

Monthly report, April 2020

“The health crisis should not turn into human rights crisis ”

Presentation:

During crises , of any kind , security , political or health, the authorities are trying to exploit the conditions to expand and try to destroy areas that were not under their control , and that is by using some ambiguous laws or by breaching what was clear from them or by creating “customary “rules without any written document and are decisions “dictated by urgent circumstances ” as warranted.

During the current Corona crisis , the authorities were clearly frustrated and did not have a clear legal vision, and its decisions were at first justified by the General Penal Law . Later, it was referred to decree 50 of 1978 regulating the state of emergency and then to the constitution and the law regulating communicable diseases.... Etc. Some individuals were obligated to home quarantine under decisions in house arrest, and public quarantine was announced according to the exceptional measures granted by the constitution to the President of the Republic. When the police witnessed public quarantine violations, they resorted to the decisions to reserve papers and cars without legal basis.

Later , the head of government issued a set of decrees, and was partially reversed in connection with the provision of financial penalties for violators of public quarantine and the violation of the night Golan ban.

The farmers complained about the detention of their vehicles and their papers during their intercity movements their moved crops to wholesale markets which remained open, and this was due to the ambiguity to the texts issued by the government regarding activities that will continue to work and are exempt from the public ban.

As noted , the powers of the authorities extended to many fields to challenge many rights and freedoms such as freedom of movement and the right to assembly... etc . This suggests the creation of legal frame works for the development of these controls, which must always be necessary and proportionate .

In another context , the organization has documented cases of security violence that has been inflicted on individuals by the police or inside prisons, and it indicates a kind of feeling by violators that " an opportunity exists " to commit attacks without entailing accountability , since everyone is preoccupied with the health crisis . It is the government's duty to be severe in this regard by issuing written instructions to law enforcement officials that the dignity of individuals should be respected and not subjected to violence or insult, and that violations of laws are required for administrative, criminal and civil accountability.

In fact, every time problems occur between the individuals and security agents the citizens assume automatically the responsibility and they are referred to the court on charges of digesting the side of a public official and it is the ready charge in all files . Many Human rights organizations including our organization had demanded that the misdemeanor be canceled from the penal Tunisian dictionary because it violates the principle of equality for everyone before the law and there is no difference between public officials and the general public as well as the research into these charges by the same alleged security team is considered as a violation of neutrality and judicial research principle.

The public prosecution should undertake the research whenever individuals oh this nature were charged .

Human Rights during the health crisis:

A united Nations expert said that states should not use the emergency state to make severe restrictions on the organization and peaceful assembly freedoms . As well as, he said that states and governments cannot solve the current health crisis alone.

The United Nations warned against making restrictions on the civil society that contribute in resisting a corona disease.

The civil society has a role in making common policies, publishing information, and providing the social support for fragile categories.

Whatever the limitations , the states should respect controls of legality, proportionality and necessity as well as the information transmission freedom is considered as a crucial matter during the crisis and every criminalizations entitled resisting “ fake News “ is unacceptable .It is not possible to place a complete stone on rights and freedoms and there is some exceptions which must be provided for syndicates , the social services and for media that covers the way of managing the crisis.

The United Nations private reporter who is responsible for the peaceful assembly and organization right presents a series of instructions for states and governments :

- Ensure that the measures taken by the government respect human rights .
- The current health crisis should not be a justification for Human rights violation.
- Not delaying democracy indefinitely .
- Ensure a participatory contribution for all parties in confronting the crisis.
- Ensure the peaceful assembly and organization freedom at the Nat level.
- Protection of freedom of assembly in the work place.
- Ensure the Expression freedom.
- Ensure the contribution of the civil society in the mixed bodies.
- The necessity of the international solidarity.

The violence against women during quarantine:

The Ministry of women and Family in Tunisia said that the media reported violence cases against women within the family has multiplied seven times.

-During a month of global quarantine because of a corona virus that appeared since 20th March 2020 by the authorities decision in the country compared to the notifications received by the Ministry's structures in normal times.

The Ministry said that the quarantine has increased the women suffering and there are listening centers for abused women and remote psychological support.

Psychology experts said that staying for a long time at home can lead to psychology weariness and control loss over the violent impulses of some as well as it leads to fear , panic and depression cases.

In light of this fragility suffered by women psychologically and socially , the state must assume the responsibility especially when the abused women turn to justice after their medically and psychologically pledge and enable them to make complaints with the judiciary and providing protection for them and for their children through removing the aggressor.

According to the Ministry , the public prosecution still accepting complaints and referral before a court and the suspension of action decree during quarantine does not apply to violence against women.

Security and prison violence cases:

During April 2020, the Tunisian organization against torture has documented security and prison violence cases against individuals as well as criminal charges were brought against them and they referred to court.

Security violence cases:

The case of the young man: Mohamed Amin .F:

On 8/9/2020 within 30'clock p.m. in tahrir city west of Tunis capital , there was a dispute between a police and a young man who was on street during the global quarantine .The dispute aggravated between the two parties and a number of the people of this city gathered in the place.

The young man Mohamed A min who is a student remained watching the scene and then left to spend some affairs as stated by his family.

On 13/4/2020 a police entered the family home and took Mohamed Amin at 8:30 A.m. after being tied up and when his family tried to inquire about this matter at the center of Tahrir city she did not give her any details .

On 15/4/2020 , Amin was referred to the public prosecution at the court of first instance in Tunisia which issued a decision to imprison him , during Amin family visit on 17/4/2020 in mornaguia prison Amin told his family that he was subjected to severe violence during his hearing by the police and he was obliged to sign the research records without having its contents and his rights and that he was accused of an assault on a public official and quarantine violation, as well as he told them that the retention center of bouchoucha did not accept him at first because of the violence effects that it was .

The security agents are forced to show him to a medical examination in Charles Nicole hospital in Tunisia and they received a medical certificate that was handed over to the detention center .

The family said that she witnessed the violence effects on A min during his visit to the prison including a head and neck injury and he now complained of pain in the ribs and breathing difficulty .

The prisoner's condition: S.B

Upon a visit to borj romi prison on 20/4/2020 the arrested person S B informed his family that he was subjected to a severe violation by prison forces in connection with an attempt to escape a prisoner , as he informed them.

The family said to the organization that S .was yellow-faced and injured at the level of his front teeth ,as well as , he informed then that he passed six days in a solitary confinement .

The condition of Kilani Saidani :

On 14/4/2020 the security agents visit Mr Kilani Saidani to ask about one of his sons according to the cur few violation, his brother and his father talked to them to inform them that he was not at home. Because of a dispute between the two parties Mr Kilani Saidani , his son and his son in law were subjected to a severe violence .

Mr Kilani Saidani was arrested and brought to the security center of “ La Goulette” by referring him to the public prosecution , he issued a prison deposit card and assigned him a session before a district court of carthage on 22/4/2020 and he was charged with assaulting an employee.

On the date of the session , Hassen the son of Mr Kilani was arrested and transferred to the public prosecution and he was released to refer with his arrested father to the same court , knowing that the case was delayed for a later session.

Case of Hajer Awedi:

The first instance court of kef sentenced the blogger Hajer Awedi to prison, postponed in prison, on charges of assaulting a public official and causing confusion and fussiness.

Hajer went with a relative to the security zone in Tajerwin to provide information about food monopoly in the region.

“The Tunisian organization against torture”