



Behind Walls

Report on The Transgressions
Against Political Prisoners in Detention Facilities

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Prisoners in Detention Facilities

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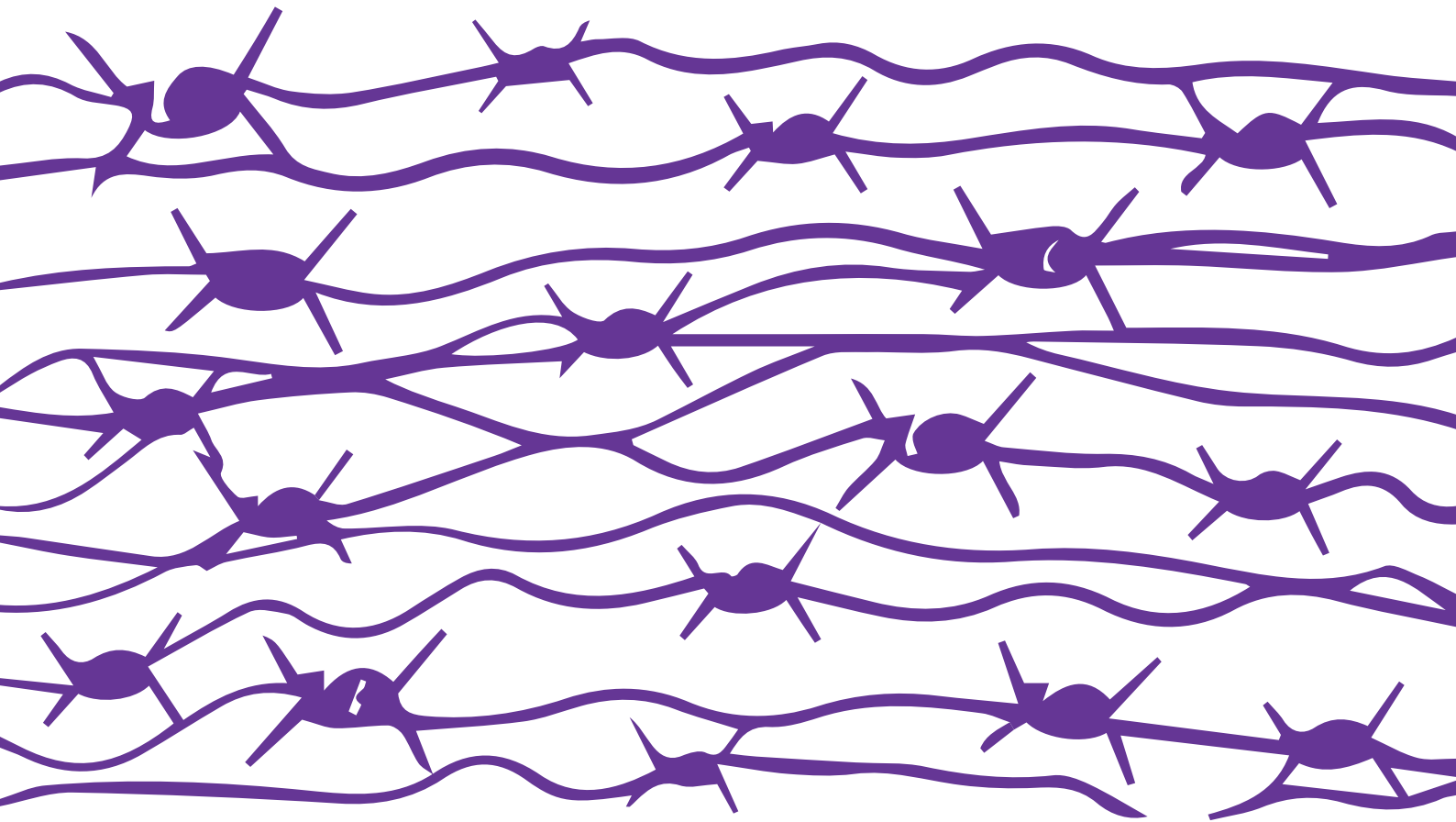
www.intersection.uno
info@intersection.uno



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Contents

Introduction:	5
Methodology:	6
What are the health rights of detainees in places of confinement?	7
Violations Within Places of Confinement:	9
1.Torture Van as a Means Adopted by Prison Administration to Transfer Conspiracy Case Detainees:	9
2.Issam Chebbi’s health deterioration due to imprisonment conditions:	10
3.Poor prison conditions leading to the deterioration of political Detainee Jawher Ben Mbarek’s Health:	11
4.Bechir El Akremi, delay in judicial procedures and arbitrary detention in a mental hospital causing deterioration in his health:	12
5.Sahbi Atigue, over 50 days on a hunger strike in prison:	13
Conclusion:	14
Intersection Association for Rights and Freedoms Recommendations:	14

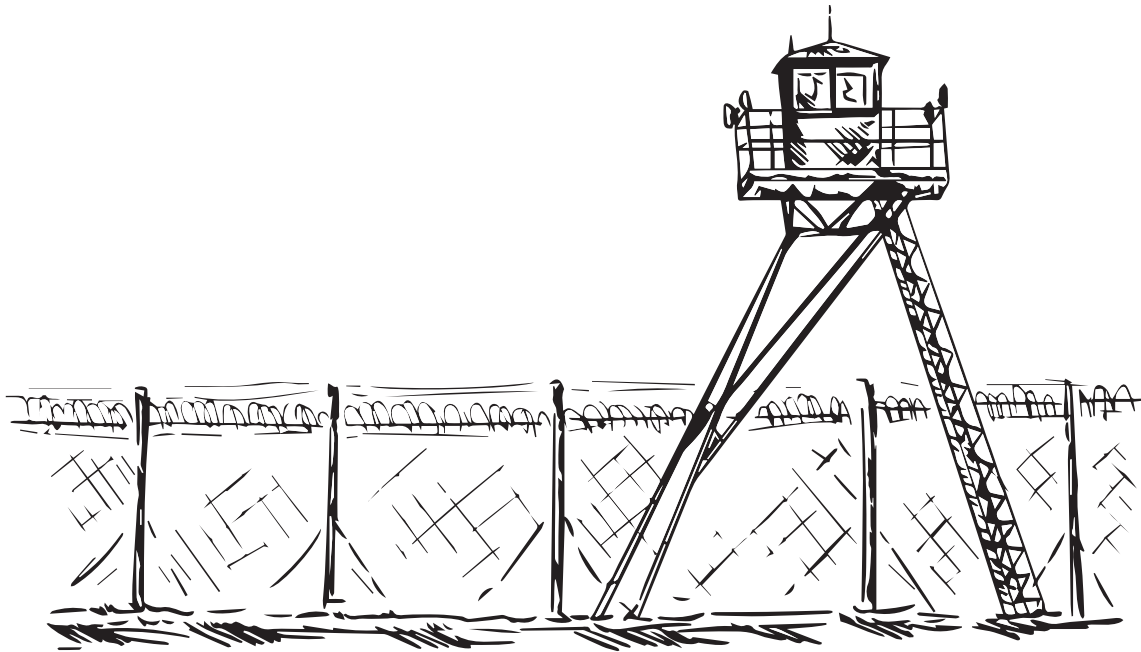


Introduction:

Imprisonment or detention is a freedom deprivation act that restricts an individual's liberty. The Optional Protocol to the Convention against Torture and Other Cruel, Inhumane or Degrading Punishment or Treatment in Article 4, Paragraph 2, defined the concept of deprivation of freedom as any form of imprisonment, detention, or placement in a public or private place of detention where a person is not allowed to leave at will, by order of any judicial, administrative or any other authority. Although detention and restriction of freedom are exceptions since individuals are born free, detainees are subject to principles that guarantee their rights and humane treatment, regardless of the reason for detention, the status of the detainees, or the duration of their confinement.

Indeed, authorities are responsible for the detainee's health and psychological safety. They are required to provide them with complete and high-quality health care, including regular health checks and adequate treatment for diseases and injuries. Quality health care is requisite to preserve detainees' dignity and human rights and contributes to creating a safe and healthy environment within places of detention.

However, in February 2023, Tunisia witnessed an extensive campaign of arrests targeting various segments of the Tunisian population, particularly politicians opposed to President Kais Saïd's resolutions, as well as several former state officials and members of the dissolved Assembly of the People's Representative on March 30, 2022. Intersection Association has, since then, monitored more than 30 cases of arrest, including 25 cases of imprisonment, among those accused of what has been publicly known as the Conspiracy Case, who have



more than 160 days in prison without trial. Additionally, other politicians and judges have been imprisoned on the grounds of the current political cases.

This report underscores the health violations faced by several prisoners who have been detained because of their political activity or former positions within the Tunisian state, in addition to the policies of the Tunisian state in terms of dealing with them as they oppose President Kais Saïd's regime and his decisions of July 25, 2021. On the other hand, this report sheds light on the extent of discrimination by authorities against political prisoners within detention centers, with transgressions of most of their rights as detainees who have not yet received any final judgments sentencing them to imprisonment.

The report addresses the issue of detainees' transfer from prison to court by what is called a "Torture Van" as well as several violations that affected many, namely Issam Chebbi, whose health deteriorated due to malnutrition, Jawher Ben Mbarek, Bechir El Akremi, who was denied visits and suffered health issues by going on hunger strike, and politician Sahbi Atigue who went on hunger strike. In addition to violating their right to a just trial and delayed legal procedures, this report highlights the transgression of the prisoners' rights, such as the right to health and humane treatment within Tunisian prisons, which has led to the decline of the health situation of a number of them and the launch of a distress call by their families, as well as the denunciation of the vindictive policy adopted by Tunisian authorities today to oppress its opponents and critics.

Methodology:

As part of its monitoring of the transgressions by the Tunisian state against political opponents, Intersection Association for Rights and Freedom has prepared this report with the aim of highlighting the health violations faced by political detainees inside Tunisian prisons, particularly the violation of the right to health, as well as the maltreatment experienced by Tunisian prisoners. To prepare this report, Intersection Association conducted six interviews with the lawyers and close relatives of violation victims, in addition to the official statement of Detainees' Defence Agencies and official blogs of their families on social media platforms.

What are the health rights of detainees in places of confinement?

The rights of detainees inside places of confinement are considered an essential part of human rights and are guaranteed by all international charters, conventions, and agreements. It includes a set of rights that must be guaranteed to individuals detained for any reason. Offering these rights aims to protect detainees' dignity, rights, and well-being regardless of their legal status. The following is a brief overview of the fundamental rights that authorities responsible for confinement should comply with and not violate:

Right to life and protection from torture and harsh treatment: it guarantees detainees' right to protection from harsh, inhumane, and humiliating treatment according to international conventions such as the United Nations Convention against Torture.

	1. Access to healthcare: Authorities must provide adequate and effective healthcare for detainees, including regular check-ups and treatment for diseases and injuries.
	2. Nutrition and clean water: Detainees must have the right to adequate food, clean water, and suitable housing.
	3. Contact with family and lawyers: Detainees must have the right to contact their families and lawyers without being subjected to punishment.
	4. Right to freedom and protection against arbitrary detention: Detainees must have the right to liberty and protection against arbitrary or enforced detention. They should only be detained under legitimate orders that respect fair trial safeguards.
	5. Guarantee legal justice: Detainees must have the right to legal justice, including the right to defense and legal counseling.
	6. Protection against discrimination: Detainees should be treated regardless of their political views, ruling regime, gender, race, religion, nationality, or other reasons.
	7. Humanitarian care: Detainees must be treated humanely, have their dignity respected, and have their basic needs met.

In addition to all the international charters that guarantee the Right to Life, in its Standard Minimum Rules for the Treatment of Prisoners, the UN adopted standards encompassing the principles of healthcare during confinement. UN Economic and Social Council established 94 Standard Minimum Rules for the Treatment of Prisoners, which determine the minimum requirements for prisoners. In 1977, the scope of implementing the rules was expanded to include prisoners held without charges. These rules are also applied in other places apart from traditional prisoning facilities.

Rule 22¹ requires providing the needed healthcare as a precondition to offer effective health services within prisons. This rule consists of three paragraphs. The first paragraph mandates the necessity to provide at least one qualified doctor with some psychiatry knowledge. There should also be psychiatric services available in case there is a need to diagnose and treat mental disorders when necessary. It stipulates, “There shall be at least one qualified doctor with some knowledge about Psychiatry available in every prison. (1) Medical services should be closely organized with a local or national public health administration. It must also include a psychiatric branch to diagnose and treat mental abnormalities when necessary. (2) Prisoners requiring specialized care should be transferred to specialized prisons or civilian hospitals. It is also a duty, when the prison has medical services provided by hospitals, for its available equipment, tools, and pharmaceutical products to be adequate to provide the needed healthcare and treatment to ill prisoners, as well as to include a qualified staff. (3) Every prisoner should be able to access the services of a qualified Dentist.”

As mandated by Rules 25 and 26, 25. “(1) The doctor is tasked to monitor imprisoned patients’ physical and mental health and meet with them daily, particularly those who suffer from any morbidity or any prisoner who drew their attention. (2) The doctor shall report to the director whenever it appears that a prisoner’s physical or mental health has been or will be damaged due to their continued imprisonment or as a result of any circumstances of such imprisonment. 26. (1) The doctor shall regularly inspect the following aspects and advise the director regarding them: (A) The food quantity, quality, and preparation. (B) The extent to which health and hygiene rules are followed in the prison and among prisoners. (C) The condition of the prison’s health facilities, heating, Lighting, and ventilation. (D) The quality and cleanness of the prisoners’ clothing and bedding necessities. (E) The extent to which rules related to physical education and sports, especially when the organizers are not specialized. (3) The director shall consider the reports and advice provided by the doctor per the provision of articles 25 (2) and 26. In case of agreement, the director shall immediately take the necessary measures to execute these recommendations. However, in case of disagreement or if the recommendations are beyond the director’s competency, a personal opinion report and the doctor’s opinions must be submitted to a higher authority.”

Furthermore, as stated in Principle 24 of the set of principles related to the protection of people under any form of detention or imprisonment², **“every person held in detention or imprisoned shall be offered an opportunity to undergo an appropriate medical exam within the shortest possible period after admission to the place of confinement or prison and thereafter shall be provided by medical care and treatment free of charge whenever necessary.”**

1 Standard Minimum Rules for Treatment of Prisoners, United Nations, (AR Reference): <http://hrlibrary.umn.edu/arab/b034.html>

2 The set of principles related to the protection of people under any form of detention or imprisonment (AR Reference): <https://www.ohchr.org/ar/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention#:~:text=%D9%8A%D8%AD%D9%82%20%D9%84%D9%84%D8%B4%D8%AE%D8%B5%20%D8%A7%D9%84%D9%85%-D8%AD%D8%AA%D8%AC%D8%B2%20%D8%A3%D9%88%20%D8%A7%D9%84%D9%85%D8%B3%D8%AC%D9%88%D9%86%20%D8%A3%D9%88%20%D9%84%D9%85%D8%AD%D8%A7%D9%85%D9%8A%D9%87%20%D8%AA%D9%82%D8%AF%D9%8A%D9%85%20%D8%B7%D9%84%D8%A8%20%D8%A3%D9%88.%D8%A8%D9%87%D8%A7%20%D8%B5%D9%84%D8%A7%D8%AD%D9%8A%D8%A7%D8%AA%20%D8%A7%D9%84%D9%85%D8%B1%D8%A7%D8%AC%D8%B9%D8%A9%20%D8%A3%D9%88%20%D8%A7%D9%84%D8%A5%D9%86%D8%B5%D8%A7%D9%81>

Moreover, Rule 45 of the Standard Minimum Rule for Treatment of Prisoners addressed the rules of transfer, and they are the following:

1/When transferring prisoners to or from prison, they shall not be exposed to the public. Still, only to a minimum extent, should measures be taken to protect them from insults, curiosity, and publicity.

3/Transferring prisoners under poor conditions of ventilation and lightning or any means that would cause them unnecessary physical distress must be prohibited.

4/Transferring prisoners must be at the expense of the administration, and equality shall prevail among them.

Violations Within Places of Confinement:

1.Torture Van as a Means Adopted by Prison Administration to Transfer Conspiracy Case Detainees:

In a statement published on April 6, 2023³, “The Defense Body for Detained Politicians.” declared that its clients Chaima Issa, Ghazi Chaouachi, Issam Chebbi, Mohammed Khayem Turki, Jawher Ben Mbarek, Ridha Bel Hadj, and Mohamed Lazher El Akremi, on the same date, refused to leave prison and be transferred anywhere whether it be for medical visits or to appear in court for interrogation. This decision emanated from the poor condition of the means of transportation used by the prison’s administration, according to the Defense Body. In a media statement on IFM radio, Attorney Dalila Msaddak Ben Mbarek disclosed that the used means of transportation is a medium-sized enclosed iron truck with sealed doors on all sides, and it includes a cage designed for one person. It is usually used with the most dangerous criminals and those involved in terrorism cases, where the prisoner is placed inside in a seating position, making them vulnerable to crashing onto the sides of the cage



³ Defense Body for Detained Politicians’ (Translation mine) statement published on April 6, 2023, by Lawyer Islam Hamza on Facebook (AR Reference): https://www.facebook.com/islam.hamza.9/posts/6450760141652999?ref=embed_post

whenever the van turns right or left, resulting in bruises, in addition to lack of ventilation. “This causes a deterioration in their mental state.” Disclosed Attorney Dalila Msaddak. She also added that their clients, once they exited the van, found themselves unable to stand or even talk due to their deteriorated health condition after the arduous journey, which amounts to systematic torture. Intersection Association considers this a violation of human rights and an explicit breach of the Tunisian Constitution, which stipulates in chapter 36, “every prisoner shall have the right to be treated with humanity and dignity.”⁴ In addition, Rule 1 of The United Nations Standard Minimum Rules of Torture (Nelson Mandela Rules) states that “All prisoners shall be treated with respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from torture or other cruel, inhumane, or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification.”⁵



2.Issam Chebbi’s health deterioration due to imprisonment conditions:

Tunisian politician and Secretary-General of the Republican Party Issam Chebbi has been imprisoned for over 150 days in the Civil Prison of Mornaguia after being arrested on February 22, 2023, for what is publicly known as Conspiracy Case, in which more than 8 politicians have been detained since last February. On July 10, 2023, the family of Detainee Issam Chebbi announced on Social Media platforms that his health had been deteriorating as it worsened during the weekend due to water supply disruption and malfunction in the prison’s cooling systems, which led to spoiling his food. As a result, he resorted to eating bread and oil for 3 days, according to the statement issued by his family. Attorney Ayachi Hammami⁶, a member of the Defense Body confirmed that as a result, the detainee suffered from a sharp drop in blood sugar, hence fainting. One Intersection Association political detained member testified that the prison administration immediately

4 Tunisian Constitution, Chapter 36

5 United Nations Standard Minimum Rules for Treatment of Prisoners (AR Reference) https://www.un.org/ar/events/mandeladay/mandela_rules.shtml#:~:text=1%20%2D%20%D9%83%D9%84%D9%8F%D9%91%20%D8%B3%D8%AC%D9%8A%D9%86%20%D9%84%D8%A7%20%D9%8A%D9%8F%D8%B3%D9%85%D8%AD,%D8%A8%D8%A7%D9%84%D9-%88%D8%AA%D9%8A%D8%B1%D8%A9%20%D8%A7%D9%84%D8%B6%D8%B1%D9%88%D8%B1%D9%8A%D8%A9%20%D9%84%D9%84%D8%AD%D9%81%D8%A7%D8%B8%20%D8%B9%D9%84%D9%89%20%D8%A7%D9-%84%D8%B5%D8%AD%D8%A9

6 Phone call with Attorney Ayachi Hammami on July 17, 2023

called a doctor and offered the necessary medical care. He also confirmed that the rest of the political detainees receive regular medical care.

The violation against the Tunisian political detainee Issam Chebbi and the endangerment of his health is a transgression of international law and charters that protect his rights as a prisoner and guarantee him clean and nutritious meals that meet his basic needs, and have the necessary nutritional value according to Article 27 of Penitentiary Law. It stipulates in the first paragraph that the prisoner shall be provided with two basic meals with sufficient nutritional value, the first at noon and the second in the evening. Moreover, Rule 22, paragraph 1 of the Standard Minimum Rules for The Treatment for Torture mandates the following: “Every prisoner shall be provided by the prison administration at the usual hours, a sufficient nutritional value meal to maintain their health and strength, of good quality and well-prepared and served.” Additionally, it is necessary to inspect the meals by a specialized doctor and to what extent they conform to the prisoner’s age and medical state. Places of confinement should also be suitable for living and ensure the preservation of inmates’ health and physical and mental well-being.



3. Poor prison conditions leading to the deterioration of political Detainee Jawher Ben Mbarek’s Health:

In a post on Facebook, the Defense Body for Detained Politicians released a statement that Jawher Ben Mbarek’s condition was indicative of a stroke. It also referred to the deliberate delay by the prison’s administration to provide medical intervention despite the guards’ bell ringing for more than an hour and a half. They considered that this serious incident is irrefutable evidence of the administration’s false claim regarding using surveillance cameras in political detainees’ cells to protect them from potential risks and provide them with urgent medical intervention in case of any medical emergency.

In his testimony for Intersection Association for Rights and Freedoms, Ezzeddine Hazgui⁷, Father of Jawer Ben Mbarek Hazgui, stated that on July 20, 2023, he visited his son and found him in normal health conditions that didn’t raise any concerns. However, on July 21, 2023, during a visit of Jawhar’s sister Dalila Msaddek Ben Mbarek, to her brother, she

found his health deteriorating. He explained that this was due to the prison's poor condition; with the rising temperature, it is difficult to breathe in the cells, and its limited space caused him suffocation and chest pain to the point of vomiting and fainting. "It is due to the small size of the cells and concrete walls exposed to heat, he suffered from significant distress and shortness of breath." He stated.



4. Bechir El Akremi, delay in judicial procedures and arbitrary detention in a mental hospital causing deterioration in his health:

In his testimony to Intersection Association, the dismissed judge Bechir El Akremi⁸'s son stated that his father's health had deteriorated due to a delay in the judicial procedures and arbitrary admission to a mental hospital. On February 12, 2023, the Police raided Bachir El Akremi's house and took him to the Counter-Terrorism Unit in Bouchoucha headquarters, to be investigated for more than 24 hours in view of a complaint filed by members of the Counter-Terrorism Unite in Bouchoucha in Tunis, in relation to the case of the terrorist attack on Bardo Museum in 2015.

On that day, El Akremi announced going on a hunger strike because of the ban on visitation and poor detention conditions. In an interview with a radio station⁹, his lawyer stated that his client's health had deteriorated and the exact causes were unknown. On February 17, the prosecution refused to extend his detention and released him. However, on the same day, a decision was issued by the Public Prosecution Office, ordering that Bechir El Akremi be placed in a mental hospital in view of a medical report that the defense team was not allowed to access, in addition to denying him visitation for the first days of his placement in the hospital. According to the victim's son of the violation, during a family visit to his father in the hospital, it was confirmed that his father was unaware of the decision to release him, and his admission to the hospital occurred without providing any information or clarification about the matter.

Meanwhile, The National Body for Prevention of Torture's president Fathi Jarray¹⁰ confirmed

8 Phone call with the victim of violation Bechir El Akremi on April 1, 2023

9 IFM Radio Station, "My client's health deteriorated and we were banned from visiting him" Bechir El Akremi's Lawyer, Last Access: July 2023 (AR Reference): <https://www.ifm.tn/ar/article/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9/%D9%85%D8%AD%D8%A7%D9%85%D9%8A-%D8%A8%D8%B4%D9%8A%D8%B1-%D8%A7%D9%84%D8%B9%D9%83%D8%B1%D9%85%D9%8A-%D8%A7%D9%84%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D9%84%D8%B5%D8%AD%D9%8A%D8%A9-%D9%84%D9%85%D9%88%D9%83%D9%84%D9%8A-%D8%AA%D8%AF%D9%87%D9%88%D8%B1%D8%AA-%D9%88%D8%AA%D9%85-%D9%85%D9%86%D8%B9%D9%86%D8%A7-%D9%85%D9%86-%D8%B2%D9%8A%D8%A7%D8%B1%D8%AA%D9%87/66595>

10 IFM Radio, The National Body for Prevention of Torture reveals the health condition of Bechir El Akremi in Al-Razi Hospital,

in a radio statement that Bechir El Akremi was receiving the necessary medical care, his condition was stable, and he was aware of what was happening. On March 10, 2023, Bechir El Akremi was imprisoned by virtue of a new arrest warrant. An investigation was opened and he remains in prison until the end of this month with no further progress in his case.

The judge's wife Mrs. Mouna Gharbi declared to Intersection Association that admitting her husband to a mental hospital without any justification was one of the most significant violations he has ever faced. Besides, installing surveillance cameras inside the prison cell violates his privacy and is completely unacceptable. Regarding the treatment he receives in prison, she stated that it was as normal as any Tunisian prisoner without mentioning any other misconduct by the prison administration or any harassment he had faced during his stay there.



5. Sahbi Atigue, over 50 days on a hunger strike in prison:

The Tunisian politician and leader in the Ennahdha movement, Sahbi Atigue was arrested in early May 2023¹¹ and subsequently placed in prison in a public prosecution case by which he was charged with organized crime in money laundering. Meanwhile, his wife expressed that it was a malicious case against her husband and he was utterly unrelated to this matter.

Consequently, 64-year-old Sahbi Atigue announced that he had started going on a hunger strike starting May 16, 2023, in protest of the injustice he believed he was facing. He carried on the strike inside the prison for more than 60 days¹². This resulted in a continuous deterioration

February 21, 2023, Last access: July 2023 (AR Reference): <https://www.ifm.tn/ar/article/category/%D9%87%D9%8A%D8%A6%D8%A9-%D9%85%D9%82%D8%A7%D9%88%D9%85%D8%A9-%D8%A7%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D8%AA%D9%83%D8%B4%D9%81-%D8%A7%D9%84%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D9%84%D8%B5%D8%AD%D9%8A%D8%A9-%D9%84%D8%A8%D8%B4%D9%8A%D8%B1-%D8%A7%D9%84%D8%B9%D9%83%D8%B1%D9%85%D9%8A-%D9%81%D9%8A-%D9%85%D8%B3%D8%AA%D8%B4%D9%81%D9%89-%D8%A7%D9%84%D8%B1%D8%A7%D8%B2%D9%8A/66490/%D8%A8%D8%B1%D8%A7%D9%85%D8%AC>

11 Shams FM Ennahdha warns from malice at its leaders after the arrest of Sahbi Atigue, May 7, 2023, Last Access: July 14, 2023 (AR Reference): https://www.shamsfm.net/amp/ar/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1_%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1-%D8%AA%D9%88%D9%86%D8%B3_%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9/411941/%D8%A7%D9%84%D9%86%D9%87%D8%B6%D8%A9-%D8%AA%D8%AD%D8%B0%D8%B1-%D9%85%D9%86-%D8%A7%D9%84%D8%AA%D8%B4%D9%81%D9%8A-%D9%81%D9%8A-%D9%82%D9%8A%D8%A7%D8%AF%D8%A7%D8%AA%D9%87%D8%A7-%D8%A5%D8%AB%D8%B1-%D8%A5%D9%8A%D9%82%D8%A7%D9%81-%D8%A7%D9%84%D8%B5%D8%AD%D8%A8%D9%8A-%D8%B9%D8%AA%D9%8A%D9%82

12 Hakakekonline, Sahbi Atigue suspends his hunger strike, July 10, 2023. Last access: July 14, 2023 (AR Reference): <https://hakaekonline.com/ar/article/156149/%D8%A7%D9%84%D8%B5%D8%AD%D8%A8%D9%8A-%D8%B9%D8%AA%D9%8A%D9%82-%D9%8A%D8%B9%D9%84-%D9%82-%D8%A7%D8%B6%D8%B1%D8%A7%D8%A8-%D8%A7%D9%84%D8%AC%D9%88%D8%B9>

in his health and well-being in prison for which he was required to be hospitalized in the early days of the hunger strike and be provided with the necessary medical care due to his health condition and age. He was transferred to the hospital on 4th July after his health substantially declined, putting his life at risk. Attorney and member of the board of the Tunisian League for Defense of Human Rights Sawssen Rihani¹³, testified to Intersection Association that during a visit to the Civil Prison of Mornaguia, Sahbi mentioned that he had been placed in a cell he shared with some smokers which could cause him health problems. Nevertheless, he was receiving the necessary medical care as he was on a hunger strike to denounce the case that led to his imprisonment.

Conclusion:

Although detention constitutes a restriction on individual freedom, it remains a procedure governed by rules and laws subject to the principles of Human Rights. Local and International charters emphasize providing all means and mechanisms to protect detainees and guarantee all their rights, particularly the right to health, humane treatment, methods, and mechanisms. While monitoring the situation of political detainees in prison, Intersection Association encountered a range of violations in relation to their stay in prison. However, all resources have testified to the association that political detainees receive the necessary medical surveillance and that their health remains stable. Yet, it still does not negate the fact that several violations and restrictions are still taking place in Tunisian prisons, which affect the rights of inmates and expose them to danger. Thus, it is the duty of the Tunisian State to address this by adopting a rights-based approach that respects local and international charters that guarantee the rights of individuals within places of detention.

Intersection Association for Rights and Freedoms Recommendations:

Guaranteeing the rights of all prisoners and individuals held in prisons who have not been convicted yet, including political detainees.

Guaranteeing the right to health to all prisoners and preventing their physical and mental well-being from danger.

Obligating the prison administrations to treat all inmates without discrimination and respect their rights as stipulated by law and protected by local and international charters.

Calling upon judicial authority to release the remaining political detainees and individuals held in cases related to freedom of expression, and resort to custodial penalties as a last solution to put a halt to arbitrary detentions.

