

# TUNISIA (2010-2011)

- [english] - Region - North Africa & Middle East - Tunisia -

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### SITUATION OF HUMAN RIGHTS DEFENDERS

Updated as of May 2011

The year 2010 was again marked by continuous harassment of any person involved in the defence of human rights, in the form of daily surveillance, smear campaigns, attacks, judicial harassment, absence of freedoms and repression of social protest movements. Following the departure of President Ben Ali on January 14, 2011, much progress was made permitting defenders to enjoy a more favourable climate to work. However, although there was a clear reduction in the number of cases of harassment against defenders, they did not totally disappear.

#### Political context

On January 14, 2011, following a month of demonstrations that shook the whole of Tunisia, President Zine el-Abidine Ben Ali left power after a twenty-three-year absolute reign<sup>1</sup>. Starting in Sidi Bouzid, a town in the centre-west forgotten by economic development, after the immolation of a young street vendor protesting against the seizure of his wares by the police, the growing social protest movement against unemployment and the high cost of living turned into a protest against corruption and violations of fundamental freedoms. The security forces, including anti-riot police, fired tear gas and live bullets at the demonstrators. Dozens of people were killed and many others wounded.

The transitional authorities announced several measures with a view to guarantee the respect of the rule of law and fundamental freedoms. On February 1, 2011, the Council of Ministers of the Transitional Government announced that Tunisia will ratify the Rome Statute on the creation of the International Criminal Court, the International Convention for the Protection of All Persons Against Forced Disappearances as well as the two Optional Protocols to the International Covenant on Civil and Political Rights, including the one relating to the abolition of death penalty. It also announced that it will consider the lifting of the Tunisia's reservations to the Convention on the Elimination of All Forms of Discrimination Against Women. At the end of April 2011, these commitments were still not effectively followed. The Transitional Government also set up the Higher Political Reform Commission (Commission supérieure de la réforme politique)<sup>2</sup>, the National Fact-Finding Commission on Cases of Embezzlement and Corruption (Commission nationale d'établissement des faits sur les affaires de malversation et de corruption) and the National Fact-Finding Commission on Abuses Committed During Recent Events (Commission nationale d'établissement des faits sur les dépassements et abus commis au cours des derniers événements). In addition, on February 16, 2011, the Government adopted a general amnesty law granting the release of all prisoners of conscience, including some human rights defenders<sup>3</sup>.

Since the Transitional Government was set up, many advances were also recorded with regard to the freedom to exist and to act of political parties, associations and independent or opposition media. Independent civil society was able to exercise all the rights of which it was previously deprived such as forming legal associations, travelling freely throughout the country and abroad, having access to the media and creating its own media, organising meetings, etc. International NGOs were even authorised to organise conferences and fact-finding missions in the country, and were authorised to access to prisons. But despite this progress, repressive practices continued after January 14, 2011. In particular, although the Transitional Government claimed that the political police was dismantled, reliable reports consider that it continued to operate, at least partially. New cases of arbitrary arrests were recorded, human rights organisations reported the resurgence of torture in police stations and several demonstrations were banned.

Furthermore, in 2010, as in the past, the ruling regime continued to systematically repress and harass all dissident voices using the political police, the judicial apparatus and the media. The Tunisian authorities set up obstacles to freedom of movement, communication blockades, constant police surveillance, and perpetrated arbitrary detentions,

acts of violence and judicial harassment.

### **Adoption of an amendment to reinforce criminalisation of defence of human rights**

On July 1, 2010, an amendment to the Criminal Code, which might hinder the activities of promotion and protection of human rights undertaken by the Tunisian defenders by criminalising their relations with foreign and multilateral organisations, was published in the Official Journal of the Tunisian Republic. This amendment complements the provisions of Article 61bis of the Criminal Code by adding the criminalisation "of any persons who shall, directly or indirectly, have contacts with agents of a foreign country, foreign institution or organisation in order to encourage them to affect the vital interests of Tunisia and its economic security", punishable by a prison sentence (Article 62 on domestic security). As of the end of April 2011, this draconian provision remained in force despite it was never used against human rights defenders.

### **Ongoing repression of journalists who denounce human rights violations**

Although in 2010 nearly all the media remained under the control of the authorities, the latter repressed the independent media, especially people who worked with Radio Kalima, an online radio and newspaper. As an example, on November 24, 2010, Mr. Nizar Ben Hassen, a correspondent for Radio Kalima and Director of the Chebba Student Promotion Association (Association de promotion de l'étudiant de Chebba), was condemned to a suspended two-month prison sentence by the Mahdia Court of First Instance for "defamation" and "attacking morality", following a peaceful demonstration organised on June 27, 2009 by his association in front of Chebba town hall, to protest against the three-year block on public funds applied to the same association. These charges were brought against him eight months later, on February 23, 2010, few days after the broadcast of a documentary he had made on the abusive expropriation of home-owners in a district of the town of La Goulette<sup>4</sup>. In addition, on December 8, 2010, the Jendouba Criminal Chamber of the Court of First Instance sentenced Mr. Mouldi Zouabi, a Radio Kalima journalist, to a fine of 900 dinars (around 620 euros) for "aggravated violence" and "public insults"<sup>5</sup>. This sentence was handed down in reaction to the publication by Mr. Zouabi of several reports on the degree of implementation of economic reforms and policies to eradicate poverty in the disadvantaged region of the north-west. On December 29, 2010, Mr. Zouabi was arrested while he was covering a lawyers' rally in front of Jendouba Courthouse in support of the protest movement. He was released the following day without charge. Other journalists were also the target of violence and judicial harassment after having denounced human rights violations. For example, on April 24, 2010, eight plain-clothed police officers arrested journalist Mr. Zouhair Makhoulf, Secretary General of the association "Freedom and Equity" (Liberté et équité), at his home without any warrant. He was violently assaulted in front of members of his family and forcibly taken to the Borj Ouzir police station in Ariana, before being released seven hours later without being charged. Moreover, on April 26, 2010, Mr. Taoufik Ben Brik was released after having served a six-month prison sentence following the publication of articles criticising the President's regime<sup>6</sup>.

Since the Transitional Government was set up in 2011, abuses committed by the police were considerably reduced, although they were not completely eliminated. As an example, on April 8, 2011, Mr. Abdallah Ben Saïd, a cyber-activist, also known as Abdallah CAM<sup>7</sup>, was arrested in Tunis by police agents while he was filming a sit-in of Tunisian revolution demonstrators, harshly repressed by men wearing hoods and armed with truncheons. On April 13, 2011, the Examining Magistrate with the Tunis Court of First Instance decided to discharge and release Mr. Ben Saïd.

### **Continued smear campaigns against human rights defenders**

In 2010, human rights defenders continued to be subject to numerous measures of harassment, especially in the run-up to the municipal elections in May 2010. In this context, the Tunisian authorities repressed all civil society attempts to monitor the conduct of the election and to promote the holding of free elections. Access was blocked to

the premises of several NGOs, including branches of the Tunisian League for the Defence of Human Rights (Ligue tunisienne de défense des droits de l'Homme - LTDH), the Tunisian Association of Democratic Women (Association tunisienne des femmes démocrates - AFD) and the National Council for Liberties in Tunisia (Conseil national pour les libertés en Tunisie - CNLT).

Several human rights defenders also faced obstacles to freedom of movement and defamation campaigns in the pro-Government media. As an example, on February 27, 2010, the daily newspaper Koll Ennass published an article containing slanders against Ms. Sihem Bensedrine, CNLT Spokesperson, and Mr. Khemaïs Chammari, former FIDH Vice-President and co-founder of the Euro-Mediterranean Foundation of Support to Human Rights Defenders (EMHRF), as well as against Messrs. Mohamed Abbou, a lawyer and co-founder member of CNLT, Kamel Labidi, a journalist and former Director of the Tunisian branch of Amnesty International, Moncef Marzouki, a former CNLT Spokesperson and Honorary President of LTDH, and Ms. Neziha Rejiba, a journalist. The article described them as having being "bought" and as "traitors to the Nation", amongst other things. The newspapers al-Chourouk, al-Sarih and al-Hadath reported this in turn. They all filed complaints but without effect. In addition, on May 18, 2010, the newspapers al-Chourouk and al-Hadath once again published defamatory articles against Ms. Sihem Bensedrine and Messrs. Khémaïs Chammari and Kamel Jendoubi, President of the Committee for the Respect of Freedoms and Human Rights in Tunisia (Comité pour le respect des libertés et des droits de l'Homme en Tunisie - CRLDHT), member of OMCT Executive Council and President of the Euro-Mediterranean Human Rights Network (EMHRN), describing them as "traitors", "agents" and "mercenaries" "who should be tried" for having "been in contact with the European Union to sabotage the country" when these persons were involved in international campaigns to denounce human rights violations and when a draft law making this kind of mobilisation a crime was due to be presented in June 2010. This smear campaign also targeted two French lawyers, Messrs. Patrick Baudouin, Honorary President of FIDH, and Michel Tubiana, former FIDH Vice-President, Honorary President of the Human Rights League (Ligue des droits de l'Homme - LDH) and member of EMHRN Executive Committee, after they filed a civil action on March 16, 2009 for "justification of war crimes" in the case of a Tunisian union member who was murdered in 19528. In its edition of March 24, 2010, the daily newspaper Koll Ennass described them respectively as "pro-colonialist" and "Mossad agent". They did not file a complaint.

### **Increased police surveillance of lawyers and magistrates involved in the defence of human rights**

In 2010, the authorities continued to exercise close surveillance on lawyers and magistrates involved in the defence of human rights and to harass them in their private and professional life. As an example, the legal practice of Mr. Abderraouf Ayadi, also in charge of CNLT legal affairs, Mr. Ayachi Hammami and Mr. Mohamed Abbou, as well as of Ms. Radhia Nasraoui, also President of the Tunisian Association Against Torture (Association de lutte contre la torture en Tunisie - ALTT) and former member of OMCT Assembly of Delegates, were constantly surrounded by cars, motorbikes and plain-clothed police officers. The police also questioned their clients to intimidate them and deprive the lawyers of their livelihoods. Furthermore, the telephone conversations of the defenders were constantly monitored. During the night of April 30 to May 1, 2010, the practice of Ms. Radhia Nasraoui was broken into and her computer tower was stolen. This break-in occurred after a telephone conversation between Ms. Radhia Nasraoui and one of her clients regarding a litigation involving a person close to the Tunisian Government, a case due to be examined by the African Commission on Human and People's Rights (ACHPR) during its session in May 2010. As a further example, the magistrate Mr. Mokhtar Yahyaoui continued to be the target of permanent harassment. Under constant surveillance by the political police, he was in particular prevented on several occasions from leaving his home and from receiving visits from his foreign counterparts<sup>9</sup>. Members of the Association of Tunisian Magistrates (Association des magistrats tunisiens - AMT) were also subjected to increasing intimidation. Mr. Ahmad al-Rahmouni, Ms. Kalthoum Kennou, Ms. Wassila Kaabi, Ms. Raoudha Karafi, Ms. Leila Bahria and Ms. Noura al-Hamdi were closely tailed before the 13th AMT Congress organised on December 19, 2010. Their homes were surrounded by the police, preventing them from leaving to reach the congress place. In addition, on December 19, members of the security forces prevented Mr. Hamadi al-Rahmani, also a member of AMT, from entering the hotel where the congress was organised "on instructions from the Ministry of Interior".

Since the Transitional Government was set up in 2011, despite the fact that the practices preventing magistrates from doing their job correctly were stopped, some were still under surveillance, although it was done in a more discrete way. In particular, the access to their clients was duly respected but some lawyers said their telephones were still monitored as of the end of April 2011. Furthermore, on March 23, 2011, the Administrative Tribunal cancelled the exclusion of Mr. Mokhtar Yahyaoui from the magistracy. He was removed on December 29, 2001, after he addressed an open letter to President Ben Ali, calling for an independent justice system and condemning the control of the policy system over the magistracy<sup>10</sup>.

### **Continued repression of social protest movements**

The year 2010 was marked by continued convictions of human rights defenders who supported the social protest movements in the Gafsa-Redeyef mining area in 2008-2009. On July 6, 2010, the Gafsa Court of Appeal upheld the four-year prison sentence handed down in first instance against Mr. Fahem Boukaddous, a journalist and correspondent of the al-Hiwar al-Tounisi satellite television channel and the al-Badil online news website, for "taking part in a group established to prepare and commit an attack against people or property"<sup>11</sup>. On April 27, 2010, Mr. Hassan Ben Abdallah, a member of the Committee of Unemployed Graduates (Comité des chômeurs diplômés), was sentenced by the same Court of Appeal to four years and six months in prison for "rebellion" and "associating with criminals"<sup>12</sup>. Messrs. Boukkadous and Ben Abdallah were released during the amnesty on January 19, 2011. Similarly, on April 21, 2011, following the appeal against his sentence in absentia to two years and fifteen days in prison, Mr. Mouhiedine Cherbib, a founder member of CRLDHT and President of the Federation of Tunisians for a Two-Banks Citizenship (Fédération des Tunisiens pour une citoyenneté des deux rives - FTCT), was acquitted by the Gafsa Court.

Moreover, in December 2010 and January 2011, intimidation measures affected several human rights defenders who demonstrated their solidarity with the national social protest movement and denounced police repression. As an example, on December 28, 2010, after a rally organised in front of the Tunis courthouse, the lawyers Mr. Abdelraouf Ayadi and Mr. Chokri Belaid were abducted by plain-clothed police officers, held arbitrarily and ill-treated, before being released the following day without charge<sup>13</sup>. On the same day, during a demonstration in Kef, Mr. Abdelkader Ben Khemis, Secretary General of the CNLT, was beaten by policemen wearing plain clothes<sup>14</sup>. On December 29, another rally organised in front of the Jendouba courthouse was violently repressed by the security forces. The lawyers who organised the rally, Mr. Hédi Manaï and Mr. Said Mechichi, members of LTDH and CNLT, as well as Mr. Rabah Khraifi, a member of Amnesty International, were brutally beaten by uniformed members of the rapid response brigades and by plain-clothed police officers on the premises of the Jendouba courthouse. Mr. Hédi ben Romdhan, President of LTDH in Jendouba, was also verbally abused and pushed. One hour later, Mr. Khraifi and Mr. ben Romdhan were again attacked in front of the headquarters of the General Union of Tunisian Workers (Union générale des travailleurs tunisiens - UGTT). None of them filed complaints. In view of the scale of the repression mainly focused on lawyers, the President and the Council of the Tunis Bar called for a national demonstration of lawyers on December 31, inviting colleagues to wear red cockades on their gowns to express their rejection of all forms of violence and to maintain the right of lawyers to demonstrate peacefully. On December 31, the police brutally repressed these demonstrations, especially in Tunis, Gafsa, Sfax, Mahdia, Grombalia and Monastir. Representatives of the security forces even entered in the court premises to attack lawyers and forcibly remove the red cockades from their gowns. The President of the Bar then called an emergency meeting at the lawyers' centre but the building was surrounded and police officers in plain clothes again attacked lawyers who tried to enter the building. Similarly, on January 11, 2011, a peaceful demonstration of artists who came to express their support for the social protest movement in front of the Tunis municipal theatre was violently broken up by numerous police officers. Shortly after the demonstration, police agents attacked several lawyers who were present on the premises, including Mr. Abdellatif Baili, a board member of LTDH, Ms. Samia Abbou and Ms. Radhia Nasraoui. They did not file a complaint at the time of the occurrences.

Since the Transitional Government was set up in 2011, there was a reduction in the practices of criminalising or

repressing the exercise of freedom of peaceful assembly.

### **Progress in implementing freedom of association**

Since the Transitional Government was set up in 2011, several obstacles to freedom of association which were maintained for many years against numerous independent associations were finally removed. On February 26, 2011, the Tunis Administrative Court annulled a 1999 decision of the Ministry of Interior, opposing the establishment of the CNLT. Thus, CNLT members were able to enter their premises again, which was forbidden since January 2009. On April 22, a similar decision was made by the same court in favour of the Observatory for Freedom of the Press, Publishing and Creation in Tunisia (Observatoire pour la liberté de la presse, d'édition et de création en Tunisie - OLPEC), which had lodged an appeal against the Ministry of Interior in 2001 for abuse of power. On February 18, 2011, ALTT was able to file a new registration application with the Ministry of Interior under the name of the Organisation Against Torture in Tunisia (Organisation contre la torture en Tunisie - OCTT). In the absence of any response within three months, OCTT will be established legally de facto. Furthermore, access to LTDH branch premises and headquarters, which had been restricted since 2005, was fully re-established on January 14, 2011. On April 16, 2011, the Hammamet branch of LTDH was able to hold its congress for the first time since 2005.

1 On March 8, 2011, the Democratic Constitutional Rally (Rassemblement constitutionnel démocratique), former President's party, was dissolved and several illegal parties were able to register.

2 On February 18, 2011, the Higher Political Reform Commission merged with the Committee to Safeguard the Revolution (Comité pour la sauvegarde de la révolution) to form the Commission to Achieve the Objectives of the Revolution, Political Reform and Democratic Transition (Commission pour la réalisation des objectifs de la révolution, de la réforme politique et de la transition démocratique).

3 The law was signed by the Interim President on February 19, 2011 and concerns all prisoners of conscience who had been sentenced or whose trial was ongoing prior to January 14, 2011.

4 See National Council for Liberties in Tunisia (Conseil national pour les libertés en Tunisie - CNLT).

5 Mr. Zouabi was the victim of an assault on April 1, 2010 in front of the Jendouba police station, following which he filed a complaint before the court. This complaint was dismissed due to "insufficient evidence" and, on July 7, 2010, Mr. Zouabi received a summon to answer a trumped-up charge of "aggravated violence and public insults" against his attacker. See CNLT.

6 Mr. Ben Brik was given a six-month prison sentence on November 26, 2009, a sentence that was upheld by the Tunis Court of Appeal on January 30, 2010.

7 Mr. Ben Saïd regularly uses a small camera to film demonstrations and scenes of violence that he witnesses, before broadcasting them on a number of social networks.

8 The murder of Mr. Farhat Hached was claimed by the "Red Hand" (Main rouge), a secret armed organisation which came under the control of the French State and which was active at that time.

9 See CNLT.

10 Idem.

11 In December 2008, Mr. Boukaddous was sentenced in absentia to six years in prison after he published a series of articles and news stories denouncing the repression of the peaceful social protest movement in Gafsa-Redeyef in 2008. The sentence was upheld in appeal on February 3, 2009. Following the conditional release of all those sentenced during the repression of this movement, Mr. Boukaddous presented himself to the authorities and the judicial proceedings against him were reopened.

12 Mr. Ben Abdallah also presented himself to the authorities in December 2009 following his conditional release in November 2009.

13 Only Mr. Ayadi filed a complaint. He was heard by the Tunis Court of First Instance in April.

14 Mr. Ben Khemis filed a complaint one week later. As of the end of April 2011, there was still no follow-up.

**Extracts from the Annual Report 2011 of the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT)**