

Status of Human Rights in Tunisia for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Tunisia (Tunisia) for the 41st session of the Universal Periodic Review.

Background

2. Tunisia is a country located in northern Africa with an estimated population of 11.8 million people¹. Tunisia is predominately Muslim, with 99% of the population identifying as Sunni Muslim, and less than 1% identifying as Christian, Jewish, Shia Muslim, or Baha'i². In its 2022 World Watch List, the human rights watch-dog organisation, Open Doors, listed Tunisia as the 35th worst place in the world for Christians to live, particularly Christians who convert from Islam³. In addition, according to a 2019 report by the Special Rapporteur on freedom of religion and belief,

there are direct and hidden forms of discrimination based on religion or belief in the country. . . . Moreover, incidents of social hostility in the form of harassment or pressure directed at converts, . . . were reported. Allegations maintained that harassment is also carried out by law enforcement officials, in violation of national laws⁴.

As a result, many of the minority Christians feel forced to live out their faith in private⁵.

3. Tunisia's previous review was held on 2 May 2017⁶. As a result of the review, Tunisia received 249 recommendations, 189 of which were supported by Tunisia⁷. One of the recommendations, which Tunisia supported, was that the government "[e]stablish an interreligious council to facilitate interreligious dialogue and harmony"⁸.

Legal Framework

4. Under Article 1 of the Constitution of Tunisia, "Tunisia is a free, independent, sovereign state; its religion is Islam, its language Arabic, and its system is republican"⁹. Article 6 of the Constitution enshrines protections for the freedom of religion:

Article 6

The state is the guardian of religion. It guarantees freedom of conscience and belief, the free exercise of religious practices and the neutrality of mosques and places of worship from all partisan instrumentalisation.

The state undertakes to disseminate the values of moderation and tolerance and the protection of the sacred, and the prohibition of all violations thereof. It undertakes equally to prohibit and fight against calls for Takfir and the incitement of violence and hatred¹⁰.

5. Article 226(2) of the Penal Code makes it a crime for anyone to “distribute, offer for sale, publicly display, or possess, with the intent to distribute, sell, display for the purpose of propaganda, tracts, bulletins, and fliers, whether of foreign origin or not, that are liable to cause harm to the public order or public morals” and that “any person found guilty of undermining public morals by intentionally disturbing other persons in a way that offends the sense of public decency”¹¹. This kind of language is concerning, because it is interpreted in a way that outlaws proselytising and categorizes sharing one’s faith as “offensive”.

6. Under Article 14(8) of the law No. 2015-26 of 7 August 2015, “Anyone who incriminates apostasy or calls for the criminalization of apostasy or incitement to hatred between races, religions and religious sects shall be considered guilty of a terrorist offense”¹².

7. Tunisia is also a party to the International Covenant on Civil and Political Rights (ICCPR) Article 18 of which states:

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice¹³.

8. Furthermore, Article 27 of the ICCPR states that:

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language¹⁴.

Societal Persecution

9. While the Constitution enshrines religious liberty protections for all citizens and the law forbids “incitement to religious hatred”, Christians still face discrimination and harassment by society. Christians who convert from Islam especially face discrimination from their employers or even their own family members. As a result, many Christians hide their faith and worship secretly to avoid social harassment. According to one report, “Tunisian Christians face discrimination and targeting that is often obscure and hidden to the public eye . . . It affects their day-to-day lives. Because of their Christian identities, many experience job insecurity, abandonment from family, friends and even fiancés; they are victims of verbal, mental and physical abuse”¹⁵. One Christian woman explained the pressure she and many others feel from society and even their family to keep their faith a secret:

Women face rejection by their family and society. They can be kept in house arrest by their families. Many are not allowed to go to church or meet with Christians. They face opposition when they want to marry a Christian man. Family puts a lot of pressure on them to follow all Muslim traditions and to renounce their faith in Jesus. Some women are sent away by their families, they had to be rescued by the church¹⁶.

10. For example, in October of 2020, a Christian woman in her 50s was beaten by her own brother for having a religious belief other than Islam¹⁷. When she tried to report the incident to the police, she was ignored¹⁸.

11. In March of 2020, a Christian family near the capital of Tunisia was harassed by their Muslim neighbours. One family member was dragged out of the home by their hair and repeatedly punched¹⁹. When the family tried to report the incident to the police, the police only questioned them about their Christian faith and did not seem to care about the attack²⁰. Even after the woman who was beaten submitted a medical charge to the police, the police only interrogated her about how she had obtained religious books and what church she attended²¹.

Government Persecution

12. There are also serious concerns with Tunisia’s Penal Code which prohibits activity that “causes harm to the public order or public morals”, which includes the distribution of fliers and bulletins. This type of vague law is used to target adherents to minority religions for simply distributing fliers and information about their particular religion or religious services. Christians in particular are targeted for sharing their religious belief that there is only one way to salvation and that is through belief in Jesus Christ and the one true God. Because Islam is the official religion of the State, these acts can and have been interpreted as causing “harm to the public order and public morals”²².

13. Even something as small as wearing a cross necklace has resulted in being harassed by the police²³. For example, on 25 June 2020 a Christian girl was arrested by police simply for wearing a cross necklace. Two hours following her arrest, she was released to her mother by police²⁴.

14. In February of 2020, four foreign Christians were arrested for violating Article 226(2) of the Penal Code²⁵. According to reports, the four Christians were arrested for handing out Christian symbols and publications²⁶. The individuals were traveling from town to town sharing

their faith with all who would listen²⁷.

15. On 29 May 2019, a café owner was arrested and convicted under this vague law simply for remaining open during Ramadan fasting hours²⁸. While it is not against the law for cafés to be open during these hours, he was arrested for violating public morals and sentenced to one month in prison and a fine of 300 dinars (US \$100)²⁹.

16. In an effort to promote greater religious tolerance in Tunisia, leaders of Muslim, Christian, and Bahai faith gathered along with a representative of the Ministry of Foreign Affairs to sign a jointly prepared “National Pact for Coexistence” in February of 2022³⁰. This pact expressed a set of shared values to promote social harmony³¹. According to the Baha’i Office of external affairs, “[t]he pact shows that we are united in our diversity and presents a refreshing view of our society, one that acknowledges a growing consciousness of our essential oneness”³². Furthermore, this pact recognises the importance of ending inflammatory rhetoric against different religions so that there can be greater societal respect for people belonging to different faiths³³. According to a spokesperson of this interfaith initiative, “Religious diversity enriches our society and provides wide scope for cooperation and coexistence”³⁴. The pact also expressed the import role women have within society. According to Baha’i Office of external affairs, “An important dimension of coexistence and a requirement for achieving a more peaceful society is the full participation of women in all spheres of life. We cannot achieve peace if half the population of our society is not recognized as equal to the other half”³⁵.

Conclusion

17. It is imperative that the government of Tunisia do more to protect the rights enshrined in its Constitution, including removing the vague criminal laws that have been used to criminalise proselytisation. Tunisia must uphold its responsibility to the ICCPR and protect the rights of everyone to practice their religion freely and peacefully without fear of being arrested or harassed. Additionally, it is imperative that the police properly investigate complaints filed by Christians who have been attacked because of their faith, so that these acts of violence do not occur with impunity. Furthermore, we urge the government to promote interfaith dialogue, such as the National Pact for Coexistence” in order to encourage greater religious harmony and freedom within Tunisia.

¹ Tunisia, THE WORLD FACTBOOK (14 Jul. 2021), available at <https://www.cia.gov/the-world-factbook/countries/tunisia/>.

² *Id.*

³ Tunisia, OPEN DOORS, available at <https://www.opendoorsusa.org/christian-persecution/world-watch-list/tunisia/>.

⁴ Report of the Special Rapporteur on Freedom of Religion and Belief, UNHRC (19 Apr. 2019), https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_58_Add.1.docx.

⁵ Tunisia, OPEN DOORS, *supra* note 3.

⁶ Universal Periodic Review – Tunisia, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/TNIndex.aspx>.

⁷ UPR of Tunisia Thematic List of Recommendations, UNHRC, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/TN/MatriceRecommendationsTunisia.docx>.

⁸ *Id.* at A/HRC/36/5 – Para. 125.

⁹ Constitution of Tunisia art 1, https://www.constituteproject.org/constitution/Tunisia_2014.pdf.

¹⁰ *Id.* at art. 6.

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- ¹¹ *Penal Code of Tunisia* art. 226 (2), https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_58_Add.1.docx (unofficial translation).
- ¹² Law No. 2015-26 of 7 August 2015 art. 14.8, https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_58_Add.1.docx (unofficial translation).
- ¹³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 18.
- ¹⁴ *Id.* art. 27.
- ¹⁵ Krizzia Reyes, *Christian Persecution in Tunisia Continues a Decade After the Revolution*, CHRISTIANITY DAILY (6 Mar. 2021), <https://www.christianitydaily.com/articles/11075/20210306/christian-persecution-in-tunisia-continues-a-decade-after-the-revolution.htm>.
- ¹⁶ *Tunisia*, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/tunisia/>.
- ¹⁷ Emily Wood, “*Dragged in the Street*”: *Christian Persecution in Tunisia Still Rampant Decade After Revolution*, THE CHRISTIAN POST (4 Mar. 2021), <https://www.christianpost.com/news/christian-persecution-in-tunisia-rampant-decade-after-revolution.html>.
- ¹⁸ *Id.*
- ¹⁹ *Id.*
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² *Contempt of Religion in North Africa: Repression of Minority of Minorities and Monopoly Interpretation of Religion*, THE TAHRIR INSTITUTE FOR MIDDLE EAST POLICY (2 Mar. 2021), <https://timep.org/commentary/analysis/contempt-of-religion-in-north-africa-repression-of-minorities-and-monopoly-on-interpretation-of-religion/>.
- ²³ Emily Wood, *supra* note 17.
- ²⁴ *Id.*
- ²⁵ Rim Hana, *Tunisia – Enfidha: Foreign Christians Arrested on Charges of Proselytizing*, TUNISE NUMERIQUE (18 Feb. 2020), <https://news-tunisia.tunisienumerique.com/tunisia-enfidha-foreign-christians-arrested-on-charges-of-proselytizing/>.
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ *Tunisia: Café Owner Jailed Over Ramadan Hours*, HUMAN RIGHTS WATCH (7 Jun. 2019), <https://www.hrw.org/news/2019/06/07/tunisia-cafe-owner-jailed-over-ramadan-hours>.
- ²⁹ *Id.*
- ³⁰ “*United In Our Diversity*” *Tunisian Faith Communities Sign Coexistence Pact*, EURASIA REVIEW (16 Mar. 2022), <https://www.eurasiareview.com/24022022-united-in-our-diversity-tunisian-faith-communities-sign-coexistence-pact/?fr=operanews>.
- ³¹ *Id.*
- ³² *Id.*
- ³³ *Id.*
- ³⁴ *Id.*
- ³⁵ *Id.*