

**AMNESTY INTERNATIONAL
AVOCATS SANS FRONTIÈRES
EURO-MED HUMAN RIGHTS NETWORK
INTERNATIONAL FEDERATION FOR THE LEAGUES OF
HUMAN RIGHTS (FIDH)
HUMAN RIGHTS WATCH
INTERNATIONAL SERVICE FOR HUMAN RIGHTS
OBSERVATORY FOR THE PROTECTION OF HUMAN
RIGHTS DEFENDERS
REPORTERS WITHOUT BORDERS
WORLD ORGANIZATION AGAINST TORTURE (OMCT)**

**Mr Louis Michel
President of the Council of the European Union
Minister for Foreign Affairs of Belgium**

18 October 2001

Dear President of the Council,

We are writing to you in view of your upcoming meeting with Mr Ben Yahia, the minister for foreign affairs of Tunisia, which is scheduled to take place on 25 October.

The Association Agreement, which was signed on 17 July 1995 by the European Community and its member states on the one hand and by the Republic of Tunisia on the other hand, and which came into force on 1 March 1998, includes a legally binding human rights clause (Art. 2). This clause stipulates that relations between the parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles, which guide their domestic and international policies and constitute an essential element of the Agreement.

The deterioration of the human rights situation since the EU-Tunisian Agreement took effect poses an acute challenge to the EU policy toward Tunisia, and more generally toward the Mediterranean region. How the EU proceeds in this regard toward Tunisia, the first country where an Association Agreement came into effect, will have precedential impact on the EU's credibility and effectiveness in addressing human rights issues with its other Mediterranean partners.

The Commission communication "The EU's Role in Promoting Human Rights & Democratisation in Third Countries" (8 May 2001) states that "essential elements clauses" such as Article 2 "*are meant to promote dialogue and positive measures, such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments where this is lacking, as well as the prevention of crises through the establishment of a consistent and long-term relationship. Discussions between the Commission and the partner country should in particular be linked to the establishment of the EC's assistance programme. The dialogue should encourage partner governments (...) to identify opportunities for EC assistance to contribute to those objectives.*

Discussions should consider how ratification of the fundamental human rights instruments and of other rights-based international agreements (e.g. ILO conventions, Convention on Bio-diversity) and their effective implementation could be pursued, together with consideration of how UN recommendations should be followed up. ”

The Council endorsed the Commission Communication referred to above by adopting its conclusions of 25 June 2001; in those Conclusions, the Council “*recommends that respect for human rights and democracy, based on international norms and instruments, particularly those of the United Nations, be promoted through dialogue and co-operation without prejudice to the need to speak out in clear terms against violations of human rights. The Council attaches great importance to human rights dialogues with third countries. In addition, human rights and democratisation should systematically and at different levels be included in all EU political dialogues and bilateral relations with third countries*” (paragraph 13).

In light of the Council’s commitment to a coherent human rights policy, we believe that the EU institutions and Member States, in particular the country holding the Presidency in the Council, share the responsibility to live up to these promising recommendations. As the President of the Council, we therefore urge you to address in concrete terms the serious concerns about the human rights situation in Tunisia when meeting your Tunisian counterpart.

In view of the resolutions adopted by the European Parliament on 15 June 2000 and 14 December 2000 echoing the degradation of the situation and in light of the increasingly grave attacks and restrictions on human rights defenders by the Tunisian authorities, the undersigned organizations (Amnesty International, Avocats sans frontières, the Euro-Med Human Rights Network, the International Federation for Human Rights, Human Rights Watch, the International Service for Human Rights, the Observatory for the Protection of Human Rights Defenders, Reporters Without Borders, and the World Organization Against Torture) call on you, as the President of the Council of the EU, to urge Tunisia to fulfil its obligations and international human rights law under the Association Agreement by, among other things:

- freeing all persons detained or imprisoned solely for the non-violent exercise of the right to speech, association, or assembly;
- ensuring that international standards for fair trials are met and that verdicts resulting from trials falling short of these standards are reviewed;
- restoring the right to freedom of movement to all persons who are arbitrarily deprived of passports or forbidden to leave the country or subjected to other arbitrary measures limiting their freedom of movement;
- ending all forms of harassment against human rights defenders and their relatives by, among other measures, restoring their passports, telephone, and fax service where these have been deprived; by ending police surveillance that is manifestly conducted as a form of intimidation; and by allowing all independent human rights organizations to function legally and freely, including the National Council on Liberties in Tunisia (CNLT), the Tunisian Human Rights League (LTDH), in conformity with the UN declaration on human rights defenders;
- ensuring that allegations of police brutality are fully investigated and putting in place effective safeguards to prevent physical assaults against human rights defenders, including delegates from international human rights organizations;

- instituting effective safeguards to prevent the use of torture against persons in police custody;
- instituting a credible and transparent system for investigating allegations of human rights abuses and ensuring that perpetrators of these abuses are identified and brought to justice;
- implementing the recommendations made on Tunisia by the United Nations Human Rights Treaty bodies and rapporteurs.

The enclosed briefing note provides an update on the human rights situation in Tunisia. We hope that it will provide a basis to discuss tangible steps to improve the human rights situation in Tunisia with the Tunisian Minister for Foreign Affairs.

In addition, we call on the Belgian Presidency to initiate preparations for the next meeting of the Association Council, to take place under the Spanish Presidency to ensure that this meeting will define clear human rights objectives for Tunisia. Those detailed benchmarks should then be addressed at the next meetings to take place under the Agreement. Such an approach would be in line with the above-mentioned Commission communication of 8 May 2001, which states that *"successful dialogues should include the joint establishment of certain goals depending on local circumstances. These are necessary for both the EU and the partner country to measure progress over time"...* [The Commission wishes to] *"take performance in the area of human rights (including economic, social and cultural rights), democracy and the rule of law into account when deciding country allocations under the main co-operation programmes"*.

More specifically, with regard to the Mediterranean countries, the European Commission's communication on strengthening the Barcelona process of 6 September 2000, already stressed that human rights, democracy, good governance and the rule of law should be discussed regularly with partners, notably within the Association Council. The Commission noted: *"This could lead to the establishment of joint working groups on human rights" [...]* [that] *"would aim to agree on a number of concrete benchmarks and objective criteria to be reviewed within the various Association Councils... Cooperation on human rights, good governance and the rule of law should have as one of its main objectives the creation of a climate where NGOs can work productively."*

Article 2 of the Euro-Mediterranean Agreement provides the basis for programs to enhance human rights protection and promotion. We therefore strongly encourage the EU to ensure that its bilateral cooperation with Tunisia includes a strong component aimed at strengthening human rights and the rule of law.

The serious deterioration of the human rights situation in Tunisia warrants urgent EU initiatives to give substance to its declarations of intention. We therefore call on the Belgian Presidency of the EU to propose to the Council of Ministers and the European Commission concrete mechanisms to regularly assess compliance with Article 2 by all contracting parties to the Euro-Mediterranean Agreement between the EU and Tunisia, with a view to bringing about verifiable progress. These should include:

- regular and impartial monitoring of developments in the field of human rights and civil liberties in the territory of any of the contracting parties;
- monitoring of the extent to which human rights defenders are free to act and speak out in defence of the rights of others;

- issuing specific recommendations, compliance with which can be regularly measured, that are aimed at improving the human rights situation and that take into account the recommendations made by the UN human rights bodies about the country concerned;
- making appropriate démarches towards partner countries in individual cases where violations of basic human rights standards have taken place;
- making the assessment of compliance with Article 2 a separate agenda item in all meetings held under the Agreement, and especially the Association Council meetings.

In light of the above we urge you to address these issues with the Tunisian Minister for Foreign Affairs on October 25 in order to ensure that the dialogue between the EU, its Member States and Tunisia is a forum to effectively address human rights concerns.

We thank you for your consideration and are looking forward to hearing from you about the outcome of your exchange with the Tunisian Minister of Foreign Affairs.

Yours sincerely,

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18 October 2001

**THE CONTINUING DETERIORATION OF THE HUMAN RIGHTS SITUATION IN
TUNISIA**

Increased targeting of human rights defenders

The Tunisian authorities devote considerable resources and efforts to project an image of Tunisia as a country where human rights protection and promotion is a top priority. To this end, the authorities, often assisted by obscure non-governmental associations of dubious independence, conduct vast public relations campaigns overseas and have created an array of official human rights bodies within the administration. These include a human rights minister, human rights departments within at least four ministries (Social Affairs, Foreign Affairs, Justice and Interior), a state-appointed Higher Committee for Human Rights and Fundamental Freedoms, presidential human rights counsellors, and an ombudsman.

Paradoxically, while the official human rights bureaucracy flourishes, members of the independent human rights community and their relatives have been increasingly targeted and repressed. Such practices aim to silence and punish those who stand up for human rights, and to deprive victims of human rights violations of any defence. In this respect the conduct of the Tunisian authorities violates the international human rights treaties to which Tunisia is a State Party, such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture), and contravenes provisions of the Declaration on Human Rights Defenders adopted by consensus by the UN General Assembly on 9 December 1998.

The targeting of human rights defenders by the Tunisian authorities, an entrenched pattern for a number of years already, has further increased over the past year. There has been a disturbing increase during 2001 in the use of physical force by security forces against peaceful activists. In several instances, not only Tunisian human rights defenders but also delegates of international organizations have been assaulted by plainclothes police (see below).

At the end of November 2000 a court suspended the activities of the new assertive leadership of the *Ligue Tunisienne des Droits de l'Homme*, LTDH - Tunisian Human Rights League), and took control of the LTDH office. The pretext for this attack on the LTDH was a complaint lodged by four LTDH members, known to be close to the authorities, who questioned the fairness of the LTDH's general

assembly and elections of a new board the previous month. The move followed virulent attacks by the head of President Ben Ali's governing party and by the government-controlled press against the newly elected LTDH board, which included many well-known and outspoken human rights activists who had clearly indicated that the LTDH would take up the challenge of addressing the deteriorating human rights situation in the country. On 12 February 2001 the court annulled the results of the LTDH's general assembly of October 2000, including the election of the new leadership. Following the suspension of the LTDH's activities last November its leadership and members in the capital and in other cities were repeatedly prevented from holding meetings in private homes and offices or in cafés, restaurants or other public places. Security agents have cordoned off the meeting places, preventing participants from accessing not only the building where the meetings were scheduled to take place but even the streets where the buildings are located. On 21 June, the Appeal Court in Tunis issued a verdict in the LTDH case requesting new elections within one year. In addition, the authorities initiated legal proceedings in March against the LTDH President, Mokhtar Trifi, and in January against first vice-president, Slaheddine Jouchi, for having signed communiqués on behalf of the LTDH denouncing human rights violations. They were being investigated for "spreading false information" and "non-compliance with a judicial order". The cases are pending. Moreover, two other LTDH members, Souhayr Belhassen, vice-president of the LTDH, and Khemais Ksila, General Secretary of the LTDH, have recently been the subject of defamatory campaigns in the official Tunisian media.

Dr. Moncef Marzouki, former President of the LTDH and spokesperson for the *Conseil National des Libertés en Tunisie* (CNLT - National Council for Liberties in Tunisia), was sentenced in December 2000 to one year's imprisonment on charges of "spreading false information" and "maintaining an unauthorized association", that is the CNLT (which has been refused legal status by the authorities). Following the verdict against him on 30 December 2000, Moncef Marzouki remained at liberty pending an appeal lodged by the prosecution against the "leniency" of the sentence. The appeal trial opened on 23 June 2001, when the Tunis Appeal Court decided to postpone the case until 7 July, and again until 29 September. At the 29 September hearing, the sentence was converted into a suspended one-year term. Dr Marzouki, a former presidential candidate, will also lose certain civil rights, including the right to vote and the right to stand for election. These are only the latest attacks against Dr Marzouki, who has had a long history of being harassed. He had been imprisoned for four months in the summer of 1994 for an interview he had given to a Spanish newspaper about the human rights situation in Tunisia. Having just recovered his passport in May 2000, after years of confiscation, Dr Marzouki was prevented from leaving the country on several occasions during the past year, most recently on 6 October 2001. This effective ban has prevented him from taking up a position as associate professor in a Faculty of Medicine in France. Furthermore, Moncef Marzouki's house is constantly under police surveillance, and he is followed by plainclothes police wherever he goes, further curtailing his rights to freedom of movement and association.

Other leading members of the CNLT, including its former secretary general, Omar Mestiri, have also been prosecuted or threatened with prosecution, on similar charges and are subjected to constant intimidation, harassment and surveillance. Security agents have on several occasions shoved, beaten or verbally abused CNLT members as they prevented them from reaching meetings. On 1 March 2001, a CNLT meeting called to present its newly elected leadership was prevented by security forces who physically prevented participants from gaining access to the house where the meeting was due to take place. Security agents beat and ill-treated Khadija Cherif, a leading member of the *Association tunisienne des femmes démocrates*, (ATFD - Tunisian Association of Democratic Women), Abdelkader Ben Khemis, member of the CNLT's liaison committee, and Sihem Bensedrine, the newly elected CNLT spokesperson, to name but a few. On 13 March 2001 Khadija Cherif was again attacked by security agents, who took by force some documents she was carrying. Over the past year members of the security forces have systematically prevented all CNLT meetings from taking place by cordoning off the houses where the meetings were to be held, and victims of human rights violations are routinely prevented from entering the building where CNLT's office is situated.

On 26 June 2001, Sihem Ben Sedrine, journalist and CNLT spokesperson, was arrested and held in prison until 11 August (see below, “Restrictions on the media and on civil society”). Human rights defenders tried to gather to support her, but on several occasions, they were ill-treated by police agents and security officers. On 27 July, when dozens of people gathered in front of the Manouba women’s prison in Tunis to ask for her immediate release, a large number of members of the security forces physically assaulted the supporters. Eye-witnesses have reported that a police car attempted to knock down one of the supporters, the human rights lawyer Saida Akremi. Following the incident Saida Akremi lodged a formal complaint for attempted murder. On 17 August - less than a week after her provisional release - Sihem Ben Sedrine, her family and numerous human rights defenders were attacked by plainclothes police agents while they were on their way to a reception to celebrate her recent release.

Another exemplary case of repression and harassment is that of human rights lawyer and leading CNLT member Nejib Hosni. Having been freed early four years ago from a prison sentence he should have never served, Hosni was once again imprisoned in December 2000. He was first arrested in 1994 and sentenced to eight years’ imprisonment on trumped-up charges of forgery of a land contract. He was eventually released at the end of 1996 after widespread international protests. However, his sentence included an arbitrary five-year ban on practicing law, and upon his release he had his passport confiscated. In the spring of 2000 Nejib Hosni resumed practicing law, having received written confirmation from the *Conseil de l’Ordre des Avocats*, the Tunisian Bar Council that he had never been suspended or disbarred. Shortly after, the Minister of Justice issued instructions to the courts around the country not to allow Nejib Hosni to handle cases and not to give him access to his clients’ files. In September 2000 the authorities initiated legal proceedings against him on charges of “non-compliance with a judicial decision” for having represented defendants in politically motivated cases before several courts around the country. He was sentenced to 15 days’ imprisonment on 18 December 2000. On 5 January, the day he was due to be released after having served his 15-day sentence, the Minister of the Interior revoked the conditional release measure under which Nejib Hosni had been released in December 1996, requiring him to serve the remaining five and-a-half years of the above-mentioned eight-year prison sentence imposed in 1996 on the trumped-up forgery charges. Following widespread international protest, Nejib Hosni was released from El Kef prison on 12 May 2001 by presidential decision. However, he has not recovered his passport, which had been confiscated following his release in 1996, and his telephone and fax lines remain disconnected.

Radhia Nasraoui, a member of the executive committee of the Tunisian Bar Council, has endured years of harassment and intimidation because of her human rights activities. In March 1998, after joining the defence team representing a group of young students and political activists accused of links with the unauthorized *Parti Communiste des Ouvriers Tunisiens* (PCOT), Tunisian Workers’ Communist Party, Nasraoui was indicted as their co-conspirator and thereby disqualified from representing them. For a year and-a-half she was banned from leaving the capital, a measure which prevented her from visiting clients and being present in courts elsewhere in the country. In January 1999 she was sentenced to 15 days’ imprisonment, suspended, for having left the capital for one day to attend the funeral of her mother-in-law. In July 1999 she was sentenced to six months’ imprisonment, suspended, in the above-mentioned PCOT trial. In addition, she and her children and several other relatives continue to be harassed and intimidated and her children were refused passports until July 2000. Nasraoui’s office and home remain under tight police surveillance, her telephone lines are often disconnected, and she is frequently prevented from visiting her clients in prison, in violation of Tunisian law. Police surveillance and harassment have been exacerbated since her husband, Hamma Hammami, who has been in hiding since February 1998 in order to evade arrest (see below), appeared on the London-based TV channel *Al Mustakillah* on 5 August 2001.

Leaders and members of other NGOs and associations, have been similarly targeted. In June 2000 Fathi Chamkhi, President of the *Rassemblement pour une Alternative Internationale de Développement* (RAID - Rally for an International Alternative for Development), and RAID member Mohamed Chourabi were sentenced to one month's imprisonment for having links with unauthorized associations. They had been arrested in April 2000 for possessing reports by the RAID and the CNLT, both of which organizations have been refused registration by the authorities. On 30 June 2001, the day before the first congress of the RAID was due to open, Fathi Chamkhi, Mohamed Chourabi and Iheb El-Heni, another member of the RAID, were notified that their appeal trial would open on 9 July. On 9 July, the Appeal Court in Nabeul confirmed the court of first instance's judgment.

In October 2000 leaders and members of the *Association Tunisienne des Femmes Démocrates* (ATDF - Tunisian Association of Democratic Women), were beaten by police as they gathered in the centre of the capital to demonstrate in solidarity with the Palestinian people. On 29 January 2001 a meeting organized by the ATDF in solidarity with the LTDH was prevented from taking place by security agents who stopped anyone from accessing the ATDF's office in Tunis.

The above are but a few examples of the tactics used by the authorities to prevent and discourage Tunisians from working to defend the rights of others. In addition to those mentioned above, numerous human rights lawyers and activists have been and continue to be subjected to measures of harassment and intimidation that inflict harm on their social, professional and family lives. Their clients, friends, and relatives are intimidated by plainclothes security agents who follow them or approach them to check their identity papers or question them. The cutoff of telephone lines and the confiscation of mail further disrupts family and professional life and heightens their vulnerability, especially in emergency situations.

Preventing human rights defenders from participating in activities abroad is also part of the strategy of the Tunisian authorities. The arbitrary confiscation of passports continues to be a measure frequently used by the authorities. Even though in the spring and summer of 2000 several human rights defenders had their passport returned to them after years of confiscation, the passports of others have not been returned or have been confiscated since. Even those who hold a valid passport, such as human rights defender Moncef Marzouki, have in recent months been prevented from leaving the country.

In keeping with the policy of curtailing the activities of human rights defenders inside and outside the country, the Tunisian authorities have also expelled or denied access to Tunisia to a number of representatives of international human rights organizations and foreign journalists. In July 2000 the President of the *International Federation for Human Rights* (FIDH), and an Amnesty International researcher, who have been banned from Tunisia since 1995 and 1994, respectively, were denied entry to Tunisia upon their arrival at Tunis airport. Although the Human Rights Minister Slaheddine Maaoui had stated in an interview in the French daily newspaper *Le Monde* on 6 April 2001, that the two representatives of the FIDH and Amnesty International would be welcome in Tunisia, the proposal by the two organizations to conduct a joint visit to the country did not result in a favourable response, despite repeated attempts to follow up the request. The edition of *Le Monde* dated 6 April was banned in Tunisia. In January 2001, French lawyer Eric Plouvier, mandated by the Euro-Med Human Rights Network (EMHRN) and by the Observatory for the Protection of Human Rights Defenders to observe the trial of the LTDH, was turned away when he arrived at Tunis airport. In February 2001 RSF Secretary-General Robert Ménard, and RSF member Jean-François Julliard were expelled from Tunisia (see details below). Other human rights workers and journalists who have been banned from Tunisia or expelled from the country in earlier years have also not been allowed to return.

During an official visit to Tunisia from 27 September to 5 October 2001, two delegates of Amnesty International were detained and ill-treated in the early hours of 29 September by plainclothes security agents. Their belongings, including a computer and all their documents, were forcibly taken. When the delegates attended a meeting, scheduled prior to their arrival in Tunis, with the Tunisian Human Rights Minister, the Tunisian authorities failed to acknowledge the severity of the assault or to allay Amnesty International's concerns regarding the security of human rights defenders in the country. To date there has been no indication of any investigation into the incident. Some human rights defenders and families of victims reported heightened surveillance by plainclothes police after having met with Amnesty International's delegates. At least one person had received overt death threats by security agents to dissuade them from meeting with the delegates.

Restrictions on the media and on civil society

The situation that prompted the Paris-based *World Association of Newspapers* to expel its Tunisian affiliate in 1997 remains unchanged. Tunisia's television, radio, and daily press contain no criticism of state repression and ignore all information emanating from Tunisian and international non-governmental organizations which concern the situation of human rights and public liberties or which might imply criticism of the authorities' policies and actions. Tunisia's private newspapers are indistinguishable in tone from the official ones. Smaller periodicals which at times cautiously deviate from the official line have been seized when they published more challenging articles. Issues of one of these publications, *al-Mawqif* ("Viewpoint"), have been seized more than once this year. Two new publications, *Kalima*, edited by Sihem Ben Sedrine, and *Kaws el Karama*, edited by Jalel Zoghلامي, have been denied authorization by the authorities. In March 2001, *Salama*, a bimonthly magazine published in Paris, was banned. The London-based newspaper *Al-Mustakillah* is also banned and is no longer distributed in Tunisia. When foreign newspapers address the question of human rights in Tunisia they, too, are banned. This policy affects mainly a number of French publications, such as *Libération*, *Charlie Hebdo*, *La Croix*, *Le Canard Enchaîné* and *L'Humanité*.

In the spring of 2000 Sihem Ben Sedrine's publishing house, *Aloès*, was closed down by the authorities for three months after a public meeting was held there on press freedom in Tunisia. Since the beginning of 2001, Sihem Ben Sedrine - who is also the current spokesperson of the CNLT - has been continuously targeted by the Tunisian authorities. After her participation on 17 June 2001 in the program *Le Grand Maghreb* on the London-based private TV Channel *Al Mustakillah*, she was arrested on 26 June 2001 upon her arrival at Tunis airport. During the program Sihem Ben Sedrine had addressed problems such as corruption and the independence of the judiciary in Tunisia, and drew attention to the hitherto uninvestigated death in custody of Abderrahman Jhinnaoui in March 2001. Freed on 11 August after a vigorous solidarity campaign, Sihem Ben Sedrine remains under investigation on charges including "defamation" and may be brought to court at any time.

Two journalists of the weekly *Al Fajr* ("Dawn"), a publication close to the unauthorized Islamist party Ennahda, have been in jail since the beginning of the 1990s. In January 1991, Hamadi Jebali, editor, was charged with "defamation" after the publication in *Al-Fajr* of an article signed by the lawyer Mohamed Nouri seeking the abolition of military courts. He was sentenced to one year's imprisonment. The following year, in July and August 1992, Hamadi Jebali and *Al Fajr* journalist Abdellah Zouari were tried along with 277 suspected members of the unauthorized Islamist party Ennahda. On 28 August 1992, following an unfair trial, Hamadi Jebali was sentenced to 16 years' and Abdellah Zouari to 11 years' imprisonment on charges related to an alleged plot to overthrow the government. From the beginning of their sentence, Hamadi Jebali and Abdellah Zouari have been detained in harsh conditions, including solitary confinement, limited access to medication and obstacles to family visits.

Hamma Hammami, leader of the unauthorized Tunisian Communist Workers' Party (PCOT) and managing director of *El Badil* ("The Alternative") was sentenced in absentia in July 1999 to nine years and three months' imprisonment. He had already been sentenced in 1992, together with his editor in chief, Mohamed Kilani, to two and a half years' imprisonment for "spreading false

information". Since February 1998, Hama Hammami has been in hiding and manages the clandestine newspaper *Saut Acha'b* ("Voice of the People").

In Spring 2001, Taoufik Ben Brik, a journalist and correspondent of several foreign media, undertook a lengthy hunger strike to protest the confiscation of his passport and the police harassment against himself and his family. On 3 February 2001, Jalel Zoghlami, his brother, was attacked and beaten by men believed to be security agents in broad daylight in the centre of the capital. Three days later he and several of his friends, including human rights defenders, were assaulted by security forces outside his house. They were beaten with iron bars and sticks and at least seven of them sustained serious injuries. The security forces remained present in large numbers outside the house throughout the night and the following day and prevented lawyers and others from entering Jalel Zoghlami's house where 22 people, including those injured, were present.

On 21 February, while Robert Ménard, Secretary-General of *Reporters Sans Frontières* (RSF), and Virginie Locussol, North Africa desk officer within the organization, were distributing copies of the banned newspaper *Kaws el-Karama* in the capital, plainclothes police officers seized the copies from them. A third member of the organisation, Jean-François Julliard, who was filming the events, was assaulted by three police officers, who seized his video camera. Robert Ménard and Jean-François Julliard were then taken to the airport and expelled to France by police officers who declared them *personae non gratae*.

In May 2000, days after he published an article critical of President Ben Ali's policies in the French daily *Le Monde*, journalist and former editor of the Arabic edition of *Le Monde Diplomatique* Riadh Ben Fadhel was shot and seriously wounded in the chest by unknown gunmen. The attack, which bore the hallmark of an attempted extrajudicial execution, took place outside Ben Fadhel's home, which is situated near the presidential palace and the residences of members of the presidential family, an extremely well guarded area.

In June and July 2001, the Tunisian media, expressing positions close to the Tunisian authorities (*La Presse*, *Assahafa*, *El Hadath*, *Al-Hurriat*, *Ech Chorouk*), launched a campaign of attacks against the TV Channel *Al Mustakillah*¹ and its chairman, Mohamed Elhachmi Hamdi. Given that this channel is considered as a platform for dissenting voices and since it enjoys a very broad audience in Tunisia, a number of measures, including judicial proceedings, have apparently been taken to curtail its activities.

Well-established NGOs like the *Association Tunisiennes des Femmes Democratés* (ATFD, Tunisian Association of Democratic Women) or the *Association Tunisienne des Jeunes Avocats* (ATJA, Association of Young Lawyers) and their members continue to face impediments related to their efforts to take independent positions on current issues. Their activities are hindered at the regional and international level by police surveillance and by the fact that many of their active members have been deprived of passports at one time or another.

Attempts to create new civil rights associations have been stifled by the government's refusal to grant such groups the necessary authorization. For example, the CNLT, which was created on 10 December 1998, on the occasion of the 50th anniversary of the Universal Declaration of Human Rights, and RAID, have been refused authorization by the Ministry of Interior and their members are continuously harassed for maintaining an unauthorized association (see above).

¹Since September 2001, *Reporters Sans Frontières* sponsors a monthly program on freedom of expression, "Espace francophone", on *Al Mustakillah*.

Trade unionists who have challenged the control by the authorities of the Tunisian General Trade Union (*Union Générale Tunisienne du Travail*, UGTT) have also been targeted. In May 1999 at least ten trade unionists who had signed petitions and made declarations condemning government interference in the UGTT's affairs were arrested and detained for up to a few days.

Surveillance and blocking of communications via mail, telephone, fax and the Internet make it difficult for Tunisian NGOs and activists to communicate regularly and freely with each other at home and abroad. A postal law decreed June 2, 1998 provides that "postal materials that...could harm public order or security are not acceptable. If [such] mail is found...it will be confiscated in conformity with the laws in effect." Worldwide websites of international human rights organizations, media, and UN human rights bodies are inaccessible much of the time and other sites are blocked on particular occasions. The websites of certain French newspapers, television and radio stations are routinely blocked on days when they carry items critical of the Tunisian authorities.

Repression of all dissenting voices

The period of reform initiated by President Zine al-Abidine Ben Ali after he took power in November 1987 was extremely brief. By the mid-1990s the repression, which had previously initially targeted Islamist activists, was extended to left-wing activists and all other oppositional political tendencies, including those who had hitherto supported the authorities' crackdown on the Islamist opposition, as well as student leaders, trade unionists, professional associations, the media, and others.

Today, known or suspected government opponents and critics across the political spectrum risk detention simply for the peaceful exercise of the rights to freedom of opinion, expression, and association. The rearrest of Mohamed Mouadda, former leader of the opposition party *Mouvement des démocrates socialistes* (MDS), Movement of Democratic Socialists, illustrates this situation. Mohamed Mouadda was imprisoned on 11 October 1995, after he made public a letter addressed to President Ben Ali in which he condemned the deterioration of the human rights situation in Tunisia. In February 1996, after an unfair trial, he was sentenced to 11 years' imprisonment, principally on charges of threatening the external security of the state and exchange of intelligence with agents of a foreign power. In December 1996, he was conditionally released. This year, on 20 March 2001, Mohamed Mouadda signed, with Rached Ghannouchi, leader of *Ennahda*, a joint manifesto in which they agreed to set up a "*patriotic and democratic front based on the defence of public freedoms*" and they announced that they rejected the candidacy of President Ben Ali for the next presidential election in 2004. On 19 June 2001, he was rearrested and imprisoned, seemingly as a result of publicly expressing his views, notably on the London based TV Channel *Al Mustakillah*. Mohamed Mouadda now has to serve the rest of the sentence to which he was condemned in 1996, amounting to over nine years in prison.

Thousands of known or suspected political opponents have been tortured and imprisoned after unfair trials over the past decade. Even though more than 500 prisoners of conscience were released in November 1999, some 1,000 remain in prison and are detained under conditions that amount to cruel, inhuman, and degrading treatment. Their relatives are subjected to harassment, intimidation, deprivation of passports, and detention.

Former political prisoners and prisoners of conscience are deliberately prevented by the police from working and resuming a normal life. They are required to report to the police on a regular basis, ranging from several times a day to several times a week. This practice, known as *contrôle administratif* (administrative control), is often imposed arbitrarily and at other times by the courts as part of the sentence; in the latter case administrative control is imposed for a fixed period from the date of release but former prisoners continue to be forced to report to police long after the expiry of the set period. One example of this practice is the case of Ali Sghaier, a father of seven, who, years after having served a three-year prison sentence for his political opinions, continued to have to report daily to the police and was prevented from working and was thus unable to provide for his family. In

June 2000, out of despair at his situation he took his youngest children to the weekly market in Douz in the south of Tunisia and held a sign on which he had written “I am prevented from working and cannot feed my children, would anyone like to buy them?”. He was arrested and in September 2000 sentenced to six months’ imprisonment for disobeying an administrative order.

Relatives of political prisoners continue to be subjected to harassment and restrictions and those who provide financial support, however modest, to relatives of political prisoners and of exiled opponents are themselves prosecuted on charges of supporting “unauthorized associations.” The arbitrary deprivation of passports has been one of the abuses most commonly used not only against human rights activists and known or suspected political opponents, but also against their relatives. This policy has caused great suffering among the families of political refugees living in European countries. Wives of exiled political opponents have often been prevented from leaving the country with their children to reunite their families; those who in desperation attempted to leave the country without a passport have been imprisoned for lengthy periods of time. Although many of these cases have been resolved in recent years thanks to international pressure, including démarches made by EU member governments, many families remain divided because of this vindictive policy.

Ordinary Tunisians who work or study abroad are often arrested when they return home to visit their families, and are imprisoned on charges of having had contacts with political opponents abroad, even though in some cases the contacts they had with exiled opponents were of a purely social nature and they were not even aware of their political activities. Tunisian law was amended in 1993 (Article 305 of the *Code de Procédure Pénale*, Penal Procedure Code) to include a provision which allows for any Tunisian to be prosecuted in Tunisia for activities abroad even though these activities do not constitute an offence according to the laws of the country where they took place. In recent months at least five people have been arrested upon their return to Tunisia on such charges and have been sentenced to lengthy prison terms.

Unfair trials: A judiciary lacking independence

When it comes to trials involving political charges, Tunisian courts systematically fail to guarantee the most basic rights of defendants to a fair trial. Defendants are systematically refused medical examinations despite having exercised their right under Tunisian law to request such examinations and even in cases where marks of torture are still visible - months after they have been tortured. Defendants are also frequently prevented from calling witnesses who would testify in their favour. Judges routinely disregard defendants’ statements that they were forced to sign “confessions” under duress and without having read the content, and instead use these as the main evidence to convict.

Despite the purely political and non-violent nature of the offenses being prosecuted, notably having links with unauthorized Islamist or left-wing political opposition groups, defendants are routinely charged with “belonging to a criminal gang”, “participating in a conspiracy to attack and harm people and property” and such charges. This is an attempt by the authorities to present individuals known or alleged to be involved in non-violent political opposition activities as dangerous criminals or “terrorists”. In recent months scores of political prisoners have undertaken lengthy hunger strikes to protest against their imprisonment, the conditions of their detention, the lack of investigation into their allegations of torture and in some cases their prolonged detention without trial. Detainees on hunger strike are often beaten or ill-treated, refused necessary medical care or even sugar water, and are regularly prevented from receiving visits by their families and lawyers, to punish them for going on hunger strike and force them to stop.

For example, in November 2000 Abdellatif Bouhajila, Yassine Benzerti and several other young men accused of links with an Islamist group were brought to trial during their prolonged hunger strike - one of them had been on hunger strike for 89 days and others for over 70 days. They were brought into court on stretchers and were laid on benches, unable to sit up or speak and barely conscious. Their defence lawyers requested the postponement of the trial on account of the incapacity of the

defendants to participate in their own trials, but the court refused and the defence lawyers walked out in protest. The defendants were tried and sentenced without any defence to up to 17 years' imprisonment. This trial was attended by numerous Tunisian lawyers and human rights activists and by a member of the European Parliament. Representatives of European embassies in Tunisia have also attended several trials of human rights defenders and of people tried on political charges.

Those who dare to question the lack of independence of the judiciary in Tunisia face a variety of tactics to silence their concerns. On 6 July 2001 Judge Mokhtar Yahiaoui, President of the 10th Court at the First Instance Court in Tunis, sent an open letter to President Ben Ali requesting the implementation and guarantee of the constitutional principle of independence of the judiciary. He stated that in Tunisia, judges "*render verdicts dictated to them by political authorities and enjoy no discretion to exercise any objectivity or critical scrutiny*". Mokhtar Yahiaoui was thereafter suspended from his position and was notified that he would have to appear before a disciplinary body on 2 August. Just before this date, following a national and international solidarity campaign, he was informed that the disciplinary council had been postponed and that he had been restored to his post. Nevertheless, this formal rehabilitation was accompanied by continuing pressure being exerted on Mokhtar Yahiaoui, including direct threats. By these measures and others, the Tunisian authorities are trying to intimidate other judges from speaking out against the lack of independence of the judiciary.

Tunisia's record on women's rights

Since independence, women in Tunisia have made impressive strides in securing their rights. The Personal Status Code adopted under former President Habib Bourguiba gave women many legal rights they did not previously enjoy. The illiteracy rate for women has dropped and their presence in higher education and in the workforce has grown.

At the same time, women are no less restricted than men with respect to the exercise of their political and civil rights. When the Tunisian Association of Democratic Women (ATFD) tries to highlight areas where the treatment of women could improve - through communiqués, public awareness campaigns, meetings, and rallies - its efforts are stymied. Public gatherings are often barred by the authorities and the pro-government media ignore its activities, except to suggest the association is "libertine" or "lesbian" or to misrepresent it in other ways.

In addition, the authorities systematically harass the wives of suspected Islamists who are in jail or exile, through detention, surveillance, searches without warrants, incessant police questioning, and confiscation of passports. Several women have been put under pressure by police to divorce their jailed or exiled husbands. These abuses were raised in the report of the UN Special Rapporteur on violence against women (E/CN.4/1999/68/Add.1).

Another area where much progress must still be made with respect to women's rights is domestic violence. According to the ATFD, which runs the country's only shelter for women victims of violence, domestic violence is commonplace. Yet government officials have not acknowledged this and, according to women's rights activists, a climate of impunity prevails because police officers fail to investigate incidents adequately and judges tend to dismiss domestic violence as a family matter. Again, restrictions on political rights are part of the problem: the ATFD has long been calling on the government to secure the right of independent organizations to work freely to combat violence against women.

International awareness of the human rights situation in Tunisia :

The European Union

EU member states are well aware of human rights violations and restrictions of civil liberties and freedoms of expression and association in Tunisia. The European Parliament passed two resolutions,

in June and December 2000 (mentioned above), expressing concerns at the deteriorating human rights situation in Tunisia and calling on the EU to take concrete measures to address the issue.

The *Evaluation of the Meda Democracy Programme 1996-1998*, prepared for the European Commission and issued in March 1999, cites Tunisia in Section 2.9 as one of the Euro-Mediterranean countries where serious problems exist in carrying out human rights and civil liberties promotion activities: “*Syria and Tunisia received the lowest share [of funds] both in terms of grants per country and per capita. This reflects the severe political obstacles to directly assist NGOs in these countries without agreement by the government and the totalitarian nature of the political systems in Syria and Tunisia*”.

The Organisation of African Unity (OAU, presently African Union)

On 7 May 2001, the African Commission on Human and Peoples’ Rights, during its 29th Ordinary Session in Tripoli (Libya), passed a resolution on “*the situation of human rights defenders in Tunisia*”.

Considering that the Republic of Tunisia is a party to the African Charter on Human and Peoples’ Rights as well as other regional and international human rights instruments, and expressing concerns about “the decision of suspension on 27th November 2000 of the activities of the *Ligue Tunisienne des Droits de l’Homme (LTDH)*, the oldest human rights NGO in Africa”, the African Commission on Human and Peoples’ Rights invited the Chairman of the Commission “to write to the President of the Republic of Tunisia to express the concerns of the African Commission on Human and Peoples’ Rights about the situation of human rights defenders in Tunisia” and offered to “send a mission of good offices, if necessary led by the Chairman of the Commission, in an effort to find a solution to the problem of the suspension of the *Ligue Tunisienne des Droits de l’Homme*”.

The United Nations

The UN human rights mechanisms present a stark picture of the situation in Tunisia. On 15 November 2000, the Special Representative of the UN Secretary-General on human rights defenders sent an urgent appeal concerning Dr. Moncef Marzouki, spokesperson for the National Council for Liberties in Tunisia (CNLT). On 29 November 2000, the Special Representative sent another urgent appeal to the Government of Tunisia to express her concern over the suspension of the new executive of the Tunisian League for Human Rights. In the report, it was stated that “no reply from the government has been received so far”. (Report submitted by the Special Representative of the Secretary-General on human rights defenders in accordance with the commission resolution 2000/61, 26 January 2001, E/CN.4/2001/94, paras. 81-82-83). On 7 December 2000 the Special Representative of the UN Secretary-General on human rights defenders issued a statement in which she expressed concern about the suspension of the activities of the Tunisian League for Human Rights and intimidation against its members and called on the Tunisian Government to “end the harassment of human rights defenders in the country and to ensure that the Tunisian League for Human Rights resumed its activities as soon as possible”.

In February 2000 the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a report following his visit to Tunisia in December 1999 in which he detailed numerous concerns about the restrictions imposed by the authorities on such rights and freedoms and strongly urged the government to take concrete measures to address these concerns (E/CN.4/2000/63/Add.4).

In November 1998 the UN Committee against Torture examined the government of Tunisia’s second periodic report (which was submitted four years late) and declared itself “disturbed by the reported widespread practice of torture” and “concerned over the pressure and intimidation used by officials to prevent the victims from lodging complaints.” The committee felt that by denying these allegations, “the authorities are in fact granting those responsible for torture immunity from punishment, thus encouraging the continuation of these abhorrent practices.” The committee urged the government “to

put an end to the degrading practice of torture and to eliminate the gap between the law and its implementation". (See the Concluding Observations of the Committee against Torture : Tunisia, 19 November 1998, A/54/44, paras. 88-105.) At the same time, the Special Rapporteur on torture, who in October 1998 requested to conduct a working visit to Tunisia, has received no invitation. In the observations included in his report issued on 25 January 2001, the Special Rapporteur on torture stated that it seems evident that "torture and ill-treatment of persons held by law enforcement officials are prevalent in Tunisia ...". The report states, "that brutal treatment of foreign human rights workers can occur leaves little doubt as to what may happen to persons with no such influence" (Report of the Special Rapporteur on torture, 25 January 2001, E/CN.4/2001/66, para. 1089).

In its 1998 session, the Sub-Commission on the Promotion and Protection of Human Rights (formerly the Sub-Commission on Prevention of Discrimination and Protection of Minorities) asked the High Commissioner for Human Rights to make inquiries into the security of some human rights defenders (Sub-Commission Resolution 1998/3, para. 3). Among those human rights defenders who were mentioned were Khemaïs Ksila (conditionally freed from prison in 1999) and Radhia Nasraoui (see above). In May 1999 the UN Working Group on Arbitrary Detention issued its finding that the detention of Ksila was arbitrary. On 23 December 1999, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government of Tunisia "concerning Mr. Khémaïs Ksila, vice-president of the Tunisian League for the Defence of Human Rights, who allegedly had been subjected to constant intimidation after he met with the Special Rapporteur during the latter's mission to Tunisia in December 1999". (Report to the Commission on Human Rights of the Secretary General on co-operation with representatives of the UN human rights bodies, E/CN.4/2001/34, para.6). On 20 April 1999 the High Commissioner for Human Rights wrote to the Foreign Minister of Tunisia concerning the case of Mr. Ksila (Sub-Commission on the Prevention of Discrimination and Protection of Minorities, violations of the rights of human rights defenders in all countries, E/CN.4/Sub.2/1999/4, paras. 1, 5-7).

The Tunisian government's fifth periodic report to the UN Human Rights Committee was due in February 1998 but has not been submitted to date. In October 1994, after examining Tunisia's fourth periodic report, the UN Human Rights Committee expressed concern about the human rights situation and urged the government of Tunisia to implement a series of recommendations so as to bring Tunisia into compliance with its obligations under the International Covenant on Civil and Political Rights. (See the Concluding Observations of the UN Human Rights Committee, adopted on 23 November 1994, CPR/C/79 Add.43) To date, none of the key recommendations have been implemented.

In July 2001, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers sent a communication to the Tunisian authorities asking for clarification regarding the case of the judge Mokhtar Yahiaoui who had been suspended from his position after having sent an open letter to President Ben Ali (see above).

Seven reports by Tunisia to UN treaty monitoring bodies are now overdue, including the third report to the Committee against Torture (due on 30 November 1999) and the fifth report to the Human Rights Committee (due on 4 February 1998).

/END/