



Tunisian President Kais Saied during a meeting of the High Council of the Armed Forces. © Anadolu Agency via Getty Images

TUNISIA: A YEAR OF HUMAN RIGHTS REGRESSION SINCE PRESIDENT'S POWER- GRAB

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1. EXECUTIVE SUMMARY

On 25 July 2021, President Kais Saied appeared on Tunisian state television and announced that, in light of the manifold crises gripping Tunisia, he had decided to fire the head of government, freeze parliament and lift immunity for its members, and take executive control of the country, citing emergency powers that he said were granted to him by the constitution.¹ Since then, President Saied has dissolved parliament and granted himself unchecked powers to govern and legislate, issuing at least 68 decree-laws without review or oversight by any other body.

He has also suspended all but the preamble and two chapters of the constitution and has launched a project to remake Tunisia's governing system by drafting a new constitution to be put to referendum on 25 July 2022. The draft constitution, if adopted, would weaken judicial independence, grant the president the right to declare an open-ended state of emergency and rule unchecked, and could allow the state to restrict human rights based on vaguely worded religious grounds.²

In his speeches, President Saied has made frequent reference to the need to respect human rights. Yet, in the course of consolidating his power since last July, Saied has dismantled or imperilled key institutional safeguards for human rights, undoing or threatening to undo landmark gains of Tunisia's 2011 revolution. He has dissolved Tunisia's independent judicial oversight body and granted himself powers to intervene in the functioning of the judiciary, including the right to dismiss judges summarily; he has dissolved a temporary body empowered with vetting the constitutionality of new laws; and he has barred anyone from overturning his decrees via Tunisia's administrative tribunal. A leaked draft law on associations would, if adopted, curtail the rights of civil society groups.

While authorities have refrained from broad crackdowns on Saied's opponents, they have targeted critics and perceived enemies of the President with arbitrary travel bans, house arrest, or detention, and with criminal proceedings. Judicial authorities including military courts have investigated or prosecuted high-profile Tunisians including journalists, parliamentarians, political figures, and a former president on accusations such as defamation, insult, and threatening public order or state security, which stem from their exercise of their rights to freedom of expression and peaceful assembly.

In researching the impact of President Saied's power grab on human rights in Tunisia, Amnesty International has conducted interviews with 37 people, including 15 victims of human rights violations; reviewed court documents; analysed Tunisian laws in light of Tunisia's obligations under international law; and reviewed official statements and speeches by Saied and government ministries.

¹ Facebook Page of Al Wataniya television, available at: <https://www.facebook.com/TVN.Tunisie/videos/1294652594286524/>

² Amnesty International press release, Tunisia: New draft constitution undermines independence of Judiciary and weakens human rights safeguards, 5 July 2022, <https://www.amnesty.org/en/latest/news/2022/07/tunisia-new-draft-constitution-undermines-independence-of-judiciary-and-weakens-human-rights-safeguards/>

Since granting himself the exclusive right to legislate, President Saied has issued at least five decree-laws that weaken or remove vital institutional safeguards for human rights. Perhaps most significantly, he has severely undermined the independence of Tunisia's judiciary. On 12 February 2022, Saied issued decree 2022-11 in which he dissolved the High Judicial Council, a body of magistrates and legal, financial, tax, and accounting experts elected mostly by their peers that was set up after Tunisia's 2011 revolution to supervise the judiciary and shield it from interference by the executive branch. Saied replaced the council with a temporary body partly appointed by the president, and granted himself powers in the same decree-law to intervene in the appointment, career tracks, and dismissal of judges and prosecutors. On 1 June he followed up by granting himself the right to dismiss judges summarily on vaguely-defined grounds of alleged misconduct, which triggers criminal prosecutions against them. He summarily dismissed 57 judges the same day. To date, the dismissed judges have not been able to appeal their dismissals and have not been provided with justification about the reason for their dismissal.

President Saied has launched repeated rhetorical attacks against civil society. In a videotaped speech on 22 February 2022, he accused civil society organizations of serving foreign interests and trying to meddle in Tunisian politics, and said he intended to ban all funding for such groups from abroad.³ This speech came shortly after a restrictive draft law on associations was leaked, which would, if adopted, reverse many of the key aspects of a 2011 decree-law that has allowed civil society in Tunisia to flourish, including through the ability to register and receive foreign funding without need for approval by the state. The leaked draft law grants authorities broad powers to police the creation, work, public statements, and funding of civil society groups.

Following 25 July 2021, Tunisian security officials placed at least 11 members of parliament and former officials under arbitrary house arrest and imposed arbitrary travel bans on at least 50 people, including judges, state officials, and businesspeople. While arbitrary travel bans ceased after President Saied issued a statement on 17 September 2021 calling on border control officers to bar only people subject to judicial proceedings from travelling, border control officers at Tunis' airport have in the past two months barred at least three parliamentarians from travelling abroad without presenting evidence of any court order prohibiting them from leaving the country.⁴

In a significant escalation, on 31 December 2021, authorities arbitrarily detained two men – including a former justice minister and senior member of the Ennahda party, which opposes President Saied - and took them to secret locations, later transferring the former minister to hospital after he announced a hunger strike. While arresting the former

³ Facebook post, Official Facebook page of the Tunisian President's Office, 22 February 2022. Available online at: <https://www.facebook.com/Presidence.tn/videos/959141931436749/>

⁴ Facebook post, Official Facebook page of the Tunisian President's Office, 17 September 2021, <https://www.facebook.com/Presidence.tn/photos/a.715543011837092/4632882793436408/?type=3>

minister, security agents also assaulted him. Authorities held the men for 67 days without access to lawyers, releasing them without charge on 7 March 2022.

Military courts have significantly stepped up the targeting of civilians, prosecuting at least 12 civilians since 25 July 2021. By comparison, Amnesty International and other human rights groups documented the cases of 6 civilians prosecuted by military courts during the previous ten years. Those prosecuted include at least six people prosecuted for peacefully exercising their right to freedom of expression, including for publicly criticizing President Saied.

Courts have investigated or prosecuted at least 29 people for peacefully exercising their right to freedom of expression since 25 July 2021, of whom the majority were members of the dissolved parliament. In six of the cases, military courts have prosecuted civilians either for criticizing President Saied or for other perceived offences such as defamation, or for vague and overly broad offenses such as “undermining state security.” In at least two instances, judicial authorities have opened investigations against specific individuals after the president publicly urged or announced investigations against them.⁵

Security forces have largely refrained from suppressing major anti-government public gatherings since 25 July 2021. However, they have blocked protests on a highly symbolic date and at symbolic locations at least twice. In January 2022, they temporarily banned all public gatherings on health grounds, and used excessive force to disperse anti-Saied protestors who tried to rally in central Tunis on 14 January, the 11th anniversary of the country’s revolution. Police also forcibly barred anti-Saied protestors from gathering outside the office of the electoral commission on 4 June 2022 to call on Tunisians to boycott the planned 25 July referendum on the president’s new draft constitution.

To reverse course and re-establish key human rights safeguards, Amnesty International urges President Saied to immediately rescind Decree-Law 2022-35 and Decree-Law 2022-11, which weaken judicial independence, and commit publicly to protecting the rights of civil society under Decree-Law 2011-88. Tunisian authorities should stop imposing arbitrary travel bans, house arrests, and other forms of arbitrary detention; and stop criminally investigating and prosecuting people for peaceful freedom of expression. The authorities should end the practice of trying civilians in military courts, allow peaceful demonstrators to hold public gatherings to express their views and refrain from the use of unlawful force in their policing of demonstrations. Authorities should also repeal or amend laws used to restrict freedom of expression, and should investigate and hold accountable any officials responsible for the human rights violations documented in this report.

⁵ On 14 October, President Saied called on the Justice Minister, Leila Jaffel, to open an investigation against a unnamed “enemy of Tunisia” in what, given the circumstances and Saied’s description of that person, was a clear reference to former president Moncef Marzouki. On 30 March 2022, Saied said that a criminal investigation would be opened against around 120 members of the then-suspended parliament who had held an online plenary session that day in a gesture of defiance against him.

2. METHODOLOGY

In undertaking the research for this briefing, Amnesty International carried out interviews with 37 people, including 15 victims of human rights violations, as well as eyewitnesses to violations, family members of victims, and lawyers representing victims. Amnesty International researchers conducted interviews by phone and in person, mostly in Arabic and otherwise in French or English.

Amnesty International reviewed court documents, including legal complaints filed by lawyers on behalf of victims, and documents relating to the investigation and prosecution of victims. The organisation analysed Tunisian laws, including laws and decree-laws introduced both before and after 25 July 2021, presidential decrees, and other relevant legal texts including international human rights law and human rights treaties to which Tunisia is a state party; consulted open-source information such as news and United Nations reports; and drew on other research and publications by human rights organizations including Human Rights Watch, Reporters Without Borders, the International Center for Not-for-Profit Law, the Kawakabi Democracy Transition Center, and the International Commission of Jurists.

The organization reviewed official statements and speeches by President Saied available on the Facebook page of the Tunisian President's Office; official statements available on the Facebook pages of the Tunisian government and government ministries; and official statistics on the websites of the Health Ministry and the Center for Information, Education, Studies, and Documentation of Associations.

Amnesty International communicated the findings and recommendations presented in this briefing in a letter to the Tunisian government on 13 July 2022.

Amnesty International is deeply grateful to the lawyers, friends, and family of victims of human rights violations who offered guidance and information to support our research for this briefing, and to the victims who agreed to share their stories.

3. BACKGROUND

The ouster of Tunisia's former dictator, Zine El Abidine Ben Ali, on 14 January 2011 abruptly ended five decades of repression in Tunisia and sparked a democratic transition in the country. Almost overnight, interim leaders, civil society, and ordinary Tunisians began to exercise their rights to freedom of expression, assembly, and association, seeking to build a new system of governance based on respect for human rights and the rule of law.

On 23 October 2011, Tunisians voted to elect an interim legislative assembly, which drafted a new constitution. That constitution, adopted in 2014, creates a mixed parliamentary-presidential system of government, with executive power divided between a government and prime minister, and a separately elected president. Leaders also created new state institutions, including an independent electoral commission and an independent judicial body to oversee the appointment, transfer, promotion, and disciplining of judges and prosecutors. And they adopted new laws or amended old ones in efforts to safeguard human rights.⁶

The 2014 constitution includes a chapter on rights and freedoms which created unprecedented protections for core civil and political rights, including the right to equality before the law, the right to be presumed innocent until found guilty in a fair trial, freedom from arbitrary arrest and detention, freedom of expression, freedom of association, and the right to peaceful assembly.⁷

The constitution also provided for a constitutional court with the power to strike down laws deemed unconstitutional, including those inconsistent with the human rights enshrined in the constitution, and resolve disputes over interpreting the constitution itself.⁸ However, the court was never created due to the failure of successive parliaments to agree on the appointment of the court's members.⁹

Presidential and parliamentary elections were held in 2014 and 2019 but, meanwhile, Tunisian leaders struggled to address high unemployment and the rising cost of living. In the 2019 elections, Kais Saied, a former law professor with no political background or

⁶ For example, on 2 February 2016, Parliament adopted Law No.5, revising the Code of Criminal Procedures, which granted suspects the right to a lawyer from the onset of detention, see <https://legislation-securite.tn/fr/law/45564>

⁷ Constitution of Tunisia, 2014, Chapter 2. The articles cited specifically are Articles 21, 27, 29, 31, 35, and 37; See also a joint statement on Tunisia's 2014 constitution by Amnesty International and other human rights groups: "Tunisia: Let constitution herald human rights era", 31 January 2014. Available online at: <https://www.amnesty.org/en/documents/mde30/003/2014/en/>

⁸ Constitution of Tunisia, 2014. Articles 80, 88, 101, 118 – 124, and 148.2.5.

⁹ JURIST, "In Tunisia, President's Power Grab and an Absent Constitutional Court", 27 Aug 2021. Available online at: <https://www.jurist.org/commentary/2021/08/eric-goldstein-tunisia-presidential-power/>

party, was elected president in a vote seen as a rejection of the country's political establishment.¹⁰

The moderate Islamist Ennahda party won the largest number of seats in parliament, but no party achieved a clear majority. In the end, parliament approved a coalition government led by Elyes Fakhfakh, President Saied's nominee for prime minister. After Fakhfakh resigned in July 2020 amid accusations of corruption - which he denied - Saied nominated Interior Minister Hichem Mechichi to replace him. Mechichi took office in September 2020 after parliament approved him and his new cabinet.

Covid-19 struck Tunisia hard from December 2020, infecting at least 1 million people and killing more than 28,000 from a population of about 11.7 million, according to official data. Delays in vaccine rollout and the relaxation of social distancing measures lead to uncontrolled spread of Covid-19 in the summer of 2021, with Tunisia reporting 42.3 new Covid-19 deaths per 100,000 inhabitants, the highest mortality rate in the Eastern Mediterranean region and the African continent, by July of that year.¹¹ The pandemic also further hobbled the long-struggling economy, shrinking it and driving up unemployment.¹² Public anger over the inability of the Mechichi government - and by extension, in the eyes of many, Tunisia's parliament - to address the twin crises reached a crescendo.¹³

On 25 July 2021, President Saied dismissed then-head of government, Hichem Mechichi, suspended parliament, sent army troops to barricade the parliament building, and announced on state television that he was assuming full executive power, citing Article 80 of Tunisia's constitution.¹⁴ The article allows the president to claim emergency powers in time of "imminent peril" to the nation. However, it also stipulates that parliament must remain "in continuous session throughout such a period" and that emergency powers can be challenged after one month before the currently non-existent constitutional court.

On 22 September 2021, Saied issued Presidential Decree 2021-117, suspending all but the preamble and first two chapters of the constitution, and granting himself full executive power and the exclusive right to enact new laws by decree.¹⁵ The decree also

¹⁰ Brookings Institute, "Political Outsiders Swept Tunisia's Presidential Elections", 16 Sept 2019. Available online at: <https://www.brookings.edu/blog/order-from-chaos/2019/09/16/political-outsiders-sweep-tunisia-presidential-elections/> ; Washington Post, "In a blow to its political elites, a modest law professor is set to become Tunisia's next president", 13 Oct 2019. Available online at: https://www.washingtonpost.com/world/middle-east/as-tunisians-vote-in-presidential-runoff-a-political-outsider-is-certain-to-win/2019/10/13/8427d328-eb95-11e9-a329-7378fbfa1b63_story.html ; BBC, "Tunisia Election: Kais Saied to become president", 14 Oct 2019. Available online at: <https://www.bbc.com/news/world-africa-50032460>

¹¹ Amnesty International, "Tunisia: COVID-19 Vaccination Plan must be Fair and Transparent", 15 July 2021. Available online at: <https://www.amnesty.org/en/documents/mde30/4459/2021/en/> ; AMNESTY INTERNATIONAL, "Tunisia: Covid-19 vaccines and access to health in rural Tunisia", 25 April 2022. Available online at: <https://www.amnesty.org/en/documents/mde30/5490/2022/en/>

¹² Amnesty International, "Tunisia's COVID-19 vaccine pass disproportionate and unreasonable", 21 Dec 2021. Available online at: <https://www.amnesty.org/en/documents/mde30/5120/2021/en/>

¹³ Program on Middle East Democracy, "How Covid-19 Helped Legitimate the Tunisian President's Power Grab", 23 Aug 2021. Available online at: <https://pomed.org/how-covid-19-helped-legitimate-the-tunisian-presidents-power-grab/>

¹⁴ Facebook post, Facebook page of Al Wataniya television, 25 July 2021. Available online at: <https://www.facebook.com/TVN.Tunisie/videos/1294652594286524/>

¹⁵ Amnesty International / Le Monde, "Tunisia: Carving up the Constitution represents a threat to human rights", 5 Oct 2021. Available online at: <https://www.amnesty.org/en/latest/news/2021/10/carving-up-the-constitution-represents-a-threat-to-human-rights/>

maintained the suspension of parliament, dissolved a temporary body tasked with vetting the constitutionality of laws, and barred anyone from overturning decree-laws. On 29 September, Saied appointed Najla Bouden, a former geology professor, to head a new cabinet whose members he approved.

Since then, President Saied has issued at least 68 decree-laws. These typically appear in the official gazette without prior notice, much less prior public discussion and debate.

On 13 December, Saied announced a political roadmap for Tunisia: a “national consultation” in early 2022 in the form of an online questionnaire to assess what Tunisians want from their government; a referendum on 25 July 2022 in which Tunisians will vote on a new constitution; and elections for a new representative body on 17 December 2022.¹⁶

On 18 February 2022, Saied most recently renewed a state of emergency that has been in effect since 2015, extending it until the end of the year.¹⁷

On 30 March, Saied dissolved the then-suspended parliament after more than half of its members held an online plenary session in an act of protest against his power grab. Judicial authorities opened criminal investigations against at least 20 MPs.¹⁸

On 21 April 2022, Saied issued Decree-Law 2022-22, restructuring the formerly independent electoral commission, known by its French acronym, ISIE (Instance Supérieure Indépendante Electorale), into a body whose members are appointed by the president from among a small pool of potential candidates.¹⁹ The commission is charged with overseeing the planned 25 July 2022 referendum.

On 19 May 2022, Saied issued Decree-Law 2022-30, creating a constitutional drafting committee whose members he designated himself.²⁰ On 20 June, the committee presented a draft to Saied for final edits. The final draft was published in the official gazette on 30 June.²¹ On 3 July, the president of the committee in charge of drafting the constitution, Sadok Belaid, said the draft published by President Saied is completely different to the one the committee had submitted.

¹⁶ Reuters, “Tunisia’s president says he will call constitutional referendum, elections next year”, 13 December 2021. Available online at: <https://www.reuters.com/world/africa/tunisia-president-announces-referendum-elections-2021-12-13/>

¹⁷ Presidential Decree 2022-73, Article 1, available at <https://legislation-securite.tn/fr/law/105203>

¹⁸ Presidential Decree 2022-309 dissolving the Assembly of People’s Representatives; Amnesty International, “Tunisia: Drop politically motivated investigation against opposition MPs”, 8 April 2022. Available online at: <https://www.amnesty.org/en/latest/news/2022/04/tunisia-drop-politically-motivated-investigation-against-opposition-mps/>

¹⁹ Decree-Law 2022-22.

²⁰ Decree-Law 2022-30.

²¹ Presidential Decree 2022-578.

4. ABUSE OF DECREE-LAWS

Presidential Decree 2021-117, which President Saied issued on 22 September 2021, granted him sweeping powers that include the right to issue new laws by decree without review or oversight by any other authority. The decree grants him the right to issue decree-laws regulating nearly every aspect of public life, including political parties, the judiciary, trade unions, civil society, media, public information, family law, and human rights.²²

While Article 4 of the decree bars the president from issuing new laws that threaten human rights, it also states that decree-laws may not be overturned and dissolves the Provisional Body for Monitoring the Constitutionality of Laws, a temporary body empowered to vet new laws for consistency with the 2014 constitution.²³

Decree 2021-117 suspends all of Tunisia's constitution apart from the preamble, Chapter I on general provisions and Chapter II on rights and freedoms.²⁴ Chapter II guarantees rights including rights to equality before the law, to be presumed innocent until found guilty in a fair trial, to freedom from arbitrary arrest and detention, to freedom of expression, to freedom of association, and to peaceful assembly.²⁵

Tunisia is party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights. (ACHPR). Tunisia's constitution states that international treaties approved by parliament and ratified by Tunisia enter into Tunisian law.

4.1 UNDERMINING FAIR TRIAL RIGHTS

In what he has described as part of his efforts to stamp out corruption and negligence in the judiciary, President Saied has since February 2022 issued two decree-laws granting himself powers first to intervene in the career tracks of judges and prosecutors, and then to dismiss them summarily based on vague grounds and without the right to immediate appeal.

Under Tunisia's former dictator, Zine El Abidine Ben Ali, judges and prosecutors served subject to the president's approval and under his influence. Ben Ali had final say on judicial appointments based on nominations by the country's top judicial supervisory body, the High Judicial Council, which Ben Ali presided and whose members were – at least from 2005 - mostly either chosen by the executive branch or simultaneously members of it.

²² Presidential Decree 2021-117, Articles 4, 5, 6, 8 – 12, and 16 – 19.

²³ Presidential Decree 2021-117, Articles 7 and 21.

²⁴ Presidential Decree 2021-117, Article 20.

²⁵ Constitution of Tunisia, 2014, Chapter 2. The articles cited specifically are Articles 21, 27, 29, 31, 35, and 37 ; Joint statement by Amnesty International and other human rights groups: "Tunisia: Let constitution herald human rights era", 31 January 2014. Available online at: <https://www.amnesty.org/en/documents/mde30/003/2014/en/>

After Ben Ali's ouster in 2011, Tunisia replaced the Ben Ali-era council with the High Judicial Council, an independent body comprised of magistrates and legal, financial, tax, and accounting experts mostly elected by their peers. The High Judicial Council was tasked with supervising the appointment, transfer, promotion, and disciplining of magistrates while shielding them from executive and legislative branch influence.

On 5 February 2022, following months of public remarks in which he accused the judiciary of corruption and negligence, President Saïed announced, in a videotaped speech at the Interior Ministry, that the High Judicial Council "should consider itself a part of the past as of this moment."²⁶

The following day, police were deployed outside the council's headquarters to bar entry to Council members.²⁷ On 12 February 2021, Saïed issued Decree-Law 2022-11, dissolving the Council, replacing it with a new body called the Temporary High Judicial Council (THJC), and granting himself considerable sway over judicial careers and disciplinary procedures.²⁸

Under Decree-Law 2022-11, the president chooses 9 of the THJC's 21 members from among retired judges, with the remaining 12 being sitting senior judges. The president may fill any vacancies at will from a list of candidates submitted by the Justice Minister or Head of Government.²⁹ The president may also block judicial appointments, transfers, and promotions, and appoint new candidates if the council fails to present an alternative within 10 days of the president refusing the council's original candidate.³⁰

Under Article 20 of the Decree-Law, the president may ask the council to dismiss magistrates on vague grounds of "breaching professional duties," triggering their immediate provisional suspension pending a final decision by the council. If the council fails to reach a decision on the dismissal request within one month, the president decides the matter. The Decree-Law states that judges may appeal disciplinary procedures before the Administrative Tribunal.³¹

In addition, Decree-Law 2022-11 restores a Ben Ali-era rule barring magistrates from striking or carrying out "any other labour action that disrupts the functioning of courts."³²

On 1 June 2022, President Saïed tightened his control over the judiciary even further by issuing Decree-Law 2022-35, which gives the president the authority to dismiss judges and prosecutors at will, based on reports by unspecified "relevant bodies" that they are a threat to "the public security" or "the supreme interests of the country," and for acts that

²⁶ Facebook post, Official Facebook page of the Tunisian President's Office, 5 February 2022. Available online at: <https://www.facebook.com/Presidence.tn/videos/330334598837172/>; International Commission of Jurists, Tunisia: Stop attacks on the judiciary", 7 December 2021. Available online at: <https://www.ici.org/tunisia-stop-attacks-on-the-judiciary/>

²⁷ Telephone interview with Youssef Bouzakher, then president of the HJC, 7 February 2022.

²⁸ Amnesty International, "Tunisia: Dissolution of Top Judicial Body Threatens Human Rights", 25 February 2022. Available online at: <https://www.amnesty.org/en/documents/mde30/5269/2022/en/>

²⁹ Decree-Law 2022-11, Articles 3, 4, 5, 6, 8, and 19.

³⁰ Decree-Law 2022-11, Article 19.

³¹ Decree-Law 2022-11, Article 20.

³² Decree-Law 2022-11, Article 9.

“impinge on the reputation, independence or proper functioning of the judiciary.”³³
Under Decree-Law 2022-35, dismissal by the president triggers criminal prosecution for the alleged misconduct in question, and judges may not contest their dismissals until after courts have given final rulings in their criminal cases.³⁴

The same day that the decree-law was issued, President Saïed announced in videotaped remarks posted on Facebook his intention to dismiss judges, citing broad accusations including obstructing investigations into terrorism, financial corruption, and adultery, but did not name specific judges in his remarks.

Late that night, a decree was published in the official gazette with the names of 57 judges he had dismissed.³⁵

One of those judges, Khira Benkhelifa, who served as a judge in the tribunal of Sousse, told Amnesty International that she had first heard from a friend that her name had appeared in Tunisia’s official gazette among the fired judges. She said that more than two weeks later, the authorities had still not informed her officially of her dismissal or given her any explanation of the specific grounds for it.³⁶

While international law provides no single model for assuring independence of the judiciary, it encourages countries to create an authority to supervise the judiciary that is not dominated by the executive or legislature. As a result of Decree-Laws 2022-11 and 2022-35, Tunisia’s judiciary falls short of international standards on the independence of the judiciary and violates fair trial obligations under international law.

The United Nations’ Basic Principles on the Independence of the Judiciary states that the independence of the judiciary “shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.”

The UN Human Rights Committee has determined that executive branch interference in the judiciary — including control over the appointment and careers of judges — violates the right to trial by an “independent and impartial tribunal” as guaranteed by Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Tunisia has ratified.

Moreover, General Comment 32, Section 20 states that “the dismissal of judges by the executive, e.g., before the expiry of the term for which they have been appointed, without any specific reasons given to them and without effective judicial protection being available to contest the dismissal is incompatible with the independence of the judiciary.”

³³ Decree-Law 2022-35, Article 1.

³⁴ Decree-Law 2022-35, Article 1.

³⁵ Presidential Decree 2022-516; 35 Facebook post, Official Facebook page of the Tunisian President’s Office, 5 February 2022. Available online at: <https://www.facebook.com/Presidence.tn/videos/5000246053415829>

³⁶ Amnesty International Interview with Khira Benkhelifa, 17 June 2022.

4.2 THREATENING FREEDOM OF ASSOCIATION

President Saied's approach to civil society has shifted over the past year. Although he met with representatives of some Tunisian civil society groups during the weeks following 25 July 2021, he has more recently cast doubt on the motives of civil society groups and voiced a desire to curtail their funding.

The president has repeatedly warned of unspecified foreign actors who he said threatened Tunisia.³⁷ In videotaped remarks on 24 February 2022, the president accused civil society groups of serving foreign interests and said he intended to ban "funding from abroad" for them.³⁸

In early February, a restrictive draft law on associations that would reverse many post-2011 advances in freedom of association had been leaked and published online.³⁹

If adopted, the draft law on associations would amend Decree-Law 2011-88, which an interim government issued after Tunisia's 2011 revolution to prevent state interference with civil society after years of tight control under former dictator Zine El Abidine Ben Ali. Decree-Law 2011-88 regulates civil society while guaranteeing the rights of civil groups to exist and operate freely.

Authorities have not formally confirmed that they intend to amend Decree-Law 2011-88, nor have they commented publicly on the leaked draft law. But the existence of the new draft law combined with the president's 24 February speech has caused wide-spread concern amongst Tunisian and international human rights organizations.⁴⁰

Since Decree-Law 2011-88 was adopted, Tunisian civil society has blossomed, with thousands of new non-governmental organizations registered with authorities as operating in areas such as education, cultural life, sports, charitable work and human rights.⁴¹ Tunisian human rights groups have made significant contributions to Tunisia's post-revolution transition by bringing principles such as human rights and the rule of law into public debate, lobbying on state policy.

One of the ways in which Decree-law 2011-88 fundamentally transformed civic space in Tunisia was by allowing NGOs to be established by notification alone, instead of requiring authorization from the government as was the case under Ben Ali and to receive foreign

³⁷ In another evocation of supposed threats from abroad, on 14 October 2021, Saied stripped former president Moncef Marzouki of his diplomatic passport and asked Justice Minister Leila Jaffel to open an investigation against him after Marzouki, speaking in Paris, urged the French government to work against Saied's power grab. On 21 December 2021 a court in Tunis sentenced Marzouki in absentia to four years in prison. Please see page 29 of this briefing for details.

³⁸ Facebook post, Official Facebook page of the Tunisian President's Office, 24 February 2022. Available online at: <https://www.facebook.com/Presidence.tn/videos/959141931436749/>

³⁹ The leaked draft law amending Decree-Law 2011-88, was published on 8 February 2022 by Nawaat, a Tunisian news and commentary website. Available online at: <https://nawaat.org/2022/02/08/droit-dassociation-le-projet-liberticide-du-gouvernement-bouden/>

⁴⁰ Joint statement by Amnesty International and other civil society groups: "Tunisia: Looming curbs on civil society must be stopped", 11 March 2022. Available online at: <https://www.amnesty.org/en/latest/news/2022/03/tunisia-looming-curbs-on-civil-society-must-be-stopped/>

⁴¹ Official statistics on registered civil society groups as of 7 June 2022, Centre d'Information, de Formation d'Etudes, et de Documentation sur les Associations. Available online as of 18 June 2022 at: <http://www.ifeda.org.tn/stats/francais.pdf>

funding without prior authorization while meeting strict reporting and transparency requirements. The leaked draft restores the Ben Ali-era requirement for government authorization before a civil society group may operate, and subjects funding from abroad for civil society groups to prior approval by the Tunisian Central Bank.

The draft law stipulates that civil society groups' activities and published material may not "threaten the unity of the state," and must show "integrity" and "professionalism," two vague and overly broad terms that allow for subjective interpretation. The draft law also allows authorities to dissolve summarily civil society groups that remain inactive beyond a certain length of time.⁴² One provision of the draft law allows authorities to dissolve groups at will, although a separate provision provides for authorities to seek a court order to dissolve a civil society group, creating ambiguity.⁴³

Article 22 of the International Covenant on Civil and Political Rights and Article 10 of the African Charter on Human and Peoples' Rights both guarantee the right to freedom of association.

UN experts have criticized situations where government's approval, rather than simple notification, is required to form organizations. For example, the UN Special Rapporteur on the rights to freedom of peaceful assembly and association has said that a notification procedure – rather than one which requires prior government authorization – more fully complies with international human rights law, and that states should implement such a procedure in order that "associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created."⁴⁴ The UN Special Rapporteur on the situation of human rights defenders has commented that "it should be permissible for individuals to join together to engage in lawful activities without having to register as legal entities" and that registration should be required only if the individuals forming the organization wish to establish it as a separate corporate legal personality.⁴⁵

Under Article 38 of the Guidelines on Freedom of Association and Assembly in Africa, which reflect the provisions of the African Charter on Human and Peoples' Rights, governments may not impose blanket bans on foreign funding for civil society groups nor subject such funding to government authorization.

4.3 NEW SPEECH RESTRICTIONS

Since 25 July 2021, President Saïed has generally not sought to create new legal restrictions on the right to freedom of expression. However, he has introduced vaguely

⁴² Leaked draft law amending Decree-Law 2011-88, Articles 4, 5, 10, 33, and 35.

⁴³ Leaked draft law amending Decree-Law 2011-88, Articles 33 and 45.

⁴⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 21 May 2012, UN Doc. A/HRC/20/27, para. 58.

⁴⁵ UN Special Rapporteur on the situation of human rights defenders, Report to the General Assembly, 4 August 2009, UN Doc. A/64/226, paras 59-66 and 103-104.

worded provisions of law that could lead to prison terms of between ten years and life, including for public debate of the economy.

In early 2022, with the spectre of food shortages exacerbated by war in Ukraine haunting Tunisia, President Saied turned his attention to what he described as the menace of speculation in goods markets.⁴⁶ In a videotaped address on 9 March 2022 to officials at the Interior Ministry, Saied stressed what he said was the need to “redouble efforts” regarding the problem of speculation and prices, and called for an “unrelenting war” against dishonest goods speculators.⁴⁷

On 20 March, Saied issued Decree-Law 2022-14, which poses a serious threat to freedom of expression through vaguely worded provisions that could lead to prison terms of between ten years and life including for public debate of the economy.

The Decree-Law criminalises the deliberate spread of “false or incorrect news or information” by people “engaged in economic activities” that would cause consumers to refrain from buying, or to disrupt the supply of goods to markets and thereby cause prices to rise. While acts to influence markets through fraudulent means are legitimate grounds for concern, sweeping laws such as decree-Law 2022-14 open the door to unfair and abusive prosecutions.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Tunisia is a state party, guarantees the right to freedom of expression. While governments may restrict expression to protect specified public interests, restrictions must be provided by a law formulated with sufficient precision to enable individuals to regulate their conduct accordingly, and must be demonstrably necessary and proportionate to achieve the specified purpose.

Blanket prohibitions on the dissemination of information, based on vague and ambiguous concepts such as spreading false or incorrect information, fail this test and are therefore incompatible with international human rights law. Such measures put in jeopardy the right of freedom of expression itself and are not the least restrictive means to achieve the desired objective.

5. HUMAN RIGHTS VIOLATIONS BY THE SECURITY FORCES AND THE JUDICIARY

Since 25 July 2021, Tunisian authorities have employed arbitrary house arrests, travel bans, or detention against dozens of Tunisians, including people who belong to groups that publicly oppose President Saied or to segments of society that he has criticized.

⁴⁶ Amnesty International, “Tunisia: New anti-speculation law threatens freedom of expression”, 25 March 2022. Available online at: <https://www.amnesty.org/en/latest/news/2022/03/tunisia-new-anti-speculation-law-threatens-freedom-of-expression/>

⁴⁷ Official Facebook Page of the Tunisian President’s Office, 21 March 2022. Available online at: <https://www.facebook.com/watch/?v=704356907261626>

5.1 ARBITRARY TRAVEL BANS

In the two months following President Saied's power grab, authorities imposed a spate of arbitrary travel bans, imposed without judicial oversight, on people including judges, senior state officials and civil servants, businessmen, and a member of parliament. Amnesty International documented 50 such cases.

None was the subject of a court case or open criminal investigation, or any judicial order authorizing a travel ban. Amnesty International spoke with five people who said that they had learned of their bans only when attempting to travel. Airport immigration officials informed the five people of the bans against them but did not explain the reasons for the bans or how long they would remain in force.⁴⁸

In a speech at Tunis airport on 16 August 2021, Saied insisted that he had no intention of violating the right to freedom of movement. However, he also said that new restrictions on travel were part of effort to prevent people suspected of corruption or who threatened security from fleeing the country.⁴⁹ After increasing public criticism of the travel bans, President Saied issued a statement on 17 September 2021 calling on border police to bar only people subject to judicial proceedings from travelling abroad.

However, since June 2022, authorities have imposed arbitrary travel bans on at least three members of the dissolved parliament from parties that oppose President Saied, according to accounts that Amnesty International has documented. Two of those concern Saida Ounissi and Oussema Sghaier from the Ennahda party, who both told Amnesty International how border control officers at Tunis' airport had stopped them from traveling abroad on multiple occasions without providing any explanation or showing them a judicial order.

Article 12 of the International Covenant on Civil and Political Rights and Article 12 of the African Charter on Human and Peoples' Rights guarantee freedom of movement both within a country and across its borders, and state specifically that no one should be prevented from leaving his or her own country. While these provisions allow for restrictions on freedom of movement on certain grounds, these restrictions must be provided by law, necessary to achieve a legitimate aim, proportionate, and the least intrusive means to achieve such an aim.⁵⁰

Tunisian Law no. 75-40 of May 14, 1975, which regulates the issuance of travel documents clearly stipulates that judicial authorities are the sole entity authorized to issue a travel ban. The law also mandates that reasons be provided for the travel bans,

⁴⁸ Amnesty International Interviews with Zied Ajra, Skander Rekik, Imen Labidi and Anouar Benchahed on 16, 18, 20, and 22 August 2021, respectively.

⁴⁹ Facebook post, Official Facebook page of the Tunisian President's Office, 16 August 2021. Available online at: <https://www.facebook.com/Presidence.tn/videos/972930430171083>

⁵⁰ Human Rights Committee, General Comment No. 27, Section 14.

that people be informed of the decision promptly, and that they have the right to challenge the decision.

SAIDA OUNISSI

On 15 June 2022, Saida Ounissi tried to travel with her young daughter to France from Tunis airport. After she presented her passport to border control officers at the airport, they told her that a court order barred her from traveling abroad. Ounissi and a lawyer who joined her at the airport telephoned a senior judge at the First Instance Court of Tunis to inquire into the matter. The judge said that Ounissi was not subject to a court order or proceeding prohibiting her from traveling abroad, but that [the judge] could not provide her with official documentation to that effect. Later that day, Ounissi and two lawyers went in person to the court to try again. A magistrate assisting the prosecutor also denied the existence of any court proceeding - and thus travel ban - against her but did not provide her with any official documentation. Ounissi returned to the airport once more the same day in hopes of being allowed to travel, but border control officers again refused.⁵¹

On 23 June 2022, Ounissi tried again to travel with her daughter to France via Tunis airport. Once again, border control officers barred her from leaving the country, citing a travel ban ordered by a court prosecutor and saying that they could not offer any further explanation.⁵²

OUSSEMA SGHAIER

Police at Tunis airport barred Oussema Sghaier, an Ennahda MP of the dissolved parliament, from flying from Tunis to Italy on two occasions in June 2022. The first instance took place on 19 June 2022.

“After I handed my passport to the border control agent, I saw that the screen indicated something because the frame turned red, and he asked me to wait.”⁵³

Oussema Sghaier, an Ennahda MP

⁵¹ Amnesty International Interviews with Saida Ounissi, 15 and 24 June 2022.

⁵² Amnesty International Interview with Saida Ounissi, 24 June 2022.

⁵³ Amnesty International Interview with Oussema Sghaier, 20 June 2022.

Border control officers at the airport told Sghaier that he was subject to a travel ban. Sghaier asked for a written record or reference number for any court order that might bar him from traveling, but the police replied that they had no further information and advised him to contact judicial authorities.

On 25 June 2022, Sghaier tried again to travel to Italy. Once again, border control officers at airport turned him back, citing a travel ban against him but without offering further explanation.⁵⁴

5.2 ARBITRARY HOUSE ARRESTS AND DETENTION

Following 25 July 2021, authorities imposed arbitrary house arrest on at least 11 people, including 3 members of parliament, two former ministers, businessmen and several former state officials. Amnesty International spoke with two of the people under house arrest, Bechir Akermi, the public prosecutor of the first instance tribunal in Tunis, as well as Chawki Tabib, the former president of the Tunisian anti-corruption authority.⁵⁵ Both said they did not know the reason for their house arrest and had not been given any official documents.⁵⁶ All 11 house arrest orders had been lifted as of 10 October 2021.⁵⁷

NOUREDDINE BHIRI AND FATHI BELDI

On 31 December 2021, authorities arbitrarily detained two men - one a former justice minister and leading figure of the Ennahda party, and the other a former security official - outside their homes in Tunis and brought them to secret locations. Authorities detained both men for over two months without charge or trial.

Early on the morning of 31 December, lawyer Saida Akremi and her husband, lawyer Noureddine Bhiri, a former justice minister and senior member of the Ennahda party, were driving away from their home in Tunis when four cars suddenly pulled up and trapped them. Men in civilian clothing surrounded their car and demanded that Bhiri get out and go with them. When Akremi asked them to identify themselves, all they said was “we have instructions.”

The men then entered the car, assaulting the couple by punching them in the head, and snatched the car keys from Akremi. She managed to get out of the car and tried to phone

⁵⁴ Amnesty International Interview with Oussema Sghaier, 27 June 2022.

⁵⁵ Instance Nationale de Lutte contre la Corruption - INLUCC

⁵⁶ Amnesty International interview with Bechir Akermi, 22 August 2021; Amnesty International interview with Chawki Tabib, 22 August 2021.

⁵⁷ Amnesty International interview with lawyer Ahmed Souab, November 2021.

for help, but one of the men snatched her phone as well. The men got Bhiri out of his car, forced him into one of their own cars, and drove off with him.⁵⁸

That same morning Fathi Beldi, a former Interior Ministry official, was driving out of his garage at home and into the street when two strange men approached and forced him out of the car. At that moment, five cars including a four-wheel drive vehicle with tinted windows pulled up outside the house. Men got out of them, forced Beldi into the car with tinted windows, and they all sped off again.⁵⁹

Authorities detained both men in undisclosed locations, without any evidence of a court order or investigation. On 2 January 2022 authorities transferred Bhiri to detention in hospital after he announced a hunger strike.⁶⁰

On 3 January, Interior Minister Taoufik Charfeddine said that authorities had detained two men suspected of involvement in a terrorism-linked false passport scheme in 2013, when Bhiri had been justice minister, under a 1978 law allowing extra-judicial “forced internment” of people deemed security threats.⁶¹

Over the following two months, authorities allowed Bhiri’s and Beldi’s families to meet with them - Bhiri at the hospital, and Beldi at a national guard post - but never alone. Authorities barred both men from access to lawyers.⁶² On 7 March, authorities released them without charge after 67 days of arbitrary detention.

5.3 RISE IN MILITARY PROSECUTIONS OF CIVILIANS

Since 25 July 2021, the authorities have increasingly resorted to military courts for the investigation or prosecution of civilians who are critics or perceived enemies of President Saied, in violation of international human rights law.

In the first 3 months after 25 July 2021 alone, military courts investigated or prosecuted at least 10 civilians; since then, three additional cases have brought the total number to at least 13.⁶³ By comparison, Amnesty International and other human rights groups documented six cases of civilians prosecuted by military courts in Tunisia during the previous ten years.

⁵⁸ Amnesty International Interview with Saida Akremi, 6 Jan 2022.

⁵⁹ Amnesty International Interview with Hichem Beldi, brother of Fathi Beldi, 5 January 2022; Complaint filed by lawyers on behalf of Fathi Beldi’s wife, Leila Amri, at the Tunis Court of First Instance, 31 Dec 2021; Complaint filed by lawyers on behalf Fathi Beldi’s wife, Leila Amri, at the Ariana Court of First Instance, 3 Jan 2022.

⁶⁰ Amnesty International Interview with lawyer and former President of the Tunisian Bar Association, Abderrazak Kilani, 5 and 10 January 2022; Amnesty International Interview with lawyer Latifa Habachi, 6 January 2022; Amnesty International Interview with Saida Akremi, 6 January 2022.

⁶¹ YouTube Video. Posted on the YouTube account of Tunisian state television, 3 January 2022. Available online at: https://www.youtube.com/watch?v=u_17_3tG82g

⁶² Amnesty International Interviews with Hichem Beldi, 23 February 2022.

⁶³ Amnesty International, “Tunisia: Alarming increase in number of civilians facing military courts”, 10 November 2021. Available online at: <https://www.amnesty.org/en/latest/news/2021/11/tunisia-alarming-increase-in-number-of-civilians-facing-military-courts/>

Those targeted since 25 July 2021 included seven then-members of parliament investigated after Saied lifted immunity for MPs by decree on 29 July 2021 and four people whom military courts have prosecuted for publicly criticizing the President in TV broadcasts or on their social media accounts.⁶⁴

Tunisia's Military Code of Justice establishes the country's military court system, describes its structure and jurisdiction, and lists crimes under military law and the punishments mandated for them. While the constitution states simply that military courts have jurisdiction to try crimes of a military nature, Tunisian law including the code that is currently in force allows military courts to prosecute civilians in some circumstances, including for offenses under civilian law.⁶⁵

Under Decree-Law 2011-70, the president has final say over the appointments of judges and prosecutors to military courts.⁶⁶ In addition, both the general prosecutor who heads the military justice system, as well as all prosecutors in the military courts, who play a pivotal role in initiating proceedings, are serving members of the military and subject to military disciplinary procedures. This places them under the influence of the executive branch, since the president is also commander-in-chief of the armed forces under Tunisia's constitution. Tunisia's military courts thus lack independence as defined by international human rights law

Article 14 of the ICCPR guarantees a fair, public trial before a competent, independent, impartial tribunal established by law. According to the UN Human Rights Committee's authoritative interpretation of Article 14, independence means in particular that the judiciary be independent in deciding the career tracks and dismissal of judges and prosecutors.⁶⁷

Independence requires that judges and prosecutors may be dismissed only for serious misconduct, and through a fair and impartial process provided by law that allows them to contest their dismissals.

YASSINE AYARI

Between 25 and 28 July 2021, then-member of parliament Yassine Ayari wrote a series of Facebook posts criticizing President Saied - using terms such as "Pharaoh" and "silly" - and referring to Saied's 25 July power-grab as "a military coup with foreign planning and coordination." On 30 July, one day after Saied lifted immunity from prosecution for

⁶⁴ Presidential Decree 2021-80, Article 2.

⁶⁵ Under Article 5 of the Military Code of Justice, military courts may prosecute civilians for civilian law offenses against military personnel. Under Article 8 of the Military Code of Justice, military courts may prosecute civilians for certain military offenses as listed in article 66 – 97 of the code. Article 91 of the Code states explicitly that it applies both to civilians and military personnel. Under Article 22 of Decree-Law 1982-70, military courts may prosecute civilians for civilian law offenses against security forces.

⁶⁶ Decree-Law 2011-70, Article 2.

⁶⁷ United Nations Human Rights Committee, General Comment 32, Section 19.

members of parliament, police arrested Ayari and jailed him for two months based on a 2018 military court conviction for allegedly “insulting” the army.

While he was in prison, authorities informed Ayari that a military court prosecutor opened a new investigation against him based on his Facebook posts following 25 July, on charges of “insulting the president,” accusing a public official of illegal acts without proof, and “insulting the army,” under Articles 67 and 128 of the Penal Code and Article 91 of the Military Code of Justice, respectively. On 14 February, his trial opened before a military court and four days later, the court sentenced him in absentia to ten months in prison. By then, Ayari had relocated to France and decided to stay there after his family urged him not to return to Tunisia.⁶⁸

MEMBERS OF PARLIAMENT AND LAWYER

On 29 July 2021, a military prosecutor ordered the opening of an investigation against five members of parliament from the Al Karama Coalition over an altercation at Tunis airport on 15 March 2021. The investigation was later broadened to include a sixth MP from the party, as well as defence lawyer Mehdi Zagrouba.⁶⁹

According to one of the MPs, lawyer Seifeddine Makhoulouf, the 15 March 2021 incident began when police at Tunis airport barred a woman from traveling abroad without giving a clear explanation or showing a court order barring her from leaving the country. The woman telephoned lawyer Zagrouba and Al Karama MP Maher Zid, who called Makhoulouf. Makhoulouf and fellow Al Karama MP Nidhal Saoudi went to the airport and joined the woman, who said that she was not subject to any judicial procedure. Four other MPs from Al Karama arrived shortly thereafter, along with scores of men in civilian clothes who hurled abuse at the Al Karama MPs and Zagrouba, and declared that they were police. Some of the men struck the Al Karama MPs and Zagrouba with their hands, Makhoulouf said. Finally, the Al Karama MPs and Zagrouba left the airport under a hail of offensive remarks.⁷⁰

After the 15 March 2021 incident, a civilian court in Tunis opened an investigation against the Al Karama MPs and Zagrouba. On 29 July 2021, a military investigative judge in Tunis opened a new investigation against the seven men based on a complaint by a police union.⁷¹ The seven men faced charges relating to public disorder, threatening state security, and impeding or insulting public officials in the course of their work.⁷² While some of these charges relate to recognizable offenses under international law, the trial should have taken place before a civilian court. The military court subsequently

⁶⁸ Amnesty International Interview with Yassine Ayari, 14 June 2022.

⁶⁹ The Al Karama MPs investigated for the 15 March 2021 altercation at Tunis' airport were Seifeddine Makhoulouf, Nabil Saoudi, Maher Zid, Mohamed Affes, Ahmed Ben Ayed, and Abdellatif Aloui.

⁷⁰ Amnesty International Interview with Seifeddine Makhoulouf, 20 June 2022.

⁷¹ Amnesty International Interview with Seifeddine Makhoulouf, 20 June 2022.

⁷² The seven men were investigated under Articles under Articles 32, 68, 72, 79, 116, 125 of the Penal Code; Interview with lawyer Anour Ouled Ali, 8 October 2021.

sentenced four of the MPs and Zagrouba - plus a more recent defendant, Lotfi Mejri, who recorded images of the 15 March 2021 confrontation - to prison terms ranging from three to six months. Both prosecutors and the men have appealed the sentences.⁷³

Separately, on 17 February 2022, a military court handed down a one-year suspended sentence against one of the Al Karama MPs, lawyer Seifeddine Makhoul, for “insulting a public official”, accusing a public official of illegal acts without proof, “insulting the army,” and revealing national defence secrets. The case stemmed from an encounter between Makhoul and a military judge on 21 September 2021. Both Makhoul and military prosecutors appealed the ruling. On 17 June 2022, the Military Court of Appeals ordered Makhoul to serve a year in prison and banned him from practicing law for five years. Makhoul appealed again, this time to the Court of Cassation, and remains free pending consideration by the court of his appeal request.⁷⁴

Makhoul told Amnesty International:

"It was a shock to my family, to my fellow lawyers, to the structure of the legal profession [to be banned from practicing law] ... I consider it abnormal, and meddling by the military judiciary in the organization of the legal profession." ⁷⁵

AMER AYED AND ABDELLATIF ALOUI

On 1 October, MP Abdellatif Aloui of the Al Karama party and television journalist Amer Ayed appeared together on “Hassad 24”, a debate programme hosted by Ayed on Zitouna TV, where both men levelled criticism at President Saied.⁷⁶ Ayed even opened the programme by quoting from an imaginary satirical dialogue between a poet and a dictator by the Iraqi poet Ahmad Matar. Two days later, police arrested both men.

A military court initially ordered their investigation under articles of law relating to insulting the president, seeking to change the nature of the state, accusing public official of illegal acts without proof, and insulting the army.⁷⁷ The court jailed Ayed pending investigation from 5 October to 25 November 2021. The court dropped the charge of seeking to change the nature of the state, but on 7 April 2022, sentenced Aloui to three months in prison and Ayed to four months in prison.

⁷³ Messaging app messages from lawyer Anour Ouled Ali to Amnesty International, 18 July 2022.

⁷⁴ Amnesty International Interview with Seifeddine Makhoul, 20 June 2022 and 3 July 2022.

⁷⁵ Amnesty International Interview with Seifeddine Makhoul, 3 July 2022.

⁷⁶ Abdellatif Aloui is also among the six MPs from the Al Karama party whom a military court prosecuted for a confrontation with police at Tunis' airport on 15 March 2021, as noted above.

⁷⁷ Penal Code articles 67, 72, and 128, and Military Code of Justice article 91, respectively; Amnesty International Interview, Malek Ben Amor, 7 October 2021.

SLIM JEBALI

On 13 October 2021, a military court in the city of El Kef sentenced activist Slim Jebali to one year in prison on charges including insulting the president and the army, based on Jebali's Facebook posts earlier that month in which he denounced Saied's concentration of powers since 25 July.⁷⁸

SALAH ATTIA

On 10 June 2022 Salah Attia, the owner and director of the news website "Al Ray Al Jadid" said during an interview on Al Jazeera that the Tunisian army had refused a request by President Saied to shutter the office of the Union Générale Tunisienne du Travail (UGTT) - the country's largest trade union, which has increasingly opposed President Saied - and had then informed the union. He said that the army had also refused a request by Saied to enforce house arrest on unspecified political leaders.⁷⁹

The next day, police arrested and questioned Attia about his remarks and the source of his claims, based on an investigation order from the Military Court of First Instance, Tunis, one of his lawyers, Malek Ben Amor, told Amnesty International.⁸⁰

At a hearing before an investigative judge at the court on 13 June 2022, Attia again refused to name his source, Ben Amor said. The judge remanded Attia to prison pending further investigation on charges of inciting people to take up arms against one another, and causing disorder, murder, and plunder; accusing a public official of an illegal act without proof; denigrating the army and undermining military discipline; and wilfully harming or disturbing other via telecommunication networks, under Article 72 of the Penal Code, which carries the death penalty, Article 128 of the Penal Code, Article 91 of the Military Code of Justice, and Article 86 of the Telecommunications Code, respectively.⁸¹

5.4 PROSECUTION OF PEACEFUL DISSENT

While the authorities have not conducted broad crackdowns on peaceful speech, courts have launched at least 29 criminal investigations or prosecutions for criticizing President Saied or making statements that authorities deemed wilfully false or defamatory.

⁷⁸ Amnesty International Interview with lawyer Amor Raoueni, 2 November 2021; Amnesty International reviewed images of the Facebook posts by Jebali for which he was prosecuted, shared with Amnesty International by Amor Raoueni.

⁷⁹ Amnesty International Interview with Samir Dilou, 13 June 2022; Video clip posted on Facebook of Salah Attia's 10 June 2022, shared with Amnesty International by his daughter, Sondes Attia.

⁸⁰ Amnesty International Interview with Malek Ben Amor, 14 June 2022.

⁸¹ Amnesty International Interview with Samir Dilou, 13 June 2022 ; Messaging app message from Samir Dilou, 28 June 2022.

Criminal prosecution for public criticism of authorities is not new in Tunisia. Between 2017 and 2020, Amnesty International documented an increasing number of cases of bloggers, administrators of widely followed Facebook pages, political activists and human rights defenders, who were investigated or prosecuted for criminal charges including defamation, insulting state institutions and “harming” others through telecommunication networks, solely in relation to the peaceful exercise of freedom of expression.⁸² However, these investigations and prosecutions hardly ever involved pretrial detention and only extremely rarely lead to convictions.

Since July 2021, the focus of courts on prominent critics of the president has increased, indicating growing intolerance for dissent. In addition, at least four of these investigations and prosecutions have involved civilians facing military courts.

Perhaps the starkest example of President Saïed’s intolerance of dissent is how he has dealt with some members of parliament who have publicly opposed him. On 30 March 2022, around 120 members of the then-suspended 217-member parliament met online for a plenary session to protest President Saïed’s sweeping powers since 25 July 2021 and vote on a measure to overturn his decisions. The measure passed with 116 votes.

Later the same day, President Saïed issued a decree dissolving parliament. In videotaped remarks, he accused the MPs who had taken part in the online plenary of attempting a coup and conspiring against state security and announced a criminal investigation into their actions.⁸³

Judicial authorities have opened investigations against at least 20 MPs under Article 72 of the Penal Code, which mandates the death penalty for “seeking to change the form of government.” Of those 20 MPs, police have summoned at least 10 and questioned nine, while the Tunis Court of Appeals prosecutor has informed the Tunis Bar Association that an additional ten MPs who are also lawyers are also facing investigations.⁸⁴

International human rights law allows the exercise of the right to freedom of expression to be subject to certain limitations, these must meet all elements of a stringent three-part test: they must be provided by law (which must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly); and demonstrably necessary and proportionate (the least restrictive measure to achieve the specified purpose) for the purpose of protecting specified public interests (national security, public order, or public health or morals) or the rights or reputations of others. There must be procedural safeguards against abusive imposition of restrictions, including provision for appeal to an independent body with some form of judicial review.

However, contrary to these narrow limitations, a number of laws in Tunisia still contain broadly worded articles that penalize peaceful speech. The articles provide heavy sentences, such as prison terms of up to five years for various types of peaceful speech,

⁸² Amnesty International, “Tunisia: Criminal Prosecutions of Online Speech: Outdated and Flawed Laws Used to Restrict Speech in Tunisia”, 9 November 2020. Available online at: <https://www.amnesty.org/en/documents/mde30/3286/2020/en/>

⁸³ Presidential Decree 2022-309; Facebook post, Official Facebook page of the Tunisian President’s Office, 30 March 2022. Available online at: <https://www.facebook.com/watch/?v=398964232068360>

⁸⁴ Amnesty International Interview with Abderrazak Kilani, 4 April 2022; Amnesty International Interview with Ridha Belhaj, 7 April 2022.

notably speech deemed offensive or defamatory toward individuals and state institutions as well as speech deemed liable to disturb the public order or morality, which are not a recognizable offence under international law.

Such restrictions must never include the censorship of criticism of public figures and state officials. In fact, as regard the rights and reputation of others, international human rights law and standards require that public officials tolerate a higher degree of scrutiny and criticism than private individuals. And there should not be more severe penalties for insult or defamation of public officials. In this regard, the UN Human Rights Committee states in General Comment 34 that all public figures are legitimately subject to public criticism, and that there should be no prohibition of criticism of public institutions. The Committee said that

“In circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”

ABDERRAZAK KILANI

On 2 January 2022, Abderrazak Kilani, a Tunis lawyer and former president of the Tunisian Bar Association, went with fellow lawyer Saida Akremi and other lawyers to Bougatfa Hospital in the city of Bizerte, where they had learned that Nouredine Bhiri, who is Akermi’s husband and Kilani’s client, had been transferred following his arbitrary detention by authorities two days earlier. Instead, they ended up talking with police who barred him entry to visit Bhiri.⁸⁵

“According to the law, you cannot stop a citizen from entering the hospital unless the hospital director says he has closed the hospital,” Kilani said to the police in protest.

In remarks caught on video, Kilani can be heard telling the police outside the hospital that security chiefs under Tunisia’s former dictator, Zine El Abidine Ben Ali, had faced prosecution after the country’s 2011 revolution for human rights violations committed under the former regime.⁸⁶ He added, referring to tribunals set up to try cases of alleged human rights violations by authorities between 1957 and 2013:

“Look at your superiors now, they are miserable. They are brought before the special chambers with their families, their children, and their reputations.”

Based on those remarks, a military court in Tunis charged Kilani with taking part in a gathering intended to disturb public order, insulting on-duty public officials, and obstructing public officials in carrying out their duties under Articles 79, 125, and 136 of the Penal Code. On 2 March, an investigative judge at the Tunis Military Court of First

⁸⁵ Amnesty International Interview with Abdelrazak Kilani, 5 January 2022 ; Amnesty International Interview with Saida Akremi, 10 and 12 January 2022.

⁸⁶ Facebook post. Verified to Amnesty International by Abderrazak Kilani. 3 January 2022. Available online at: <https://www.facebook.com/108914341270042/videos/291460719670765/>

Instance ordered Kilani remanded to prison pending trial.⁸⁷ He was released after 19 days, on 21 March.

Kilani stood trial on 12 May. On 19 May, the military court announced that it had dropped charges under Penal Code Articles 79 and 136, but sentenced him to 1 month in prison, suspended, under Article 125 of the Penal Code. Kilani has appealed his conviction.⁸⁸

Amnesty International has reviewed the video of Kilani's remarks to police outside Bougatfa Hospital and found nothing that goes beyond protected speech under international law.

MONCEF MARZOUKI

On 9 October 2021, addressing a public demonstration in Paris, Tunisia's former president, Moncef Marzouki, called on the French government not to support what he described as a coup carried out by President Saied. Rather, he said, France should strive to help ensure that "the constitution is restored and the parliament returns to its duties." Videos of Marzouki's remarks were posted on his Facebook page and elsewhere on social media.⁸⁹ Marzouki, a long-time pro-democracy activist who had opposed former Tunisian dictator Zine El Abidine Ben Ali and served as president from 2011 – 2013, has repeatedly criticised Saied's July 2021 power-grab.

On 14 October, Saied said in a speech to cabinet ministers that an unnamed "enemy of Tunisia" had gone abroad and undermined Tunisia's interests, saying that he would revoke that person's diplomatic passport, a clear reference to Marzouki. Saied asked Justice Minister Leila Jaffel to open an investigation into the matter.⁹⁰ On 4 November, a Tunisian court issued an international arrest warrant for Marzouki.⁹¹ On 21 December, a Tunisian court convicted him in absentia of "undermining state security" and sentenced him to four years in prison.⁹²

⁸⁷ Amnesty International Interview with Anour Ouled Ali, Mon 7 March 2022.

⁸⁸ Amnesty International interview with Abderrazak Kilani, 21 May 2022; Messaging app message from Abderrazak Kilani to Amnesty International, 27 May 2022.

⁸⁹ Facebook post, Official Facebook page of Moncef Marzouki, 9 October 2021. Available online at: <https://www.facebook.com/Dr.Marzouki.Moncef/videos/203410965225199> ; Facebook post, Official Facebook page, of the Al Karama Coalition, 9 October 2021. Available online at: <https://www.facebook.com/323675788266292/videos/868748456993573>

⁹⁰ Facebook post, Official Facebook page of the Tunisian President's Office, 14 October 2021. Available online at: <https://www.facebook.com/watch/?v=1828412500664531>

⁹¹ Reuters, "Tunisia issues international arrest notice against ex-leader," 4 Nov 2021, available at: <https://www.reuters.com/world/tunisia-issues-international-arrest-notice-against-former-president-marzouki-2021-11-04/>

⁹² AP, "Ex-Tunisian president convicted of undermining security", 23 December 2021, available at: <https://apnews.com/article/business-africa-tunisia-north-africa-moncef-marzouki-934334f373dac4100fc7dee113436b9b>

GHAZI CHAOUACHI

On 12 May, Ghazi Chaouachi, a lawyer and secretary-general of the Democratic Current political party – which opposes President Saied - said during a live interview on Tunisia’s Shems FM radio station that the head of government, Najla Bouden, had tendered her resignation but that Saied had not put it into effect. Chaouachi also said, without naming them, that several government ministers had resigned or stopped signing official documents.⁹³

Chaouachi told Amnesty International:

"It was not the first time I had said this...It’s something banal; it could be true, it could be a mistake."⁹⁴

Later the same day, President Saied told Head of Government Bouden in videotaped remarks that unnamed parties: “Almost every day construct an issue from their sick imagination [about current events], I mean, every day organizing a plan from a group, which gives orders to these [people]: to sow suspicion and doubt about the work that we are engaged in....Prosecutors must play their role, because this situation cannot go on.”⁹⁵

Meanwhile on 12 May, judicial authorities opened a criminal investigation against Chaouachi under Article 128 of the Penal Code, which mandates imprisonment for publicly accusing a state official of illegal acts without proof. Judicial authorities also accused Chaouachi of spreading false information, invoking Tunisia’s 1975 Press Code without citing a specific article.⁹⁶

According to Chaouachi, judicial authorities informed the Tunis Bar Association of the investigation against him based on his 12 May broadcast on Shems FM, and the Bar Association in turn informed him. As of 23 May 2022, authorities had not summoned him for questioning.⁹⁷

5.5 SUPPRESSION OF PEACEFUL PROTESTS

Since July 2021, groups opposed to President Saied have organized a series of demonstrations in Tunis to protest his initial power-grab and subsequent moves to gather still more power into his own hands. While the authorities have generally permitted such demonstrations to take place, they have on at least one occasion imposed undue

⁹³ Amnesty International Interview with Ghazi Chaouachi, 23 May 2022; Facebook post, Facebook page of Shems FM Radio, 12 May 2022. Available online at: <https://www.facebook.com/ShemsFM/videos/614073000135201/>

⁹⁴ Amnesty International Interview with Ghazi Chaouachi, 23 May 2022.

⁹⁵ Post on the Facebook page of the Tunisian President’s Office, 12 May 2022, available at: <https://www.facebook.com/watch/?v=1409388026195750>

⁹⁶ Amnesty International Interview with Ghazi Chaouachi, 23 May 2022.

⁹⁷ Amnesty International Interview with Ghazi Chaouachi, 23 May 2022.

restrictions on the right to freedom of assembly and on at least two occasions have sought to disrupt demonstrations by unlawful use of force.

During a 14 January 2022 protest, authorities used excessive force against protesters, in a number of cases using clubs to beat peaceful protesters as they fled the area, or using water cannons against protestors where it was not warranted. Police assaulted at least one journalist while he was covering the protest and police action to disperse protestors. On 4 June, police in Tunis deployed with metal barriers and used crowd-control spray to disrupt a planned demonstration by peaceful protestors outside the office of Tunisia's electoral commission.

Judicial authorities have opened investigations into at least one account of assault by security forces during the 14 January protest, which Amnesty International has documented, and in connection with the unexplained death of a protestor. However, authorities have presented no evidence to the public of efforts to investigate the unlawful use of force, in keeping with previous such instances documented by Amnesty International.⁹⁸

On 12 January 2022, Tunisia's government announced a two-week blanket ban on all public gatherings to begin the following day, citing concerns over Covid-19.⁹⁹ The ban came into force one day before large protests in Tunis that groups opposed to President Saied had planned for 14 January, the 11-year anniversary of Tunisia's revolution, and a traditional occasion since then for Tunisians to hold public demonstrations.

Article 21 of the International Covenant on Civil and Political Rights, which Tunisia has ratified, guarantees the right to peaceful assembly. While states may restrict the right to peaceful assembly to protect public health, restrictions must be necessary, proportional, and not imposed in a blanket fashion. Authorities should instead assess each assembly case by case.

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On 14 January 2022, protestors gathered in central Tunis in defiance of a nation-wide ban on public gatherings, to express their opposition to President Saied's power-grab. They found police, including riot police, deployed in large numbers to block access to the western end of the Avenue Habib Bourguiba – the traditional focal point of public demonstrations in Tunis – and in several places along the perpendicular Avenue Mohamed V.¹⁰⁰

⁹⁸ Amnesty International, "Tunisia: 10 years on, victims are still awaiting justice", 14 January 2021. Available online at: <https://www.amnesty.org/en/documents/mde30/3525/2021/en/>; Joint letter to Government of Tunisia from Amnesty International and other human rights organizations: "Tunisia: Appeal to the government to put an end to the widespread impunity", 13 March 2018. Available online at: <https://www.amnesty.org/en/documents/mde30/8047/2018/en/>

⁹⁹ Facebook post, Official Facebook page of the Tunisian Head of Government's Office, 12 January 2022. Available online at: <https://www.facebook.com/Presidencedugouvernementtunisien/posts/290997203058118>

¹⁰⁰ Amnesty International Interview with Maryline Dumas, 19 Jan 2022; Amnesty International Interview with Nacer Talal, 22 Jan 2022; Amnesty International Interview with Natalia Román, 25 Jan 2022; Interview with French Photographer, 1 Feb 2022; Amnesty International Interview with Jaouhar Ben Mbarek, 12 June 2022.

At around 2pm, protestors in the Avenue Mohamed V pushed their way through police lines, and chaos erupted. Police lashed out wildly apparently at random, striking protestors with batons as they tried to join other protestors gathered in a roundabout at the junction of Avenue Mohamed V and Avenue Habib Bourguiba. As protestors increasingly massed around the roundabout, police used truck-mounted water cannons to disperse them and subsequently charged, pushing with riot shields, striking with clubs, and driving motorcycles directly at protestors.¹⁰¹ Protesters gradually scattered throughout the remainder of the afternoon, as groups of police chased after them.¹⁰²

Amnesty International documented multiple accounts of police beating protestors with clubs, and of men in both civilian clothes and police uniforms grabbing hold of protestors and detaining them. These accounts are supported by film footage taken by a journalist who shared it with Amnesty International.¹⁰³

Lawyers told Amnesty International that judicial authorities had brought criminal charges against at least 31 people arrested during the protest.¹⁰⁴ On 7 February, a judge at the Tunis Court of First Instance acquitted 14 of these at a group trial hearing, but sentenced 15 to pay a 100 dinar (around 32.64USD) fine for breaking health regulations during an epidemic.¹⁰⁵

Authorities have not yet accounted for the death of Ridha Bouziane, a protestor who apparently collapsed during the 14 January 2022 protest and was reported dead in a public hospital on 19 January, having arrived unconscious and never awoken. Nor have authorities explained to Bouziane's family why they failed to tell them where he was. Mounia Bou Ali, a lawyer for the family, confirmed that Bouziane's ID card and phone were found in his possession.¹⁰⁶

Bouziane, a former hotel employee who served as a volunteer Imam in his local mosque in the city of Sousse, travelled to Tunis on 14 January 2022 with a group of friends to join the protest, according to his family and one of the friends.¹⁰⁷ When police fired water cannons at protestors, Bouziane was hit and drenched. Then police charged at

¹⁰¹ Amnesty International Interview with Maryline Dumas, 19 Jan 2022; Amnesty International Interview with Nacer Talal, 22 Jan 2022; Amnesty International Interview with Natalia Román, 25 Jan 2022; Amnesty International Interview with Friend of Ridha Bouziane, 25 January 2022; Amnesty International Interview with French Photographer, 1 Feb 2022; Amnesty International Interview with Jaouhar Ben Mbarek, 12 June 2022.

¹⁰² Amnesty International Interview with Maryline Dumas, 19 Jan 2022; Amnesty International Interview with Nacer Talal, 22 Jan 2022; Amnesty International Interview with Natalia Román, 25 Jan 2022; Interview with Friend of Ridha Bouziane, 25 January 2022; Amnesty International Interview with French Photographer, 1 Feb 2022.

¹⁰³ Amnesty International Interview with Maryline Dumas, 19 Jan 2022; Amnesty International Interview with Nacer Talal, 22 Jan 2022; Amnesty International Interview with Natalia Román, 25 Jan 2022; Amnesty International Interview with French Photographer, 1 Feb 2022; Amnesty International Interview with Jaouhar Ben Mbarek, 12 June 2022; Film footage taken by Natalia Román and shared with Amnesty International.

¹⁰⁴ Amnesty International Interview with Lamia Farhani, 1 Feb 2022; Amnesty International Interview with Anour Ouled Ali, 10 Feb 2022; In addition, the Interior Ministry said in a statement on 14 Jan 2022 that it authorities were bringing charges against an unspecified number of people based on consultation with public prosecutors, under articles 312 and 315 of the Penal Code. The statement is available at: <https://www.interieur.gov.tn/actualite/27220/%D8%A8%D9%84%D8%A7%D8%BA>

¹⁰⁵ Amnesty International Interview with Anour Ouled Ali, 10 Feb 2022

¹⁰⁶ Amnesty International Interviews with Monia Bou Ali, 23 April & 19 May, 2022.

¹⁰⁷ Amnesty International interview with Ahlem Belakhel, 23 Jan 2022; Amnesty International Interview with Cyrine Bouziane, 21 Jan 2022; Amnesty International interviews with Rachid Bouziane, 20 & 21 Jan 2022, Amnesty International Interview with Friend of Ridha Bouziane, 25 January 2022.

protestors to disperse them.¹⁰⁸ After that, neither Bouziane's friends nor his family could find any trace of him. He did not respond to phone calls. On 19 January, a mystery caller told Bouziane's daughter, Cyrine, by phone that her father had died.¹⁰⁹

Since then, photos and videos have circulated on social media that Bouziane's family say appear to show him collapsed amid a group of people, as emergency workers place him on a stretcher.¹¹⁰ Police opened a routine investigation to determine the circumstances of Bouziane's death. That investigation has since been transferred to an investigative judge at the First Instance Court of Tunis.¹¹¹ Shortly thereafter, the judge opened a parallel investigation into possible manslaughter as the cause of Bouziane's death.¹¹²

MATHIEU GALTIER

On 14 January 2022, Mathieu Galtier, a French reporter based in Tunis, was using his smartphone to film police detaining anti-Saied protesters in the midst of a large demonstration against the president when a policeman in body armour and heavy boots spotted him and ordered him to stop. Mr. Galtier replied in Arabic that he was a journalist, and the policeman stepped forward and tried to snatch his phone. Next, Galtier felt hands grasping and carrying him, as he yelled again and again that he was a journalist and clutched at anything - a barrier, a street sign - to halt his progress. The policemen deposited him in a side-street beside a police van. Then they began to kick him.¹¹³

"My head was to the ground, I didn't see much," Galtier told Amnesty International. "Above all I felt kicks. Punches, maybe, but above all kicks."¹¹⁴

Next he felt someone pulling his arms, and then he raised his head from where he lay and saw a policeman, who leaned down and sprayed something into Galtier's eyes. After that he saw nothing, only felt the kicks and blows thudding into him. Finally it stopped, and he sensed that the policemen had gone away.¹¹⁵

A fireman found Galtier and washed his eyes. A police officer - who had Galtier's press card and smartphone in his possession - led him to a nearby police station. Three fellow journalists noticed Galtier, followed him, and waited outside the station while police

¹⁰⁸ Amnesty International Interview with Friend of Ridha Bouziane, 25 January 2022.

¹⁰⁹ Amnesty International Interview with Ahlem Belakhel, 23 Jan 2022; Amnesty International Interview with Cyrine Bouziane, 21 Jan 2022; Amnesty International Interviews with Rachid Bouziane, 20 & 21 Jan 2022; Amnesty International Interview with Friend of Ridha Bouziane, 25 January 2022.

¹¹⁰ Amnesty International Interviews with Seif & Cyrine Bouziane, 21 Jan 2022; Bouziane Family, 23 Jan 2022.

¹¹¹ Amnesty International Interview with Rachid Bouziane, 20 & 21 Jan 2022; Interview, Monia Bou Ali, 11 Feb 2022

¹¹² Amnesty International Interviews with Monia Bou Ali, 23 April & 19 May, 2022.

¹¹³ Amnesty International Interview with Mathieu Galtier, 18 Jan 2022.

¹¹⁴ Amnesty International Interview with Mathieu Galtier, 18 Jan 2022.

¹¹⁵ Amnesty International Interview with Mathieu Galtier, 18 Jan 2022.

briefly questioned him.¹¹⁶ When police returned Galtier's smartphone, he found that the SD card containing photos and videos was gone.¹¹⁷

According to a medical report shared by Galtier with Amnesty International, he suffered scrapes and bruising on his forehead, back, abdomen, and right arm, and injuries to his eyes from chemical exposure.¹¹⁸

Galtier subsequently filed a complaint with judicial authorities over the assault. National Guard officers charged with investigating the incident first interviewed him on 22 June 2022.¹¹⁹

PROTEST AND CALL FOR REFERENDUM BOYCOTT

On 4 June 2022, police in Tunis forcibly barred protestors led by five political parties opposed to President Saied from holding a planned demonstration outside the headquarters of Tunisia's electoral commission to call on Tunisians to boycott a July referendum on a new constitution that the commission is charged with overseeing.¹²⁰ Issam Chebbi, Secretary-General of the Joumhouri (Republican) Party, who was among the protestors told Amnesty International that protestors had approached the electoral commission to find the street outside the entrance barred by metal barriers and a line of police.

Protestors and police pushed and shoved against one another as protestors tried to break through the police line, with some police using crowd-control spray against protestors, Chebbi told Amnesty International. Finally, the protestors decided to withdraw and held an impromptu press conference in the street a short distance away for media covering the event.¹²¹

¹¹⁶ Amnesty International Interview with Mathieu Galtier, 18 Jan 2022; Amnesty International Interview with Nacer Talal, 22 January 2022; Amnesty International Interview with Natalia Román, 25 January 2022; Amnesty International Interview with French Photographer, 1 February 2022.

¹¹⁷ Amnesty International Interview with Mathieu Galtier, 18 Jan 2022.

¹¹⁸ Medical Report for Mathieu Galtier, 14 Jan 2022.

¹¹⁹ Amnesty International Interview with Mathieu Galtier, 23 June 2022.

¹²⁰ Amnesty International Interview with Issam Chebbi, 15 June 2022; Statement by the National Coordination for the Downfall of the Referendum, composed of five political parties – Ettakatol, the Joumhouri Party, the Workers Party, the Democratic Current, and Pole - opposed to President Saied, available at: <https://www.facebook.com/100410522702686/photos/a.100773509333054/101704375906634/>

¹²¹ Amnesty International Interview with Issam Chebbi, 15 June 2022.

6. CONCLUSION AND RECOMMENDATIONS

The year since President Saied claimed sweeping powers on 25 July 2021 has seen a deterioration in the human rights situation in Tunisia – whether on the legislative front or the increase of human rights violations by Tunisian authorities.

Despite his pledge to respect human rights, President Saied has dismantled, weakened, or threatened key human rights safeguards. Tunisian authorities have refrained from broad crackdowns on human rights but have nevertheless committed numerous human rights violations - notably against critics and perceived enemies of the president – that did not take place prior to July 2021. These violations, while not widespread in scale, are enough of a red flag to warrant serious concern about the future of human rights in Tunisia.

To help Tunisian authorities behave in a manner consistent with international human rights standards, Amnesty International offers the following recommendations:

- President Saied should immediately rescind Decree-Law 2022-35 and Decree-Law 2022-11, to abolish the President’s power to dismiss judges and strengthen judicial independence by reinstating the recently dissolved High Judicial Council.
- President Saied should publicly commit to protecting civic space for civil society in Tunisia and to ensuring the rights accorded under Decree-law 2011-88 are retained. He should clarify whether the government intends to amend the Decree-law and how it plans to meaningfully consult NGOs about any such legislative changes.
- Tunisian authorities should halt the practice of arbitrarily imposing travel bans, arbitrary house arrests, and ensure that any such measures are imposed strictly with judicial authorization, are time-bound and are subject to appeal, in accordance with international human rights law.
- Tunisian authorities should halt the practice of military trials for civilians, immediately drop all charges against those facing prosecution for peacefully exercising their human rights and transfer all other military trials of civilians to civilian courts, in accordance with international fair trial standards.
- Tunisian authorities should stop criminally investigating and prosecuting people for peacefully exercising their rights to freedom of expression. Courts should treat defamation as a civil, not criminal, offense, and never impose penal sanctions for it.
- Tunisian authorities should repeal or amend repressive provisions used to restrict freedom of expression, such as those in the Penal Code and the Code of Military Justice prohibiting insult of symbols, public institutions, state officials, and Decree-Law 2022-14 on goods speculation.

- Tunisian authorities should allow peaceful demonstrators to hold public gatherings to express their views unhindered, never impose blanket or otherwise unreasonable restrictions, and should not use excessive force to disperse peaceful demonstrators.
- Judicial authorities should investigate any officials responsible for the arbitrary imposition of travel bans or house arrests, prosecute and hold accountable any officials found responsible for human rights violations documented in this report.

ANNEX I. LETTER TO THE HEAD OF GOVERNMENT

Mme Najla Bouden
Head of Tunisian government
Office of the Head of Government
Place du Gouvernement - La Kasbah, 1020 Tunis
Tél. : (216-71) 565 400
E-Mail : boc@pm.gov.tn

13 July 2022

Dear Head of Government,

I am writing this letter to kindly ask you to provide me with some information related to a range of human rights violations committed by judicial authorities and security forces that Amnesty International has documented over the past year. Amnesty International will soon release a report to be published later this month, about the state of human rights one year after President Kais Saied claimed exceptional powers on 25 July 2021.

Amnesty International is an international, non-profit, non-governmental organization and a movement of over 10 million people around the world that carries out research and advocacy on human rights issues around the world, and is headquartered in London.

I would be grateful for any information the Government of Tunisia can provide in response to the following questions:

1. On 31 December 2021, Tunisian authorities detained Nouredine Bhiri and Fethi Beldi outside their homes in Tunis and brought them to undisclosed locations, later transferring Bhiri to detention from? hospital. Authorities continued to detain both men, without access to lawyers and without providing evidence of any judicial proceeding against them, before releasing them without charge on 7 March 2022. **Please explain the legal basis for the arrest and detention of Nourredine Bhiri and Fethi Beldi, and in particular any court order or judicial proceeding that justified their arrest and detention. Please clarify whether either man is currently under criminal investigation through a judicial process, and if so, the nature of that investigation and the allegations on which it is based.**
2. On 14 January 2022, Tunisian security forces violently dispersed protestors that had gathered in central Tunis. Amnesty International has documented multiple accounts of security forces using excessive force, including beatings with clubs and the use of water cannons, against peaceful protestors, in violation of the human rights treaties including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights to which Tunisia is a state party. **Please explain any steps that authorities have taken to promptly, thoroughly, independently, impartially, transparently and effectively investigate**

claims and reports of the unlawful and excessive use of force against protestors, or any other unlawful act, by security forces in Tunis on 14 January 2022; please also clarify any steps that authorities have taken to hold to account any public official or member of security forces found to be responsible for the aforementioned unlawful acts. Please also clarify any steps that authorities have taken to provide access to justice and effective remedies for victims and their families.

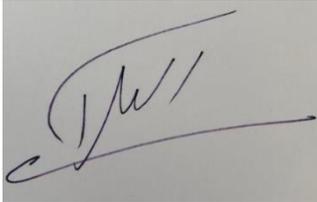
3. On 30 March 2022, President Saied called on judicial authorities to open prosecution against members of the then-suspended parliament who had taken part in an online plenary session that day. According to our information, judicial authorities have opened investigations against at least 20 former MPs in connection with their taking part in the 30 March online plenary under Article 72 of the Penal Code, which mandates the death penalty. **Please clarify the total number of MPs whom judicial authorities are investigating or prosecuting in connection with the online plenary session on 30 March 2022. Please also clarify the legal grounds for their investigation and/prosecution, and the allegations against them.**
4. Border control officers at Tunis-Carthage International Airport barred Saida Ounissi from traveling abroad on 15 June 2022 and 24 June 2022, in both instances citing a travel ban against her without offering further explanation. Ounissi has found no evidence of any court order or judicial proceeding that prohibits her from leaving Tunisia. **Please clarify the nature of the travel ban against Saida Ounissi and the legal basis and justification for imposing it.**
5. Border control officers at Tunis-Carthage International Airport barred Oussema Sghaier from traveling abroad on 19 June 2022 and 25 June 2022, in both instances citing a travel ban against him without offering further explanation. **Please clarify the nature of the travel ban against Oussema Sghaier, and the legal basis and justification for imposing it.**
6. In a speech released on 24 February 2022, President Saied indicated his intention to ban foreign funding for civil society groups in Tunisia. In the preceding weeks, a draft law amending Decree-Law 2011-88, on association, became public knowledge. The draft law would imperil human rights including the right to freedom of association in Tunisia. **Please clarify the current status of the draft law amending Decree-Law 2011-88; whether and how Tunisian authorities intend to amend and rescind Decree-Law 2011-88; and if so, any and all measures that Tunisia authorities intend to take to fully and effectively guarantee the right to freedom of association in line with the human rights treaties to which Tunisia is a state party.**

Please note that we are committed to including your answers in our report, should we receive them by 20 July 2022.

We remain at your disposal for any further information. Feel free to contact us either by email on Amna.guellali@amnesty.org or by fax 0021658545730.

Regards,

Amna Guellali

A handwritten signature in dark ink, appearing to be 'AG', is written over a light grey rectangular background.

Deputy Regional Director
Middle East and North Africa
Amnesty International

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

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