



Submission to the Universal Periodic Review of Tunisia
Human Rights Watch

March 2022

Since Tunisia's last UPR review, serious human rights violations, including torture, violence against women, violations of LGBT rights, lack of accountability for past human rights violations, arbitrary house arrests, and travel restrictions under the state of emergency have continued. President Kais Saied's July 2021 power grab has weakened government institutions designed to check presidential powers and halted the country's democratic transition.

Implementation of Constitution

Tunisia accepted a 2017 UPR recommendation to "accelerate the creation of the Constitutional Court and the Constitutional bodies, ensuring that they and other institutions...are independent, adequately resourced and swiftly operational." However, successive parliaments have failed to put in place the Constitutional Court, a key independent judicial body tasked with ensuring respect of the 2014 constitution. Before President Saied dissolved it, parliament did not reach the two-thirds majority needed to select the Constitutional Court's allotted share of judges, and Saied refused in April 2021 to sign a law that would have lowered this threshold.¹

Successive parliaments also failed to establish the Human Rights Commission and the Commission on Corruption and Good Governance, falling short of their 2017 UPR promise to "ensure the functioning of...institutions on human rights and good governance."

President Saied suspended most of the Constitution to grant himself almost unlimited power to rule by decree on September 22, 2021. He announced on December 13, 2021, a roadmap back to normal governance that includes a national referendum on a revised constitution in July and parliamentary elections in December 2022.

¹ The Arab Weekly, "Tunisian president rejects Constitutional Court law amendments," April 5, 2021, <https://the arabweekly.com/tunisian-president-rejects-constitutional-court-law-amendments> (accessed March 2, 2022).

In a move that compromises the judiciary's independence from the executive, President Saied on February 13, 2022, signed a decree replacing the High Judicial Council (HJC).² Established by the 2014 constitution, the HJC, Tunisia's highest judicial body, oversees judicial appointments, discipline, and career progression of judges.³ The new decree affords President Saied the power to control all these functions, and the ability to appoint nine of its 21 members and remove whomever he chooses to the Council.⁴

The government should:

- Establish the Constitutional Court, the Human Rights Commission, and the Commission on Corruption and Good Governance.
- Reverse all policies that compromise the judiciary's independence from the executive.

Accountability for Serious Crimes

The Truth and Dignity Commission, a state body established in 2013 to expose and investigate systematic human rights abuses, received more than 62,000 complaints about human rights abuses that occurred in Tunisia over a five-decade period.⁵ It published its final report in 2019.

This achievement notwithstanding, Human Rights Watch and others documented instances of government interference or non-compliance with the Commission's work

² TRT World, "Tunisia's president signs decree to form new judicial council," February 13, 2022, <https://www.trtworld.com/africa/tunisia-s-president-signs-decree-to-form-new-judicial-council-54686> (accessed March 2, 2022). On February 6, 2022, President Saied announced he was dissolving the High Judicial Council. The announcement to reform rather than dissolve the Supreme Judicial Council followed wide international criticism. See: "Tunisia judicial body will be reformed, not dissolved: Gov't," Al Jazeera, February 10, 2022, <https://www.aljazeera.com/news/2022/2/10/tunisia-judicial-body-will-be-reformed-not-dissolved> (accessed March 2, 2022); UN News, "Tunisia: Dissolution of judicial independence body a 'big step in the wrong direction,'" February 8, 2022, <https://news.un.org/en/story/2022/02/1111502> (accessed March 2, 2022); Amnesty International press release, "Tunisia: President's moves to shut down High Judicial Council pose grave threat to human rights," February 8, 2022, <https://www.amnesty.org/en/latest/news/2022/02/tunisia-presidents-moves-to-shut-down-high-judicial-council-poses-grave-threat-to-human-rights/>

³ Law No. 16 of 2015, which established the HJC, did not guarantee the body's full independence from the executive at the time. See Human Rights Watch press release, "Tunisia: Law Falls Short on Judicial Independence," June 2, 2015, <https://www.hrw.org/news/2015/06/02/tunisia-law-falls-short-judicial-independence>

⁴ Al Jazeera, "Tunisia: President issues decree to create new judicial watchdog," February 13, 2022, <https://www.aljazeera.com/news/2022/2/13/tunisia-president-tightens-grip-on-top-judicial-body> (accessed March 2, 2022); Nissim Gasteli, "What are the changes to the composition of the Supreme Judicial Council?" Inkyfada, February 25, 2022, <https://inkyfada.com/fr/2022/02/25/csm-provisoire-composition-independance-justice-tunisie/> (accessed March 14, 2022).

⁵ Tunisia is the second country to establish a national truth commission in the Middle East and North Africa region.

since its last UPR review.⁶ The “economic reconciliation law,” passed in September 2017 under President Essebsi, removed some economic crimes from the Commission’s purview, ensured amnesty for some corrupt former officials, and prevented disclosures about acts of corruption.⁷ Police forces have failed to enforce court summonses against defendants who refuse to cooperate with the Commission’s investigations.⁸

The Commission’s recommendations to implement major institutional reforms remain unfulfilled.⁹ The commission’s recommendations include establishing rehabilitation centers and support services for victims, ensuring effective judicial monitoring of places of detention, and allowing monitoring bodies regular and timely access to places of detention and direct interactions with the prisoners.

Tunisia supported a 2017 UPR recommendation to “...ensur[e] allegations of torture and ill-treatment are systematically investigated and the perpetrators are prosecuted and punished and that victims are compensated in an adequate and equitable manner.”

Tunisia became a state party to the International Criminal Court (ICC) in 2011.

While recognizing that Tunisia has made important strides in adopting laws with stronger guarantees against ill-treatment, such as Law No.5 of 2016 granting a person access to a lawyer from the onset of detention, the commission identified other important safeguards that are still needed.¹⁰

⁶ Human Rights Watch press release, “Tunisia: Truth Commission Outlines Decades of Abuse,” April 5, 2019, <https://www.hrw.org/news/2019/04/05/tunisia-truth-commission-outlines-decades-abuse>; Amnesty International press release, “Tunisian authorities must sustain progress on transitional justice,” December 13, 2018, <https://www.amnesty.org/en/latest/news/2018/12/tunisian-authorities-must-sustain-progress-on-transitional-justice/>; Amel al-Hilali, Al-Monitor, “Parliament votes to disband Tunisia’s truth commission,” April 13, 2018, <https://www.al-monitor.com/originals/2018/04/tunisian-parliament-vote-mandate-truth-dignity-commission.html> (accessed March 3, 2022).

⁷ Anna Guellali, Human Rights Watch, “New Reconciliation Law Threatens Tunisia’s Democracy,” October 2, 2017, <https://www.hrw.org/news/2017/10/02/new-reconciliation-law-threatens-tunisia-democracy>

⁸ Human Rights Watch press release, “Tunisia: Truth Commission Outlines Decades of Abuse,” April 5, 2019, <https://www.hrw.org/news/2019/04/05/tunisia-truth-commission-outlines-decades-abuse>.

⁹ Human Rights Watch news release, “Tunisia: Unfinished Rights Business,” February 28, 2020, <https://www.hrw.org/news/2020/02/28/tunisia-unfinished-rights-business>; Article 70 of Transitional Justice Law No. 53 of 2013 obliges the government to put in place a plan to implement the recommendations of the commission. Text available at <https://www.ilo.org/dyn/natlex/docs/SERIAL/95319/112171/F-313159060/TUN-95319.pdf>

¹⁰ The commission’s main recommendations on security sector reform include making internal disciplinary measures more transparent and creating an independent complaint body to investigate abuses and misconduct by the security forces. Other recommendations include placing more cameras in police stations to monitor police work and assigning supervision of the judicial police to the Justice, rather than the Interior, Ministry.

For more on Law No. 5 of 2016, see Human Rights Watch report, “You Say You Want a Lawyer? Tunisia’s New Law on Detention, on Paper and in Practice,” June 1, 2018, <https://www.hrw.org/report/2018/06/01/you-say-you-want-lawyer/tunisia-new-law-detention-paper-and-practice>; Human Rights Watch news release, “Tunisia: Unfinished Rights Business,” February 28, 2020, <https://www.hrw.org/news/2020/02/28/tunisia-unfinished-rights-business>

The government should:

- Carry out recommendations as stipulated by the Truth and Dignity Commission's March 26, 2019, report.
- Direct police forces, under penalty of disciplinary action, to execute court summonses for those accused of crimes and compel them to appear in court.
- Align its national legislation with the Rome Statute of the ICC, including by incorporating provisions to cooperate promptly and fully with the ICC and to investigate and prosecute genocide, crimes against humanity and war crimes fairly and effectively by its national courts.

Abuses under State of Emergency

Authorities have renewed a state of emergency since its declaration in 2015 by former president Beji Caid-Essebsi.¹¹ Invoking article 80 and the state of emergency, and citing a months-long political and economic crisis, President Saied on July 25, 2021, announced extraordinary measures that largely concentrate powers in his hands, which he extended for himself indefinitely on August 23, 2021.¹² The president suspended parliament even though article 80 requires parliament to remain in session when invoked and prohibits the president from "dissolving" it; lifted parliamentary immunity; and took over supervision of public prosecution. On September 22, 2021, he issued Presidential Decree 2021-117, which suspends most of Tunisia's constitution, grants the president the exclusive right to enact laws by decree, dissolves a temporary body to vet the constitutionality of laws, and bars anyone from overturning decree-laws via Tunisia's Administrative Tribunal.¹³

During the 2017 UPR review, Tunisia supported a recommendation to "ensure security measures under the state of emergency or counterterrorism laws maintain the human rights of suspects, detainees and their families." However, the security measures taken by President Saied under the state of emergency largely flout respect for international

¹¹ The emergency decree gives the executive authority wide-ranging powers including the ability to prohibit strikes, demonstrations, and public gatherings, order house arrests, and take control of media. Al Jazeera, "Tunisia extends five-year-old state of emergency by six months," December 26, 2020, <https://www.aljazeera.com/news/2020/12/26/tunisia-extends-five-year-state-of-emergency> (accessed March 7, 2022); Reuters, "Tunisia Extends State of Emergency by a Month Till Feb. 18," January 18, 2022, <https://www.usnews.com/news/world/articles/2022-01-18/tunisia-extends-state-of-emergency-by-a-month-till-feb-18> (accessed March 7, 2022); Reuters, "Tunisian President Extends State of Emergency Until End of 2022," February 18, 2022, <https://www.usnews.com/news/world/articles/2022-02-18/tunisian-president-extends-state-of-emergency-until-end-of-2022> (accessed March 7, 2022).

¹² Human Rights Watch news release, "Tunisia: President's Repressive Policies Abrogate Rights," September 11, 2021, <https://www.hrw.org/news/2021/09/11/tunisia-presidents-repressive-policies-abrogate-rights>. Article 80 of the 2014 constitution authorizes the president to take "any measures necessitated" in case of an imminent threat jeopardizing the nation, and the country's security and independence."

¹³ Human Rights Watch news release, "Tunisia: Looming Curbs on Civil Society Must be Stopped," March 11, 2022, <https://www.hrw.org/news/2022/03/11/tunisia-looming-curbs-civil-society-must-be-stopped>

human rights standards and are being used abusively without judicial oversight.¹⁴ Further, he has not reopened parliament and the new head of government appointed in September 2021 has limited prerogatives.

Arbitrary assigned residence and travel bans

Since 2016 authorities have placed hundreds of Tunisians under assigned residence, a measure used with increasing frequency under President Saied after he granted himself extraordinary powers in July 2021. Since then, three parliament members have been imprisoned for speech offenses, and at least 50 Tunisians have been placed under assigned residence, including former officials, a judge, and three lawmakers.¹⁵ Former government employees are also subject to these abuses, as the cases of former justice minister Nourredine Bhiri and former Ministry of Interior employee Fathi Beldi illustrate.¹⁶ Neither Beldi nor Bhiri received any written notification of their assigned residence, which lasted just over eight weeks.¹⁷ No arrest warrant has been issued and the authorities have not disclosed any formal charge against them during their detention, bypassing the usual legal procedure.

Dozens of others have faced arbitrary travel bans, violating their freedom of movement. The travel bans largely lack official judicial authorization or written justification.¹⁸

The government should:

- Ensure all restrictions imposed on freedom of movement in the framework of counterterrorism efforts include a written reason, are for a finite time period, and are subject to meaningful judicial oversight and appeal.
- Stop using assigned residence measures arbitrarily. If strictly necessary for security, these measures should be used only with strong safeguards. The Interior

¹⁴ Human Rights Watch news release, “Tunisia: President’s Repressive Policies Abrogate Rights,” September 11, 2021, <https://www.hrw.org/news/2021/09/11/tunisia-presidents-repressive-policies-abrogate-rights>

¹⁵ Tuniscopie, “مسؤول قيد الإقامة الجبرية في تونس 50 أكثر من ” September 9, 2021, <https://www.tuniscopie.com/article/312398/arabe/actu-arabe/residence-405307> (accessed March 2, 2022).

¹⁶ Human Rights Watch news release, “Tunisia: Unfinished Rights Business,” February 28, 2020, <https://www.hrw.org/news/2020/02/28/tunisia-unfinished-rights-business>; Human Rights Watch news release, “Tunisia: Secret Detentions Under Cover of State of Emergency,” February 9, 2022, <https://www.hrw.org/news/2022/02/09/tunisia-secret-detentions-under-cover-state-emergency>

¹⁷ Bhriri and Beldi were held arbitrarily from December 31, 2021 to March 7, 2022. See, Maghreb Times, “Tunisia: Lifting of the House Arrest of Nourredine Bhiri and Fathi Beldi,” March 8, 2022, <https://themaghrebtimes.com/tunisia-lifting-of-the-house-arrest-of-noureddine-bhiri-and-fathi-beldi/> (accessed March 18, 2022).

¹⁸ Amnesty International press release, “Tunisia: President must lift arbitrary travel bans,” August 26, 2021, <https://www.amnesty.org/en/latest/news/2021/08/tunisia-president-must-lift-arbitrary-travel-bans/>

Ministry should deliver a written copy of the decision to the affected person, and make them subject to meaningful challenge and judicial review.

Freedom of Expression

Activists, bloggers, and journalists

Human Rights Watch has documented over 20 prosecutions of bloggers, journalists, and others since 2017 on charges related to their peaceful speech, despite Tunisia's UPR promises to "strengthen legislation on freedom of expression."¹⁹

Authorities have targeted people for comments they make online and prosecuted them under the 2001 Code of Telecommunications or the penal code. A military court on June 26, 2018 sentenced Yassine Ayari, a member of parliament, to three months in prison for "defaming the army," citing an April 2017 Facebook post in which he criticized the army.²⁰ A prominent lawyer and other members of the parliament have been prosecuted in military courts for speech offenses in recent months.²¹

For sharing a Facebook video mimicking the style and recitation of a Quranic passage, Emna Chargui was sentenced to six months in prison in July 2020 for "inciting hatred

¹⁹ Prosecutions of people in military and civilian courts for their peaceful criticism of President Saied have increased since he seized exceptional powers in July 2021. The lack of a constitutional court (see above section) with a mandate to repeal laws that are found unconstitutional deprives Tunisians of a key safeguard against criminal prosecutions on charges that violate their human rights. See: Human Rights Watch press release, "Tunisia: Courts Ramp up Speech Prosecutions," December 23, 2021, <https://www.hrw.org/news/2021/12/23/tunisia-courts-ramp-speech-prosecutions>.

²⁰ Ayari was also charged with "high treason," a capital offense under article 60 of the penal code, and "offending the President of the Republic" under article 67 of the penal code. The court convicted Ayari only on the charge of defaming the army. See Human Rights Watch press release, "Tunisia: Lawmaker Sentenced for Blog," July 3, 2018, <https://www.hrw.org/news/2018/07/03/tunisia-lawmaker-sentenced-blog>. Ayari did not serve his sentence until he was arrested in July 2021, when President Saied suspended parliament and lifted parliamentary immunity. Ayari's trial before a military court began on February 14, 2022. See Human Rights Watch press release, "Tunisia: Courts Ramp up Speech Prosecutions," December 23, 2021, <https://www.hrw.org/news/2021/12/23/tunisia-courts-ramp-speech-prosecutions>.

²¹ Human Rights Watch press release, "Tunisia: Military Court Jails Prominent Lawyer," March 14, 2022, <https://www.hrw.org/news/2022/03/14/tunisia-military-court-jails-prominent-lawyer>

between religions through hostile means or violence.”²² Authorities sentenced blogger Wajdi Mahouechi to two years in prison for “accusing officials of crimes without providing proof,” and “offending others via telecommunications networks,” citing a video he posted on November 1, 2020, to Facebook in which he criticized a Tunis public prosecutor.²³

Similarly, Myriam Bribri, an activist, received a fine and a four-month prison sentence on December 21, 2021, for “knowingly harming or disturbing others via public telecommunications networks” when she posted a video on Facebook of police roughly arresting a man.²⁴ On January 17, 2021 authorities arrested Ahmed Ghram, 25, at his home for Facebook posts criticizing police repression, impunity, and corrupt governance, and accused him of “inciting actions of chaos and disorder.”²⁵

Media organizations

Tunisia supported the recommendation to “continue enhancing freedom of information and the rights of journalists” in its recent UPR. However, on July 26, 2021, police raided the Tunis headquarters of Al Jazeera TV, evicting its staff and confiscating equipment. They have been unable to return to the office, though they continue to report and broadcast from Tunisia. The closure lacks official judicial authorization, written justification, or a clear method of appeal.²⁶

The government should:

- Immediately cease prosecutions of civilians in military courts, which violate a civilian’s right to a fair trial and their due process guarantees.
- The justice minister, who supervises the prosecution office, should direct prosecutors not to use the telecommunications and penal codes to prosecute

²² The charges stem from art. 52 of the press freedom decree-law. See Ahmed Benchemsi and Nissaf Slama, “Humor Comes at a Price in Morocco and Tunisia,” May 13, 2020, Human Rights Watch, <https://www.hrw.org/news/2020/05/13/humor-comes-price-morocco-and-tunisia>; Lilia Blaise and Elian Peltier, “Tunisian Woman Sentenced to Prison Over Joke Alluding to the Quran,” July 17, 2020, <https://www.nytimes.com/2020/07/17/world/middleeast/emna-chargui-tunisia.html> (accessed March 7, 2022).

²³ Mahouechi was also charged with “public calumny,” and “insulting an officer on duty.” The charges stem from arts. 125, 128, and 245 of the penal code and art. 86 of Tunisia’s 2001 telecommunications code. See Human Rights Watch news release, “Tunisia: Harsh Sentence Against Blogger,” November 24, 2020, <https://www.hrw.org/news/2020/11/24/tunisia-harsh-sentence-against-blogger>

²⁴ The charges stem from art. 86 of the 2001 Code of Communications, available <https://legislation-securite.tn/ar/law/43891>. Nissaf Slama, “Tunisian Activist Sentenced to Prison over Criticism of Police,” January 25, 2022, Human Rights Watch, <https://www.hrw.org/news/2022/01/25/tunisian-activist-sentenced-prison-over-criticism-police>

²⁵ Ghram spent 11 days in pretrial detention before he was acquitted and released. Human Rights Watch World Report 2022, “Tunisia,” January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia>

²⁶ Eric Goldstein, “Evicted from Their Office, Al Jazeera Works from a Front Yard in Tunisia,” November 17, 2021, Human Rights Watch, <https://www.hrw.org/news/2021/11/17/evicted-their-office-al-jazeera-works-front-yard-tunisia>

people for their commentary on matters of public interest, specifically articles 67, 128, 245, and 247 of the penal code and article 80 of the telecommunications code.

- Allow all media, including Al Jazeera, to operate freely and announce a zero-tolerance for infringements on the rights of all media to cover and criticize government policies.

Women and Girls' Rights

Tunisia has taken important steps towards fulfilling the recommendation of “strengthen[ing] existing legislation to effectively eliminate gender-based violence, including domestic violence, with a view to better protecting victims and holding perpetrators accountable.” In July 2017, parliament adopted a landmark law (Law No. 58) on fighting violence against women, which includes key elements essential to prevent violence against women, protect domestic violence survivors, and prosecute abusers.²⁷ In September 2017, parliament rescinded a 1973 administrative directive that forbade women from marrying non-Muslim men.

The government has taken positive steps toward implementing Law No. 58. In 2020, the authorities issued a decree to establish and regulate the National Observatory for the Elimination of Violence Against Women, which is tasked to monitor the implementation of Law No. 58.

These achievements notwithstanding, there remain serious gaps in implementation, particularly the lack of prevention efforts to dismantle sexist stereotypes in school curricula and the media, lack of available shelters for survivors of domestic violence with only one operating shelter for the entire country, the limited legal aid for survivors, and problems with the way police deal with survivors' complaints.²⁸ Women have reported difficulties in accessing protection orders to prevent contact from their abusers, an important protection measure introduced by Law No. 58.²⁹ Violence by domestic partners constituted 75.5% of cases of violence against women reported to the Tunisian

²⁷ Human Rights Watch press release, “Tunisia: Landmark Step to Shield Women from Violence,” July 27, 2017, <https://www.hrw.org/news/2017/07/27/tunisia-landmark-step-shield-women-violence>

²⁸ On May 9, 2021, 26-year-old mother Refka Cherni was allegedly shot dead by her husband, an officer in the National Guard, two days after she went to her local police station to file a complaint against him for allegedly trying to strangle her. According to a spokesperson of Kef First Instance court the police neither arrested nor issued a restraining order against him, after Cherni had decided to drop her complaint. See Human Rights Watch World Report 2022, “Tunisia,” January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia> ; Kenza Ben Azouz, “The Forest Behind the Trees: Exploring Family Violence in Tunisia,” Nawaat, March 22, 2022, <https://nawaat.org/2022/03/22/the-forest-behind-the-trees-exploring-family-violence/>

²⁹ Human Rights Watch World Report 2022, “Tunisia,” January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia>

authorities' hotline between January and October 2021.³⁰

Despite agreeing to "ensure the compliance of...the Code of Personal Status...with articles 21 and 46 of its Constitution and international human rights obligations," Tunisia's personal status code still designates the man as the head of household and continues to deny women equal inheritance rights.³¹

The government should:

- Amend the Personal Status Code to ensure that women and men are equal heads of households, and remove gender discrimination in inheritance.
- With respect to 2017 Law No. 58 on the Elimination of Violence Against Women:
 - Ensure there is adequate funding and political will to put the programs and policies outlined in the law fully into effect.
 - Develop awareness-raising strategies, especially in schools, to dismantle sexist stereotypes and mainstream a zero-tolerance culture in relation to violence against women.
 - Ensure specialized police units and relevant members of the judiciary are trained to detect and thoroughly investigate family violence and systematically inform survivors of their rights.
 - Establish monitoring and accountability mechanisms to ensure survivors can issue complaints against officials who do not abide by Law No.58.
 - Ensure availability of adequate shelter, mental health support, legal aid, and other services for survivors of domestic violence, with special attention to improve delivery of services amidst any current Covid-19 restrictions or other emergency situations.

Children's Rights

In 2018 and 2019, Tunisia acceded to important Conventions affirming its commitments

³⁰ Kenza Ben Azouz, "The Forest Behind the Trees: Exploring Family Violence in Tunisia," *Nawaat*, March 22, 2022, <https://nawaat.org/2022/03/22/the-forest-behind-the-trees-exploring-family-violence/> (accessed March 23, 2022).

³¹ Article 21 of the Constitution guarantees "All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination." Article 46 of the Constitution guarantees that "The state commits to protect women's accrued rights and work to strengthen and develop those rights." Available https://www.constituteproject.org/constitution/Tunisia_2014.pdf. See also: Human Rights Watch press release, "Tunisia: Parliament Should Back Gender Equality in Inheritance," December 4, 2018, <https://www.hrw.org/news/2018/12/04/tunisia-parliament-should-back-gender-equality-inheritance>; Human Rights Watch press release, "Tunisia: Landmark Proposals on Gender Bias, Privacy," July 26, 2018, <https://www.hrw.org/news/2018/07/26/tunisia-landmark-proposals-gender-bias-privacy>; Human Rights Watch press release, "Tunisia: Landmark Step to Shield Women from Violence," July 27, 2017, <https://www.hrw.org/news/2017/07/27/tunisia-landmark-step-shield-women-violence>.

to protect children from violence.³² However, cases of violent discipline of children appear widespread.³³ A 2018 survey of 12,000 households found 88 percent of children aged 1-to-14 had been subjected to violent discipline, 23 percent had suffered "severe physical punishment" and 49 percent experienced other degrees of physical violence, and that 21 percent of parents in Tunisia believed corporal punishment is a necessary educational practice.³⁴

The government should:

- Fully enforce existing criminal prohibition of corporal punishment and ensure that complaints are inspected and acted upon.

LGBT Rights

The Tunisian Commission on Individual Freedoms and Equality proposed in 2018 to decriminalize homosexuality and to end anal testing during criminal investigations of homosexuality, among other recommendations.³⁵ In October 2018, 13 members of the Tunisian Parliament introduced draft legislation for a code on individual freedoms. It incorporated several proposals from the presidential commission including abolition of penal code article 230, which punishes consensual same-sex conduct with up to three years in prison.

³² In 2018, Tunisia acceded to the third Optional Protocol on the Convention on the Rights of the Child, creating pathways for children to seek redress for violations committed against them. See United Nations press release, "SRSG Santos Pais welcomes the accession of Tunisia to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure," December 18, 2018, <https://violenceagainstchildren.un.org/news/srsg-santos-pais-welcomes-accession-tunisia-optional-protocol-convention-rights-child>. In 2019, Tunisia became the first country outside of Europe to accede to Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. See: Council of Europe press release, "Tunisia joins convention to protect children from sexual violence," October 15, 2019, <https://www.coe.int/en/web/portal/-/tunisia-joins-council-of-europe-convention-to-protect-children-against-sexual-violence>.

³³ Corporal Punishment of Children - Human Rights Watch's Index for the Middle East and North Africa, May 10, 2021, <https://features.hrw.org/features/features/corporal-punishment-of-children/index.html>; Cases of violent discipline are also reported in the media. For example, in February 2019, the Interior Ministry reported that 42 children ages 10-18 at a Quranic boarding school in Regueb had been subjected to sexual abuse, neglect, and exploitation, and arrested the school director. Interior Ministry website, statement published February 3, 2019, <http://www.interieur.gov.tn/actualite/9251/%D8%A8%D9%84%D8%A7%D8%BA>; Ghaya Ben Mbarak, "Despite Legal Reforms, Child Abuse is Widespread in Tunisia," Meshkal, December 14, 2019, <https://meshkal.org/?p=640>.

³⁴ UNICEF Tunisie, "The results of the MICS on the situation of mothers and children in Tunisia," October 3, 2019 (uploaded), <https://www.youtube.com/watch?v=05LuzNQAULQ>; Rim Hana, "Tunisia: approximately 21 percent of parents consider corporal punishment to be a necessary educational practice," Tunisie Numérique, December 16, 2019, <https://news-tunisia.tunisienumerique.com/tunisia-approximately-21-of-parents-consider-corporal-punishment-to-be-a-necessary-educational-practice-states-unicef-expert>.

³⁵ Tunisian Commission on Individual Freedoms and Equality Report, June 1, 2018, available <https://colibe.org/wp-content/uploads/2018/06/Rapport-COLIBE.pdf>

However, the government has not since acted on any of the Commission's aforementioned recommendations and the draft legislation has since stalled.³⁶

Human Rights Watch and other groups since 2017 have documented multiple cases of people arrested or prosecuted under article 230 for perceived homosexuality or consensual same-sex conduct.³⁷

Despite accepting recommendations to "immediately cease the practice of forced anal exams," authorities and medical officials continue to practice them as a way to "prove" and gather "case evidence" for same-sex sexual activity.³⁸

Despite accepting recommendations to ensure the protection of LGBT people from discrimination and violence, Human Rights Watch and others have documented authorities' violent targeting and harassment of LGBT individuals, activists, and rights groups.³⁹

Tunisian law does not provide a clear or accessible path to legal gender recognition for transgender people, who face discrimination compounded by the incongruity between their official documents and gender expression.⁴⁰

The government should:

- Issue a moratorium on enforcing penal code article 230 criminalizing same-sex conduct, pending parliament's repeal of it, in line with the Commission on Individual Freedom's recommendations.

³⁶ Human Rights Watch press release, "Tunisia: End Persecution of LGBT People," May 17, 2019, <https://www.hrw.org/news/2019/05/17/tunisia-end-persecution-lgbt-people>. Tellingly, Tunisia in its last UPR did not accept any of the 11 suggestions by member states to amend or repeal penal code article 230.

³⁷ Human Rights Watch press release, "Tunisia: Homosexuality Convictions Upheld," August 5, 2020, <https://www.hrw.org/news/2020/08/05/tunisia-homosexuality-convictions-upheld>; Human Rights Watch press release, "Tunisia: Privacy Threatened by 'Homosexuality' Arrests," November 8, 2018, <https://www.hrw.org/news/2018/11/08/tunisia-privacy-threatened-homosexuality-arrests>

³⁸ Human Rights Watch press release, "Tunisia: Homosexuality Convictions Upheld," August 5, 2020, <https://www.hrw.org/news/2020/08/05/tunisia-homosexuality-convictions-upheld>; Human Rights Watch press release, "Tunisia: Privacy Threatened by 'Homosexuality' Arrests," November 8, 2018, <https://www.hrw.org/news/2018/11/08/tunisia-privacy-threatened-homosexuality-arrests>

³⁹ Rasha Younes, "Kill Them, They Are Sodomites," Nawaat, December 8, 2020, <https://nawaat.org/2020/12/08/kill-them-theyre-sodomites-police-violence-against-lgbt-people-in-tunisia/> (accessed March 10, 2022); Human Rights Watch press release, "Tunisia: End Persecution of LGBT People," May 17, 2019, <https://www.hrw.org/news/2019/05/17/tunisia-end-persecution-lgbt-people>; Human Rights Watch press release, "Tunisia: Attack on Director of LGBT Group," October 28, 2021, <https://www.hrw.org/news/2021/10/28/tunisia-attack-director-lgbt-group>; Human Rights Watch press release, "Tunisia: Police Arrest, Use Violence Against LGBTI Activists," February 23, 2021, <https://www.hrw.org/news/2021/02/23/tunisia-police-arrest-use-violence-against-lgbti-activists>

⁴⁰ Rasha Younes, "Kill Them, They Are Sodomites," Nawaat, December 8, 2020, <https://nawaat.org/2020/12/08/kill-them-theyre-sodomites-police-violence-against-lgbt-people-in-tunisia/> (accessed March 10, 2022).

- Direct public prosecutors to abandon prosecutions under article 230 and issue directives ordering prosecutors to stop sending detainees for anal examinations as part of police investigative procedures to determine suspects' sexual behavior.
- Direct all forensic doctors under the health ministry's authority to cease all anal examinations for these purposes and to respect people's right to physical dignity and integrity.

Security Authorities' Excessive and Lethal Use of Force, Torture

Tunisia supported several 2017 UPR recommendations aimed at curbing abuses by security forces, including by providing human rights training to police forces and ensuring all allegations of abuse are properly investigated. However, in the last five years, Human Rights Watch and others documented an increase in security forces' excessive and lethal use of force against peaceful protesters and others.⁴¹

Due Process and Counterterrorism

Tunisia supported several initiatives in 2017 to safeguard the due process and fair trial rights of suspects held in detention for counterterrorism purposes, and to improve pre-trial detention conditions. However, at least 10 women with ties to suspected members of Islamic State (ISIS), released from Libyan prisons and handed over to authorities in Tunisia in March 2021, reported multiple abuses in Tunisian detention, including one woman who said she was beaten and coerced to sign an interrogation report, and

⁴¹ Members of Tunisian security forces allegedly used excessive violence to suppress protesters denouncing economic hardship and demanding social justice and an end to police repression during nationwide protests that erupted on January 15, 2021. Police officers allegedly beat up protesters, arbitrarily arrested hundreds of them, including many minors, fired excessive teargas to break up protests, and attacked journalists. Police also targeted LGBT activists through physical assaults, threats to rape and kill, and refusing to provide access to legal counsel. See: Human Rights Watch press release, "Tunisia: Police Use Violent Tactics to Quash Protests," February 5, 2021, <https://www.hrw.org/news/2021/02/05/tunisia-police-use-violent-tactics-quash-protests>; Haykel Rachdi, 21, from Sbeitla, died on January 18 after sustaining a head injury following police intervention during a protest. At least two more men died in Sfax and Sidi Hassine during clashes with the police. See Human Rights Watch World Report 2022, "Tunisia," January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia>; Human Rights Watch news release, "Tunisia: Police Arrest, Use Violence Against LGBTI Activists," February 23, 2021, <https://www.hrw.org/news/2021/02/23/tunisia-police-arrest-use-violence-against-lgbti-activists>

others who said they were denied access to legal representation and medical care.⁴² Fourteen children were also repatriated, at least 12 of whom have been released to the care of relatives.⁴³

At least 16 more women and 19 children suspected of links to ISIS members were detained in Tripoli's Mitiga prison as of December 2021, according to the Tunisian Observatory for Human Rights.⁴⁴ Scores of other Tunisians, including children, are arbitrarily detained as ISIS suspects and family members in northeast Syria.⁴⁵

The government should:

- Take all feasible steps to bring Tunisians home or assist their repatriation for rehabilitation and reintegration, and, if warranted, monitoring or prosecution in line with international legal standards.
- Ensure that all repatriated individuals are treated humanely, receive necessary medical treatment, and are granted their full due process rights while in detention.
- Ensure the swift and safe return of all child nationals detained abroad because of their alleged affiliations with ISIS members. .
- Tunisian authorities should treat children who lived under ISIS control and women trafficked by ISIS foremost as victims.
- Detain and prosecute children only in exceptional circumstances, as a last resort and for the shortest appropriate period, due to the inherent harm and risks of abuse.

⁴² Human Rights Watch press release, "Tunisia Jails Repatriated Women With Suspected ISIS Ties," April 29, 2021, <https://www.hrw.org/news/2021/04/29/tunisia-jails-repatriated-women-suspected-isis-ties>; Tunisian Observatory for Human Rights press release, "ليبيا تسلم نونس دفعة ثالثة من أقارب مسلحي" March 18, 2021, <https://www.aa.com.tr/ar/%D8%A7%D9%84%D8%AF%D9%88%D9%84-%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9%D9%85%D9%86%D8%B8%D9%85%D8%A9-%D8%AD%D9%82%D9%88%D9%82%D9%8A%D8%A9-%D9%84%D9%8A%D8%A8%D9%8A%D8%A7-%D8%AA%D8%B3%D9%84%D9%85-%D8%AA%D9%88%D9%86%D8%B3-%D8%AF%D9%81%D8%B9%D8%A9-%D8%AB%D8%A7%D9%84%D8%AB%D8%A9-%D9%85%D9%86-%D8%A3%D9%82%D8%A7%D8%B1%D8%A8-%D9%85%D8%B3%D9%84%D8%AD%D9%8A-%D8%AF%D8%A7%D8%B9%D8%B4/2181051>

⁴³ Human Rights Watch World Report 2022, "Tunisia," January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia>

⁴⁴ Human Rights Watch World Report 2022, "Tunisia," January 13, 2022, <https://www.hrw.org/world-report/2022/country-chapters/tunisia>

⁴⁵ Human Rights Watch press release, "Tunisia Jails Repatriated Women With Suspected ISIS Ties," April 29, 2021, <https://www.hrw.org/news/2021/04/29/tunisia-jails-repatriated-women-suspected-isis-ties>; Letta Tayler, "UN Review Should Help Children Caught in ISIS Conflict," Just Security, December 13, 2018, <https://www.justsecurity.org/61822/review-children-caught-isis-conflict/> (accessed March 9, 2022).