



GLOBAL **DETENTION** PROJECT

# **COUNTRY REPORT**

**IMMIGRATION DETENTION IN**

**TUNISIA: SHROUDED IN SECRECY**

*MARCH 2020*



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# THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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**Front cover image:** An aerial view of Ben Guardane Detention Centre © Global Detention Project

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## GLOSSARY

<b>CRT</b>	Tunisian Red Crescent ( <i>Croissant Rouge Tunisien</i> )
<b>FTDES</b>	Tunisian Forum for Economic and Social Rights ( <i>Forum Tunisien pour les Droits Economiques et Sociaux</i> )
<b>ICRC</b>	International Committee of the Red Cross
<b>IOM</b>	International Organisation for Migration
<b>NPM</b>	National Preventive Mechanism
<b>TRC</b>	Tunisian Red Crescent



## KEY ISSUES

- Unauthorised entry, stay, and exit are explicitly criminalised and sanctioned with prison and fines.
- Police indefinitely detain irregular migrants even though Tunisian law does not provide for administrative immigration-related detention.
- Access to information concerning immigration detention practices and facilities in Tunisia is extremely limited.
- There are reports of forced pushbacks of refugees and migrants from detention sites along the country's borders with Algeria and Libya.
- Although Tunisia has ratified both the 1951 Refugee Convention and its 1967 Protocol it still lacks a formal national asylum system, leaving refugees and asylum seekers vulnerable to protection gaps.
- Tunisia is the only country in North Africa that has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides important protections for detained migrants.
- Authorities have recently announced plans to open a “reception camp” for Libyan refugees, near Remada. However, observers are concerned that the facility will operate as a *de facto* detention facility.
- Although the country has taken measures to safeguard staff and inmates at the country's prisons in response to the Covid-19 pandemic, no such measures appear to have been deployed by the time of this publication with respect to people detained for immigration reasons.



## 1. INTRODUCTION<sup>1</sup>

Although Tunisia is the smallest country in North Africa, it has taken on an increasingly important role with respect to migration and refugee flows in the region, even as the overall numbers of people taking the Central Mediterranean migration route towards Europe have fallen.<sup>2</sup> In 2018, the numbers of “people of concern” to the UN High Commissioner for Refugees (UNHCR) nearly doubled, rising to more than 1,300 registered refugees and asylum seekers. By mid-2019, the number had almost doubled again, to some 2,500; the refugee agency expects this number to double again by the end of 2020, to 5,000.<sup>3</sup>

The country experiences mixed migration flows, which according to the International Organisation for Migration (IOM) are comprised of people “coming mainly from the Maghreb and from Sub-Saharan Africa whose aim is to reach Europe through irregular migration from the Tunisian coasts.”<sup>4</sup> The vast majority—more than 80 percent—of refugees and migrants arrive via Libya, according to UNHCR. Nearly 100 percent of those interviewed by the refugee agency during 2019 reported having suffered some form of violence or abuse.<sup>5</sup>

The Tunisian government’s responses to these pressures have drawn criticism both domestically and internationally. In early March 2020, as the country began limiting international travel into and out of the country in response to the Covid-19 pandemic, [video](#) emerged allegedly taken from inside the Al-Wardia immigration detention centre in Tunis that appears to document police violently removing sub-Saharan Africans from the facility as part of a forced deportation operation in the middle of the night. After the video went viral, activists denounced Tunisian authorities for seeking to abandon migrants in the desert.<sup>6</sup>

The intensifying conflict in Libya has spurred Tunisia to increase security along its land and sea borders and has led to concerns that it intends to cooperate with Turkey in its military intervention in the neighbouring country, which has reportedly sparked public demonstrations.<sup>7</sup> According to the Mixed Migration Centre, “In October [2019], more than 10 migrants were intercepted by the Tunisian National Guard at the Fériana border with Algeria,

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<sup>1</sup> The Global Detention Project would like to thank the Forum Tunisien pour les Droits Economiques et Sociaux (FTDES) for the comments and suggestions on an early draft of this report.

<sup>2</sup> Frontex, “Number of Irregular Crossings at Europe’s Borders at Lowest Level in 5 Years,” 1 April 2019, <https://bit.ly/2vTLmV6>

<sup>3</sup> UNHCR Global Focus, “Tunisia,” <http://reporting.unhcr.org/node/2529?y=2020>

<sup>4</sup> International Organisation for Migration (IOM), “Tunisia,” <https://www.iom.int/countries/tunisia>

<sup>5</sup> UNHCR Global Focus, “Tunisia,” <http://reporting.unhcr.org/node/2529?y=2020>

<sup>6</sup> AfroPlanete, “*Tunisie – Prison De Al Wardia: La Police Tente De Déporter De Force Des Prisonniers Subsahariens Dans Le Désert (Vidéo)*,” 3 March 2020, <https://bit.ly/3dxszQv>

<sup>7</sup> Asharq Al-Awsat, “Tunisia Ups Security along Libya Border as Protests Erupt over Turkish Meddling,” 29 December 2019, <https://bit.ly/2xuAYDq>

and in November, 20 sub-Saharan refugees and migrants were arrested in Tunisia for attempting to cross the Ben Guerdane border with Libya. Additionally, in November, the Tunisian National Guard arrested 33 Tunisians suspected of a projected sea-crossing attempt to Italy.”<sup>8</sup>

In early 2020, authorities announced plans to open a reception centre, “Bir al Fatnassiya” (also “Bir Fatnassia”), approximately 25 kilometres outside of Remada in Tataouine Governorate, supposedly to house refugees fleeing Libya.\* However, an expert from the Forum Tunisien pour les Droits Economiques et Sociaux (FTDES) told the Global Detention Project (GDP) that there are concerns that the facility will eventually operate as a *de facto* detention facility, especially in the context of escalating security procedures.<sup>9</sup> Various sources report that officials have provided little information about how the facility will operate or why it was built some 75km from the border.<sup>10</sup>

The recent developments in Tunisia follow a decade of upheavals in the country since the “Arab Spring.” The country’s 2011 revolution, which sparked the Arab Spring, led to rapid and dramatic changes in Tunisia’s migration situation: tens of thousands of Tunisian migrants departed for Europe while refugees fleeing war-torn Libya crossed into Tunisia.<sup>11</sup> Despite the adoption of important reforms since then, many of the socio-economic frustrations that fuelled the conflict have remained, prompting renewed increases in the numbers of Tunisians leaving the country.<sup>12</sup> In the meantime, evolving migratory pressures along the country’s borders have exacerbated long-simmering social problems and highlighted important gaps in protection for migrants and refugees in the country.

Although Tunisia is a signatory to the 1951 Refugee Convention and adopted a new constitution guaranteeing political asylum in January 2014, Tunisia does not have a formal asylum system. As of late 2019, it had yet to adopt a law on asylum and protection. The country has also failed to adopt broad reforms in its migration governance. Sub-Saharan African refugees and migrants continue to face endemic racism while existing legislation criminalising irregular entry, exit, and stay leaves vulnerable foreign nationals, including people fleeing violence and conflict in neighbouring Libya, susceptible to arrest and deportation.<sup>13</sup>

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\* The GDP originally stated that this camp is located at Remada Airport. This was corrected on 21 April 2020 - the facility is instead located some 25 kilometres outside of Remada.

<sup>8</sup> Mixed Migration Centre, “MMC North Africa: Quarter 4 2019,” December 2019, <http://www.mixedmigration.org/wp-content/uploads/2020/01/qmmu-na-q4-2019.pdf>

<sup>9</sup> Romdhane Ben Amour (FTDES), Telephone Interview with Izabella Majcher (GDP), 7 February 2020; Tunisian Forum for Economic and Social Research (FTDES), “A propos du projet de création d’un centre d’accueil pour les demandeurs d’asile ayant fui la détérioration de la situation sécuritaire en Libye à Bir El Fatnassiya,” 7 January 2020, <https://bit.ly/2Ss06So>; Athir Press, “A New Refugee Camp is Being Set Up in al-Fatnassiya in Barada, Which Raises Suspicion,” January 2020, <https://bit.ly/2UybKxv>

<sup>10</sup> Romdhane Ben Amour (FTDES), Telephone Interview with Izabella Majcher (GDP), 7 February 2020; Tunisian Forum for Economic and Social Research (FTDES), “A propos du projet de création d’un centre d’accueil pour les demandeurs d’asile ayant fui la détérioration de la situation sécuritaire en Libye à Bir El Fatnassiya,” 7 January 2020, <https://bit.ly/2Ss06So>; Athir Press, “A New Refugee Camp is Being Set Up in al-Fatnassiya in Barada, Which Raises Suspicion,” January 2020, <https://bit.ly/2UybKxv>

<sup>11</sup> P. Pangalos, “Tunisian Migrants Continue to Risk All for the Chance of a Better Life Outside the Country,” *Euronews*, 30 October 2018, <https://bit.ly/33L6fhA>

<sup>12</sup> L. Lixi, “After Revolution, Tunisian Migration Governance Has Changed. Has EU Policy?” *Migration Policy Institute*, 18 October 2018, <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy>; M. Herbert and M. Gallien, “What’s Behind the Dramatic Rise in Migrant Boats from Tunisia,” *Refugees Deeply*, 29 November 2017, <https://bit.ly/2JhCQm0>

<sup>13</sup> See, for example, Tunisian Forum for Economic and Social Research (FTDES), “Press Release: Two Shipwrecks in One Night: Tunisia Must Protect the Rights of Refugees,” <http://www.ftdes.net/en/node/85>  
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Long-standing fears about migrants and asylum seekers crossing the Mediterranean from Tunisian shores have prompted the European Union (EU) and individual European states to partner with the country in migration management deals, which include a 2014 EU-Tunisia “Mobility Partnership.” Tunisia, however, has at times proved a reluctant partner. While it has negotiated with the EU and member states over the readmission of Tunisian nationals, the country refused to back European proposals for “disembarkation” areas on the North African coast.<sup>14</sup> On the other hand, observers in Tunisia have expressed concerns that while the government officially continues to reject the disembarkation proposal, its rush to set up the “reception” camp in Bir Fatnassia is an “indirect” way of acquiescing to such a proposal.<sup>15</sup>

Nevertheless, Tunisia has a long history partnering with Europe. In 1998, Italy and Tunisia established an agreement on the readmission of Tunisians and third-country nationals that included Italian funding for the creation of detention centres (*centri di permanenza*) in the country. In 2012, an accelerated repatriation agreement signed between Italy and Tunisia curbed Tunisian emigration to the European Union (EU) by 92 percent.<sup>16</sup> The text of the agreement was not published, reflecting what observers say has been the failure since the 2011 revolution to break the tradition of secrecy surrounding detention centres for unauthorised migrants within the country.<sup>17</sup>

Over the last decade, various reports have indicated that Tunisia has used numerous detention sites for confining migrants and refugees.<sup>18</sup> However, only the Al-Wardia (or El

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<sup>14</sup> Adrià Rivera Escartin, “Populist challenges to EU foreign policy in the Southern Neighbourhood: an informal and illiberal Europeanisation?” *Journal of European Public Policy*, 8 Jan 2020, <https://www.tandfonline.com/doi/abs/10.1080/13501763.2020.1712459>

<sup>15</sup> Tunisian Forum for Economic and Social Research (FTDES), Comments on draft GDP Tunisia report, 19 March 2020.

<sup>16</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), “Annual Risk Analysis 2013,” April 2013, <http://frontex.europa.eu/publications/>

<sup>17</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>18</sup> See:

- International Committee of the Red Cross (ICRC), “Annual Report 2016 - Tunisia (Regional),” 23 May 2017, <https://www.refworld.org/docid/59490da515.html>
- L'Observatoire de l'Enfermement des Étrangers, “*Compte-rendu de la rencontre internationale: L'enfermement des étranger-e-s en Europe et au-delà: Quels horizons?*” 6 December 2013, <http://www.openaccessnow.eu/news/2014/fr-compte-rendu-de-la-rencontre-internationale-l-enfermement-des-etrange-e-s-en-europe-et-au-dela-quels-horizons/>
- Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>
- N. Benouaret, “300 harraga détenus dans des centres en Tunisie,” *El Watan*, 26 August 2010, [http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600\\_133.php](http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600_133.php)
- S. Ben Achour, “*Les libertés individuelles des étrangères et des étrangers en Tunisie: Les métèques de la République*”, *Association Tunisienne de Défense des Libertés Individuelles*, May 2019, [https://tn.boell.org/sites/default/files/les\\_meteques\\_de\\_la\\_republique.pdf](https://tn.boell.org/sites/default/files/les_meteques_de_la_republique.pdf)
- REACH, “*Dynamiques migratoires dans le sud de la Tunisie depuis septembre 2018 : réalités et besoins des personnes migrantes et réfugiées*”, September 2019, <https://bit.ly/2DEMYCs>
- N. Benouaret, “*Onze camps secrets d'enfermement de harrage en Tunisie*”, *Algeria-Watch*, 13 December 2009, <https://algeria-watch.org/?p=38030>

Ouardia) “reception and orientation centre” in Tunis and the recently re-opened facility in Ben Guerdane, in south-eastern Tunisia, appear to operate today. Researchers have struggled to verify operations at other facilities.<sup>19</sup> A researcher from the Italian NGO Association for Juridical Studies on Immigration (ASGI), which has investigated the situation in Tunisia, told the Global Detention Project, “No one could tell us where other facilities supposedly are or even confirm that they actually exist. We do not know of any migrant who has been in one of them.”<sup>20</sup>

Despite the lack of transparency surrounding immigration detention in Tunisia, the government that replaced the regime of President Ben Ali made some notable changes, including ending a 20-year ban on visits by human rights groups to the country’s prisons. However, visits to immigration detention facilities reportedly remain rare.<sup>21</sup> In addition, as of 2019, the country had still not ratified the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#), which provides important protections for detained migrants.

Faced with the Covid-19 crisis, the General Directorate of Prisons and Rehabilitation (“*Direction Générale des prisons et de la rééducation*”) announced several measures in mid-March 2020 to mitigate the risk of a Covid-19 outbreak within Tunisian criminal prisons, including sterilisation operations, the installation of thermal cameras, the creation of isolation cells, and undertaking full medical examinations of newly arrived prisoners.<sup>22</sup> However, at the time of this publication, similar measures do not appear to have been implemented for immigration detainees or at the facilities that confine them.

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<sup>19</sup> Tunisian Forum for Economic and Social Rights (FTDES), “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>20</sup> Alberto Pasquero (ASGI), Telephone conversation with Michael Flynn (GDP), October 2019.

<sup>21</sup> International Committee of the Red Cross (ICRC), “Tunisia: Improving Prison Conditions Operational Update,” 29 August 2012, <http://www.icrc.org/eng/resources/documents/update/2012/tunisia-update-2012-08-29.htm>; International Committee of the Red Cross (ICRC), “The ICRC Regional Delegation in Tunis: Activities in 2012 - Facts and Figures,” 28 March 2013, <http://www.icrc.org/eng/where-we-work/africa/tunisia/facts-figures-tunis-long.htm>

<sup>22</sup> Kapitalis, “*Coronavirus: Stérilisation et autres mesures preventives dans les prisons tunisiennes*”, 13 March 2020, <https://bit.ly/3alO5Wk>



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** Tunisian law does not contain specific provisions providing for administrative immigration or pre-removal detention.<sup>23</sup> However, unauthorised entry, stay, and exit are explicitly criminalised and sanctioned with prison and fines (see: 2.3 Criminalisation).<sup>24</sup>

Norms regulating the entry and stay of foreign nationals are provided in Organic Law 68-7 (8 March 1968), concerning the situation of foreigners; and Organic Law 1975-40 (14 May 1975), concerning passports and travel documents, which has been amended on numerous occasions (including by Organic Law 1998-77, Organic Law 2004-6, and Organic Law 1008-13). Additional relevant laws also include Order 1968-198 (22 June 1968) regulating the entry and stay of foreigners in Tunisia.

In February 2004, authorities introduced Law 2004-6, ostensibly to implement the [Protocol against the Smuggling of Migrants](#). However, the law not only criminalised human smuggling, it also penalised provision of assistance to irregular migrants, thus making civil society groups working to assist people seeking asylum vulnerable to prosecution.<sup>25</sup>

Tunisia adopted a new constitution in January 2014 ([Constitution of the Tunisian Republic](#)), which enshrined a number of relevant protections, such as laws regulating detention and the right to seek political asylum. According to Article 29, the length of detention must be defined by law, and detainees are to be guaranteed various safeguards against arbitrary detention. The constitution also guarantees the right for “every citizen” to leave the country (Article 24) and to return (Article 25). However, current legal provisions constrain this right and criminalise “irregular exit” and subsequent return of Tunisian nationals. Under the constitution, “International agreements approved and ratified by the Chamber of the People's Deputies shall be superior to laws but inferior to the Constitution (Article 20).” According to a UN human rights expert, this wording might threaten the application of international human rights treaties to which Tunisia is a party.<sup>26</sup>

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<sup>23</sup> Amor Boubakri (Tunis Center for Asylum and Migration), Reply to a Global Detention Project Questionnaire, November 2011.

<sup>24</sup> FTDES, “Unauthorized migration in the jurisprudence of the Tunisian penal judiciary,” 30 July 2019, <https://ftdes.net/unauthorized-migration-in-the-jurisprudence-of-the-tunisian-penal-judiciary/>

<sup>25</sup> V. Badalič, “Tunisia’s Role in the EU External Migration Policy: Crimmigration Law, Illegal Practices, and Their Impact on Human Rights,” *Journal of International Migration and Integration*, 20(1), February 2019, <https://link.springer.com/article/10.1007/s12134-018-0596-7>

<sup>26</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

**2.2 Grounds for detention.** There are no explicit legal grounds for administrative forms of immigration-related detention. Article 50 of Organic Law 1975-40 provides for the expulsion of foreigners who have been criminally prosecuted upon the completion of their prison sentences. However, this provision does not contain details about the expulsion procedure or guarantees for the deported person, implying that removals may be conducted summarily. According to officials, the most common reasons for detention at both Al-Wardia and Ben Guerdane during the first ten months of 2019 were: “stealthily crossing the border” (573 persons), “involvement in justice issues” (201 persons), “overstaying” (117 persons), and “falsification of official documents” (112 persons).<sup>27</sup>

**2.3 Criminalisation.** Tunisia explicitly criminalises irregular migration for both Tunisian nationals and foreigners.

Similar to other North African and Euro-Mediterranean countries (including [Algeria](#), [Egypt](#), [Morocco](#), and [Turkey](#)), Tunisian law provides penalties for the unauthorised exit of both nationals and non-nationals (including following “forced returns” from EU countries). However, the official procedure for detaining people apprehended while attempting unauthorised exit is reportedly unclear.<sup>28</sup>

Article 23 of Organic Law 68-7 provides for fines and imprisonment for up to a year for any non-national who enters or exits Tunisia without proper authorisation or documentation, or who overstays their visa or residence permit.

Article 34 of Organic Law 1975-40 as amended by Organic Law 2004-6 states that travellers—including Tunisian nationals—must enter or exit Tunisian territory at border crossing points designated by the Interior Ministry and the Finance Ministry (see also Article 4 of Organic Law 68-7). Any foreign national who violates these provisions can be expelled from the country and is subject to criminal sanctions provided in Organic Law 68-7. Article 34 of Organic Law 1975-40, provides for exceptions for situations covered by the [1951 Refugee Convention](#).

Article 24 of Organic Law 68-7 provides for fines and imprisonment of six months to three years for any foreigner using false documents or providing inaccurate information.

**2.4 Asylum seekers.** Tunisia has ratified both the 1951 Refugee Convention and its 1967 Protocol. Also, the country’s January 2014 Constitution guarantees a right to political asylum. However, the country has yet to adopt an asylum law, leaving the country without a protection framework. According to a 2019 report from the European Council on Foreign Relations, reforms in this area in Tunisia as well as in neighbouring Morocco “have reached an impasse, partly because these nations fear that the EU will label them as safe third countries and thereby make them responsible for the vast majority of asylum seekers in the region.”<sup>29</sup>

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<sup>27</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>28</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>29</sup> European Council on Foreign Relations, “All at sea: Europe’s Crisis of Solidarity on Migration,” October 2019, [https://www.ecfr.eu/publications/summary/all\\_at\\_sea\\_europes\\_crisis\\_of\\_solidarity\\_on\\_migration](https://www.ecfr.eu/publications/summary/all_at_sea_europes_crisis_of_solidarity_on_migration)

The lack of asylum legislation has long been an issue of concern. In 2016, the Committee on Enforced Disappearances (CED) recommended that Tunisia adopt a legal framework for asylum and "consider incorporating into domestic law an explicit prohibition against carrying out an expulsion, return, surrender or extradition where there are substantial grounds for believing that the person would be in danger of being subjected to enforced disappearance."<sup>30</sup>

In 2016, UNHCR reported that it had been supporting the Tunisian government to establish national regulations regarding asylum and refugee law.<sup>31</sup> Two years later, UNHCR was continuing to work with authorities, announcing "The national asylum law has reached its final preparation stage and was shared with the Prime Minister's Office in June 2016. UNHCR is advocating with the authorities to expedite the adoption process and have the law presented before Parliament."<sup>32</sup> As of late 2019, the status of the draft law remained unclear.

In the absence of a formal national asylum system, UNHCR conducts the registration of asylum seekers and refugee status determination. However, the government has simultaneously maintained obstacles blocking persons from lodging asylum claims,<sup>33</sup> including border pushbacks and the criminalisation of unauthorised entry (Organic Law 68-7, Article 23).<sup>34</sup> Moreover, according to FTDES, some detainees have complained of delays in the arrival of Borders and Aliens Service officers to take them to UNHCR to complete their registration and asylum applications.<sup>35</sup>

Previously, UNHCR housed people at its Choucha transit camp, which it established in 2011 on an arid strip of land between the town of Ben Guerdane and the border with [Libya](#). Although the camp was officially closed in 2013, hundreds of people whose asylum claims had been denied remained at the camp for years.<sup>36</sup> In mid-2017, Tunisian police cleared the remaining "several dozen men who had been living" in Choucha by force.<sup>37</sup>

The situation of sub-Saharan refugees in Tunisia is particularly acute. According to human rights groups, upon arrival in Tunisia, these refugees do not receive proper care and face endemic "anti-black racism."<sup>38</sup> A 2016 study found that Senegalese nationals were returned

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<sup>30</sup> UN Committee on Enforced Disappearances (CED), "Concluding Observations on the Report Submitted by Tunisia Under Article 29 (1) of the Convention, CED/C/TUN/CO/1," 25 May 2016, <https://bit.ly/218BZCR>

<sup>31</sup> UN High Commissioner for Refugees (UNHCR), "Tunisia: UNHCR Operational Update, January-June 2016," <https://bit.ly/2JhagRv>

<sup>32</sup> UN High Commissioner for Refugees (UNHCR), "UNHCR Tunisia Factsheet – March 2018," 31 March 2018, <https://reliefweb.int/report/tunisia/unhcr-tunisia-factsheet-march-2018>

<sup>33</sup> V. Badalič, "Tunisia's Role in the EU External Migration Policy: Crimmigration Law, Illegal Practices, and Their Impact on Human Rights," *Journal of International Migration and Integration*, 20(1), February 2019, <https://link.springer.com/article/10.1007/s12134-018-0596-7>

<sup>34</sup> V. Badalič, "Tunisia's Role in the EU External Migration Policy: Crimmigration Law, Illegal Practices, and Their Impact on Human Rights," *Journal of International Migration and Integration*, 20(1), February 2019, <https://link.springer.com/article/10.1007/s12134-018-0596-7>

<sup>35</sup> Tunisian Forum for Economic and Social Rights, "Migrants Placed in the Wardia Centre: Detained, then Deported or 'Forcibly' Returned," 2019.

<sup>36</sup> T. Lageman, "Life in Tunisia's Closed Refugee Camp: 'I Lost my Mind'," *Al Jazeera English*, 20 December 2016, <https://www.aljazeera.com/news/2016/10/life-tunisia-closed-refugee-camp-lost-mind-1610080813539.html>

<sup>37</sup> T. Lageman, "Refugees in Limbo ASfter Tunisia Shuts Desert Camp," *Al Jazeera English*, 16 July 2017, <https://bit.ly/3bnGA0Y>

<sup>38</sup> L. Harzalli, "Réfugiés subsahariens: Haro sur la Tunisie!" *Afrik.com*, 10 April 2013, <http://www.afrik.com/refugies-subsahariens-haro-sur-la-tunisie>

without the opportunity of applying for asylum; and people from Ghana, Cote d'Ivoire, and Djibouti were automatically refused permission by the Tunisian Red Crescent (*Croissant Rouge Tunisien*, CRT) to apply for asylum, although they were not “automatically repatriated.” The same study found that arrivals from Mali and Chad were referred by the CRT to UNHCR on a case-by-case basis. The study also found that people from other regions can face abuses.<sup>39</sup> Egyptians arriving irregularly in Tunisia were “automatically and immediately” returned to Egypt (funded by the IOM and the Egyptian government) without the opportunity to claim asylum, while Syrians were given *prima facie* status in line with effective UNHCR policy related to refugees displaced by the Syrian conflict.<sup>40</sup>

**2.5 Children.** Reports indicate child refugees and migrants are detained in Tunisia, in particular at the [Al-Wardia Reception and Orientation Centre](#).

Previously, observers have reported that children are separated from adult detainees at Al-Wardia.<sup>41</sup> The GDP, however, was not able to verify whether this remained the case as of early 2020. Unverified [video](#) taken from within the centre in late February 2020, which allegedly shows police aggressively attempting to remove sub-Saharan Africans from the facility as part of a forced clandestine deportation, appears to show detainees of varying ages rounded up in large groups.<sup>42</sup>

According to information provided by the administration of the Al-Wardia centre in 2019, 80 people under the age of 18 were detained in the centre during the first ten months of 2019.<sup>43</sup> Reportedly, children have also been amongst those forcibly expelled from the country. In 2019, FTDES reported the deportation of 36 Ivorian migrants across the border into Libya, amongst whom were three children. The group spent a week stranded in the Libyan desert with no food or water.<sup>44</sup> (For more on deportations, see: 3.3b Al Wardia (Ouardia.))

Following a 2012 visit to Tunisia, the Special Rapporteur on the Human Rights of Migrants reported that a minor who had been charged with crossing the border into Tunisia illegally was sentenced to nine days in prison, which he served in a juvenile facility, after which he was transferred to the Al-Wardia detention facility prior to deportation. While there, the minor was unable to contact his family and did not meet with consular authorities until he self-harmed in order to attract staff attention.<sup>45</sup> Responding to this case, the Special Rapporteur noted: “detention, as a measure of last resort, should never be applied in the case of minors, especially unaccompanied minors, who are particularly vulnerable and who should be

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<sup>39</sup> O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>40</sup> M. Janmyr, “Negotiating Protection in the Syrian Refugee Response,” *Middle East Institute*, 13 February 2018, <https://www.mei.edu/publications/negotiating-protection-syrian-refugee-response>

<sup>41</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR, A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>42</sup> AfroPlanete, “Tunisie – Prison De Al Wardia: La Police Tente De Déporter De Force Des Prisonniers Subsahariens Dans Le Désert (Vidéo),” 3 March 2020, <https://bit.ly/2xsdTRQ>

<sup>43</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>44</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>45</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR, A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

housed in shelters appropriate to their age. Moreover, irregular crossing of a border should not be a criminal offence, and a minor should never be criminalized for having crossed a border irregularly.”<sup>46</sup>

**2.6 Other vulnerable groups.** In 2016, Tunisia passed landmark anti-trafficking legislation (Organic Law 2016-61) providing for the creation of an anti-trafficking body designed to “enable victims especially women and children to speak out about these crimes and have access to justice.”<sup>47</sup> The law provides penalties of 10 years’ imprisonment and fines of 50,000 DT (approximately 17,500 USD) for crimes involving adult victims, and 15 years’ imprisonment and fines of between 50,000 and 100,000 TD (approximately 17,500 – 35,000 USD) for crimes involving child victims.<sup>48</sup> Prior to the introduction of this law, no formal procedures were in place to identify victims of trafficking—leaving such persons vulnerable to imprisonment and deportation if caught engaging in illegal activities under Tunisian law—or to prosecute and convict trafficking offenders.<sup>49</sup>

The 16-member Tunisian National Commission for the Fight against Human Trafficking was subsequently launched the following February with the attendance of government officials, parliamentarians, international experts, representatives of diplomatic missions and international organisations, the media, civil society, and academic bodies.<sup>50</sup>

In the years since, some studies suggest that while Tunisian authorities have not met adequate standards to actually eliminate human trafficking, they have “demonstrated increasing efforts” towards that end—including by prosecuting traffickers under the 2016 law.<sup>51</sup> The Tunisian government has also reportedly improved protection for victims of human trafficking, and identification of trafficking victims. In some cases, foreign trafficking victims have been granted temporary visas to remain in Tunisia (rather than return to potential risks back home) and the government has assisted foreign trafficking victims to obtain exemptions from paying overstaying fees.<sup>52</sup>

At the same time, Tunisian officials and other observers have warned about the growing risk of human trafficking in Tunisia—with the numbers of reported cases rising in recent years.<sup>53</sup> In its 2019 trafficking in persons report, the U.S. State Department also expressed concern

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<sup>46</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR, A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>47</sup> International Federation for Human Rights (FIDH), “Tunisia Legislates Against Trafficking in Persons (TiP),” 25 July 2016, <https://www.fidh.org/en/impacts/tunisia-legislates-against-trafficking-in-persons-tip>

<sup>48</sup> U.S. State Department, “2018 Trafficking in Persons Report - Tunisia,” 28 June 2018, <https://www.refworld.org/docid/5b3e0a51a.html>

<sup>49</sup> U.S. State Department, “2010 Trafficking in Persons Report,” 2010, <https://web.archive.org/web/20100704211414/http://www.state.gov/documents/organization/142984.pdf>

<sup>50</sup> Council of Europe, “Tunisia Launches its National Anti-Trafficking Authority,” 8-9 February 2017, <https://bit.ly/31tnQrE>

<sup>51</sup> U.S. State Department, “2018 Trafficking in Persons Report - Tunisia,” 28 June 2018, <https://www.refworld.org/docid/5b3e0a51a.html>

<sup>52</sup> U.S. State Department, “2018 Trafficking in Persons Report - Tunisia,” 28 June 2018, <https://www.refworld.org/docid/5b3e0a51a.html>

<sup>53</sup> InfoMigrants, “Alarming Figures on Human Trafficking in Tunisia,” 14 December 2018, <https://www.infomigrants.net/en/post/13915/alarming-figures-on-human-trafficking-in-tunisia>; InfoMigrants, “Report: Human Trafficking Cases on the Rise in Tunisia,” 25 January 2019, <https://www.infomigrants.net/en/post/14742/report-human-trafficking-cases-on-the-rise-in-tunisia>

regarding authorities' failure to provide sufficient training to security forces and border control in identifying potential victims of trafficking.<sup>54</sup>

**2.7 Length of detention.** Although Article 29 of the 2014 Constitution states that “periods of arrest and detention are to be defined by law,”<sup>55</sup> there are no specific provisions for administrative immigration-related detention in Tunisian law. It appears that non-citizens in an irregular situation can be held in custody for various lengths of time depending on their specific situation. During his visit to the country, the Special Rapporteur on the Human Rights of Migrants noted concerns about the length of detention in Tunisia and recommended that detention be limited to the minimum time necessary.<sup>56</sup>

In 2016, one researcher found that non-nationals detained for attempted irregular entry or exit to or from Tunisia were “automatically imprisoned for at least 15 days, and often a month.”<sup>57</sup> However, length of detention appeared to vary case by case.

Some observers have reported instances of people being detained for weeks for reasons related to their status. In a 2013 publication on human trafficking in Tunisia, the IOM reported that it had interviewed three men at the Al-Wardia Reception and Orientation Center in Tunis, who claimed to have been kept in detention for weeks. According to the report, “Two were from Pakistan and one from Cape Verde. The Pakistanis said they entered the Tunisian territory with a 15-day visa with a (fictional) work contract, both obtained for 800 dollars. They were held for several weeks and had no way to pay it back.”<sup>58</sup>

According to the UN Special Rapporteur on the Human Rights of Migrants, “many migrants are imprisoned in pre-trial detention for extensive periods, often up to a year, without even knowing the charges against them. During this period, migrant detainees are often not given access to a lawyer, are unable to make phone calls to family members and are not put in contact with their consular authorities. The Special Rapporteur then learned that often migrants are eventually released without charges, asked to pay a fine, and then deported.”<sup>59</sup> More recently, an NGO investigating the treatment of migrants in Tunisia found that deportees can be obliged to pay for their ticket home unless they accept IOM “assisted voluntary return,” in which case the fine is waived and the IOM covers the cost. A member of the NGO team quipped, “this practice calls into question whether the return should be considered ‘voluntary.’”<sup>60</sup>

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<sup>54</sup> U.S. State Department, “Trafficking in Persons Report, 2019,” June 2019, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>

<sup>55</sup> Constitute Project, “Tunisia’s Constitution of 2014,” [https://www.constituteproject.org/constitution/Tunisia\\_2014.pdf](https://www.constituteproject.org/constitution/Tunisia_2014.pdf)

<sup>56</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>57</sup> O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>58</sup> International Organisation for Migration and the Republic of Tunisia, “Baseline Study on Trafficking in Persons in Tunisia: Assessing the Scope and Manifestations,” 2013, <http://reliefweb.int/report/tunisia/baseline-study-trafficking-persons-tunisia-assessing-scope-and-manifestations>

<sup>59</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>60</sup> FTDES, “La résistance d’une dizaine de migrants bangladais face aux pressions qu’ils subissent pour quitter la Tunisie et retourner au Bangladesh,” 3 July 2019, <https://bit.ly/2wuRBz7>



**2.8 Procedural standards.** The January 2014 Constitution provides that every detained person has the right to information about the grounds for their detention and the right to legal assistance (Article 29). Article 30 also stipulates that detainees are to be able to communicate with relatives. In practice however, detainees are often not provided access to a lawyer, are not afforded a legal process justifying their detention, cannot phone family members, and are not put in contact with their consular authorities.<sup>61</sup>

The Al-Wardia facility has for years been criticised for operating without the provision of adequate procedural standards and observers have criticised authorities for detaining people without providing a legal basis for doing so. One researcher found in 2016 that those detained at Al-Wardia were “at no point ... informed of their rights,” while visits with detainees were at the “sole discretion of the National Guard,” meaning that visits—and therefore assistance—were both limited.<sup>62</sup>

Following his visit to Tunisia, the Special Rapporteur on the Human Rights of Migrants recommended that immigration detention always be justified and periodically reviewed by an independent tribunal.<sup>63</sup>

**2.9 Non-custodial measures (“alternatives to detention”).** As there are not explicit grounds for administrative immigration detention, there is no legal provision for “alternatives” to immigration detention. The Interior Ministry can assign a residence to foreigners under expulsion orders who are unable to leave Tunisia. Such persons must regularly report to the local police station or the National Guard until they can leave the country (Article 19 of Organic Law 68-7). Failure to arrive at a residence assigned by the Interior Ministry within the prescribed deadline, or leaving the residence without authorisation, can lead to prosecution and a prison sentence of up to three years (Article 27 of Organic Law 68-7). According to an agreement with the IOM, persons who wish to voluntarily return to their country of origin can have their penalties waived so that their exit from the country may be facilitated.<sup>64</sup> According to the IOM, it assisted 584 persons to return from Tunisia to their countries of origin in 2018.<sup>65</sup>

**2.10 Detaining authorities and institutions.** According to Organic Law 68-7, the Interior Ministry is responsible for designating the authorities in charge of expulsion orders (Article 20). Article 34 of Organic Law 1975-40 further provides that the police are in charge of expulsions. However, there are no legal regulations concerning custodial authorities.<sup>66</sup>

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<sup>61</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>62</sup> O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>63</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>64</sup> UN General Assembly, “Report of the Working Group on the Universal Periodic Review: Tunisia, Human Rights Council 36th Session, A/HRC/36/5,” 11 July 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/188/15/PDF/G1718815.pdf?OpenElement>

<sup>65</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>66</sup> Amor Boubakri (Tunis Center for Asylum and Migration). Response to Global Detention Project Questionnaire. Global Detention Project. November 2011.

The National Guard, a military force that is separate from the Tunisian military itself and which was originally founded under the supervision of the Interior Ministry in 1956, administers detention facilities such as Al-Wardia. The National Guard is also tasked with protecting borders and, as such, has been known to conduct immigration-related activities including detention and forcible deportations.<sup>67</sup>

In 2011-2012, a new migration post was created within the Social Affairs Ministry (*Secrétaire d'Etat auprès du ministre des Affaires sociales chargé de l'immigration*) with the reported aim of bringing all units of other ministries working on migration under its supervision.<sup>68</sup> The UN Special Rapporteur on the Human Rights of Migrants observed that “given the complex and multifaceted nature of migration policy, it will be important for the department to liaise with all other key actors within Government about the rights of non-citizens, particularly during this critical transitional period.”<sup>69</sup>

The Interior Ministry plays a key role in law enforcement and border management, including providing oversight of prisons and reception and orientation centres.<sup>70</sup> Sea rescue operations are conducted by the Tunisian Coastguard, which operates under the authority of the Defence Ministry. Intercepted migrants are subsequently passed over to local authorities and the Tunisian Red Crescent for processing, housing, and possible detention.<sup>71</sup>

**2.11 Domestic monitoring.** In 2013, Tunisia became the first country in the Middle East and North Africa region to create a National Preventive Mechanism (NPM). Having acceded to the [Optional Protocol to the Convention against Torture \(OPCAT\)](#) in June 2011, the country agreed to establish the [National Authority for the Prevention of Torture \(l'Instance Nationale de Prévention de la Torture, or INDP\)](#), a specialised and independent institution to perform the functions of a NPM. A representative from an international organisation with a presence in Tunisia confirmed for the GDP that the INDP is now well established and that it makes visits, including surprise visits, and has access to all detention sites including police stations.<sup>72</sup>

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<sup>67</sup> International Association of Gendarmeries and Police Forces with Military Status (FIEP), “Member Forces: Tunisian National Guard,” <http://www.fiep.org/member-forces/tunisian-national-guard/>; A. Sboui, “Des migrants expulsés à la frontière algérienne,” *Inkyfada*, 10 September 2015, <https://inkyfada.com/fr/2015/09/01/expulse-frontiere-migrant-algerie-ouardiya-tunisie/>

<sup>68</sup> Kapitalis, “Tunisie. Liste complète du gouvernement Hamadi Jebali, 16 December 2011,” <http://www.kapitalis.com/politique/7348-tunisie-liste-complete-du-gouvernement-hamadi-jebali.html>

<sup>69</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>70</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>71</sup> UN General Assembly, “National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Tunisia, Human Rights Council/Working Group on the Universal Periodic Review 27th Session, A/HRC/WG.6/TUN/1,” 20 February 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/038/08/PDF/G1703808.pdf?OpenElement>; O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>72</sup> Unnamed Source (international organisation), Correspondence with Michael Flynn (Global Detention Project), 29 November 2019.

[Organic Law N° 2013-43](#), which established the NPM, was published in the Official Gazette of Tunisia in October 2013. Negotiated in a participatory process involving experts from civil society and public administration, the draft law drew on international best practices. In a list of places of detention under Article 2, “immigrant centres” were also included.<sup>73</sup>

Prior to the creation of an NPM, the UN Special Rapporteur on the human rights of migrants had called for transparency in all places of migrant detention and access for independent monitors, including non-governmental organisations.<sup>74</sup> Following the Special Rapporteur’s comments, there were reports that the Justice Ministry had granted civil society groups access to prisons, with 24-hour advance notice, and that an order was adopted that would authorise civil society to visit all places of detention.<sup>75</sup>

Several NGOs and charities provide legal aid to refugees, asylum seekers, and migrants in Tunisia. While providing legal aid for foreign victims of torture in Tunisia, the Organisation Against Torture in Tunisia (*Organisation Contre la Torture en Tunisie*, OCTT or OMCT) reportedly enjoys “unfettered access without notice, to any institution of detention in the country,” thereby allowing the organisation to visit refugees and asylum seekers held in the Al-Wardia facility on the outskirts of Tunis.<sup>76</sup>

FTDES and the NGO [Land of Asylum \(Terre d’Asile\)](#) have also assisted detained non-nationals in the past but seemingly with less consistent access to detention facilities themselves.<sup>77</sup> *L’institut arabe pour les droits de l’homme* (Arab Institute for Human Rights) reportedly also provides legal assistance to refugees and asylum seekers.<sup>78</sup>

**2.12 International monitoring.** Following the 2011 ouster of President Ben Ali, Tunisia’s interim government ended a 20-year ban on visits by international human rights groups. In particular, the government permitted Human Rights Watch (HRW) to enter two prisons—Mornaguia and Bourj a-Roumi.<sup>79</sup> However, this opening was short-lived and there have been few recent reports of rights groups or media being granted access to detention facilities, including immigration detention centres, except on rare occasions—for instance, a 2013 visit by the IOM to complete a trafficking study.<sup>80</sup>

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<sup>73</sup> Association for the Prevention of Torture (APT), “Tunisia – OPCAT Situation,” 27 November 2013, [http://www.apr.ch/en/opcat\\_pages/opcat-situation-74/](http://www.apr.ch/en/opcat_pages/opcat-situation-74/)

<sup>74</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>75</sup> U.S. State Department, “Country Reports on Human Rights Practices for 2013: Tunisia,” 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>; Migreurop/OEE-France, OHCHR-Tunisia, Migreurop and l’Observatoire de l’Enfermement des Étrangers France, “*Compte-rendu de la rencontre internationale : L’enfermement des étranger-e-s en Europe et au-delà : Quels horizons?*” Open Access Now, 6 December 2013, <https://bit.ly/2xtPOdn>

<sup>76</sup> O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>77</sup> O. Tringham, “The Case for Legal Aid for Refugees in Tunisia,” *Rights in Exile*, 20 June 2016, <https://bit.ly/2Bq8HN2>

<sup>78</sup> Tunisian Forum for Economic and Social Research (FTDES), Comments on draft GDP Tunisia report, 19 March 2020.

<sup>79</sup> Human Rights Watch (HRW), “Tunisia: Prison Visit Ends 20-Year Ban,” 4 February 2011, <http://www.hrw.org/en/news/2011/02/04/tunisia-prison-visit-ends-20-year-ban>

<sup>80</sup> International Organisation for Migration and the Republic of Tunisia, “Baseline Study on Trafficking in Persons in Tunisia: Assessing the Scope and Manifestations,” 2013, <https://bit.ly/33XZSrD>

Before this opening, the only entity that had access to places of detention was the International Committee of the Red Cross (ICRC). In 2012, ICRC delegates visited 17,900 detainees during 66 visits to 27 places of detention, including “migrant-reception centres.” The agency reported that when visiting detainees, delegates devote special attention to minors, women, and foreign nationals and that visits to foreign detainees have provided an opportunity to put them in touch with their families at home or to inform their consular representatives of their situation. After each visit, ICRC delegates share their conclusions and recommendations with the authorities, which remain confidential.<sup>81</sup>

In June 2012, the UN Special Rapporteur on the Human Rights of Migrants was allowed to visit several places of migrant detention, including prisons, one “reception centre,” and Choucha Refugee Camp. He called for transparency in all places of migrant detention and access for independent monitors, including non-governmental organisations and UNHCR. He also urged the adoption of regulations concerning procedural safeguards and conditions of detention, called for the release of migrants who cannot pay for their own deportation, and recommended that unaccompanied minors and families with children are not detained.<sup>82</sup>

Importantly, Tunisia is the only country in North Africa that has not ratified the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#). The convention includes safeguards on immigration-related detention and expulsions, and convention reporting from neighbouring countries has often provided important documentation and accountability related to immigration detention facilities—often in countries that lack a culture of transparency. In 2017, Tunisian representatives reported to the Universal Periodic Review (UPR) that consultations were being held on the “potential ratification” of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, however as of late 2019 there had been no progress on this issue.<sup>83</sup>

**2.13 Transparency and access to information.** Tunisia provides little public information about its criminal and administrative detention policies for migrants. For instance, no mention of the Al-Wardia facility features on the Interior Ministry’s website—even in its list of institutions falling under its authority.<sup>84</sup> External monitoring and assistance appears to focus on penal detention in Tunisia and seems to ignore the detention of migrants.<sup>85</sup>

**2.14 Trends and statistics.** Although few statistics are available concerning detention in Tunisia, in 2019 Al-Wardia’s administration reported that some 1,050 people were detained

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<sup>81</sup> International Committee of the Red Cross (ICRC), “Tunisia: Improving Prison Conditions Operational Update,” 29 August 2012, <http://www.icrc.org/eng/resources/documents/update/2012/tunisia-update-2012-08-29.htm>; International Committee of the Red Cross (ICRC), “The ICRC Regional Delegation in Tunis: Activities in 2012 - Facts and Figures,” 28 March 2013, <http://www.icrc.org/eng/where-we-work/africa/tunisia/facts-figures-tunis-long.htm>

<sup>82</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>83</sup> UN General Assembly, “Report of the Working Group on the Universal Periodic Review: Tunisia, A/HRC/36/5,” 11 July 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/188/15/PDF/G1718815.pdf?OpenElement>

<sup>84</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>85</sup> Centre pour le contrôle démocratique des forces armées – Genève (DCAF), “*Guide pratique - Contrôle des lieux de détention en Tunisie par des organismes nationaux*,” 2014, [https://www.dcaf.ch/sites/default/files/publications/documents/documentfr\\_10177.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/documentfr_10177.pdf)

in Al-Wardia and Ben Guerdane detention centres during the first ten months of 2019.<sup>86</sup> The most common nationalities were Algerian (36.19 percent), Sudanese (16.16 percent), and Ivorian (14.45 percent).<sup>87</sup>

**2.15 Externalisation, readmission, and third-country agreements.** Tunisia has signed bilateral agreements linked to readmission with several European countries, including [France](#) (2009), [Italy](#) (1998, 2011), and [Switzerland](#) (2012).<sup>88</sup> The 1998 agreement with Italy set conditions for the readmission of Tunisian and third-country nationals and included Italian funding for the creation of detention centres (*centri di accoglienza/permanenza*) in Tunisia (according to Legislative Decree 19.10.1998 n°280).<sup>89</sup>

In April 2011, Italy and Tunisia signed an “accelerated repatriation agreement” aimed at curbing a sharp spike in emigration after the uprising in Tunisia. While the agreement itself has remained confidential, media reports indicate that it included temporary residency permits for Tunisian nationals who had already arrived in Italy, accelerated direct repatriation for newly arriving Tunisian nationals, and increased cooperation between Italian and Tunisian police.<sup>90</sup>

In the years since, Tunisia has enhanced migration management cooperation with the EU and EU member states—but has also rejected EU plans for future partnerships with North African countries. According to one researcher, relations between the two sides “have long been transactional, with European financing and assistance offered in exchange for promises by the Tunisian government to keep unauthorised migrants from leaving its ports.”<sup>91</sup> That transactional relationship has its limits, though.

On 3 March 2014, Tunisia signed a [Mobility Partnership](#) agreement with the EU and 10 EU members ([Belgium](#), [Denmark](#), [Germany](#), [Spain](#), [France](#), [Italy](#), [Poland](#), [Portugal](#), [Sweden](#), and [the United Kingdom](#)). This agreement could pave the way for a fully-fledged readmission agreement. Ultimately, when a readmission agreement is signed, foreigners who have transited through Tunisia prior to entering EU territory are likely to be placed in detention if sent back to Tunisia, as happens in other countries with whom the EU has established such agreements—including [Ukraine](#) and [Turkey](#). Irregular entry and exit remain criminalised, including for Tunisian nationals. If forcibly returned to their country by EU members states, Tunisian nationals can be charged with “irregular” exit and placed in

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<sup>86</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>87</sup> Tunisian Forum for Economic and Social Rights, “Migrants Placed in the Wardia Centre: Detained, then Deported or ‘Forcibly’ Returned,” 2019.

<sup>88</sup> Return Migration and Development Platform (RDP), “Tunisia’s Bilateral Agreements linked to Readmission,” *European University Institute. Robert Schuman Centre for Advanced Studies*, April 2014, <http://rsc.eui.eu/RDP/research/analyses/ra/Tunisie/>

<sup>89</sup> F. Vassalo Paleologo, “Come far esplodere l'emergenza Lampedusa e violare lo stato di diritto,” *Progetto Melting Pot Europa*, 26 January 2009, <http://www.meltingpot.org/Accordi-di-riammissione-Maroni-in-Tunisia.html#.U2C5KnfDUSg>

<sup>90</sup> N. Frenzen, “Italy-Tunisia Reach Migration Agreement: 6 Month Residency Permits for Tunisians Already in Italy; Accelerated Return Procedures for Newly Arriving Tunisians,” *Migrants at Sea*, 6 April 2011, <http://migrantsatsea.org/2011/04/06/italy-tunisia-reach-migration-agreement-6-month-residency-permits-for-tunisians-already-in-italy-accelerated-return-procedures-for-newly-arriving-tunisians/>

<sup>91</sup> L. Lixi, “After Revolution, Tunisian Migration Governance Has Changed. Has EU Policy?” *Migration Policy Institute*, 18 October 2018, <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy>

detention in violation of the right of any person to leave his or her own country.<sup>92</sup> (However one researcher has commented that, although Tunisian legislation criminalises irregular migration and treats it as a “very serious offence,” in practice “most Tunisians apprehended while attempting to depart are soon let go.”<sup>93</sup>)

However, until today there have been few “concrete” results from this agreement.<sup>94</sup> For example, as well as paving the way towards a readmission agreement, it foresaw Tunisia’s cooperation with EU agencies through the 2013 maritime surveillance programme, “Seahorse Mediterraneo,” developed in collaboration with Spain, Italy, France, Malta, Portugal, Cyprus, Greece, and Libya. Algeria, Tunisia, and Egypt were meanwhile also expected to sign on.<sup>95</sup> However, according to the European Commission in 2014, despite “outstanding” negotiations with Egypt, Libya, Tunisia, and Morocco, “attempts to launch such negotiations have been in vain.”<sup>96</sup>

The Mobility Partnership agreement triggered a barrage of criticism. Tunisian civil society organisations and European and international human rights networks denounced the lack of transparency in the negotiation process. They warned that with irregular migration criminalised and no asylum legislation, the agreement puts states at risk of violating international commitments and breaching fundamental rights, in particular the principle of *non-refoulement*, the right to seek asylum as well as the right to leave a country, including one’s own.<sup>97</sup>

In France, which hosts half of the total 1.2 million Tunisians living abroad,<sup>98</sup> a joint action by French and France-based Tunisian civil society organisations, the French *Syndicat de la Magistrature* (a judges’ trade union), and seven political parties denounced the EU’s “intense pressure and economic assistance blackmail” against the Tunisian government and policies

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<sup>92</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>93</sup> L. Lixi, “After Revolution, Tunisian Migration Governance Has Changed. Has EU Policy?” *Migration Policy Institute*, 18 October 2018, <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy>

<sup>94</sup> L. Lixi, “After Revolution, Tunisian Migration Governance Has Changed. Has EU Policy?” *Migration Policy Institute*, 18 October 2018, <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy>

<sup>95</sup> Euro-Mediterranean Human Rights Network (EMHRN), “The SEAHORSE MEDITERRANEO Maritime Surveillance Programme,” *Euro-Mediterranean Human Rights Network*, 27 September 2013, <http://www.euromedrights.org/eng/2013/09/27/the-seahorse-mediterraneo-maritime-surveillance-programme/>

<sup>96</sup> European Commission (EC), “Report on the Implementation of the Global Approach to Migration and Mobility 2012-2013, European Commission. COM(2014) 96 final,” 21 February 2014, [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/index_en.htm)

<sup>97</sup> Tunisian General Labour Union (UGTT), Tunisian League for Human Rights (LTDH), Tunisian Forum for Economic and Social Rights (FTDES), Tunisian Association for Democratic Women (TADW), Coordination of the Forum for Tunisian Immigration (FTCR – ADTF- UTIT – AIDDA – COLLECTIF 3C – UTAC – ZEMBRA – ATNF – ATML – FILIGRANES – ACDR – UTS – CAPMED – CFT – YOUNGA), Euro-Mediterranean Human Rights Network (EMHRN), European Association for the Defense of Human Rights (AEDH), International Federation for Human Rights (FIDH), Migreurop, Solidar (UGTT et al.), “Tunisia-EU Mobility Partnership,” *Euro-Mediterranean Human Rights Network*, 17 March 2014, <http://www.euromedrights.org/eng/2014/03/17/tunisia-eu-mobility-partnership/>

<sup>98</sup> Office des Tunisiens à l’étranger (OTE), “Répartition de la Communauté tunisienne à l’étranger,” *République Tunisienne Ministère des Affaires Sociales, Secrétariat d’Etat aux Migrations et aux Tunisiens à l’Etranger*, 2012, <http://www.ote.nat.tn/index.php?id=78>

that strengthen fortress Europe through a buffer zone of neighbouring countries.<sup>99</sup>

The EU would later publicly recognise “concerns expressed by the Tunisian civil society” and “reiterated its commitment to respond in a responsible, comprehensive and balanced way to all aspects of migration, without security obsession, while providing a coordinated framework of cooperation with ten Member States which are committed alongside Tunisia to making this partnership a success.”<sup>100</sup>

Tunisia has engaged EU member states in similar migration management cooperation mechanisms. In early 2017, Tunisian President Beji Caid Essebsi announced a deal with the German government that would allow Germany to expedite the deportation of rejected asylum seekers from Tunisia.<sup>101</sup> The announcement came as part of a two-day visit by German Chancellor Angela Merkel to engage North African countries on issues of security and migration.<sup>102</sup>

However, despite burgeoning signs of cooperation with Europe, Tunisia has not become a close EU migration partner in the way that Libya or Egypt have. Indeed, in 2018 Tunisian officials, along with those of neighbouring countries including Algeria and Egypt, flat-out rejected EU proposals for “disembarkation” sites on the North African coast. These so-called disembarkation centres, designed for holding and processing refugees, asylum seekers, and migrants, reflect a longstanding proposal among EU policymakers that some observers suggest lacks realism and political backing in North Africa.<sup>103</sup> Tunisia, for one, pushed back against the idea,<sup>104</sup> while the African Union reportedly strove to discourage any coastal states from cooperating, warning that such centres would soon become “de facto detention centres.”<sup>105</sup> Indicative of this was a July 2018 stand-off between several Euro-Mediterranean countries, all of whom passed on responsibility for a boat of migrants rescued in a search-

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<sup>99</sup> Ailes Femmes du Maroc, Assemblée Citoyenne des Originaires de Turquie (ACORT), Association Femmes Plurielles, AIDDA, Association des Travailleurs Maghrébins de France (ATMF), Association des Marocains en France (AMF), Association Démocratique des Tunisiens en France (ADTF), Association des Tunisiens en France (ATF), Attac, CGT, Cedetim-IPAM, Centre d'information inter-peuples (CIIP Grenoble), Cimade, Collectif de soutien aux réfugiés algériens, FSU, Fédération des Tunisiens pour une Citoyenneté des deux Rives (FTCR), Gisti, LDH, MRAP, Réseau Euro-Méditerranée des Droits de l'Homme (REMDH), Réseau Euro Maghrébin Citoyenneté et Culture (REMCC), Union des Travailleurs Immigrés Tunisiens (UTIT), Solidaires, Syndicat de la Magistrature, Alternative Libertaire, Europe Ecologie Les Verts, NPA, Front de Gauche: Ensemble, PCF, PCOF, Parti de Gauche, “*Non aux accords de gestion concertée de l’immigration imposés par l’Union Européenne aux pays limitrophes de l’UE*,” Groupe de soutien et d’information aux immigrés (GISTI) 6 March 2014, <http://www.gisti.org/spip.php?article3424>

<sup>100</sup> EuroMed Portal, “EU-Tunisia: Political Agreement Towards a Privileged Partnership,” *European Neighbourhood Info Centre*, 15 April 2014, <http://www.enpi-info.eu/medportal/news/latest/36920/EU-Tunisia:-political-agreement-towards-a-Privileged-Partnership>

<sup>101</sup> Deutsche Welle, “New Tunisian-German Immigration Deal Trades Aid for Speedier Deportation,” 3 March 2017, <https://www.dw.com/en/new-tunisian-german-immigration-deal-trades-aid-for-speedier-deportation/a-37798162>

<sup>102</sup> Deutsche Welle, “Chancellor Merkel Begins Visit to Egypt to Curb Migrant Flow,” 2 March 2017, <https://www.dw.com/en/chancellor-merkel-begins-visit-to-egypt-to-curb-migrant-flow/a-37775414>

<sup>103</sup> J. Rankin and J. Henley, “EU to Consider Plans for Migrant Processing Centres in North Africa,” *The Guardian*, 19 June 2018, <https://www.theguardian.com/world/2018/jun/19/eu-migrant-processing-centres-north-africa-refugees>

<sup>104</sup> Tunis Webdo, “*Khemaïes Jhinaoui insiste: 'La Tunisie n'abritera jamais de camps de migrants'*,” 28 June 2018, <https://bit.ly/2wqmC3i>

<sup>105</sup> D. Boffey, “African Union Seeks to Kill EU Plan to Process Migrants in Africa,” *The Guardian*, 24 February 2019, <https://www.theguardian.com/world/2019/feb/24/african-union-seeks-to-kill-eu-plan-to-process-migrants-in-africa>

and-rescue area of the Mediterranean. According to one researcher, Tunisia's attempts to not accept the migrants was an "effort to drive this point home to the European Union and push back against the perception that it could be a safe place to disembark intercepted migrants."<sup>106</sup>

In September 2018, the controversial Italian Interior Minister Matteo Salvini visited Tunisia to try and craft an agreement to repatriate migrants. Salvini, who later was pushed out of the government, had previously announced that Italy would grant one billion USD of economic assistance to Tunisia, Morocco, and Algeria to help curb irregular migration.<sup>107</sup>

**2.16 External sources of funding or assistance.** Under the EU European Neighbourhood Instrument (ENI), assistance to Tunisia has steadily increased in recent years, and between 2017 and 2020, the country has received an average of 300 million EUR per year.<sup>108</sup> (However, the Global Detention Project has been unable to find publicly available information on the amount of aid apportioned to migration-related spending.) Meanwhile, under the [EU Emergency Trust Fund for Africa](#), Tunisia has received some 12.8 million EUR—specifically, these funds have supported the "ProGreS Migration Tunisie" project, which is working to "strengthen migration governance and develop socio-economic opportunities for potential migrants."<sup>109</sup>

The 1998 readmission agreement with Italy included 500 million lira (approximately 258,000 EUR) expressly for the creation of migrant detention facilities in Tunisia (*centri di permanenza*) for persons readmitted under the agreement (*Scambio di Note tra l'Italia e la Tunisia concernente l'ingresso e la riammissione delle persone in posizione irregolare*, Roma, 6 agosto 1998). According to one Italian academic, since this agreement was established, Tunisia has established many "forced detention" centres, well beyond the modest contribution initially announced by the Italian government.<sup>110</sup>

Under the 2011 Italy-Tunisia readmission agreement, Italy was to provide ten new and refurbished patrol boats and one hundred off-road vehicles to Tunisia.<sup>111</sup> According to Frontex in 2012, the Italian Interior Ministry gave Tunisia patrol boats to "support the fight against clandestine Migration from Tunisia to Italy."<sup>112</sup>

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<sup>106</sup> L. Lixi, "After Revolution, Tunisian Migration Governance Has Changed. Has EU Policy?" *Migration Policy Institute*, 18 October 2018, <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy>

<sup>107</sup> Tunis Webdo, "Pour stopper le flux des migrants, l'Italie accordera un milliard de dollars à la Tunisie, le Maroc et l'Algérie," 3 August 2018, <https://bit.ly/2QqmJ8a>

<sup>108</sup> European Commission, "European Neighbourhood Policy and Enlargement Negotiations: Tunisia," 17 December 2019, [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/tunisia\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/tunisia_en)

<sup>109</sup> EU Neighbours, "Tunisia: EU-Funded Migration Management Project Holds First Steering Committee Meeting," 26 April 2018, <https://bit.ly/2vPgBk0>; European Commission, "EU Emergency Trust Fund for Africa: Tunisia," [https://ec.europa.eu/trustfundforafrica/region/north-africa/tunisia\\_en](https://ec.europa.eu/trustfundforafrica/region/north-africa/tunisia_en)

<sup>110</sup> F. Vassalo Paleologo, "Come far esplodere l'emergenza Lampedusa e violare lo stato di diritto," *Progetto Melting Pot Europa*, 26 January 2009, <http://www.meltingpot.org/Accordi-di-riammissione-Maroni-in-Tunisia.html#.U2C5KnfDUSg>

<sup>111</sup> M. Tazzioli, "Cronologia degli accordi Italia-Tunisia (a cura di Martina Tazzioli, dicembre 2011)," *Storie migrant*, December 2011, <http://www.storiemigranti.org/spip.php?article1004>

<sup>112</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), "Annual Risk Analysis 2013," April 2013, <http://frontex.europa.eu/publications/>





### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Human rights advocates and media sources have claimed that Tunisia has operated up to a dozen immigration detention facilities for refugees, asylum seekers, and migrants.<sup>113</sup> In 2009, the non-governmental network Migreurop and the independent Algerian newspaper *El Watan* published reports claiming that the country had 13 dedicated immigration detention facilities: one in Tunis, another in Gabes, and 11 additional facilities, the majority of which were “located in places that no one else has ever been able to reach and document.”<sup>114</sup> A human rights advocate in a Tunisian NGO stated in 2013 that there were 10 to 12 immigration detention facilities in the country.<sup>115</sup> In 2010, *El Watan* reported that some 300 Algerian detainees were languishing in these 13 detention centres, which according to the newspaper had been financed by the Italian government.<sup>116</sup> The Special Rapporteur on the Human Rights of Migrants stated in 2013 report that he had “learned through a number of reliable sources that ... 13 centres exist around the country,” adding that the “Government did not facilitate his request to verify this fact, or his request to visit” the centres.<sup>117</sup>

The Global Detention Project has been able to confirm the location of only three detention facilities, the Al-Wardia (Ouardia) centre on the outskirts of Tunis and operated by the

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<sup>113</sup> Migreurop and l'Observatoire de l'Enfermement des Étrangers France, “*Compte-rendu de la rencontre internationale: L'enfermement des étranger-e-s en Europe et au-delà: Quels horizons?*” *Open Access Now*, 6 December 2013, <https://bit.ly/2UI3a4Y>; Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>; N. Benouaret, “300 harraga détenus dans des centres en Tunisie,” *El Watan*, 26 August 2010, <https://bit.ly/39lmtzp>

<sup>114</sup> Migreurop, “*Fiche sur la politique de signature des accords de réadmission italienne*,” 2009 <http://www.migreurop.org/article1418.html>; N. Benouaret, “300 harraga détenus dans des centres en Tunisie,” *El Watan*, 26 August 2010, [http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600\\_133.php](http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600_133.php); F. Vassalo Paleologo, “*Come far esplodere l'emergenza Lampedusa e violare lo stato di diritto*,” *Progetto Melting Pot Europa*, 26 January 2009, <http://www.meltingpot.org/Accordi-di-riammissione-Maroni-in-Tunisia.html#.U2C5KnfDUSg>

<sup>115</sup> Migreurop and l'Observatoire de l'Enfermement des Étrangers France, “*Compte-rendu de la rencontre internationale: L'enfermement des étranger-e-s en Europe et au-delà: Quels horizons?*” *Open Access Now*, 6 December 2013, <https://bit.ly/3bwFsJj>; Office of the High Commissioner for Human Rights-Tunisia, “Prisons in Tunisia: International Standards versus Reality,” 25 April 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/ReportsOnStateOfPrisonsInTunisia.aspx>

<sup>116</sup> N. Benouaret, “300 harraga détenus dans des centres en Tunisie,” *El Watan*, 26 August 2010, [http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600\\_133.php](http://www.elwatan.com/regions/est/annaba/300-harraga-detenus-dans-des-centres-en-tunisie-26-08-2010-87600_133.php)

<sup>117</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

Interior Ministry,<sup>118</sup> a recently re-opened facility in Ben Guerdane, in south-eastern Tunisia, and Tunis Airport transit zone.

Reportedly, persons crossing into Tunisia from Algeria are detained in the Al-Wardia centre, while those entering from Libya are detained in Ben Guerdane Detention Centre. Non-citizens can also be placed in police stations and prisons. One such prison is the "*Prison Civile de Harboub*" in Medenine, a reportedly severely overcrowded prison (it is at times at 300 percent capacity),<sup>119</sup> which various sources have said has been used to detain people crossing from Libya.<sup>120</sup>

**3.2 List of detention facilities.** Al-Wardia (Ouardia) Reception and Orientation Centre, Ben Guerdane Detention Centre, Tunis Carthage Airport, police stations, pre-trial detention facilities, and prisons.

### 3.3 Conditions and regimes in detention centres.

**3.3a Overview.** Tunisia has been extremely secretive about its criminal and administrative detention estate for migrants, both before and since the 2011 revolution. Hence, only limited information is available regarding Tunisia's detention estate.

**3.3b Al-Wardia (Ouardia).** Although the Al-Wardia facility is classified as a "Reception and Orientation Centre," observers are unanimous in describing it as a detention facility in which non-citizens are prevented from leaving—despite the lack of any judicial authorisations of such confinement.<sup>121</sup> (This facility is not to be confused with a separate nearby asylum reception centre in El Wardiya operated by the Red Crescent that was closed in 2019.<sup>122</sup>)

The centre comprises nine rooms with a maximum capacity of 100 beds. According to the centre. In addition to undocumented migrants, other foreigners who have completed prison sentences are also held there prior to expulsion. Women and children are held in separate facilities.<sup>123</sup>

While the centre's administration has reported that it never reaches capacity,<sup>124</sup> former detainees and researchers have suggested otherwise. According to researchers, "hundreds" are detained inside Al-Wardia each month "without any possibility of legal support and, for

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<sup>118</sup> Amor Boubakri (University of Sousse). 2011. Email correspondence with Michael Flynn (Global Detention Project). Geneva, Switzerland. 10 February 2011.

<sup>119</sup> Directinfo, "*La seule prison qui ne souffre pas d'encombrement en Tunisie est la prison civile des femmes*," 9 September 2019, <https://bit.ly/3dAWpDA>

<sup>120</sup> Special Rapporteur on the Human Rights of Migrants, "Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1," 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>121</sup> Tunisian Forum for Economic and Social Rights, "Migrants Placed in the Wardia Centre: Detained, then Deported or 'Forcibly' Returned," 2019.

<sup>122</sup> ANSA, "Tunisia Announces Closure of Medenine Migrant Centre," *InfoMigrants*, 25 March 2019, <https://www.infomigrants.net/en/post/15890/tunisia-announces-closure-of-medenine-migrant-centre>

<sup>123</sup> Special Rapporteur on the Human Rights of Migrants, "Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1," 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>124</sup> Tunisian Forum for Economic and Social Rights, "Migrants Placed in the Wardia Centre: Detained, then Deported or 'Forcibly' Returned," 2019.

this reason, [are] completely at the mercy of police officers that guard the centre.”<sup>125</sup> Reports have also highlighted instances in which detainees in Al-Wardia have been forcibly deported across the border into Algeria. In one 2015 report, an account is given of more than a dozen refugees, asylum seekers, and migrants being forcibly deported into the Algerian desert at night via the Bouchebka (Kasserine governorate) border post, used by the Tunisian National Guard.<sup>126</sup> Another report also attested to this practice, and cited one detainee’s experiences: “The police put a lot of pressure on me saying that either I had the money to buy the ticket for my repatriation or they were going to deport me to Algeria as they had already done with my comrades.” (Reportedly, following such deportations, there have been instances in which migrants, lost in the desert and unable to find inhabited areas, have died.)<sup>127</sup> According to researchers, this practice is standard in Al-Wardia—despite the fact there is no formal agreement between Tunisia and Algeria to legally permit such deportations<sup>128</sup>—however there are no figures available regarding the number of people to be deported from this facility. Refugees, asylum seekers, and migrants detained in Al-Wardia are effectively given two options: to pay for their own repatriation or to be deported across the border to Algeria.

The scant few testimonies that emerge from Al-Wardia suggest that, in the case of refugees (including Syrians), repatriation is not an option meaning that individuals can languish in detention for extended periods.<sup>129</sup> The same goes for others who cannot afford to pay for repatriation. During a visit to the Al-Wardia detention centre in 2012, the UN Special Rapporteur on the Human Rights of Migrants found it in “reasonable condition.” He reported that detainees were free to move during the day in designated areas, migrants were allowed to cook in a large kitchen area, and a permanent social worker from the Social Affairs Ministry was present. The centre was not overcrowded, and detainees confirmed that there were no reports of ill-treatment.<sup>130</sup>

However, in a 2015 report based on the testimonies of former and current detainees, researchers provide a very different image. Detainees detailed the centre’s insufficient provision of medical care and food; appalling hygiene conditions including toilets that were never or rarely cleaned and the centre’s failure to provide detainees with shower gel; instances of police violence; limited opportunities to make contact with the outside world; lack of legal support; and a requirement for detainees to pay for services – “In prison you have to pay for everything, if you want to have a cell phone you have to pay 200 dinars [approximately 64 EUR].”<sup>131</sup>

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<sup>125</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>

<sup>126</sup> S. Sbouai, “*Des migrants expulsés à la frontière algérienne*,” *Inkyfada*, 10 September 2015, <https://inkyfada.com/fr/2015/09/01/expulse-frontiere-migrant-algerie-ouardiya-tunisie/>

<sup>127</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>

<sup>128</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>

<sup>129</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>; S. Sbouai, “*Des migrants expulsés à la frontière algérienne*,” *Inkyfada*, 10 September 2015, <https://inkyfada.com/fr/2015/09/01/expulse-frontiere-migrant-algerie-ouardiya-tunisie/>

<sup>130</sup> Special Rapporteur on the Human Rights of Migrants, “Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Addendum, Mission to Tunisia, OHCHR. A/HRC/23/46/Add.1,” 3 May 2013, <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

<sup>131</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>

In November 2019, FTDES visited the centre. At the time of their visit, only 24 persons were detained in the facility. The monitors noted that halls and the kitchen were clean, but they were unable to inspect bathrooms or male detainees' residence rooms. On speaking to the centre's doctor, they were informed that no periodic medical examinations are undertaken.<sup>132</sup> FTDES does however cite reports from detainees, who describe a host of problems including overcrowded rooms, un-heated cells during the winter and "fiery hot" cells during the summer, a lack of soap, and insufficient access to medical care.<sup>133</sup>

**3.3c Ben Guerdane.** The Interior Ministry operates a facility in Ben Guerdane, located in the Medenine governorate close to the border with Libya. Ben Guerdane was re-opened on 12 April 2014 after refurbishment of rooms and sanitary equipment. It is described as a "detention and accommodation centre" (*centre de detention et d'accueil*) in some reports and as an "accommodation and orientation centre" (*centre d'accueil et d'orientation*) for "clandestine migrants" in others.<sup>134</sup> The centre reportedly counts on cooperation between UNHCR and the Tunisian Red Crescent and works in coordination with the ministries of Interior and Foreign Affairs, the National Guard, and the army for rescue operations of migrants at sea.

Reportedly, the facility confines up to 200 persons.<sup>135</sup> It includes three units for men and four units for women. Most "residents" are from African countries.<sup>136</sup> It is unclear whether this facility is secure (i.e. whether or not persons are free to leave). Generally, this facility confines persons who crossed the border from Libya.<sup>137</sup>

**3.3d Tunis Carthage Airport.** According to UNHCR, Tunis Airport does not have a "specific facility for holding persons denied entry into the Tunisian territory," however non-nationals that have been refused entry are generally "held in the transit zone of the airport until an appropriate solution is found."<sup>138</sup> Access to that transit zone by external actors is not guaranteed.

**3.3e Other facilities.** According to Tunisian civil society, police stations are used in cities in the north of the country, including in Tunis and further down the Mediterranean coast in Sfax, to hold foreigners for up to 10 days, without access to legal counsel and assistance,

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<sup>132</sup> Tunisian Forum for Economic and Social Rights, "Migrants Placed in the Wardia Centre: Detained, then Deported or 'Forcibly' Returned," 2019.

<sup>133</sup> Tunisian Forum for Economic and Social Rights, "Migrants Placed in the Wardia Centre: Detained, then Deported or 'Forcibly' Returned," 2019.

<sup>134</sup> Tunisian Forum for Economic and Social Research (FTDES), "Two Shipwrecks in One Night: Tunisia Must Protect the Rights of Refugees," 18 August 2013, <http://www.ftdes.net/en/node/85>; Pan-African News Agency (Pana), "Tunisie: Un centre d'accueil des migrants clandestins," *AfriqueJet Actualités*, 14 April 2014, <http://www.afriquejet.com/afrique-nord/5210-tunisie-un-centre-d-accueil-des-migrants-clandestins.html>; Mosaïquefm, "Ben Guerdane: Inauguration du centre de détention et d'accueil des émigrés," 12 April 2014, <https://bit.ly/39g4Pg9>

<sup>135</sup> Romdhane Ben Amour (FTDES), Telephone Interview with Izabella Majcher (GDP), 7 February 2020.

<sup>136</sup> Pan-African News Agency (Pana), "Tunisie: Un centre d'accueil des migrants clandestins," *AfriqueJet Actualités*, 14 April 2014, <http://www.afriquejet.com/afrique-nord/5210-tunisie-un-centre-d-accueil-des-migrants-clandestins.html>; Mosaïquefm, "Ben Guerdane: Inauguration du centre de détention et d'accueil des émigrés," 12 April 2014, <https://bit.ly/3aguEhz>

<sup>137</sup> Romdhane Ben Amour (FTDES), Telephone Interview with Izabella Majcher (GDP), 7 February 2020.

<sup>138</sup> UN High Commissioner for Refugees (UNHCR), "Submission by the United Nations High Commissioner for Refugees, Universal Periodic Review, 3rd Cycle, 27th Session," September 2016, <https://www.refworld.org/pdfid/5a12b5503.pdf>

under provisions of the Code of Criminal Procedure. Testimonies from detained migrants also point to other centres, including one in Tunis by the name of Alouina.<sup>139</sup>

Although the GDP was unable to independently verify the names or locations of these facilities, sources in Tunisia report that all larger cities have detention centres that are used for various purposes, including potentially immigration purposes.<sup>140</sup> Tunisia has 27 prisons, including 19 preventive detention centres. Prisons and “dépôts” (pre-trial detention facilities) are used for persons sentenced for irregular entry, stay, and exit and detention centres (*centres de rétention*) are used prior to expulsion. Border police premises, and airport and maritime border police stations are also used for immigration-related detention.<sup>141</sup>

Tunisia’s prisons have repeatedly been denounced for poor standards, including severe overcrowding and systematic torture. In 2019, several NGOs, including the Tunisian Human Rights League, urged authorities to take “a serious stand against the humiliating and inhumane practices that prisoners and detainees are subject to.”<sup>142</sup>

According to a report released by a UN human rights agency in April 2014, prisons were at more than 150 percent capacity, with increased risks of violence between inmates and reduced ability of prison guards to control the situation. It was also noted that prisons featured a lack of ventilation and lighting, which encouraged the spread of contagious diseases, particularly scabies and psychological problems.<sup>143</sup> The European Commission, reporting on the implementation of its European Neighbourhood Policy in 2014, stated that there had been cases of ill-treatment of detainees.<sup>144</sup>

On 9 February 2014, the Tunisian police intervened to break up a sit-in protest organised by persons from Niger, Chad, and Sudan in front of the European Union delegation in Tunis. They apprehended 20 people, all of whom were detained in Al-Wardia. They were part of a group of 200 migrants who fled the war in Libya in 2011 but who had not been recognised as refugees by UNHCR and had lived for three years in Choucha camp.<sup>145</sup>

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<sup>139</sup> G. Garelli, F. Sossi, and M. Tazzioli, “*Réfugiés en Tunisie: entre détention et déportation*,” *Tunisia in Red*, 18 April 2015, <http://www.tunisiainred.org/tir/?p=5241>

<sup>140</sup> Unnamed Source (international organisation), Correspondence with Michael Flynn (Global Detention Project), 29 November 2019.

<sup>141</sup> Migreurop and l'Observatoire de l'Enfermement des Étrangers France, “*Compte-rendu de la rencontre internationale: L'enfermement des étranger-e-s en Europe et au-delà: Quels horizons?*” *Open Access Now*, 6 December 2013, <https://bit.ly/2UkTNC5>; Office of the High Commissioner for Human Rights-Tunisia, “Prisons in Tunisia: International Standards versus Reality,” 25 April 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/ReportsOnStateOfPrisonsInTunisia.aspx>

<sup>142</sup> Middle East Monitor, “Tunisia: Organisations Warn of Systematic Torture in Prisons and Detention Centres,” 9 May 2019, <https://bit.ly/2WRbTx8>

<sup>143</sup> Office of the High Commissioner for Human Rights-Tunisia, “*Prisons in Tunisia: International Standards Versus Reality*,” 25 April 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/ReportsOnStateOfPrisonsInTunisia.aspx>

<sup>144</sup> Commission Européenne/Haute Représentante de l'Union pour les Affaires Étrangères et la Politique de Sécurité (CE/HRU), “*Document de travail conjoint des services. Mise en œuvre de la politique européenne de voisinage en Tunisie. Progrès réalisés en 2013 et actions à mettre en œuvre*,” European Union External Action, SWD(2014) 97 final,” 27 March 2014, [http://eeas.europa.eu/enp/documents/progress-reports/index\\_en.htm](http://eeas.europa.eu/enp/documents/progress-reports/index_en.htm)

<sup>145</sup> Amisnet, “*Tunisia: la polizia reprime le proteste dei migranti subsahariani*,” 14 February 2014, <http://amisnet.org/agenzia/2014/02/14/tunisia-la-polizia-reprime-le-proteste-dei-migranti-subsahariani/>

In another instance, Gambia's Interior Minister told the Daily Observer in April 2014 that 53 young Gambians were apprehended by the Tunisian authorities for "illegal entry" and were detained prior to expulsion. The Minister regretted that Gambian government efforts to discourage irregular migration failed to curb it and explained that the Gambian diplomatic representation in Morocco was working in collaboration with IOM to facilitate the return of the detainees.<sup>146</sup>

In its 2013 Country Report on Human Rights Practices, the U.S. State Department reported that prison and detention centre conditions were poor and quoted then-prisons director Habib Sboui blaming "past mistakes" for the "catastrophic" state of the prison system. The report highlighted the fact that prisons had been found to be understaffed and lacked adequate equipment to deal with the number of inmates.<sup>147</sup>

Previously, in 2008, the UN Human Rights Committee found that Tunisia's policing and detention policies were not in conformity with Article 9 of the [International Covenant on Civil and Political Rights](#) and expressed concern about the reports of poor standards in the country's prisons.<sup>148</sup>

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<sup>146</sup> African Manager, "Tunis: 53 Gambiens en instance de rapatriement," 14 April 2014, <http://www.africanmanager.com/164588.html>

<sup>147</sup> U.S. State Department, "Country Reports on Human Rights Practices for 2013: Tunisia," 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

<sup>148</sup> UN Human Rights Committee (HRC), "Concluding Observations: Tunisia, CCPR/C/TUN/CO/5," 23 April 2008, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/414/25/PDF/G0841425.pdf?OpenElement>



[www.globaldetentionproject.org](http://www.globaldetentionproject.org)