

**Shattered Silence, Strengthened Voices: Persecution of Human Rights
Defenders in Tunisia Post-2021**

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“In partial fulfilment of the requirements for the degree of Masters of Arts in Human Rights”

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17-06-2024

I. Abstract

After the revolution, Tunisia witnessed impressive advancements towards human rights and democracy. Yet, after the constitutional coup of 2021, human rights defenders have been struggling under an authoritarian regime to preserve the revolution's achievements and to fight for more human rights. Women's rights, freedom of speech, and racial justice have been the most apparent victims of the new system.

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III. Introduction

Tunisia's journey towards democracy since the 2011 revolution has been a complex one, marked by both progress and regression. The toppling of Zine El Abidine Ben Ali's authoritarian regime ushered in a wave of optimism. The 2014 Constitution, a beacon of hope, enshrined fundamental rights and established independent institutions to safeguard them¹. However, the legacy of the past and recent political developments threatens this fragile democracy, particularly impacting human rights defenders.

Prior to 2011, Tunisia witnessed a dark chapter under Ben Ali's rule. Torture, arbitrary detention, and the suppression of dissent were commonplace.² The revolution sparked a yearning for freedom and justice, culminating in the progressive 2014 Constitution. However, the legal framework alone hasn't translated into full realization of human rights. Socioeconomic inequalities persist, and cultural norms continue to challenge gender equality. Additionally, remnants of Ben Ali's security apparatus within the state structure cast a long shadow³.

The persecution of HRDs in this context is a critical issue. HRDs are the lifeblood of any democracy, holding governments accountable, promoting democratic values, and advocating for marginalized communities. Their silencing creates a climate of fear, stifles dissent, and undermines a rights-respecting society⁴. A vibrant civil society, with empowered HRDs, is crucial to prevent regression toward authoritarianism.

¹ The full text of the Tunisian Constitution of 2014 can be found on the website of the Tunisian Parliament (https://www.constituteproject.org/constitution/Tunisia_2014).

² Hatem Chakroun, "Tunisia: Human Rights Organizations and the State – Arab Reform Initiative," Arab Reform Initiative, May 9, 2018, <https://www.arab-reform.net/publication/tunisia-human-rights-organizations-and-the-state/> (accessed May 12, 2024).

³ World Report 2023: Tunisia, Human Rights Watch (<https://www.hrw.org/world-report/2023/country-chapters/tunisia>)

⁴ Human rights in Tunisia, Amnesty International (<https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>)

The past few years have been particularly worrying. In July 2021, President Kais Saied suspended parliament, dismissed the Prime Minister, and assumed broad executive powers, raising concerns about a potential return to authoritarianism⁵. This controversial move, often referred to as a "constitutional coup," was met with widespread protests and international condemnation. The future of Tunisia's democracy remains uncertain.

IV. The Landscape of Human Rights in Tunisia

1. Human Rights in Tunisia After the Revolution

The 2011 Tunisian revolution promised a new era of freedom and justice. For human rights defenders (HRDs), the toppling of Ben Ali's regime offered a long-awaited opportunity to operate openly and advocate for a more just society. However, the decade that followed presented a complex landscape for HRDs, with both advancements and persistent challenges.

The post-revolution period witnessed a surge in civil society activism. HRDs, previously forced to operate underground, emerged with renewed vigor. New organizations blossomed, focusing on a wide range of issues such as torture, freedom of expression, and social justice for marginalized groups. After the promulgation of the new law governing non-governmental organizations, the number of NGOs increased from 9343 before the revolution to exceeding 20 thousand today.⁶ The vibrant civil society played a crucial role in drafting the 2014 Constitution, which enshrined fundamental rights and provided a legal framework for their work.⁷ The civil

⁵ Tunisia in Crisis: A Timeline of Kais Saied's Power Grab (<https://www.aljazeera.com/news/2022/10/15/tunisian-protesters-denounce-coup-demand-presidents-removal>)

⁶ Friedrich Ebert Stiftung, 1957-2017 تونس! لتحيى الجمهورية! تونس مؤسسه فريدريش ايبرت, edited by كمال الجندي (Tunis: مؤسسة فريدريش ايبرت, 12).

⁷ Amnesty International, "Tunisia," Amnesty International, 2023, <https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>

society's lobbying and advocacy helped pass organic law N° 50, along with organic law N°58. There were also major legal advancements when it came to freedom of speech and freedom of belief.

In 2018, Tunisia made a landmark decision by passing Law 50, aimed at the "elimination of all forms of racial discrimination." This trailblazing legislation is one of the first of its kind in the MENA region. Law 50 criminalizes all acts of racial discrimination, imposing prison sentences that range from one month to one year for racist comments or actions. For more severe offenses, including incitement to hatred or dissemination of racially discriminatory or racially superior ideologies by any means, the law stipulates prison sentences ranging from one year to three years. This forward-thinking legislation is an outcome of persistent advocacy efforts from civil society, signaling the country's commitment to fostering an inclusive and equitable society.⁸

Tunisia further strengthened its human rights framework by enacting its first national law to combat violence against women on July 26, 2017. Passed with overwhelming parliamentary support—146 votes out of 217, without a single abstention—this ground-breaking legislation adopts a comprehensive strategy that integrates preventive measures and provides robust support for survivors of violence. The law was the culmination of sustained advocacy by Tunisian civil society organizations, national bodies, and international entities, including UN Women. This marks a significant evolution from prior legislation, such as the Code of Personal Status, which was more limited in its scope. The Code of Personal Status had previously laid the groundwork

⁸ Human Rights Watch. "Tunisia: Racist Violence Targets Black Migrants and Refugees." Human Rights Watch, March 10, 2023. <https://www.hrw.org/news/2023/03/10/tunisia-racist-violence-targets-black-migrants-refugees>. Accessed June 1, 2024.

by abolishing polygamy, setting a minimum age for marriage, requiring mutual consent from both parties for marriage, and establishing a judicial procedure for divorce.⁹

Recognizing the critical role of a free press, Tunisia established the Independent Commission for Audio-visual Communication (HAICA) under decree law No. 2011-115 of November 2, 2011, with official operations starting in 2013. The formation of HAICA was part of broader reforms to safeguard journalistic independence and professional integrity. The new regulatory framework aimed to replace the restrictive 1975 press code. Significant revisions included granting journalists unrestricted access to information and abolishing the need for prior authorization from the Ministry of Interior for certain types of publications. Moreover, the updated code reduced protections and privileges previously held by public authorities concerning defamation and state security information, further empowering the press to operate freely and responsibly.¹⁰

Additionally, the new environment allowed HRDs to document human rights violations and advocate for reform more openly. They engaged with the government, parliament, and the newly established Independent High Authority for Human Rights (INHRC) to push for accountability.¹¹ This period saw increased collaboration between local and international HRDs, fostering knowledge sharing and capacity building within Tunisian civil society.¹² The contributions of organizations such as UN Women and other international entities have been instrumental in bringing about these legislative changes. The success of this collaboration underscores the

⁹ UN Women. 2017. News: Tunisia: Law on Ending Violence against Women. UN Women. <https://www.unwomen.org/en/news/stories/2017/8/news-tunisia-law-on-ending-violence-against-women>. Accessed April 3, 2024.

¹⁰ Benarous, Rym. "Tunisia: The Long Path towards Freedom of Speech." <https://www.diva-portal.org/>. Accessed June 10, 2024.

¹¹ Tunisian Association for the Defense of Individual Liberties (LTDH), "LTDH Annual Report 2014" (in Arabic), LTDH, 2015, https://en.wikipedia.org/wiki/Tunisian_Human_Rights_League

¹² OMCT and FIDH, "Building Bridges: Strengthening Cooperation Between International and National Human Rights Defenders in North Africa," World Organisation Against Torture (OMCT), 2014, <https://www.omct.org/en>

importance of sustained dialogue and cooperation between national and international actors in the realm of human rights. Despite the initial optimism, the space for HRDs gradually contracted. Socioeconomic challenges and a climate of political instability fueled frustration. Security concerns following terrorist attacks led to increased surveillance and restrictions on freedoms, impacting HRDs working on security issues.¹³ The long shadow of the Ben Ali regime continued to loom large, with some within the security apparatus resorting to intimidation tactics against HRDs.¹⁴

2. Key Human Rights Challenges in Tunisia Prior to 2021

Tunisia's strides towards democracy after the 2011 revolution were accompanied by persistent human rights challenges. Despite the 2014 constitution guaranteeing freedom of expression and assembly, journalists and activists reported harassment, intimidation, and even arrests for dissenting views. Transitional justice efforts to hold accountable those responsible for abuses under the Ben Ali regime remained contentious. Delays in prosecutions and concerns about the Truth and Reconciliation Commission's effectiveness hampered progress toward closure and justice.¹⁵ On top of that, credible reports of torture and other ill-treatment by security forces, along with arbitrary arrests and detentions without charge or due process, persisted. These

¹³ Human Rights Watch, "Tunisia: Events of 2019," Human Rights Watch, December 10, 2019, <https://www.hrw.org/world-report/2019/country-chapters/tunisia>

¹⁴ Freedom House, "Freedom in the World 2022: Tunisia," Freedom House, March 1, 2022, <https://freedomhouse.org/country/tunisia/freedom-world/2022>

¹⁵ Amnesty International. *Human rights in Tunisia*. <https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>

practices violate fundamental human rights protections against cruel, inhuman, or degrading treatment and the right to liberty and security of person.¹⁶

Ultimately, Tunisia is confronted with a critical obstacle that endangers the democratic progress set in motion by the revolution of December 17th, 2010 - January 14th, 2011. This problem pertains specifically to the decrease in women's involvement in politics. The feminist movement has achieved several milestones in the past decade towards achieving full and effective equality. One notable achievement is the inclusion of parity in the electoral law, which has led to an increase in female representation in the 2014 parliament. With 73 women, comprising 31% of the total number of members of parliament, which represents the highest rate in the Arab World.¹⁷

As of April 2014, the state has formally removed its reservations on the Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW), making it the first country in the region to take this action. The legislative majority enacted Law No. 58 of 2017, which aims to eliminate violence against women and children. In September of the same year, former President Beji Caid El Sebsi issued a directive to revoke certain legal publications, including No.73, which prohibits Tunisian women from marrying non-Muslims. Despite legal reforms promoting gender equality, discriminatory practices, particularly regarding inheritance rights, continued. A 2018 bill proposing equal inheritance rights remained stalled in parliament as of 2021¹⁸.

¹⁶ U.S. Department of State. 2022 *Country Reports on Human Rights Practices: Tunisia*. <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/tunisia>

¹⁷ Anderson, Lisa. 2014. "How Women Helped Shape Tunisia's Revolution and Democratic Transition." *Current History* 113 (752): 382-388. [jstor.org](https://www.jstor.org)

¹⁸ Human Rights Watch. *World Report 2022*. <https://www.hrw.org/world-report/2022>

High unemployment, poverty, and regional disparities added to Tunisia's woes. These economic challenges contributed to social unrest and frustration, particularly among younger generations who felt the revolution hadn't delivered on its promises¹⁹.

3. Referendum on a New Constitution

The July 25, 2021, power grab by President Kais Saied cast a long shadow over Tunisia's fragile democracy. The referendum on a new constitution presented a critical juncture, fraught with both potential and peril for human rights defenders HRDs operating under an increasingly authoritarian regime. HRDs across the globe have documented the manipulation of constitutional reforms to consolidate authoritarian power. Chemnusová (2019) argues that legal instruments, like new constitutions, can be wielded as a "double-edged sword" to silence dissent and weaken checks and balances.²⁰ In Venezuela (2009) and Egypt (2014), for instance, referendums under autocratic leaders resulted in constitutions that enshrined executive power and eroded fundamental rights protections.

On July 25th, 2021, Saied declared a state of emergency amidst an international panic around Covid 19, which made this decision seem unalarming. The president invoked Article 80 allowing him to have all three powers. This was described as a deviation from the state of exception to attain an aim completely contradictory to its goal of protecting the constitutional system.²¹ This was not about the temporary power grab, but about exploiting it to make a permanent constitutional change based on an individual desire to contribute to a personal project. Based on

¹⁹ ReliefWeb. *Tunisia: A year of human rights regression since President's power-grab*.

<https://reliefweb.int/report/tunisia/tunisia-year-human-rights-regression-presidents-power-grab-enar>

²⁰ Chemnusová, D. (2019). Lawfare: A Double-Edged Sword in the Struggle for Human Rights. *Central European Journal of International and Security Studies*, 10(2), 181-200.

²¹ Mehdi Al-Osh, Mohammad Al-Sahi Al-Khalfawi, and Sami bin Ghazi, تناقضات نظام البناء القاعدي ومخاطره (Contradictions of the Baseline Building System and its Dangers), n.d.

the same article, Said also dismissed Prime Minister Hichem Mechichi and suspended the parliament. This decision was, in fact, celebrated by many Tunisians who were frustrated with the political situation in Tunisia and especially the violence happening within the parliament which was broadcasted regularly on national TV.²²

The environment around the referendum in Tunisia severely restricted HRDs' ability to effectively analyze and critique the proposed constitution. The crackdown on dissent, documented by Amnesty International, created a climate of fear where public discourse and independent media are under threat.²³ This referendum created a division among Tunisians. On one hand, “yes” voters hoped for a better political atmosphere that would end impunity and put the Ennahdha party through trial for the atrocities they committed including the spreading corruption. On the other hand, “No” voters claimed this constitution could undermine all human rights advancements that were achieved after the revolution. There was another group mainly consisting of civil society activists who boycotted the whole process with the argument that it was not legitimate or constitutionally sane.

Despite the challenges, HRDs did not remain silent. Drawing from experiences in other countries, they employed strategic advocacy tactics. This involved utilizing online platforms, where some freedom of expression persisted, to disseminate information and analysis of the proposed constitution.²⁴ HRDs also leveraged international solidarity by collaborating with regional and international human rights organizations raising awareness and pressuring the

²² Nafti, Hatem., Haski, Pierre. Tunisie : vers un populisme autoritaire: Voyage au bout de la Saïedie. Belgium: Riveneuve éditions, 2022.

²³ Amnesty International. "Tunisia." 2023. <https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>

²⁴ Front Line Defenders. (2020, August 28). Digital Defenders Project: The escalating threat of online violence against women human rights defenders. Front Line Defenders. <https://www.frontlinedefenders.org/>

Tunisian government to ensure a transparent and inclusive referendum process²⁵. However, this was not easy, the president's rhetoric categorized voters as people who want to “correct the path of the revolution” and those who support the Islamist party. This populist approach also described civil society actors as traitors who want to facilitate foreign intervention.

The president established a committee to prepare the draft. Yet, on July 3rd, Sadok Belaid publicly disavowed the project and said that it was different from the one prepared by his committee. In an interview with *Le Monde*, Belaid said that the President had to withdraw the draft, as he described it as "dangerous", "reactionary" and that it had an "authoritarian tendency".²⁶ On July 25th, 2022, 13.6% of voters participated in the referendum, 94.6% of which voted yes to the new constitution.²⁷

V. The Persecution of Human Rights Defenders

1. Constitutional Coup and its Implications

A desire for absolute control can manifest in various ways. While a violent overthrow, like a coup d'état (French for "blow to the state"),²⁸ may be the most dramatic example, political psychology explores subtler tactics. Authoritarianism, a personality profile marked by a rigid preference for order and a distrust of outsiders,²⁹ can lead individuals to endorse leaders who exhibit "patterns of action that sabotage accountability".³⁰ Through secrecy, misinformation, and

²⁵ International Service for Human Rights (ISHR). (2023). A Guide to International Advocacy for Human Rights Defenders. ISHR. <https://ishr.ch/>

²⁶ Assabah News. <https://www.assabahnews.tn/ar/> (accessed April 2, 2024).

²⁷ Instance Supérieure Indépendante pour les Élections (ISIE). <https://www.isie.tn/> (accessed April 5, 2024).

²⁸ Anyangwe, Carlson. *Revolutionary Overthrow of Constitutional Orders in Africa*. Cameroon: Langaa RPCIG, 2012.

²⁹ *Authoritarianism and Civil Society in Asia*. United Kingdom: Taylor & Francis, 2022.

³⁰ *Ibid*

silencing dissent, these leaders chip away at democratic institutions, potentially enacting a "constitutional coup" without ever firing a shot. This is precisely what unfolded in Tunisia, where a seemingly legitimate leader began to dismantle the checks and balances that ensured a free and fair society.

The set of actions taken by the president/constitutional law professor, widely condemned as a "constitutional coup" by international observers and Tunisian civil society organizations, plunged the country into political uncertainty and raised serious concerns about the future of democracy.³¹ The fall of democracy is usually conducted through a coup or a grab of power by a want-to-be autocrat or dictator³². It is important to note that personalism refers to the consolidation of power in the hands of a single individual. The people tend to have a stronger loyalty towards a specific individual rather than towards a political party or philosophy.³³ In this context, Saied's decisions undermined the democratic institutions established after the 2011 revolution. The 2014 Constitution, a cornerstone of Tunisia's democratic transition, outlines a clear separation of powers and checks and balances to prevent the concentration of power in any one branch of government³⁴. Saied's disregard for these constitutional provisions set a dangerous precedent and eroded public trust in democratic institutions. It has been stated that authoritarian regimes often compromise democratic institutions to restrict checks and balances.³⁵ The new constitution

³¹ "Tunisia in Crisis: A Timeline of Kais Saied's Power Grab" (<https://www.aljazeera.com/news/2022/10/15/tunisian-protesters-denounce-coup-demand-presidents-removal>).

³² Lindstaedt, Natasha. What Do We Know and What Should We Do About Authoritarian Regimes?. United Kingdom: SAGE Publications, 2024.

³³ Ibid

³⁴ The full text of the Tunisian Constitution of 2014 can be found on the website of the Tunisian Parliament (https://www.constituteproject.org/constitution/Tunisia_2014).

³⁵ Freedom House, Csaky, Capturing Democratic Institutions: Lessons from Hungary and Poland, 2021

restored Tunisia to a presidential system similar to the one before the 2011 uprising, which was a mixed presidential-parliamentary system under the post-revolutionary constitution.

According to the executive function given to the President in the 2022 constitution (Article. 101), the President shall appoint the Head of Government, with the powers of the Prime Minister, and the President shall appoint the rest of the Ministers from among candidates proposed by the Head of Government, who he may automatically terminate their functions, without the need for parliamentary approval (Art. 102). This contradicts the 2014 Constitution, which gives the parliamentary majority responsibility for government formation (Art. 89).

Contrary to the control the Constitutional Court exercised in the 2014 Constitution 30 days after the state of emergency (Article 80), the President will be able to declare a state of emergency in the event of an "immediate danger" (Article 96) without any input from other bodies and without a time limit. The draft contained no action on the removal of the President, as was the case in the 2014 Constitution in times of "serious breaches of the Constitution" (Art. 88). The project maintained only two terms of office (Art. 90) but abolished the provision in the 2014 Constitution on preventing an increase in the number of terms (Art. 75).

In contrast, the section on rights and freedoms contained few changes compared to those mentioned earlier. In determining how rights are restricted, the new draft retains, in different wording, two criteria for restraint that were provided for in the 2014 Constitution concerning any limitations on rights (Art 49). First, any restrictions on constitutional rights must be proportionate to their justification and must respond to "a necessity required by a democratic system and with a view to protecting the rights of others or the requirements of public security, national defense or public health". Secondly, "these restrictions must not prejudice the essence of

the rights and freedoms guaranteed by this Constitution and be justified and compatible with their objectives" (Art. 55).

In addition, the 2022 constitution undermines the independence of the courts, which is essential to safeguarding individuals' rights. Courts also play a role in reviewing and overturning laws that violate rights and holding institutions accountable. Also, Saied's constitution uses the term "judicial function" (Art. 117) instead of "judicial power" such as in the 2014 Constitution (Chapter V). Further, the new constitution changed the Supreme Council of the Judiciary, to which the 2014 Constitution entrusted "the proper functioning of the judiciary and respect for its independence" (Art. 114). The 2014 Constitution also stipulates that an independent body consisting of judges and experts in law, finance, taxation, and accountability is often elected by their colleagues (Art. 112). The Supreme Council of the Judiciary began its work after the election of its members in 2016. The constitution also mentioned the Supreme Council of the Judiciary (Articles 119 and 120) but did not specify how its members were selected and did not stipulate that its responsibilities included preserving the independence of the judiciary. Moreover, the Head of State appoints judges on the nomination of the Supreme Council of the Judiciary (Art. 120), giving the President greater influence over the judiciary than the 2014 Constitution (Art. 106).

President Saied has previously undermined the independence of the judiciary, promulgating, on 12 February 2022, Decree No. 11 of 2022, by which the Supreme Council of the Judiciary was dissolved and replaced by an interim body, some of its members appointed by the President himself. On June 1st, Saied issued Decree No. 35 of 2022, granting himself the power to

summarily dismiss judges and dismissing 57 of them on the same day³⁶. As a reaction, Tunisian judges went on strike for three weeks in protest against this decree. The proposed Constitution prohibits them from the right to strike (Art. 41). The Constitution maintained a strong "Constitutional Court", which could review and repeal existing laws and bills that it considered to be contrary to the Constitution, including human rights provisions (Articles 121-123 of the 2014 Constitution and 129-131 of the 2022 Constitution). The 2014 Constitution stipulates that the members of the Court shall be appointed with equal quotas by the President, Parliament, and the Supreme Council of the Judiciary. However, this Court did not see the light of day because Parliament never reached an agreement on its share of appointments. Although Saied's Constitution preserves the Constitutional Court, it reduces its membership to nine and changes their selection method. Likewise, the constitution does not mention the State institutions established by the 2014 Constitution, such as the "High Independent Audiovisual Commission", the "Good Governance and Anti-Corruption Committee", the "Human Rights Commission" and the "Sustainable Development and the Rights of Future Generations".

As anticipated, the coup also had a chilling effect on human rights. Amnesty International documented a surge in arbitrary arrests, detentions, and travel bans targeting journalists, activists, and political opponents³⁷. The judiciary, under increasing pressure from the executive branch, failed to uphold the rights of detainees in some instances³⁸. These developments created a climate of fear and hindered civil society's ability to operate freely. Human rights defenders were on the front lines of resistance to the coup. They documented human rights violations, spoke out

³⁶ Human Rights Watch. "Q&A: Tunisia's Constitutional Referendum." Human Rights Watch, July 14, 2022. <https://www.hrw.org/ar/news/2022/07/14/qa-tunisia-constitutional-referendum>.

³⁷ Amnesty International, "Tunisia" (<https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>).

³⁸ 2022 Country Reports on Human Rights Practices: Tunisia - State Department (<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/tunisia>)

against abuses of power, and mobilized public opinion. However, their work became increasingly perilous. HRDs faced a heightened risk of arrest, harassment, and intimidation. The space for peaceful dissent narrowed significantly, making it difficult for HRDs to carry out their work.³⁹

The targeting of HRDs sent a clear message: criticism of the government would not be tolerated.

The long-term implications of the coup remain unclear. While Saied has pledged to restore democratic order through a roadmap that includes a referendum on a new constitution and parliamentary elections, critics fear a return to authoritarian rule. The continued erosion of democratic institutions, the crackdown on dissent, and the targeting of HRDs pose a significant threat to human rights in Tunisia.

2. Forms and extent of persecution

Tunisia's situation highlights the evolving tactics of modern authoritarianism. Gone are the days of solely relying on brute force to control dissent. HRDs in Tunisia now face a more nuanced challenge: a government that utilizes "subtler, more ambiguous strategies" to silence and impede their work.⁴⁰ This can take many forms, from deploying misinformation campaigns to delegitimize HRDs to enacting seemingly legitimate laws that restrict freedom of assembly and speech. Understanding the "different types of legitimacy" authoritarian regimes rely on⁴¹ is crucial to effectively supporting HRDs in Tunisia.

Harassment of human rights defenders through legal channels manifests in various forms, categorized into three primary types: (a) the creation and utilization of laws expressly targeting HRDs, (b) the disproportionate application of existing laws, and (c) the imposition of punitive

³⁹ Amnesty International, "Tunisia" (<https://www.amnesty.org/en/location/middle-east-and-north-africa/tunisia/>).

⁴⁰ Authoritarianism and Civil Society in Asia. United Kingdom: Taylor & Francis, 2022.

⁴¹ Civil Society Activism Under Authoritarian Rule: A Comparative Perspective. Italy: Routledge, 2013.

measures to suppress HRDs' activism.⁴² One prevalent tactic is the misuse of defamation laws to silence defenders who challenge the interests of influential figures, including government officials and private organizations. Moreover, arbitrary arrests, false charges, and prolonged judicial proceedings are common tactics used to intimidate and penalize HRDs⁴³. The scope of harassment by police and judiciary is extensive, as illustrated by the use of arbitrary arrests during peaceful assemblies to stifle dissent and criticism, even in states where human rights are ostensibly respected⁴⁴. This systemic abuse of legal mechanisms underscores a concerning trend where the very institutions meant to uphold justice are weaponized to suppress those advocating for human rights.

a) Women's Rights

Saied managed to single-handedly change the constitution and the system which was achieved after many sacrifices from Tunisians. An important issue is that the electoral law was amended to transition from a system of list-based elections to a system of individual-based elections. Additionally, the principle of parity was abolished without taking into account the societal and cultural context. As a result, the representation of women in parliament decreased to 16%, a level not observed in Tunisia since 2011.⁴⁵ Conversely, Tunisia is experiencing a concerning deterioration in women's rights and efforts to eliminate them from the political, civil, and media

⁴² Aikaterini-Christina Koula, "Human Rights Violations Committed Against Human Rights Defenders Through the Use of Legal System: A Trend in Europe and Beyond," Accepted: 3 March 2024 / Published online: 27 March 2024.

⁴³ Front Line Defenders, "Front Line Defenders Global Analysis 2021," accessed January 2022

⁴⁴ Ibid supra

⁴⁵ Intersection Association for Rights and Freedoms, *Last Days of Freedom: Annual Report on Human Rights Violation in Tunisia for The Year 2023* (February 2024), accessed May 14, 2024, www.intersection.uno.

spheres. Furthermore, there has been a surge in the incidence of violence against women, with femicide rates surpassing 25 murders in 2023 alone, marking a new record high.⁴⁶

Female journalists were imprisoned and faced repeated legal prosecutions, all aimed at suppressing freedom of expression. There was also a disturbing trend of incitement to cyber violence against opponents and activists, as well as the violation of human dignity and defamation of those who disagreed with or criticized the ruling authorities. Furthermore, there was a concerning lack of action and neglect in addressing cases of abuse of power, libel, and slander, which highlighted a clear bias in favor of "supporters" over opponents in the justice system.

On top of that, the prevalence of digital violence has emerged as a prominent concern in contemporary culture, wherein social media platforms play a pivotal role in facilitating the transition from digital violence to physical violence. Victims of digital abuse encompass a range of individuals, such as girls, real-life or online girlfriends, political and social activists, female journalists, sub-Saharan migrant women, and explicit female artists. These victims are selected based on stereotypes and social status, which exploit their identities according to the same stereotypes prevalent in society.

The purposeful inclination of the regime after July 25 to eradicate intermediary entities and disregard political, civil, and official state institutions has resulted in the emergence of new political alliances on social media. Consequently, a distinct form of gender-based violence has emerged, specifically directed towards women who have differing beliefs and stances, particularly those who identify as feminists.

⁴⁶ Ibid Supra

Ultimately, it is imperative to address the issue of digital violence with utmost seriousness in order to mitigate its impact on individuals who are particularly susceptible to harm, such as children, women, and individuals with special needs, and to safeguard the well-being of culturally and socially vulnerable groups. Also, human rights defenders, being in the frontlines, have suffered the most from these types of abuses.

Tunisia is currently facing an escalating problem of digital violence, with a special focus on women as the primary targets. This violence entails the degradation of the female identity by perpetuating stereotypes and subjecting individuals to shame, as exemplified in the example of black feminist Ghofran Binous.⁴⁷ Additionally, it encompasses derogatory remarks targeting both gender and race, such as racist and sexist slurs directed at sub-Saharan African migrant women throughout the racism problem. Blasphemy and excommunication are common, frequently rooted in takfirist origins.

Instances of digital violence extend beyond conventional private and public domains, encompassing virtual areas as well. Several cohorts of women, including political activists, journalists, and administrators of active social media pages, encounter regular instances of cyberviolence on platforms like Facebook, Instagram, and TikTok. Based on a survey investigation, it has been found that in Tunisia, women make up 89% of the victims of digital violence. This is mostly due to the increasing usage of social networks by young people, who account for 49% of the abusers.⁴⁸

⁴⁷ Interviewed in the documentary which was part of this capstone project

⁴⁸ Intersection Association for Rights and Freedoms, *Last Days of Freedom: Annual Report on Human Rights Violation in Tunisia for The Year 2023* (February 2024), accessed May 14, 2024, www.intersection.uno

The primary repercussions of digital violence on victims are profound, as it effectively bars them from engaging in public and political activities owing to the psychological and familial aftermath of such violence. Indirectly, this violence has an impact on other women and girls, causing them to disengage from public matters and restrict their involvement in public affairs.

b) Arbitrary Arrestations

Since July 25, 2021, various journalists, attorneys, former parliamentarians, political officials, and a former president have been tried for opposing the president's legislative, judicial, and executive power. The arbitrary phase began with military trials, blogger referrals, and house arrests without legal explanations.

21 people, including the opposition, legal, and commercial elites, are under investigation for “conspiracy”. Seven people—opposition activists Jawhar Ben Mbarak and Issam Chebbi, lawmakers Khayem al-Turki and Abdelhamid Jelassi, and lawyers Ghazi Chaouachi and Ridha Belhadj—have been arbitrarily jailed pending these investigations. After a successful advocacy campaign, activists Chaima Aissa and lawyer Lazhar Akrami were released, although their allegations remain under investigation. Feminist Bochra Belhaj Hmida is still facing prosecution and incarceration upon her return.

Detainees were questioned. Many face falsified conspiracy accusations under 10 articles of the Tunisian Penal Code, including Article 72, which carries the death penalty for “changing the form of the state.” They also risk prosecution under the 2015 counterterrorism law, with Article 32 imposing up to 20 years in prison for “founders of terrorist organizations or unions.”

Their arrests and detentions occur while exercising their rights to freedom of expression, peaceful assembly, and association, which are protected by international treaties such as the

International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, to which Tunisia is a signatory. Many activists and lawyers argue that most detainees and those being persecuted' conviction files do not contain legal evidence of charges or suspicions that could amount to international or domestic crimes and that their charges are unfounded⁴⁹.

Lastly, civilians accused of offenses under both the civilian Penal Code and the Military Code of Justice can be tried in military courts, thanks to the broad qualifications outlined in Article 5 of the Code of Justice. This provision extends the jurisdiction of military courts to cases where alleged offenses touch upon military matters, effectively blurring the boundaries between civilian and military legal domains⁵⁰. As a result, civilians may find themselves subjected to the procedures and standards of military justice, which often lack the same level of transparency and procedural safeguards as civilian courts. This dual system raises significant concerns regarding due process, fairness, and the appropriate separation of powers within Tunisia's legal framework.

c) Racial Discrimination

Authoritarian regimes often walk a tightrope with ethnic and religious divisions. While these divisions can be manipulated by the state to solidify control, as seen with President Saied of Tunisia linking undocumented Black African migrants to crime and a plot to change demographics,⁵¹ such rhetoric can also draw criticism from international bodies. Saied's comments, which the UN Committee on the Elimination of Racial Discrimination deemed racist

⁴⁹ Intersection Association for Rights and Freedoms, *Last Days of Freedom: Annual Report on Human Rights Violation in Tunisia for The Year 2023* (February 2024), accessed May 14, 2024, www.intersection.uno.

⁵⁰ Sammy Badran & Brian Turnbull (2024) How to consolidate quickly: The cases of Algeria and Tunisia, *Journal of Human Rights*, 23:1, 54-71, DOI:10.1080/14754835.2023.2264323

⁵¹ Civil Society Activism Under Authoritarian Rule: A Comparative Perspective. Italy: Routledge, 2013.

and a violation of international convention,⁵² highlight the double-edged sword of manipulating these sensitive social cleavages.

Currently, an apparent issue is that Tunisia is currently under heightened scrutiny about its approach to managing immigration. Around 97,000 individuals migrated across the Mediterranean Sea from Tunisia to Italy in 2023 and the estimated number of sub-Saharan migrants in the country ranges from 20,000 to 50,000.⁵³ On that note, Saied was accused of racism when he referred to the presence of sub-Saharan African migrants as a deliberate strategy to alter the country's demographic composition⁵⁴. Authoritarian regimes usually create division and scapegoat minority groups, in this case, immigrants to divert attention from other issues, where they portray those groups as a threat to national security or identity.⁵⁵ As a result of Saied's racist rhetoric, the Tunisian police, military, and national guard, as well as the Coast Guard, have engaged in severe discrimination and cruelty against Sub-Saharan African migrants, refugees, and asylum seekers.

Consequently, in 2023, Tunisia experienced an unprecedented surge of hostility towards sub-Saharan migrants. These migrants had their basic rights violated, while the government continued to suppress and control the media.

d) Freedom of Expression

⁵² Human Rights Watch. "World Report 2024: Tunisia." Human Rights Watch, June 14, 2024. <https://www.hrw.org/world-report/2023/country-chapters/tunisia-0>.

⁵³ Africanews.com. "Tunisian Group Accuses Authorities of Mass Expulsions of Migrants from Sub-Saharan Africa." Africanews.com, January 9, 2024. <https://www.africanews.com/2024/01/09/tunisian-group-accuses-authorities-of-mass-expulsions-of-migrants-from-sub-saharan-africa/>

⁵⁴ Intersection Association for Rights and Freedoms, *Last Days of Freedom: Annual Report on Human Rights Violation in Tunisia for The Year 2023* (February 2024), accessed May 14, 2024, www.intersection.uno.

⁵⁵ Freedom House, *To Find an Authoritarian, Just Follow the Scapegoat*, Freedom House, January 29, 2018.

Those who benefit personally from a less transparent environment in which information resources are restricted may be wary of the changes that informatization promises.⁵⁶ On 13 September 2022, the President of the Republic issued Decree No. 54 on combating crimes related to social media, which contains 38 chapters distributed over five sections providing for the issuance of information and communication systems, Publication of artificial or forged documents, and presentation of pornographic data targeting children.

Authoritarian states don't solely rely on shaping public perception through public relations efforts⁵⁷. They often extend their control to the information environment itself. This can involve measures to restrict online content or manipulate the flow of information. Additionally, these regimes may resort to harsher tactics, physically targeting journalists who report on issues that threaten their power, such as human rights abuses or corruption.⁵⁸ This two-pronged approach highlights how some authoritarian states go beyond messaging and actively suppress dissent.

At first, Decree No. 54 seemed like a legal provision for countering and limiting cybercrime. Yet, it soon became apparent that this decree laid the sword of fear on the necks of citizens, including activists, journalists, and all those who express their views on issues of disregard or opposition. The fact that it contains loose concepts and ambiguous terminology followed by prison sentences of more than five years relating to many offenses consisting of whoever dares to express their opinion on the matter in general or in any way whatsoever, seemed dangerous.

Since July 25, 2021, there has been a series of arrests and convictions based on legal texts that go against international treaties and constitutional guarantees. One such text is the aforementioned

⁵⁶ Kalathil, Shanthi., Boas, Taylor C.. *Open Networks, Closed Regimes: The Impact of the Internet on Authoritarian Rule*. United States: Brookings Institution Press, 2010.

⁵⁷ Dukalskis, Alexander. *Making the World Safe for Dictatorship*. United States: Oxford University Press, 2021.

⁵⁸ Ibid

Decree No. 54⁵⁹, which directly undermines press freedom, including the freedoms of thought, expression, and publication. This decree also undermines the progress made by Decrees 115 and 116 of 2012, posing a significant threat to all rights and freedoms. Hence, the trials have encompassed several groups of female citizens and activists, such as lawyers, journalists, feminists, political activists, and others. For instance, in 2023 alone, Tunisia saw 19 instances of legal pursuit under Decree No.54, with the cases divided among 4 journalists, 7 attorneys, 3 politicians, 2 activists, and 3 individuals from other professions. Many of them face the risk of imprisonment, being referred for investigation, and having proceedings made against them that deprive them of their freedom. The expedited issuance of detention orders fundamentally opposes the idea of liberty during the investigation and constitutes a blatant violation of the assumption of innocence while facing accusations.

To conclude, there was a significant regression in the sphere of human rights, namely the right to freedom of expression in Tunisia. This right became endangered due to the government's abusive actions. In 2023, there was a struggle between an authoritarian power that sought to increase its control and limit the freedom of the media, civil society, and politics, and the progressive forces and members of civil and political society who aimed to make progress, protect democratic achievements, and uphold human rights.

VI. Strategies employed by HRDS to resist the violations

Since the early 1990s, and particularly following the events of September 11, 2001, Western observers have increasingly viewed civil society as a crucial precondition for democratic

⁵⁹ Decree No. 54 of 2022, dated September 13, 2022, concerning the fight against crimes related to information and communication systems. <https://legislation-securite.tn/en/law/105348>

transition in the Arab states of the Middle East and North Africa.⁶⁰ This perspective emerged from a broader understanding that robust civil society organizations can serve as a counterbalance to authoritarian regimes by promoting democratic values, human rights, and political pluralism. This emphasis on civil society has led to substantial international support for non-governmental organizations and grassroots movements in the MENA region, as they are seen as pivotal in building the foundations for democracy and ensuring the sustainability of democratic transitions. Since 2021, Human Rights Defenders in Tunisia have employed various strategies to combat the repressive measures implemented by President Kais Saied, particularly after his controversial consolidation of power. One prominent tactic has been public protests, as exemplified by the march on 24 May 2024, where demonstrators in Tunis rallied under the slogan "Rule the walls" (أحكموا الحيوط) to oppose Decree 54, which has been used to imprison and track journalists, bloggers, rights activists, and politicians.⁶¹ HRDs have also turned to legal challenges, as seen in the petition officially received by the court on October 21, 2021, where lawyer Ibrahim Belghith argued that President Saied had effectively abolished the 2014 Constitution and overstepped his powers through presidential decrees. This led to a significant court ruling on September 22, 2022 at the African Court on Human and Peoples' Rights, which upheld the need for a return to constitutional democracy, ordered the revocation of presidential orders Nos. 117, 69, 80, 109, 137 and 138 and demanded the establishment of the Constitutional Court.⁶² Civil society organizations have played a crucial role by calling on the government to lift restrictions on civic space and restore the rule of law, highlighting the dual challenges they

⁶⁰ Sean L. Yom, "Civil Society and Democratization in the Arab World," *Middle East Review of International Affairs* 9, no. 4 (December 2005): 14.

⁶¹ "تحت شعار 'أحكموا الحيوط'.. مسيرة شبابية في العاصمة تنديداً بواقع الحريات في تونس" [Under the Slogan "Rule The Walls" - Youth March in the Capital to Denounce the State of Freedoms in Tunisia], ultratunisia.ultrasawt.com, n.d. Accessed June 14, 2024.

⁶² "المحكمة الإفريقية تصدر أحكاماً ضدّ الجمهورية التونسية – إنكفاضة" [The African Court Issues Rulings Against the Tunisian Republic - Inkyfada] (September 22, 2023). Accessed June 14, 2024.

face from both societal opposition and state repression.⁶³ These organizations have continuously advocated for the protection of rights and freedoms, urging the international community to pressure Tunisia to uphold its democratic commitments and ensure that independent bodies can function without interference. The strategies of HRDs in Tunisia reflect a multifaceted approach combining legal action, public mobilization, and international advocacy to confront the authoritarian tendencies of the current regime and safeguard democratic principles.

VII. Conclusion

It must be admitted that our knowledge is very limited when it comes to how politics is conducted under authoritarian regimes.⁶⁴ In Tunisia, there was an apparent pattern of creating division among the people and silencing dissent. Multiple human rights defenders, politicians, journalists, artists and even students have suffered from the consequences of speaking out against this authoritarian regime. Women's rights, freedom of expression, racial justice, and the right to a fair trial have fallen victim to this regime. In the middle of all this it is important to note that HRDs already face horizontal challenges along with vertical ones. Horizontal challenges being the society's exclusion of activists and describing them as, in such case for example, outsiders, traitors, western influencers... On the other hand, vertical challenges come from the authorities and the oppression they suffer from especially, that they are on the frontlines.⁶⁵

Human rights defenders have been attempting to create social movements, use legal mechanisms both nationally and internationally. These efforts had succeeded in convincing parliament

⁶³ CIVICUS Global Alliance. "Civil society organisations call on Tunisia to lift all restrictions on civic space and independent bodies and restore the rule of law." March 21, 2022. Accessed June 9, 2024.

⁶⁴ Authoritarianism and Civil Society in Asia. United Kingdom: Taylor & Francis, 2022.

⁶⁵ Ibid Supra

members to call for the amendment of Decree 54, along with an impressive win at the African Court. Unfortunately, it's a slow process towards democracy, and Tunisian activists have been fighting since the revolution.

Looking forward, it is essential to continue monitoring the situation in Tunisia, supporting grassroots movements, and advocating for systemic changes that promote democracy and human rights. The journey toward a fully democratic society in Tunisia may be arduous and prolonged, but the unwavering spirit of its human rights defenders exemplifies the profound impact of sustained advocacy and collective action. Their struggle is not just for Tunisia but serves as an inspiration for similar movements worldwide, reinforcing the universal quest for justice, equality, and freedom.

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