediately and unconditionally release all prisoners of conscience held solely for the peaceful exercise of their rights to freedom of expression, association or assembly;
- provide equal access in all regions to essential public services, including water, sewerage and healthcare;
- open independent, impartial and thorough investigations into deaths of protesters at the hands of security forces, and make the findings public;
- instruct Tunisian security forces that they may not use firearms or other lethal force except when this is strictly necessary to protect their own lives or the lives of others, as set out in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- initiate full and impartial investigations into allegations of torture and other abuses by security forces, hold accountable those responsible, and provide reparation to the victims.

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cross-examine witnesses and for their clients to be medically examined for evidence of torture were rejected by the court.

On appeal in February 2009, the defendants were interrogated in court in a marathon hearing that lasted a whole day and night, with only short breaks. The lawyers presented their arguments to the court, but were again denied the right to call and cross-examine witnesses. Demands of the lawyers that their clients be medically examined were once more rejected and the torture allegations disregarded.

A heavy security presence marked both trials, with security forces deployed along the roads leading to the court and the main access roads to Gafsa city, as well as inside the tribunal and the courtroom.

The repression and harassment have continued since then. For example,

following a three-day gathering on 9-11 May 2009 and a peaceful demonstration in front of the UGTT and police headquarters in Redeyef on 10 May by the wives and mothers of the detainees, some 30 men were reportedly arrested in Redeyef on 11 May and ill-treated. Eight were charged with petty offences and sentenced to up to a year in prison.

At the time of writing in May 2009, 31 of the 38 convicted trade unionists and protesters remain in prison. Five received a two-year suspended prison sentence. Fahem Boukadous is still on the run and Mohieddine Cherbib is in France. The inquiry on the events that led to the death of two demonstrators on 6 June 2008 has not been concluded, and the situation in the Gafsa region remains largely unchanged, despite plans to develop the region announced by President Ben Ali in July 2008.



Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

June 2009
Index: MDE 30/003/2009

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