



Republic of Tunisia
Joint Submission to the UN Universal Periodic Review
27th Session of the UPR Working Group

Submitted 6 October 2016

**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC**

And

The Movement of the Amazigh of Tunisia

**CIVICUS: World Alliance for Citizen
Participation**

Ms Ine Van Severen, Email:
ine.vanseveren@civicus.org

Ms Renate Bloem, Email:
renate.bloem@civicus.org

Tel: +41 22 733 3435
Web: www.civicus.org

The Movement of the Amazigh of Tunisia

Ms Meha Jouini, Email:
meha.jouini@gmail.com

1. (A) Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.
- 1.2 The Movement of the Amazigh of Tunisia is a group of human rights defenders of the Berber community in Tunisia, campaigning for the recognition of their right as indigenous people.
- 1.3 In this document, CIVICUS and Amazigh of Tunisia examine the Government of Tunisia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyze Tunisia's fulfillment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2012. To this end, we assess Tunisia's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.4 During the 2nd UPR cycle, the Government of Tunisia received twelve recommendations relating to the freedom of association, peaceful assembly, expression and the protection of Human Rights Defenders (HRDs). Of these recommendations, eleven were accepted and one was noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Tunisia has fully implemented three recommendations, partially implemented five recommendations and has not implemented three recommendations relating to the above freedoms. While the government has made significant strides in guaranteeing fundamental rights in the 2014 Constitution, the government has failed to effectively address certain restrictions on the above mentioned rights/ civic space since its last UPR examination, acute implementation gaps were found with regard to the freedom of expression and peaceful assembly, with certain restrictive pre-revolution laws still in place.
- 1.5 CIVICUS and Amazigh of Tunisia are deeply concerned by the legal and extra-legal restrictions that stifle the freedom of expression in the country, more specifically legal provisions that criminalise defamation, overbroad definitions in the anti-

terrorism legislation and the number of attacks against journalists and media workers.

1.6 CIVICUS and Amazigh of Tunisia are further alarmed by restrictive pre-revolution legislation that impedes the freedom of assembly.

- In Section B, CIVICUS and Amazigh of Tunisia examine Tunisia's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- In Section C, CIVICUS and Amazigh of Tunisia examine Tunisia's implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.
- In Section D, CIVICUS and Amazigh of Tunisia examine Tunisia's implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- In Section E, CIVICUS and Amazigh of Tunisia examine Tunisia's implementation of UPR recommendations and compliance with international human rights standards related to freedom of assembly.
- In Section F, CIVICUS and Amazigh of Tunisia make a number of recommendations to address the concerns listed.

2. (B) Freedom of association

2.1 During Tunisia's examination under the 2nd UPR cycle, the government received three recommendations on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). Among other recommendations, the government committed to ensuring the fundamental freedom of association into the new Constitution and to guarantee in law and in practice the freedom of association, in conformity with the ICCPR. Of the recommendations received, the government accepted all three recommendations. Two of these recommendations were fully implemented, while the recommendation to guarantee in law and in practice the freedom of association was partially implemented.

2.2 Article 35 of the 2014 Constitution guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Tunisia is a state party, also guarantees freedom of association. However, despite these commitments and the recent adoption of progressive legislation governing freedom of association, implementation gaps persist which prevents full realisation of this freedom. In addition, concerns persist regarding the

invocation of national security and anti-terrorism measures to unwarrantedly suspend and dissolve associations.

2.3 While decree-law 2011-88, adopted following Tunisia's 2011 pro-democracy civil uprising, creates an enabling legal framework governing the formation and operation of civil society organisations (CSOs), the State's failure to ensure full operationalisation of the law, coupled with extra-legal barriers, imposes barriers to the realisation of freedom of association, including¹:

- (1) Discretion endowed to the General Directorate of Associations which has enabled it to request prospective CSOs, specifically those working on citizenship promotion, fight against corruption, transparency and monitoring, to change their goals and mission.
- (2) The absence of regional directorates which leaves scores of associations outside the capital, Tunis, without direct access to the registration authority;
- (3) Undue delays in the registration of associations due to administrative hurdles such as the refusal of the Official Printing House to publish the announcement of an association's formation in the Official Gazette of Tunisia without an acknowledgement of receipt, in violation of article 11 of the decree-law 2011-88 which states that the announcement should be published 30 days after the prospective association sends its registered letter requesting its formation.²

2.4 Despite these laudable legislative advancements, we remain alarmed by the unwarranted invocation of the State's duty to preserve national security and combat terrorism to suspend and dissolve associations, in violation of article 33 of decree-law 2011-88, which dictates that associations may only be suspended or dissolved following a judicial decision.³ On 22 July 2014, after 15 soldiers were killed and more than 20 wounded in a terrorist attack on 16 July 2014 near Mount Chaambi, the government send suspension notices to more than 150 associations suspected of allegedly having ties to terrorists, in contravention of judicial safeguards of decree-law 2011-88. ⁴

2.5 In light of the above, there have been calls, from the government and some CSOs, to amend decree-law 2011-88 to protect genuine associations from groups that may

¹ Anwar Mnasri (September 2016). *Enabling Environment National Assessment of Civil Society in Tunisia*.

² Ibid.

³ Article 45 of the decree-law outlines a gradual approach: (1) a formal notice from the Government Secretary General to the association of the infraction, which gives the association 30 days to remedy the infractions; (2) a suspension of 30 days, decided by the Tribunal of First Instance of Tunis, at the request of the government and finally (3) the dissolution of the association by a decision of the same Tribunal if the infraction(s) were not remedied.

⁴ RFI (25 August 2014). *Tunisie: suspensions de 150 associations*. Accessed via:

<http://www.rfi.fr/emission/20140825-tunisie-suspensions-150-associations>; Tunisia Live (14 August 2014). *Tunisian Government Criticized Over Suspension of 150 Organizations*. Accessed via: <http://www.tunisia-live.net/2014/08/14/tunisian-government-criticized-over-suspension-of-150-organizations/>

have been used to support terrorism, but introducing national security and counterterrorism provisions into the decree-law on associations could lead to violations of the freedom of association as is provided for in Tunisia's 2014 Constitution and the ICCPR.

- 2.6** LGBTI organisations have been subject to various forms of harassment, including judicial harassment. On 4 January 2016, LGBTI organisation Shams, received a notice regarding its suspension for 30 days for allegedly violating article 16 of decree-law 2011-88, after a complaint was filed against the organisation by Attorney General, Kamel Hedhili. The complaint stated that Shams' activity of openly campaigning for LGBTI rights, the association was deviating from their statutes.⁵ On 23 February 2016, the Tunis First Instance Tribunal overturned the suspension order imposed against Shams.⁶

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** Under Tunisia's previous UPR examination, the government received one recommendation regarding the protection of human rights defenders, journalists and civil society representatives, which was not implemented.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to human rights defenders. The ICCPR further guarantees the freedoms of expression, association and peaceful assembly. Additionally, article 7 of decree-law 2011-88, states that "*the State shall make all necessary arrangements to guarantee that each person receives the protection of competent authorities against any violence, threat, vengeance actually or legally damaging, discrimination or pressure, or any other coercive measure as a result of the legal exercise of the above indicated rights by this decree*". However, in spite of these protections, human right defenders, especially those active in the field of LGBTI rights, have been subject to harassment and threats.⁷

⁵ Tunisia Live (7 January 2016). *Gay Rights Pressure Group Suspended for 30 Days*. Accessed via: <http://www.tunisia-live.net/2016/01/07/gay-rights-pressure-group-suspended-for-30-days/>; Al Huffington Post Maghreb (5 January 2016). *Tunisie: L'association Shams suspendue, des raisons politiques sont invoquées*. Accessed via http://www.huffpostmaghreb.com/2016/01/05/tunisie-shams-suspendue_n_8915426.html

⁶ Tunisia Live (25 February 2016). *Tunisian LGBT Association Shams has Suspension Dismissed on Appeal*. Accessed via: <http://tunisia-tn.com/tunisian-lgbt-association-shams-has-suspension-dismissed-on-appeal/>; Jeune Afrique (24 February 2016). *Tunisie: l'association de défense des droits des homosexuels, Shams, peut reprendre son activité*. Accessed via: <http://www.jeuneafrique.com/305121/societe/tunisie-lassociation-de-defense-droits-homosexuels-shams-reprendre-activite/>

⁷ CIVICUS (13 June 2016). *LGBT activists in Tunisia under Pressure*. Interview. Accessed via: <http://www.civicus.org/index.php/en/link-to-related-newsresources2/2435-lgbt-activists-in-tunisia-under-pressure>

- 3.3** Mr. Bouhdid Belhedi, an LGBTI activist, affiliated with the above mentioned LGBTI advocacy organisation, Shams, was physically attacked on 29 August 2016 in central Tunis by an unidentified attacker who was shouting homophobic slurs. Mr Belhedi was previously attacked on 27 April 2016, by a group of three men in Belhedi's hometown of Hammamet, and was further subject to death threats in response to an interview that he gave on Nesma TV in June 2015.⁸ The vice-president of Shams, Mr. Hedi Sahly, has also been subject to death threats. However, despite these threats and legitimate concern for Mr. Sahly's safety, his request for individual protection from the Ministry of Interior has been rejected.⁹
- 3.4** On several occasions, security forces have intimidated and harassed journalists for covering terrorist attacks or anti-government protests. In one episode, at least 5 journalists were physically assaulted on 6 June 2015 during the "winou el pétrole" protests, in Tunis, demanding government transparency in the management of natural resources.¹⁰ In addition, Nabil Ben Oueddou, journalist for *Ech Chourouk*, was physically attacked on 11 July 2014 by two police officers while covering a protest in Djerba in opposition to the reopening of a landfill. ¹¹ Several journalists, including Amira Mohamed of *Mosaïk FM* and Ramzi Hfaiedh of *Dubai TV*, were subject to unwarranted physical force by police officers while covering the direct aftermath of the 24 November 2015 terrorist attack in Tunis, in which 12 people were killed.¹² Security forces responsible for these assaults and harassment were not held to account.
- 3.5** National and international watchdog groups have also documented a worrying spate of attacks against journalists by state and non-state actors since Tunisia's last UPR examination. According to civil society group, the Tunis Center for Press Freedom,

⁸ Front Line Defenders (3 May 2016). *Physical attack against LGBTI rights defender Bouhdid Belhedi*. Urgent Appeal. Accessed via: <https://www.frontlinedefenders.org/en/case/physical-attacks-against-lgbti-rights-defender-bouhdid-belhedi>; Erasing 76 Crimes (31 August 2016). *Homophobic attack on LGBTI rights defender in Tunisia*. Accessed via: <https://76crimes.com/2016/08/31/homophobic-attack-on-lgbti-rights-defender-in-tunisia/>

⁹ Al Huffington Post Maghreb (12 December 2015). *Menacé de mort, Hedi Sahly, vice-président de l'association "Shams" a quitté la Tunisie (INTERVIEW)*. Accessed via: http://www.huffpostmaghreb.com/2015/12/12/tunisie-hedi-sahly-shams_n_8781174.html

¹⁰ Al Huffington Post Maghreb (8 June 2015). *Manif "Winou El Pétrole": Des organisations appelant a ouvrir une enquête sur l'agression de journalistes*. Accessed via:

http://www.huffpostmaghreb.com/2015/06/08/winou-el-petrole-journalistes_n_7535300.html?utm_hp_ref=maghreb; Reporters Sans Frontières (12 June 2015). *Nouvelles agressions de journalistes par les forces de l'ordre: quand les excuses ne suffisent plus!* Accessed via: <https://rsf.org/fr/actualites/nouvelles-agressions-de-journalistes-par-les-forces-de-lordre-quand-les-excuses-ne-suffisent-plus>

¹¹ Reporters Sans Frontières (17 July 2014). *Un journaliste d'Ech Chourouk violemment agressé par deux policiers à Djerba*. Accessed via: <https://rsf.org/fr/actualites/un-journaliste-dech-chourouk-violemment-agresse-par-deux-policiers-djerba>

¹² Al Huffington Post Maghreb (4 December 2015). *Tunisie: Des journalistes témoignent de la violence policière le jour de l'attentat de Tunis*. Accessed via: http://www.huffpostmaghreb.com/2015/12/04/violence-police-journalis_n_8718074.html

there were 277 reported attacks against journalists between October 2013 and September 2014.¹³ This trend has continued in 2015 with 26 separate incidences documented in April 2015 alone, affecting 51 media workers¹⁴ and 24 separate attacks, including verbal and physical attacks and judicial harassment, against a total of 31 journalists in March 2015 following the terrorist attack at the Bardo National Museum, in Tunis.¹⁵

4. (D) Freedom of expression, independence of the media and access to information

- 4.1 Under the 2nd UPR cycle, the Government of Tunisia received ten recommendations relating to freedom of expression and access to information. For example, the government pledged to guarantee the freedom of expression in the Constitution and to take measures to ensure that the national legislation affecting the realisation of freedom of expression is fully aligned with international human rights obligations. Of the recommendations received, nine were accepted and one was noted. Although the freedom of expression is guaranteed in the 2014 Constitution, the government did not take sufficient measures to fully implement the other recommendations.
- 4.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 31 of the 2014 Constitution of the Republic of Tunisia also guarantees the rights to freedom of opinion, thought, expression, information and publication and also guaranteeing that these rights shall not be subject to prior censorship. However, in policy and practice, a number of pre-revolution criminal laws and new anti-terrorism legislation continues to undermine the exercise of freedom of expression.
- 4.3 We welcome Tunisia signing the Arab Declaration on Media Freedom on 26 August 2016.¹⁶ The Declaration makes commitments to the principles of media freedom, independent journalism and the right to information, and sets out 16 principles in order to achieve the highest international standards of media freedom.
- 4.4 Several provisions of the 1968 Criminal Code unduly restrict freedom of expression, including the criminalisation of defamation. Articles 245 and 247 of the Criminal Code penalise defamation of an individual or state institutions with a prison

¹³ |Lepoint.tn (27 December 2014). *277 "violations" against journalists and media figures in Tunisia*. Accessed via: <http://www.lepointtn.com/ngo-decries-277-violations-against-journalists-and-media-figures-in-tunisia/>

¹⁴ The New Arab (18 May 2015). *Press freedom watchdog: Journalists in Tunisia under attack*. Accessed via: <https://www.alaraby.co.uk/english/news/2015/5/18/press-freedom-watchdog-journalists-in-tunisia-under-attack>

¹⁵ Centre de Tunis pour la Liberté de la Presse (March 2015). *Rapport sur les Violations commises sur la Presse Tunisienne au cours du Moi de Mars 2015*. Accessed via: <http://ctli.org/images/rapportfmars5.pdf>;

¹⁶ Tunisie14.tn (26 August 2016). *Signature de la déclaration sur la liberté de la presse dans le monde arabe*. Accessed via: http://tunisie14.tn/article/detail/signature-de-la-declaration-sur-la-liberte-de-la-presse-dans-le-monde-arabe/?utm_campaign=news&utm_medium=referral&utm_source=sidebar

sentence up to 6 months and a fine of 240 dinars (approximately 109 USD), while slander can be punished by a one year in prison and a fine of 240 dinars (articles 246 and 247). Additionally, under article 248 false allegations against members of an administrative or judicial authority is punishable by a prison sentence from 2 to 5 years and a fine of 720 dinars (approximately 327 USD). According to article 128, the attribution of illegal acts to a public official related to his or her function, without proving its veracity, is punishable by a prison sentence of two years and a fine of 120 dinars (approximately 109 USD). Additionally, article 91 of Tunisia's Code of Military Justice authorizes up to three years imprisonment for anyone who "*commits ... outrages against the flag or the army, offenses against the dignity, reputation or morale of the army, or acts to undermine military discipline, obedience and due respect to superiors or criticizes the action of military hierarchy or the military officers, offending their dignity.*" Finally, we also remain concerned by article 86 of the 2001 Telecommunication Code or Law 2001-1 of 15 January 2001¹⁷ which provides that "*anyone who intentionally causes harm to others or disturbs their quietude through public telecommunication networks is punishable by one-to-two year imprisonment*".

4.5 The above provisions on defamation and slander have been used to silence critical voices, including bloggers and journalists, despite the existence of provisions in decree-law 2011-115 of 2 November 2011, which only dictates fines for defamation.¹⁸ On 8 March 2013, blogger Olfa Riahi was charged under articles 245 and 128 of the Criminal Code and article 86 of the Telecommunication Code for publishing, in December 2012, information on abuse of public funds by the former Minister of Foreign Affairs Rafik Abdesslem.¹⁹ Moreover, on 2 September 2013, rappers "Weld El 15" or Alaa Yaakoubi and "Klay BBJ" were sentenced in absentia to one year and nine months on charges of insulting officials, violating good morals and defamation, under the Criminal Code. The charges relate to a song performed during the festival of Hammamet on 22 August 2013. While Weld El 15's sentence was reduced to a suspended six months prison sentence on appeal, in December 2013 he was re-sentenced to 4 months in prison.²⁰

4.6 Activist and blogger Yassine Ayari was tried on charges of defamation against military officers for criticising the Minister of Defence and other military personnel,

¹⁷ Amended by Law 2008-1 of 8 January 2008

¹⁸ Articles 54-59

¹⁹ Human Right Watch (20 Mars 2013). *Tunisie: Les lois criminalisant la diffamation devraient être abrogées*. Accessed via: <https://www.hrw.org/fr/news/2013/03/20/tunisie-les-lois-criminalisant-la-diffamation-devraient-etre-abrogees>; Tunisie Numerique (6 March 2013). *Tunisie-Affaire Sheratonon gate: Olfa Riahi convoquée devant le juge d'instruction comme accusée*. Accessed via: <http://www.tunisienumerique.com/tunisie-affaire-sheraton-gate-olfa-riahi-convoquee-devant-le-juge-d-instruction-comme-accusee/168297>

²⁰ Al Huffington Post Maghreb (2 September 2013). *Weld El 15 et Klay BBJ: Condamnation à un an et neuf mois de prison par contumace*. Accessed via: http://www.huffpostmaghreb.com/2013/09/02/weld-15-klay-bbj-prison_n_3854963.html; Al Huffington Post Maghreb (5 December 2013). *Weld El 15 condamné à 4 mois de prison ferme*. Accessed via: http://www.huffpostmaghreb.com/2013/12/05/weld-el-15_n_4389471.html

on Facebook. He was sentenced to one-year in prison in January 2015 by the Military Criminal Court for violating the Military Justice Code regarding defamation.²¹ Mr Ayari's sentence was reduced to 6 months on appeal and he was released after serving half of the sentence.

- 4.7** In addition to criminal defamation charges, the government has used anti-terrorism legislation to persecute bloggers and journalists. Nourredine Mbarki, the editor-in-chief of the online media outlet *Akher Khabar Online*, was charged on 8 July 2015 with complicity in an act of terrorism under article 18 of the 2003 Anti-Terrorism Law which carries a prison sentence from 5 to 12 years for publishing a photograph of a car transporting gunman, Seifeddine Rezgui, who killed 39 people in a terrorist attack at a beach in the city of Sousse.²² In August 2015, the government enacted a new anti-terrorism law - Organic Law 2015-26 of 7 August 2015 - on the combat against terrorism and money-laundering, replacing the 2003 anti-terrorism law, Law 2003-75 of 10 December 2003.
- 4.8** Article 32 of the 2014 Constitution guarantees “the freedom of information and the right of access to information and communication networks”. This right was operationalised through Organic Law 2016-22 dated 24 March 2016.

5. (E) Freedom of peaceful assembly

- 5.1** During Tunisia's examination under the 2nd UPR cycle, the government received seven recommendations on the right to freedom of peaceful assembly, which were all accepted by the Government of Tunisia. Among other recommendations, the government committed to ensuring that the freedom of peaceful assembly is to be guaranteed under the Constitution and to remove remnants of Ben Ali- era legal codes that stifle the freedom of assembly. Although two of these recommendations were fully implemented, the government has partially implemented three recommendations, and has not implemented two recommendations. The Government of Tunisia has failed to take appropriate measures to operationalise the freedom of assembly, as guaranteed in the 2014 Constitution.
- 5.2** Article 21 of the ICCPR guarantees the right to freedom of peaceful assembly. In addition, article 37 of the 2014 Constitution also guarantees the right to freedom of peaceful assembly. Additionally, article 5 (3) of the decree-law 2011-88 on associations explicitly states that associations have the right “to organise meetings,

²¹ Libération (6 January 2015). *Un blogueur tunisien accuse de diffamation contre des militaires maintenu en detention*. Accessed via: http://www.liberation.fr/planete/2015/01/06/un-blogueur-tunisien-accuse-de-diffamation-contre-des-militaires-maintenu-en-detention_1174739

²² Nessma TV (9 July 2015). *Le journaliste Nouredine Mbarki devant la justice pour “une affaire de terrorisme”*. Accessed via: <https://www.nessma.tv/fr/article/le-journaliste-nouredine-mbarki-devant-la-justice-pour-une-affaire-de-terrorisme-3972>

demonstrations, conferences, workshops, and all types of civil activities”. However, in practice peaceful assemblies, public meetings and rallies are still regulated under the restrictive Law 1969-4 of 24 January 1969. Additionally, the authorities have banned legitimate assemblies and demonstrations under the pretext of a State of Emergency, while there have been instances of excessive force by security forces to disperse peaceful protests on several occasions.

- 5.3** Law 1969-4 of 24 January 1969 restricts the fundamental right to peaceful assembly by unwarranted providing time and place restrictions on assemblies and demonstrations. Although the law officially establishes a *notification regime* for public gatherings and demonstrations, it also gives the administrative authorities the power to prohibit any demonstration that “is likely to disrupt public security or public order”²³ without being required to substantiate the grounds for the prohibition. Violation of the provisions of this law carries heavy penalties. Organisers of public meetings or assemblies are, according to article 23, liable to a prison sentence of 7 days to three months for violating article 2, namely organising a meeting without a prior declaration. Individuals who participate in an assembly that was not declared or that was forbidden can be subject to a fine of 12 to 120 dinars and a prison sentence of three months to one year.
- 5.4** The 1969 law further allows security officers to intervene to disperse a demonstration under the pretext of public order and disturbance of public security, allowing security personnel a gradual approach to disperse an assembly, including shooting as the ultimate step to disperse a crowd, as provided for in articles 21 and 22.
- 5.5** In May 2013 a proposed a draft law on the Freedom of Assembly, an initiative of the Ministry of Interior, was submitted to the Tunisian Parliament, in line with the political rights outlined in international human rights instruments such as the ICCPR. To date, the Bill has not been approved.
- 5.6** An issuance of a State of Emergency, based on decree-law 1978-50 of 26 January 1978, permits the authorities to suspend, ban and disperse gatherings, assemblies and strikes under Chapter 4. The State of Emergency has been invoked on several occasions, including for three months after the terrorist attacks in the city of Sousse on 4 July 2015 and after the terrorist attacks on 24 November 2015, which was extended several times until 21 July 2016.²⁴ A protest march planned for 12

²³ Articles 7 and 12

²⁴ Africa News (20 June 2016). *Tunisia extends state of emergency by another month*. Accessed via: <http://www.africanews.com/2016/06/20/tunisia-extends-state-of-emergency-by-another-month/>

September 2015 was banned by the authorities in line with the State of Emergency issued by the government. ²⁵

- 5.7 In some instances security forces have dispersed protests with excessive force. Police have forcefully dispersed crowds of protestors in three cities since 1 September 2015. These protests were organised against a proposed law on reconciliation, which would give immunity to state officials and allegedly corrupt businesspersons who operated under the President Ben Ali regime. ²⁶

6. (F) Recommendations to the Government of Tunisia

CIVICUS and Amazigh of Tunisia call on the Government of Tunisia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding freedom of association

- Strengthen the capacity of the Directorate of Associations, establish regional sections as to promote associative actions outside the capital.
- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- All civil society organizations which have been arbitrarily and unduly suspended should be immediately reinstated. Suspensions of CSOs should follow article 33 of decree-law 2011-88, which dictates that associations may only be suspended or dissolved following a judicial decision.

²⁵ Tunisie Numerique (8 September 2015). *Tunisie-Officiel: Le MI interdit la grande manifestation anti-réconciliation*. Accessed via: <http://www.tunisienumerique.com/tunisie-officiel-le-mi-interdit-la-grande-manifestation-anti-reconciliation/265719>

²⁶ Shems FM (6 September 2015). *Sfax: dispersion par la force d'une manifestation contre le projet de loi de réconciliation économique*. Accessed via: <http://www.shemsfm.net/fr/actualite/sfax-dispersion-par-la-force-d-une-manifestation-contre-le-projet-de-loi-de-reconciliation-economique-119419>

- Cease all harassment and intimidation, including judicial harassment, of associations that work on LGBTI rights. Additionally, orders should be issued to officials to desist from harassing LGBTI rights associations.

6.2 Regarding the protection of human rights defenders

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.
- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- All human rights defenders including, journalists and bloggers detained for exercising their fundamental rights to freedom of expression, association and assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- Senior government officials should publicly condemn instances of harassment and intimidation of civil society activists, journalists and organisations. Those responsible for these actions need to be held to account.
- The Government should systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists in accordance with Council resolution 27.31 of the Human Rights Council.

6.3 Regarding freedom of expression, independence of the media and access to information

- Ensure freedom of expression and media freedom by bringing national legislation into line with international standards. Repeal the provisions in the Criminal Code and the Code of Military Justice regarding the criminalisation of defamation and slander. Additionally, article 86 of the 2001 Telecommunication Code must be repealed.

- Ensure that journalists and writers may work freely and without fear of retribution, including judicial harassment, for expressing critical opinions or covering topics that the Government may find sensitive.
- Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.

6.4 Regarding freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- Law 1969-4 of 24 January 1969 should be repealed, and the draft law on Peaceful Assembly, as submitted to the Tunisian Parliament, should be considered in order to fully guarantee the constitutional right to freedom of assembly.
- Refrain from banning or restricting peaceful assemblies during a State of Emergency.
- All instances of excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.
- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Senior government officials should publically condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.

6.5 Regarding access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritize official visits with the: 1) Special Rapporteur on

the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

6.6 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organizations in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society actors.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.