



TUNISIA

PRESENTATION

This review is part of a larger two-part study on **freedom of assembly in the Euro-Mediterranean region**.

Following an overview of the international standards relating to the freedom of assembly, [Part I](#) examines the legal frameworks in 11 countries of the Mediterranean and in the European Union and their compliance with international human rights standards. Part II examines the implementation of laws and the exercise of the freedom of assembly and demonstration in practice.

In order to assess the compliance of national legislations with international standards relating to the exercise of freedom of assembly, objective indicators were used as a reference throughout this study. A gender-sensitive approach was incorporated to determine whether women enjoy freedom of assembly to the same extent as men or face more restrictions.

This study was conducted in consultation with members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 human rights organizations in 30 countries. It thus reflects the active involvement of EMHRN's working group members on freedom of association and assembly, as well as other civil society organizations and experts.

The study is meant to provide human rights defenders, civil society organizations, international organizations, and state institutions with an analysis that allows them to compare national laws and policies with those of other countries and assess their conformity with international conventions, with a view to advocating for reforms and guaranteeing freedom of assembly across Euro-Mediterranean area.

The chapters are also available separately: [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#) and Western Sahara, [Palestine](#), [Syria](#), [Tunisia](#), [Turkey](#), and [the EU](#).

Introduction

In the recent history of Tunisia, popular gatherings have played a key role in the country's revolutionary process and democratic transition. Before 2011, demonstrations were systematically repressed, as was the case with the protest movement in the Redeyef mining basin in 2008.

The Tunisian people have since regained the practical exercise of their rights, but change to the legal framework will not occur until laws complying with the provisions of the constitution are adopted.¹ During the first stage of the country's transition, retention of the repressive legal framework of previous times enabled the executive to continue suppressing freedom.

In the face of unfolding political violence, which culminated in the assassination of two left-wing opposition leaders, Chokri Belaid and Mohamed Brahmi, on 6 February and 25 July 2013 respectively, civil society and opposition parties have taken strong action which has helped change the course of the transition, leading to the formation of a "technical" government, the adoption of the new constitution, and a timetable for new elections.

The Constitution adopted in January 2014 is an outcome of the constant battle waged by Tunisian civil society in order to ensure that the text protects human rights and fundamental freedoms, and in particular those rights and freedoms won by women.

The constitution recognizes and guarantees the freedoms of opinion and expression, association and peaceful assembly, as well as the right of access to information. It provides for the creation of a national authority for human rights responsible for ensuring the respect of human rights and for investigating violations. It also guarantees the primacy of international law and makes reference to international conventions and norms.

1. Restrictions Imposed on Freedom of Assembly

Public Meetings

It should be noted that, in practice, the restrictive provisions of the 1969 Act still in force are generally not applied. Civil society organizations can hold public meetings freely and are not subject to unreasonable restrictions.

In general, organizers comply with the prior notification procedure out of concern for their protection (from violent interventions by groups hostile to their activities) rather than for fear of administrative sanctions.

Demonstrations

Even if official prohibition is infrequent, the government formed after the elections of 23 October 2011 tried, on several occasions, to limit the exercise of the right to demonstrate. On 9 April 2012, the government banned a demonstration of commemoration on Bourguiba Avenue in Tunis, and proceeded to violently disperse it (with the assistance of civilian militias) when it took place in spite of the ban. The appeal against the ban, lodged by the organizers at the administrative tribunal, went in their favour. However, the decision was issued only after the event had taken place, because of the slowness of the procedure.

The case of the refugees

In the absence of a legislative framework covering the right of asylum, refugees find themselves in a legal vacuum and are therefore vulnerable with regard to the exercise of their rights and freedoms. At the beginning of February 2014, a score of refugees from Libya who had been in the Choucha refugee camp since 2011 (a camp officially closed in July 2013) organized a sit-in for a week in front of the delegation

¹ The transitional provisions of the Constitution guarantee that only the assembly emerging from the election process would have the competence to propose the relevant organic law except with regards to the electoral law, the establishment of commissions with limited powers, the system of transitional justice and bodies arising from all laws adopted by the national constituent assembly. MARSAD, *Transitional provisions*, Article 148, <http://www.marsad.tn/fr/constitution/5/article/148>

of the European Union in Tunis demanding a solution to their situation. The demonstrators were eventually arrested and taken to the Wardiya detention centre, which is reserved for irregular migrants.

2. Facilitation of assemblies by the authorities

The lack of protection of demonstrators, for which security services are responsible, was evident at most of the demonstrations held in Tunisia during and after the revolution until mid-2013. The police was guilty of direct repression during the revolution, which caused 240 deaths. They then failed in their duty to protect peaceful demonstrators confronted with violent assault by Salafist groups, the Leagues for the Protection of the Revolution (LPRs),² and militias of certain political parties.³ This violence led, in particular, to the death of Lotfi Nagedh, the regional co-ordinator of the Nida Tounes Party in Tataouine (south east Tunisia) on 18 October 2012. He was lynched during clashes between his followers and those sympathising with the Islamist party Ennahda, which was in power at the time.

When two opposing demonstrations have encountered each other, law enforcement authorities have on several occasions failed to intervene to protect peaceful demonstrators and avoid confrontation between opposite sides.

This was the case in Tunis on 4 December 2012 during the annual commemoration of the assassination of trade unionist Farhat Hached. Organised by the UGTT (General Tunisian Workers Union), the commemoration was attacked by pro-government supporters. In the complete absence of security forces, the violence resulted in a score of injured.⁴

Since the end of 2013 the LPRs no longer take centre stage, even though they have not been completely neutralised. In March 2014, the leader of the Kram militia, Imed Dghij, was arrested after inciting violence against the trade union of the security forces.⁵

Since July 2013, social action has declined even though political and socio-economic challenges continue, and a turning away from political violence has been noted. The law enforcement authorities have gradually taken control of security, representing a significant progress in the full exercise of civil rights.

Access by the media and the protection of journalists at demonstrations

Between October 2012 and October 2013, the Tunis Centre for Press Freedom⁶ counted more than 250 attacks on journalists: censorship, verbal and physical assaults, prison and kidnap attempts. During this time, those mainly responsible for the attacks were the security services of certain social or political organisations and also the LPRs, but few were brought before the courts. In addition, the LPRs spread messages of hatred against journalists which has severely damaged the image of the press in public opinion.⁷ Some women journalists have also said that they were assaulted and harassed.⁸

In the name of the fight against terrorism, the security forces banned media coverage of unauthorised demonstrations. On 28 January 2014, journalists were physically and verbally attacked by the security forces, who tried to take away their camera equipment when they were covering a sit-in by members

2 These are self-proclaimed groups who use violent methods against political opponents, trade unionists, artists, NGO activists, etc. who have so far acted with impunity.

3 EMHRN, *Regional Study, The Right to Freedom of Assembly in the Euro-Mediterranean Region – Part I: Legislative framework*, 2013 (Tunisia chapter): http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013_EN_TUNISIA1.pdf

4 World Organisation Against Torture (OMCT), 13 December 2012, <http://www.omct.org/urgent-campaigns/urgent-interventions/tunisia/2012/12/d22089/>

5 Al Huffington Post Maghreb, 10 March 2014, http://www.huffpostmaghreb.com/2014/03/10/tunisie-ligue-protection-revolution_n_4935225.html

6 The Tunis Centre for Press Freedom has set up a monitoring body which publishes monthly reports on assaults on journalists: <http://www.ctlj.org/index.php/en>

7 A video from the Tunis Centre for Press Freedom shows that the LPRs have even made up songs about the media called “media of shame”; interview with Ahlem Bousserwell, a journalist at the Tunis Centre for Press Freedom, 14 March 2014.

8 Report by the Tunis Centre for Press Freedom, April 2013.



of the LPRs at the Casbah.⁹ The officials justified their action on the basis of decree-law 50/1978 dated 26 January 1978 relating to the arrangements for the state of emergency, as they considered that the journalists were covering a movement “that was illegal and capable of disturbing public order”.

There therefore exists an overly dogmatic practice of restricting journalists’ access to gatherings, and indeed of resorting to direct aggression, depending on the nature of the message or the identity of the organisers of these events. This cannot be justified in a democratic society concerned with pluralism and freedom of expression and information.

Participation of women

Women have extensively taken part in demonstrations and in campaigning for action over the last three years since the start of the revolution.¹⁰ They have not been subjected to systematic violence by security forces although some isolated incidents have occurred. They have however been especially targeted by militias and LPRs and have particularly been subjected to campaigns of defamation and harassment on social networks.¹¹ Political and civil society activists have been subjected to physical violence by Islamist groups during demonstrations.

Organising public meetings and demonstrations was a strategy much used by feminist organisations to defend the rights they had acquired in the face of conservative political forces, and to obtain significant improvements such as the removal by the Tunisian state of its reservations to the Convention on the Elimination of Discrimination against Women (CEDAW), finally effective as of 2014, and the inclusion of women’s rights in the constitution.

3. The Use of Force and Detention

Resorting to force at demonstrations has, in many cases, been linked to the context of political tension and polarisation which marked 2012 and 2013, when some peaceful demonstrations were broken up by force and authorities declared a state of emergency in certain regions. In the regions that had been neglected by the Ben Ali regime and which were the source of the uprising in 2011, such as Sidi Bouzid, Kasserine, Gafsa, Jendouba and El Kef, political and social frustration continue and are the cause of frequently repressed protest movements.

In 2012, many demonstrations in various towns across the country were subject to an excessive use of force (Al-Omrane, Hammam al-Anf, Sidi Bouzid, Djerba).

One of the most violently repressive episodes occurred in November 2012 in Siliana, during demonstrations held by the UGTT and which brought together thousands of people calling for the resignation of the provincial governor and the release of 13 people detained for over a year without trial. Anti-riot police of the Public Order Brigades used truncheons and tear gas, and fired shotgun pellets to disperse the demonstrators. Siliana hospital recorded 210 wounded by shotgun pellets, 20 of whom had eye injuries.¹² Several journalists were injured as well whilst others were prevented from filming.¹³

9 Report by the Tunis Centre for Press Freedom, February 2014.

10 Interview with Dalila M’Sadek, Doustourna, 3 March 2014.

11 Interview with Saida Rached, ATFD (Tunisian Association of Democrat Women), 20 March 2014.

12 The UN High Commissioner for Human Rights identified cases of bullet wounds to the head, back and face as well as eye injuries which in some case could cause blindness. The *Report of the UN High Commissioner for Human Rights* (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12848&LangID=E>) re-echoes the findings of Amnesty International according to which many injuries at Siliana were likely to have been caused by shotgun pellets.

13 Amnesty International, 30 November 2012: <http://www.amnesty.org/es/library/asset/MDE30/012/2012/es/0fb86350-c779-45ea-a9c2-2ceb489dfa0b/mde300122012en.html>. David Thomson, a journalist with France 24, was covering the events in Siliana when he and his colleague Handi Tlili were fired on from above.

On 10 January 2013, security forces fired tear gas and rubber bullets at young people in Ben Guerdane. They were peacefully demonstrating against the deterioration of the economic situation.¹⁴ On 19 May 2013, security forces fired real bullets and shotgun pellets at Salafist groups during riots in Tunis' Intilaka and Ettadhamen districts, killing one person and injuring four others. In autumn 2013, spontaneous demonstrations throughout the country also gave rise to violent repression in some cases and attacks targeting women were reported.¹⁵

The social protests in the centre and south of the country in early 2014 (Kasserine, Thala, Ben Guerdane and Tataouine), which at times degenerated into riots, show that grievances are still legion and that the bad practices of the security forces in the maintenance of order have not fundamentally changed.¹⁶

In general, the intervention of security forces at rallies has not given rise to arrests. Most of the demonstrators arrested were released almost immediately.

The example of the sit-in at Le Bardo, July 2013

The assassination on 25 July 2013 of political leader Mohamed Brahmi led to protest demonstrations throughout the country, as well as a serious political crisis. On 26 July, 42 members of the constituent assembly suspended their participation, demanded its dissolution and began a sit-in in front of the assembly building in Bardo square. The demonstrations of support that followed, particularly those on 27 July following the funeral of Mohamed Brahmi, were violently suppressed by the police who were positioned between the demonstrators and pro-government supporters. Despite the peaceful nature of the rallies, the police used tear gas on both groups, injuring many people including Deputy Noomane Fehri.

In addition, those taking part in the Bardo square were attacked several times by LPRs, while the law enforcement authorities hesitated between protection and suppression. Journalists were attacked and their equipment confiscated. One demonstrator, Mohamed Bel Mufti, was killed in Gafsa on 27 July by a tear gas bomb fired by the police into one of the peaceful rallies protesting Brahmi's assassination.

It is interesting to note, however, that it was this sit-in and the national protest movement which accelerated political change in Tunisia, decreased the level of violence and enabled the transition process to get back on track with the adoption of the new constitution in January 2014 and the planning of elections for October 2014.

The gradual improvement in control of the security sector by the State and the decline of the influence of political parties over the security forces may indicate an improvement of the behaviour of the security forces during demonstrations. Increased respect for citizens' rights will require profound reform of the security sector and the establishment of training programs for officers.

4. Accountability of Law Enforcement Forces

The disproportionate use of force against demonstrators has so far given rise to no condemnation of police officers or members of militias. Some interesting initiatives have seen the light of day, but without consequences in law at the moment:

14 Arab Network for Human Rights Information (ANHRI), 12 January 2013, <http://anhri.net/?p=104335&lang=en>

15 Human Rights Watch, *Annual Report 2014*, <http://www.hrw.org/world-report/2014/country-chapters/tunisia>

16 See Le Monde, 8 January 2014, http://www.lemonde.fr/tunisie/article/2014/01/08/tunisie-heurts-entre-policiers-et-manifestants-dans-la-region-de-kasserine_4344667_1466522.html; and Nawaat, 18 March 2014, <http://nawaat.org/portail/2014/03/18/sit-in-du-destin-a-tataouine-et-crise-de-ben-guerdane-bassin-minier-2-0/>

Under pressure from civil society, a commission of inquiry was set up by the National Constituent Assembly to look into the repression of the demonstration that took place on Bourguiba Avenue in Tunis on 9 April 2012, but it has yet to publish a report on the internal investigation carried out and no result has been made public. The members of the commission resigned in April 2013 because it did not have the authority and the competence necessary to carry out its purpose properly.¹⁷

Another commission of inquiry was set up by the Assembly regarding the events in Siliana in 2012, but it has so far issued no report on its activities nor made public any outcome.

Tunisian civil society therefore set up an independent commission of inquiry, consisting of members of the journalists' trade union, the LTDH (Tunisian League for the Defence of Human Rights), the FTDES (Tunisian Forum for Economic and Social Rights), lawyers, and activists. It published an extensive report,¹⁸ made recommendations to the authorities about support for the victims, and more generally about the economic development of the very marginalized region of Siliana. The report stressed that there had been no follow-up to complaints filed by the victims and their families.

In December 2013, the National Constituent Assembly adopted a law on transitional justice, providing for the creation of a Truth and Dignity Commission to investigate abuses in Tunisia from July 1955 to 2013, and for the creation of specialized courts within the judicial system to try cases of serious ill-treatment committed during this period. The law sets out reparation mechanisms for the victims, institutional reforms, mechanisms to monitor public servants, and reconciliation at the national level.¹⁹

5. Judicial Sanctions against Organisers and Participants in Assemblies

A number of demonstrators have been prosecuted since the beginning of the revolution: 130 indictment files have been identified across the country, especially between 2011 and 2012, for offences such as the training of a gang, defamation, public disorder and violence against the police.²⁰ Several young people from Bouzayen in the governorate (province) of Sidi Bouzid have been prosecuted for organizing and taking part in a sit-in after the assassination of Mohamed Brahmi in July 2013.²¹ These lawsuits are in stark contrast with the lack of effort made so far in bringing to justice those responsible for the repression of the popular uprising under the Ben Ali regime and the impunity enjoyed by the originators of political violence perpetrated after the revolution.²²

6. Civil Society Initiatives and Good Practices

Tunisian civil society has been particularly active since 2011, acting as watchdog of the governments which have led the transition process since the fall of Ben Ali and playing a key role in demonstrations calling for democratic reforms and denouncing abuses. For example, committees monitoring the repression of demonstrations by the police have been set up,²³ as well as civil society commissions of inquiry into issues such as the events in Siliana or the ill-treatment of women during the revolution.

17 International Freedom of Expression Exchange (IFEX), 29 July 2013, https://www.ifex.org/tunisia/2013/07/29/teargas_attacks/ and interview with Lotfi Azzouz, Amnesty International Tunisia, 19 March 2014.

18 Interview with Alaa Talbi, FTDES, 4 March 2014.

19 Human Rights Watch, 22 May 2014, <http://www.hrw.org/news/2014/05/22/tunisia-hope-justice-past-abuses>

20 Nawaat, list of the accused (in Arabic), <http://nawaat.org/portail/wp-content/uploads/2014/05/brule-poste-de-police-tunisie-liste-accuses-2.pdf>

21 Nawaat, 5 June 2014, <http://nawaat.org/portail/2014/06/05/la-criminalisation-des-mouvements-sociaux-en-tunisie-est-elle-une-reponse-a-la-crise/>

22 FIDH, 23 May 2014, <http://www.fidh.org/fr/maghreb-moyen-orient/tunisie/15377-tunisie-mettre-fin-a-l-acharnement-judiciaire-et-policier-contre-les>

23 FTDES has created a Tunisian social monitoring body whose purpose is to analyse social movements and it has established committees for monitoring the repression of demonstrations.

Civic action, in particular through the occupation of public places, has been fundamental to the entrenchment of the transition process. Civil society has actively contributed to all its crucial steps, including the monitoring of elections, the preparation of the Constitution, the formation of a technical government in 2013, etc.

Recommendations

1. Guarantee that the freedoms of assembly, expression and association can be exercised by any individual or group without any discrimination based on opinions, origins, sex, religion, etc.;
2. Bring legislation on meetings, rallies, and demonstrations into line with the new provisions of the Tunisian Constitution and international law as well as the commitments made by Tunisia; (see first part of the Study);
3. Ensure that the notification procedure provided for by law is transparent, accessible, and not unduly onerous, and that the administrative authorities comply with the law when it is implemented;
4. Make sure that restrictions applied comply with the law, respect the principles of necessity and proportionality and are communicated in writing to the organizers within a time frame that allows for an appeal before an independent tribunal or court before the scheduled date of the event;
5. Ensure that authorities are always open to dialogue with the organisers (before and during the gatherings), and when such dialogue occurs, that its purpose is to better facilitate the right of peaceful assembly;
6. Implement the State's responsibility to protect peaceful demonstrators, and particularly ensure that women can effectively exercise their right of assembly without fear of intimidation, harassment or violence;
7. Guarantee the security of journalists and facilitate their access to peaceful gatherings;
8. Reform the security sector in Tunisia: define clear lines of responsibility, bring the various security forces under control, and disband parallel armed forces and militias such as the "Leagues for the protection of the revolution";
9. Adopt clear, detailed, and binding rules regarding the use of force against demonstrators, in compliance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; train law enforcement bodies in the use of force and anti-riot weapons accordingly;
10. Ensure that any use of force by law enforcement officers follows the principles of last resort, necessity, progressiveness and proportionality; ensure that lethal force is only a last resort and used as a defence against an imminent threat endangering human lives;
11. Expedite prompt, independent and impartial investigations in the event of a complaint or information about possible breaches or violations of human rights committed by law enforcement authorities during any operations to maintain order; punish those responsible and enable victims to obtain redress and be given guarantees of non-repetition; to this end, establish an independent mechanism for monitoring and investigating the behaviour of the security forces.