



OBSERVATORY OF VIOLATIONS
OF THE FREEDOM OF OPINION
AND EXPRESSION

Opinion trials in Tunisia after July 25, 2021



SCAN ME

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Executive summary:

This article refers to the opinion trials that took place in Tunisia between July 25, 2011 and July 2023, targeting all voices criticising and opposing the regime of President Kais Saied, who were prosecuted for exercising their right to freedom of expression. This calls to mind the former regime of prior censorship and violation of human rights. The components of the Observatory of Violations of the Freedom of Opinion and Expression recorded 47 cases of said violation varying between random arrests and mere hearings on the one hand, and trials under different laws including Decree 54 on the other. Legal prosecutions targeted politicians, activists, journalists, lawyers, and other citizens who expressed their opinions on a number of current political issues in Tunisia. This type of trials has grown in terms of numbers over the last three years, which reflects the Tunisian state's tendency to further restrict the freedom of expression through hurling accusations at all opponents and critical voices and putting them in prison.



Introduction:

Opinion trials are defined as the sum of judicial proceedings trying citizens for their political ideas and positions, in addition to prosecuting peaceful forms of expression and sharing thoughts, and banning the freedom of association. This type of trials is a major indicator of the level of oppression in regimes which violate human rights and aim to curb and eliminate freedom of expression. Opinion trials are often used by authoritarian regimes, which take control of the different branches of power and instrumentalise them in order to neutralise and intimidate all voices of disapproval and opposition.

The number of trials and legal prosecutions against individuals for having expressed their opinions has increased since President Kais Saied suspended parliament on July 25, 2021, using the state of exception as a pretext to issue a number of decrees through which he assembled all powers in his grip, culminating in the 2022 Constitution, which he wrote himself. Tunisia then entered a new phase of government characterised by a major regression of human rights, especially the right to freedom of expression, which has faced many setbacks over the years, such as political arrests, and the persecution of activists and journalists under Decree 54 on combating cybercrime. This decree was used by Najla Bouden's government against all voices criticising and opposing the president's decisions, thus becoming a danger to human rights in Tunisia, threatening everyone who expresses their opinions on public matters with severe prison sentences.

The components of the Observatory of Violations of the Freedom of Opinion and Expression recorded 47 trials divided as follows: 10 journalists, 7 politicians, 11 human rights activists, 6 lawyers, and 11 citizens, all of which followed expressing their opinions through various media as part of exercising their right to freedom of expression.

This report aims to list the violations inflicted by the state on its citizens, and the abuse of judicial power and the available legislation to curb this right in preparation to eliminate it completely.

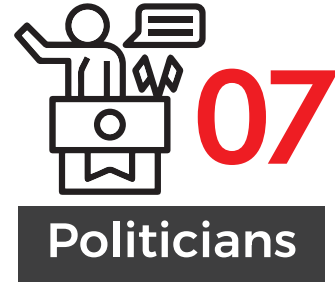


Methodology:

While preparing this report, the Observatory of Violations of the Freedom of Opinion and Expression documented cases of violations against the freedom of expression, such as prosecutions and trials targeting activists, politicians and journalists for exercising their right to freedom of opinion and expression through sharing publications on social media or making statements to the media between July 25, 2021 and July 2023. The Observatory relied on information published on newspaper websites, a number of publications made by human rights activists and both local and international human rights organisations all the while fact checking the information and cross-referencing multiple sources in each of the documented cases, in addition to the cases documented by the components of the Observatory itself.

The documented opinion trials have been assembled in a database that is open to the public. The report aims at pointing out the extent to which Tunisian authorities are targeting all opposition: politicians, activists and even journalists performing their duties according to their lawful rights, using the justice system to persecute them, which explains the increasing number of opinion trials in Tunisia after July 25, 2021. This report is not exhaustive of all the cases related to the freedom of opinion and expression, and the transgressions made by the Tunisian state against its citizens.

Distribution of opinion trials according to the victims of violations



Regression of freedom of opinion and expression in Tunisia:

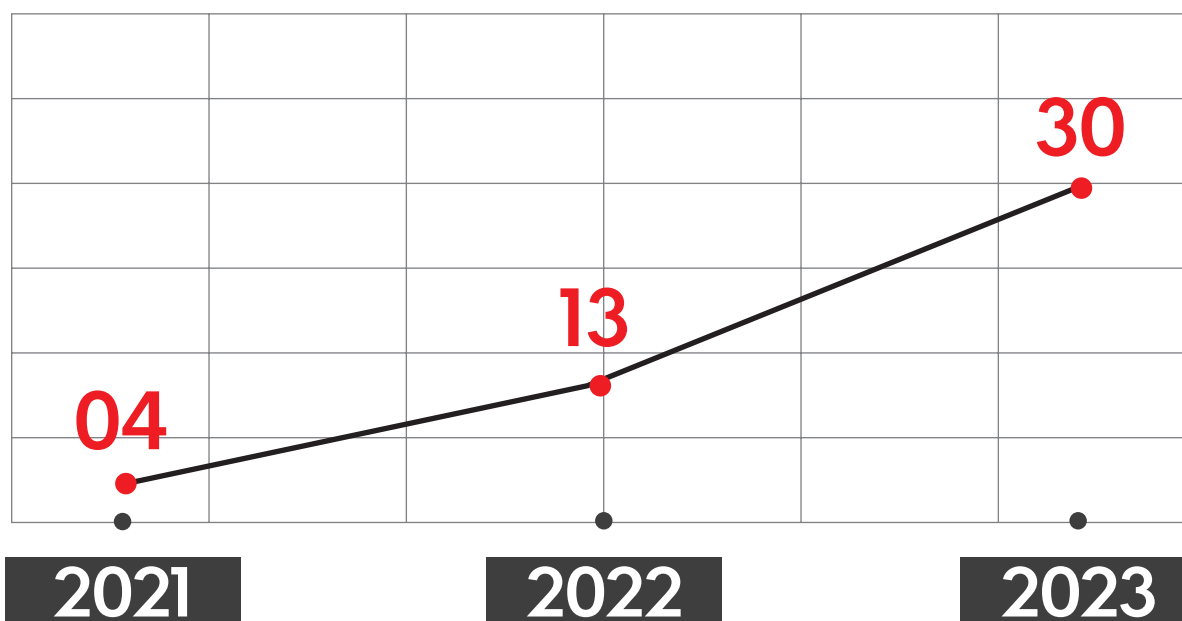
Since July 25, 2021, Tunisia has witnessed an organised campaign against freedom of expression targeting opponents to President Kais Saied, which consists in accusations of treason and incitement by the Presidency of the Republic against a number of activists, including politicians, trade unionists, associations and political parties, culminating in persecutions by the security forces and the justice system. In the end of July 2021, the Tunisian media landscape witnessed numerous violations against journalists working for foreign news organisations, including cases of assault and closing of offices in Tunis.

In November of the same year, journalist Amer Ayed was tried in a military court for criticising Kais Saied on his television show together with politician Abdellatif Aloui, both of whom were sentenced to 4 months of prison. In addition to resorting to military courts, President Kais Saied issued Decree 54, which compromised the most important democratic gains and further cracked down on freedom of expression in Tunisia. Once it came into effect, this decree became

the Minister of Justice's go-to legislation to persecute all voices criticising the performance of the government and the president's policies. The decree was used against politician Ghazi Chaouachi and lawyer and human rights activist Ayachi Hamami for defending the dismissed judges, before targeting a wider range of Tunisians. Tunisian authorities also resorted to other pieces of legislation criminalising freedom of expression, which resulted in a significant increase of legal prosecutions in the beginning of 2023, reaching a total number of 47 cases of investigation and trials either on the basis of publications on social media or statements made to the media, targeting everyone who oppose and expresses their opinions on the procedures of July 25, 2021 while turning a blind eye to the crimes of defamation, libel and accusations of treason committed by proponents of the July 25th movement.

Evolution of opinion trials

between July 2021 and July 2023



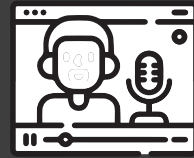
Distribution of the violations

21



Social media
publications

22



Articles and
media statements

03



Arrests because of
graffiti paintings

01



Arrest
in demonstrations

Opinion trials targeting journalists:

Freedom of the press has witnessed a major relapse in Tunisia after the president's July 25 decisions as violations against journalists surge. The National Syndicate of Tunisian Journalists documented 193 cases of violations against journalists in 2020, and 257 cases in 2023¹.

These violations range from prohibiting journalists from doing their jobs and assaulting field journalists to prosecuting and trying them for practicing their profession freely and according to their lawful rights. 10 cases of legal prosecution against journalists who criticised President Kais Saied and his government's policies on a number of public issues were documented.

Amer Ayed, a journalist brought before a military court because of an interview:

A few months after the July 25, 2021 decisions, the justice system was used to crack down on journalists as journalist Amer Ayed² was arrested in October 2021 after appearing in a Tunisian political TV programme, Hassad 24, opposite politician Abdellatif Aloui. The interview featured a discussion of the July 25, 2021 decisions and the political situation in Tunisia in which Ayed criticised President Kais Saied and Prime Minister Najla Bouden, and expressed his disagreement with the president's decisions, calling them a coup-d'état. He was charged with calling for disobedience and insulting the head of state. He was sentenced to 4 months in prison in a flagrant violation of the right to freedom of speech and the right to a fair trial, in addition violating his rights as a journalist to exercise his profession freely and independently.

Salah Attia, another journalist imprisoned by a military court because of a media statement:

In June 2022, during an interview for Aljazeera, journalist Salah Attia³, owner and editor of Al Ray Al Jadid newspaper, commented on the political situation in Tunisia and President Kais Saied's ties to the Tunisian military, before the military justice opened an investigation and charged Salah Attia with "urging citizens to raise arms against one another and inciting chaos, murder, and plunder on the Tunisian soil", "making wrongful accusations against a public official with no proof", "demeaning the military", and "wilfully offending others and creating nuisance on public telecommunication networks". He was sentenced to 3 months in prison and was released in the end of September 2022.

Prosecution of Journalists under Decree 54:

Decree 54 has become in new tool in the arsenal of Tunisian authorities and is being used to curb the freedom of journalistic work. 3 cases involving the use of this decree have been documented. The first targeted Business News newspaper⁴ as a lawsuit was filed by Minister of Justice, Leila Jaffal, in November 2022 against the newspaper's legal representative, Nizar Bahloul, because an article featuring an analytical reading of the political situation in the country. In 2023, journalists Mohamed Boughalleb and Monia Arfaoui were prosecuted for two different complaints lodged by Minister of Religious Affairs, Ibrahim Chaibi under Decree 54. The first lawsuit was against journalist Monia Arfaoui⁵, who published an article featuring corruption allegations and criticism of the Ministry's handling of affairs related to pilgrimage. Mohamed Boughalleb⁶, on the other hand, was

interrogated on April 7, 2023, in the offices of the judicial police in Gorjeni, since a lawsuit was filed by the same minister because of statements made on a radio show in which Boughalleb talked about the ministry expropriating a car confiscated by the customs and still subject of a legal dispute.

A five-year prison sentence for journalist Khelifa Guesmi because of an article:

On March 18, 2022, journalist Khelifa Guesmi⁷ was arrested and detained for 5 days because of an article he wrote on the dismantling of a terrorist cell in Kairouan published on the website of the radio station Mosaïque FM. The decision for his arrest relied on Article 34 of the Anti-Money Laundering and Terrorism-Financing Law of 2015 in an utter transgression of Decree 115 regulating the media sector. A year later, the competent division in cases of terrorism in the court of Tunis issued an appeal verdict on May 15, 2023 under the Anti-Money Laundering and Terrorism Financing Law of 2015 sentencing him to five years in prison. Khelifa Guesmi remains on probation. This is the most severe sentence against a Tunisian journalist since the revolution.

Prosecution of journalist Zied Heni for criticising the President of the Republic:

On June 20, 2023, a judge ordered the arrest of Tunisian journalist Zied Heni⁸ for insulting the President of the Republic. He was summoned by the Fifth Central Division for Combating Information and Communication Technology Crimes in El Aouina and charged with insulting the head of state in a statement made on a radio show in which he was discussing the very notion of insulting the head of state and how this charge can be used to target individuals based on their opinions. After two days of detention, he was released and is awaiting trial.

Complaint filed against journalists Haythem El Mekki and Ilyes Gharbi:

In May 2023, journalists Haythem El Mekki and Ilyes Gharbi were officially summoned by the Tunisian police over a complaint filed by a police officer, who undertook this task personally and not as a representative of an administrative or union body. His complaint came after a discussion on the political situation in Tunisia in Midi Show, a radio programme on Mosaïque FM, which he deemed as an affront to the morale of armed forces. After a hearing that took place in the Directorate of Criminal Affairs in Gorjani on May 22, 2023, they were released on probation.

Opinion trials targeting activists:

The post-July 25, 2021 regime has relentlessly persecuted political and trade union activists in addition to human rights activists as many were prosecuted because of statements made in the media, or publications on social media, commenting on the political situation in Tunisia, which marks a serious threat to freedom of expression in the country.

Decree 54 is a state tool to confiscate young people's opinions:

In the framework of documenting opinion trials against a number of activists, the components of the Observatory of Violations of the Freedom of Opinion and Expression recorded 3 cases of legal prosecution under Decree 54. In October 2022, a young man called Bahaeddine Hamada⁹ was arrested for sharing a number of videos on his Facebook page documenting the protests that took place in Ettadhamen district in Tunis at the time. He was arrested and charged with publishing fake news. He remained in custody for five days before being released on probation.

In January 2023, a young man from Kasserine, Hamza Laabidi¹⁰, was arrested for updating his Facebook status to "To the revolution! To the streets again! The revolution lives on," as a form of expressing his discontent with the living conditions in Kasserine. Although this publication did not feature any fake news or rumours, he was arrested for an entire day before he was released.

In April 2023, Mohamed Zantour¹¹, a 25-year-old man, was arrested because of a number of publications on his personal Facebook page criticising the president and his government. After his arrest, he was taken to the Messaadine Prison in Sousse, where he served a 3-month prison sentence for expressing his opinion freely.

Two young men prosecuted because of a song criticising police officers:

On May 16, 2023, police forces arrested students Dhia Nassir and Youssef Chelbi because they published a video featuring a satirical song on social media. They faced charges of insulting others through social networks and making false accusations against a public official. They were detained for six days before they were brought before a judge on May 23, 2023, who dropped the charges and released them.

Hassen Laabidi, 8 months of prison for sharing a video criticising the President of the Republic:

“In a country where freedom of expression is guaranteed, my brother has been sentenced to 8 months in prison for having expressed his opinion,”¹² said Mohamed Sadik Laabidi, brother of the victim of violation Hassen Laabidi, who was imprisoned for sharing a video on Facebook. On May 5, 2023, a number of police officers in plainclothes went to the residence of violation victim Hassen Laabidi and took him to the police station of Tajerouine in a manner that was described by his family as terrifying, especially that he was arrested in front of his children without an explanation. It was later revealed that his arrest came as a result of sharing a comical video on Facebook comparing the president to actor Adel Imam and criticising the post-July 25 regime and the President of the Republic. Laabidi was interrogated and detained for 3 days, then he was brought before a prosecutor on May 8, 2023, and was taken to a prison in Kef.

The day after, May 9, 2023, the court of first instance in Kef sentenced him to 8 months of prison for insulting the President of the Republic under Article 67 of the Penal Code. Upon appeal, the court sustained the verdict on June 16, 2023, maintaining the first verdict and refusing all petitions for relief with no regard to the fact that he was the sole breadwinner in a family of 7, and that he was helping his brother’s family since the latter is incapable of working due to an illness. In addition, Laabidi risks losing his job since Article 50 of the Labour Code states that “public employees can have up to three months of leave a year.”

Opinion trials targeting union rights:

In addition to targeting and prosecuting activists and political opponents, Najla Bouden’s government cracked down on trade unionists and their right to freedom of expression. The Minister of Transport filed a lawsuit against the Secretary-General of the General Transport Federation, Wajih Zidi¹³, because of publications on his Facebook page, as well as the federation’s, denouncing issues in the transportation sector.

Zidi had also made some statements to the media voicing the social and economic demands of the federation members. He was interrogated in February 2023 by the third division of the National Guard in Ben Arous because of a complaint lodged by the Minister of Transport under Decree 54 and was kept on probation. In the same period, trade union activist Anis Kaabi¹⁴ was arrested and imprisoned following a lawsuit filed against him by the General Administration of Motorways because of a media statement deploring problems faced by workers in the sector

and announcing a two-day strike. He was charged with abusing his position as a civil servant and taking a concerted action, by collective resignation or otherwise, with the intention of obstructing the execution of a public service under Articles 96 and 107 of the Penal Code. This marked a flagrant transgression of constitutional unions rights and a violation of individuals' right to freely express their opinions according to rights guaranteed by the law.

Opinion trials targeting politicians:

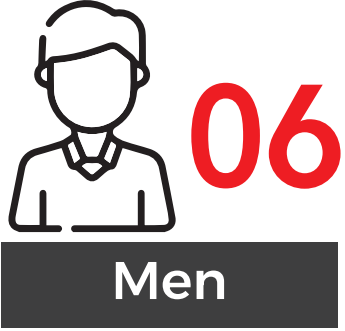
On November 20, 2022, Minister of Justice, Leila Jaffal lodged a lawsuit against the Tunisian politician Ghazi Chaouachi¹⁵ under Article 24 of Decree 54 following a media statement accusing Tunisian authorities of fabricating files in order to imprison a few figures of the opposition. He was charged with spreading rumours and false information. The same minister lodged another complaint against Ghazi Chaouachi in May 2023 after he appeared on Shems FM radio on May 12, 2023 and said that there had been talks about Najla Bouden and other ministers potentially resigning from office. This came in addition to the conspiracy charge for which he has been in prison for more than 6 months now. Tunisian authorities also prosecuted Tunisian politician Chaima Issa because of a media statement made in December 2022 in which she discussed the political situation. She was interrogated multiple times about this case, which comes in addition being accused of conspiracy, for which she has imprisoned for more than six months.

Lawyers face justice because of freedom of expression:

In addition to activists and politicians, lawyers have had their share of prosecutions for exercising their right to freedom of expression. 6 cases of violations against lawyers have been documented, 5 of which consist in legal prosecutions under Decree 54. The first case targeted lawyer and human rights activist Ayachi Hamami¹⁶ over a complaint filed by Minister of Justice, Leila Jaffal, in January 2023, following a media appearance in which he discussed the case of the dismissed judges as the coordinator of the Defence Committee of the dismissed judges and president of the Tunisian National Committee for the Defence of Freedoms and Democracy. Lawyer Mehdi Zagrouba¹⁷ was also the subject of a complaint made by the minister of justice because of publications he made about the manner that the inspector general offices and a number judges dealt with some cases. In addition, he was harassed following the Airport Case. Lawyers Abderraouf Ayadi, Lamia Farhati¹⁸, and Islam Hamza¹⁹ were also prosecuted because of social media publications in which they commented on the political situation in Tunisia and their opinions freely.

Distribution of

persecutions by gender



Recommendations

The Higher Committee on Human Rights and Fundamental Freedoms:

- Reviving this committee, which is the only body monitoring rights and freedoms, and committing to democracy, human rights, and freedoms.
- Regularly presenting reports to the Tunisian state in a participative approach based on dialogue with all parties concerned as a national institution aiming to enhance and safeguard human rights.
- Holding discussions with other committees, judicial and no-judicial, to ensure respecting the right to freedom of expression (The Paris Principles).
- Issuing recommendations to competent authorities, especially through suggesting amendments or reforms to laws, regulations and administrative practices, especially that these authorities are the ones sanctioning those who demand their rights. (The Paris Principles).

Executive branch:

- Adherence to international treaties on human rights, including freedom of expression, signed by Tunisia, binding it to protecting these rights for all citizens and residents without discrimination.
- Enhancing transparency and monitoring the work of security forces to ensure their commitment to the standards of human rights.
- No arbitrary restrictions on media and freedom of expression.

Legislative branch:

- The Committee of Rights and Freedoms in Assembly of the Representatives of the People must review the legislations and laws featuring vague and undefined phrases that limit freedom of expression.
- Involving the civil society and non-governmental organisations in legislative amendments in order to ensure the respect of human rights and to safeguard freedoms.

Civil society:

- Organising campaigns to raise awareness within society on rights and how to defend them.
- Standing together against the violations committed by the Tunisian authorities and defending the right to freedom of opinion and expression, which is one of the most important gains of the revolution.

Conclusion:

It is impossible to build a democratic state and a society that upholds human rights while the Tunisian authorities have been waging attacks on freedom of expression and attempting to silence all opposing voices through legal and judicial prosecutions since July 25, 2021. The number of cases related to freedom of expression has exceeded 40 cases since July 2021, targeting 2 trade unionists, 7 politicians, 11 activists, 6 lawyers, 10 journalists, and 11 citizens for expressing their opinions and demands in various manners and ranging from the political to the social. These Tunisians found themselves either in prison, or under investigation with charges varying between spreading rumours and misusing the internet, and insulting the head of state, which reflects the authorities' tendency to crack down on freedom of expression and possibly criminalising it altogether, in a regime that combines all powers and keeps on passing punitive legislations on freedom of expression.

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جمعية المساءلة الإجماعية
Social Accountability Association
من حقّي نساءك



نقاط
جمعية



**OBSERVATORY OF VIOLATIONS
OF THE FREEDOM OF OPINION
AND EXPRESSION**