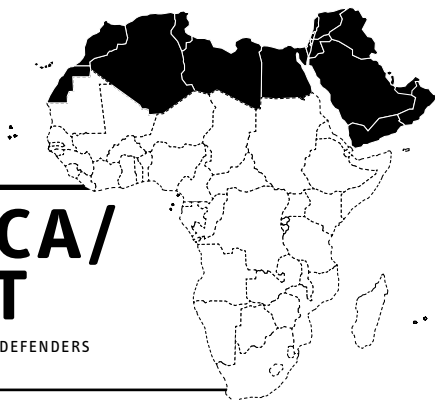


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# NORTH AFRICA/ MIDDLE EAST

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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# REGIONAL ANALYSIS NORTH AFRICA AND MIDDLE EAST

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In North Africa, 2009 was an election year. Not surprisingly, presidential elections in *Algeria* and *Tunisia* kept the countries' presidents in power thanks to constitutional amendments in violation of the principle of alternation in power, which is one of the guarantees of a democratic system. These elections resulted in various measures to weaken the main opposition figures through the adoption of repressive measures and the silencing of any voice of protest. Moreover, the ongoing state of emergency in several countries of North Africa and Middle East – *Syria* since 1963, *Egypt* since 1981, *Algeria* since 1992 and *Yemen* in the province of Saada since August 2009<sup>1</sup> – submits human rights defenders and all dissenting voices to emergency legislation that violates fundamental rights and freedoms and restricts rights to freedoms of association and peaceful assembly. In *Egypt*, *Syria* and *Yemen*, these laws are accompanied by special courts, including military tribunals and State security courts, also found in *Iraq*, *Libya* and *Oman*, before which civilians – including human rights defenders – were tried in open defiance of the right to a fair trial. Finally, in States affected by armed conflicts or political unrests, the authorities increasingly used those disorders to restrict the activities of defenders (*Israel and the Occupied Palestinian Territory (OPT)*, *Morocco and Western Sahara*, *Yemen*).

Several States in the region also continued to refuse to cooperate with the United Nations (UN) mechanisms protecting human rights. *Saudi Arabia*, the *United Arab Emirates*, *Oman* and *Qatar* are neither parties to the International Covenant on Civil and Political Rights nor to the International Covenant on Economic, Social and Cultural Rights. Other States have also refused access to UN Special Procedures, such as the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (*Algeria*, *Israel*, *Libya*, *Saudi Arabia*, *Tunisia*), the Special Rapporteur on Torture and other Cruel, Inhuman or

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1/ The situation of total isolation of the region of Saada and a 12-hour curfew imposed by the Government of Sana'a rendered the province in a state of emergency.

Degrading Treatment (*Algeria, Egypt, Iraq, Israel, Libya, Saudi Arabia, Syria, Tunisia, Yemen*), the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (*Algeria, Egypt, Saudi Arabia, Yemen*), the Special Rapporteur on Human Rights and the Fight Against Terrorism (*Algeria, Egypt*), and the Working Group on Arbitrary Detention (*Algeria, Egypt, Libya, Morocco, Saudi Arabia*). Moreover, apart from *Israel and the OPT*, the UN Special Rapporteur on the Situation of Human Rights Defenders has never visited any country in the region, even though in recent years she has made such a request in several countries (*Egypt, Syria, Tunisia*)<sup>2</sup>.

In some countries where repression is systematic, again, independent and organised human rights movements could not form openly (*Libya, Saudi Arabia*), and defenders paid a heavy cost, sometimes lifetime, their commitment towards freedoms, which has a strong dissuasive impact on civil society. In other countries, to the Observatory's knowledge, there was a limited number of direct infringements against human rights defenders. But in reality, in those countries, methods of repression used by the authorities are less visible and target less human rights defenders than the legal framework in which they operate (*Jordan, Oman, Qatar, United Arab Emirates*). Finally, in countries affected by a conflict like in *Iraq*, the analysis of the situation of human rights defenders remained very difficult owing to the grave security situation.

### **Restrictive legislation and administrative abuse to impede freedom of association**

Even when recognised, freedom of association remains a very fragile right in the region. The constitution of associations, particularly independent human rights NGOs, remains banned in *Saudi Arabia* and *Oman*. In several States, the formation of an association is further subject to obtaining prior administrative authorisation (*Bahrain, Egypt, Jordan, Libya, Syria*). Such permits are rarely granted when the association actively defends human rights. In some countries, legislative and administrative barriers also considerably restrict the right of association. In *Egypt*, the law prohibits associations from engaging in political activities or trade unions or engaging in activities that threaten national unity or violate public order or morality. In *Morocco*, an association cannot legally exist if its goals are considered indecent, offensive to Islam, the monarchy or territorial integrity, or if it involves discrimination. These vague formulations can be used by authorities to ban human rights organisations. Moreover, in countries covered by the declaration regime, where no administrative authorisation

2/ Following a request made in 2005, the Rapporteur was invited to Iraq but was ultimately unable to go because of, among other things, safety reasons.

is required to carry out activities within an association, the authorities may refuse to enforce that law. Some associations are thus denied at the time of notification of the constitution of the association the provision of a receipt without which they are not entitled to legal personality and therefore cannot operate (*Algeria, Morocco and Western Sahara, Tunisia*). The declaration scheme provided by the law thus becomes in practice a prior authorisation system. Moreover, defenders who conduct their activities within associations considered undeclared are liable to prosecution and criminal sanctions (*Algeria, Bahrain, Egypt, Syria*). In *Libya*, the Law No. 71 of 1972 and the Criminal Code also sanction the death penalty for any person belonging to proscribed groups, including associations.

Moreover, in several countries in the region, authorities continued in 2009 to systematically obstruct the registration of human rights NGOs (*Algeria, Bahrain, Egypt, Syria, Tunisia*) and maintained control over the functioning of associations. In *Jordan*, in particular, the new Law on Associations adopted by Parliament on July 15, 2009 allows governmental interference in NGOs activities and provides a subtle pattern of restricting freedoms and controlling the activities of defenders. Under the provisions of this law, which prevents the development of an independent movement to defend freedoms, authorities must be informed in advance of the date, place and agenda of all meetings held by the associations' boards. In addition, the Government can send representatives to these meetings, and some decisions must be submitted to the Government. The law also allows the Ministry having the authority to regulate such NGOs to replace the board with an interim board. Finally, the law requires associations to seek formal approval for all foreign donations. Similarly, in *Libya*, the General People's Congress adopted Decision 312/2009 in June 2009, which requires any new association to provide 30 days notice before a meeting or a public event and notify the authorities with a list of all participants and issues to be addressed. Finally, in *Egypt*, the Law on Associations gives the Ministry of Social Affairs, rather than a judicial authority, the right to dissolve an association considered to conduct "illegal" activities.

### **Defamation, criminalisation and judicial harassment of human rights defenders**

In 2009, the Government media launched repeated slanderous campaigns against human rights defenders. Described as "agitators [who] defy the teachings of God and the Prophet" (*Morocco*), "mercenaries", "traitors" and "spies" (*Tunisia*), or authors of "crimes against the internal and external security of the State" (*Bahrain*), These smear campaigns are part of a comprehensive strategy of criminalisation of the human rights movement. Defenders were indeed repeatedly charged with "defamation" and "insult-

ing the constituted body” or “spreading false information” for engaging in human rights activities (*Algeria, Bahrain, Morocco, Syria, Yemen*). When found “guilty,” those defenders are punishable by up to 15 years in prison (*Syria*). Moreover, defenders who denounced the violations committed in the context of armed conflicts and political tensions were arrested by the authorities (*Israel and the OPT*) and prosecuted, accused of sympathising with an armed insurgency or separatist movement (*Morocco and Western Sahara, Yemen*).

Furthermore, the use of repressive laws for political purposes was reinforced by the instrumentalisation of judicial proceedings: trials before courts of exception, closed hearings, lawyers denied access to records, use of “evidence” obtained through torture and disregard for the rights of the defence (*Bahrain, Egypt, Syria, Tunisia, Yemen*). State supreme courts, even when they come under ordinary law, most often confirmed the sentences in first instance against defenders (*Algeria, Morocco, Tunisia*). The independence of justice was thus undermined by the campaigns of judicial harassment defenders increasingly faced and which, sometimes, did not expire until an amnesty was granted by the Head of State (*Bahrain, Tunisia, Yemen*).

In other countries, the practice of enforced disappearances (*Syria, Yemen*), torture (*Bahrain, Egypt, Tunisia, Yemen*) and administrative detention without charge or trial (*Egypt, Israel*) remained also widespread. On May 21, 2009, Mr. **Fathi al-Jahmi**, a famous defender in *Libya*, died when the Libyan authorities were transferring him to Jordan in order to “receive emergency medical care”. Yet, since his arrest in October 2002, several NGOs had repeatedly denounced the inhuman conditions of his detention.

### **Obstacles to freedom of movement of defenders**

In States affected by armed conflicts, human rights defenders were often prevented from carrying out investigations because of limitations imposed on their freedom of movement. The authorities increasingly instrumentalised these disorders to restrict the activities of human rights defenders. In 2009, in the *OPT*, Israeli and Egyptian authorities completely closed access to the Gaza Strip during Israel’s military offensive and strictly limited its access thereafter. Since 2007, for “security reasons,” no Israeli journalist has been allowed to visit the Gaza Strip. In addition, the maintenance in 2009 (despite a slight decline) of checkpoints in the West Bank and construction of the separation wall in East Jerusalem restrict access to Palestinian territory for Palestinian, Israeli and international defenders. In *Yemen*, the province of Saada was also closed to journalists and human rights organisations. These barriers have had a direct impact on the collection of

information on the situation of human rights in these territories, including the effects of those armed conflicts on civilian populations.

Many defenders were also prevented from leaving the country or arrested following their participation in international conferences on human rights (*Egypt, Israel, Saudi Arabia, Syria, Tunisia*). For example, in *Saudi Arabia*, Mr. **Mohammed Saleh al-Bejadi**, Head of the website *Monitor of Human Rights in Saudi Arabia-Al-Marsad*, was informed on July 23, 2009 that he continued to be banned from travelling. In March 2009, he had been summoned by the intelligence services of the police and questioned about articles he had posted on the Internet where he called for democratic reforms and the release of detainees. In addition, for reasons of “internal security,” some foreign human rights defenders were denied access to countries in the region where they exercised human rights activities (*Egypt*).

### **Acts of violence and intimidation against human rights defenders**

In 2009, human rights defenders continued to be targets of violence, intimidation and even murder. In *Iraq*, a series of assassinations targeted trade unionists and defenders of economic and social rights, including Mr. **Majeed Sahib Kareem**, Secretary of Internal Relations for the General Federation of Iraqi Workers (GFIW), who was killed on November 26, 2009 by a bomb in his car. In the *OPT*, the Israeli army fired with impunity on demonstrators gathered to peacefully express their opposition to the construction of the separation wall. Some human rights defenders were also regularly abused and humiliated and even physically assaulted in public places (*Tunisia*). Moreover, the authorities increased surveillance of defenders, who were increasingly harassed in their private and professional life: phone lines and Internet turned off, ban on all visitors to access the defender’s home (*Tunisia*), redundancies (*Algeria*), night raids on the homes (*Israel and the OPT*), etc. In addition, in 2009, headquarters of NGOs were the target of raids by the police or strangers who seized defenders’ work equipment: computers, phones, cameras, etc. (*Israel and the OPT, Tunisia, Yemen*).

### **Acts of harassment against lawyers**

In 2009, lawyers also faced growing hostility from the authorities for their intervention in cases deemed sensitive by the Government (*Morocco, Syria, Yemen*) or when they acted as counsel for prosecuted human rights defenders (*Syria*). The sanctions imposed against them ranged from professional censure (*Morocco*) to disbarment (*Syria*), to judicial proceedings and possible criminal conviction (*Syria, Yemen*). Others were subjected to acts of surveillance, intimidation and restrictions on their freedom of movement (*Tunisia*).

## Muzzling of the media

In 2009, freedom of the press continued to be flouted in the countries of the region. Newspapers were seized or banned from broadcasting (*Algeria, Morocco, Yemen*), media centres were closed by the authorities (*Israel and the OPT, Syria, Tunisia*) and journalists were prosecuted for exercising their freedom of expression and denouncing human rights violations (*Algeria, Bahrain, Egypt, Morocco, Syria, Tunisia, Yemen*). Internet users (bloggers, forum leaders and ordinary participants in chat sites) were increasingly the target of these repressive measures (*Egypt, Morocco, Yemen*). *Algeria* also passed a law legitimising the control and supervision of electronic communications. The Press Codes in the region also maintained prison sentences for press offences (*Algeria, Egypt, Morocco, Tunisia*). In countries where the Press Code was more liberal, the authorities used the Criminal Code to prosecute journalists denouncing human rights violations (*Bahrain*). In *Yemen*, a special court was set up to try to press offences. In addition, restrictions on freedom of the press are very broad and often defined in vague terms: “libel” (*Algeria, Jordan, Tunisia, Yemen*), “threats to national security” (*Egypt*), “damage to Islam, the monarchy, territorial integrity or public order” (*Morocco*), “attacking the culture and customs of the country” (*Oman*), “weakening national sentiment” (*Syria*) or “damaging national unity” (*Yemen*). In the *United Arab Emirates*, the Federal National Council adopted a new Press Code on January 20, 2009. Although it abolishes prison sentences against journalists, it imposes heavy fines and a ban on publications that denigrate members of the Government or the royal family or that publish “misleading” information to “mislead the public into error” and “hurt the economy”.

## Urgent Interventions issued by The Observatory in 2009 on countries of the region for which there is no country fact-sheet

COUNTRY	Names	Violations / Follow-up	Reference	Date of Issuance
IRAQ	Mr. Majeed Sahib Kareem	Assassination	Urgent Appeal IRQ 001/1209/OBS 178	December 2, 2009
JORDAN	NGOs	Obstacles to freedom of association	Joint Press Release	July 22, 2009
LIBYA	Mr. Fathi al-Jahmi	Death	Joint Press Release	June 3, 2009
SAUDI ARABIA	Mr. Mohamed Saleh al-Bejadi	Obstacles to freedom of movement	Urgent Appeal SAU 001/0809/OBS 117	August 13, 2009

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# ALGERIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

On April 9, 2009, the Algerian President Abdelaziz Bouteflika, in power since 1999, was re-elected for a third consecutive term following the adoption on November 12, 2008 of a constitutional reform abolishing the restriction on the number of presidential mandates. This election took place in a climate of surveillance that made it almost impossible to contest, or even to cover, the ballot. For instance, the day before the presidential election the Algerian authorities banned the distribution of three French publications, *L'Express*, *Marianne* and *Journal du Dimanche*, which criticised the elections<sup>1</sup>. Furthermore, on April 9, 2009, the Algerian authorities arrested two Moroccan journalists working for the Moroccan weekly *Assabrae al-Ousbouiya*, Messrs. Hicham El Madraoui and Mahfoud Aït Bensaleh, who had come to cover the presidential election in Algeria. They were questioned for several hours at the Algiers central police station before being released without being charged. When they returned to their hotel, they discovered that their room had been ransacked. The next day, while they were preparing to leave for the airport, they were again stopped by the police and their passports were confiscated. They were finally able to leave Algeria on the next day, after the Moroccan embassy intervened<sup>2</sup>.

Moreover, although private newspapers enjoy more freedom than the National Television Company (*Entreprise nationale de télévision – ENTV*), the sole State-run TV channel, repressive laws on the press, newspaper dependence on public sector revenue and other factors restrict their freedom to criticise the Government, the army and the political and economic elite. In particular, the press laws provide for prison sentences and fines for slander and insults against Government representatives and State institutions. Furthermore, the ban remained on any critical debate on the internal armed conflict that split Algeria in the 1990s. The Algerian authorities indeed refuse to carry out the work of justice and remembrance relating to the events in this conflict.

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1/ See Algerian Human Rights Defence League (LADDH) and Reporters Without Borders (RSF) Press Release, April 8, 2009.

2/ See LADDH and RSF Press Release, April 10, 2009.



Another sign of the hardening of the climate of surveillance came in June 2009, when the National People's Assembly (*Assemblée populaire nationale* – APN) adopted a law including special regulations to prevent and fight crimes linked to information and communication technology including cyber-criminality. This law, the second part of which relates to the surveillance of electronic communication for prevention purposes, permits the surveillance of electronic communication in order to “prevent crimes qualified as terrorist or subversive activity and crimes against State security”, for “the requirements of legal investigations when it is difficult to obtain results relevant to enquiries in progress without resorting to electronic surveillance” and when there exists “information on a probable attack on a computer system representing a threat to State institutions, national defence or public order”. These very general provisions give rise to the fear that this law will be used to monitor and repress human rights activities.

### **Ongoing restrictions to the freedom of association**

In 2009, the Algerian authorities continued to prevent human rights organisations from being given legal recognition. Thus, associations of the families of disappeared persons, such as SOS-Disappeared (*SOS-Disparu(e)s*), still do not legally exist because they are not given a receipt by the local authorities<sup>3</sup>. The Mich'al Association of the Children of the Disappeared from Jijel (*Association Mich'al des enfants de disparus de Jijel* – AMEDJ), created on May 22, 2009, also met with the refusal of the Jijel “wilaya” associations office to issue a receipt on May 24, 2009 for filing their application to create the association<sup>4</sup>. Similarly, the Citizen Generations (*Génération citoyennes*) association had still not been registered as of the end of 2009.

### **Ban on peaceful assemblies for human rights**

In 2009, the Algerian authorities continued the frequent bans on holding meetings on human rights issues, in violation of Article 19 of the Constitution, which guarantees freedom of peaceful assembly. On July 16, 2009, the authorities banned a symposium on “rebuilding society through remembrance of victims”, organised at the trade union house in Algiers by the Coalition of Victims of the State and Victims of Terrorism (*Coalition des associations des victimes de l'Etat et des victimes du terrorisme*), including SOS-Disappeared, “Somoud”, “Djazairouna”, the Collective of the Families of the Disappeared in Algeria (*Collectif des familles de disparus en Algérie* – CFDA) and the Euro-Mediterranean Federation Against Forced

3/ This document establishes legal recognition of an association and permits it to operate. See Law No. 90-31 on Associations.

4/ See LADDH and AMEDJ Press Release, June 30, 2009.

Disappearances (FEMED). The Head of security of the “daïra”, an administrative subdivision of the wilaya, informed the organisers that the ban on the symposium was issued by the “Wali” (Governor) of Algiers for reasons of “public safety”. The symposium was finally held at the headquarters of SOS-Disappeared with far fewer participants and under very difficult conditions: it was held in a room that was too small and was unheated, and it was not possible to warn all the participants of the change of venue<sup>5</sup>. In addition, in a ruling dated May 25, 2009 and for which no reason was given, the services of the Office of General Affairs Legislation (*Direction de la réglementation des affaires générales* – DRAG) of the Algiers wilaya banned a training seminar for journalists on “the role of the journalist in protecting human rights”. The seminar, organised by the Algerian Human Rights Defence League (*Ligue algérienne de défense des droits de l’Homme* – LADDH), was due to be held in Zeralda, west of Algiers, on May 26, 27 and 28, 2009, bringing together 25 journalists from different towns. Similarly, on October 8, 2009, LADDH received a written notification from DRAG, with no reason given, banning it from holding a “National Meeting on the Abolition of Capital Punishment” planned for October 10 to celebrate the World Day Against the Death Penalty. The meeting, which was due to be held at the Hotel El Biar in Algiers, was finally held at LADDH headquarters.

### **Obstacles to trade union freedom and judicial harassment of union members**

In 2009, trade union freedom was still not guaranteed and considerable pressure was put on people who tried to form a trade union. For instance, in 2009, Mr. **Yacine Zaïd**, Secretary General of the local branch of the General Union of Algerian Workers (*Union générale des travailleurs algériens* – UGTA) with Eurest Support Services (ESS), a subsidiary of the Compass group, who had been laid off in 2007, was victim of judicial harassment for having created a trade union branch to defend the interests of employees within the company. He was summoned on March 31, October 20, November 3, 17 and 24, December 1, 8 and 30, 2009 to attend a hearing with the judge of the Ouargla Court, in the east of the country, in connection with seven complaints filed against him by his company’s Director of Human Resources and the Director of the oil platform for which he worked. As of the end of 2009, he remained prosecuted for “defamation” and “insult and injury” after statements were published on Internet denouncing his dismissal and the working conditions of employees in foreign companies established in Algeria<sup>6</sup>.

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5/ See LADDH.

Furthermore, the police broke up, sometimes violently, several peaceful rallies organised by trade unions and demonstrators were subject to judicial proceedings. For example, on November 10, 2009, 50 members of the National Independent Union of Public Administration Personnel (*Syndicat national autonome des personnels de l'administration publique* – SNAPAP), who were taking part in a large strike movement started two days earlier by six independent civil service unions in Algeria, were arrested by the police as they were preparing to spend the night opposite the headquarters of the President of the Republic to protest against the precarious situation of Algerian civil servants. Those arrested, mostly women, were manhandled then taken to a police station where they stayed for several hours before being released. Similarly, union members of the National Committee of Contract Teachers (*Conseil national des enseignants contractuels* – CNEC) who were taking part in the same movement were rushed by the police when they tried to approach the Education Ministry, to which entry was blocked by heavy police contingents<sup>7</sup>. As of the end of 2009, the police had carried out no investigation following these acts of violence.

### **Acts of intimidation and judicial harassment against a defender of religious minority rights**

This year, a defender of religious minority rights was harassed. On June 15, 2009, Mr. **Kamel Eddine Fekhar**, a LADDH activist, was arrested by State security agents from Ghardaïa, in the centre of Algeria, and wrongly accused of “destruction of public property and setting fire to a police vehicle”, incidents that had taken place during the month of January during riots that had shaken the town of Berriane, in Ghardaïa wilaya. The Prosecutor of the Republic released him 24 hours later and placed him on probation. Mr. Kamel Eddine Fekhar is one of the initiators of the appeal to make the Ibadi rite<sup>8</sup> official in Algeria, and his arrest appeared to be due to his activities for recognition of the rights of Mozabite citizens<sup>9</sup>. At the end of 2009, the investigation against him continued.

### **Harassment of defenders who denounce corruption**

In 2009, several defenders were prosecuted for having denounced local authority corruption. For example, Mr. **Ghoul Hafnaoui**, in charge of the LADDH branch in Djelfa, south of Algiers, and a journalist for the daily newspaper *al-Wassat*, was attacked at his home during the night of January 6 to 7, 2009 by a group of hooded individuals who were waiting

7/ See SNAPAP Statement, November 10, 2009.

8/ Ibadism is a form of Islam distinct from Sunni and Shi'a.

9/ Inhabitants of the M'zab valley and members of the Ibadi sect. See LADDH and *al-Watan* article, June 17, 2009.

for him to return. This attack appeared to be related to his condemnation of the corruption that pervades the city of Djelfa<sup>10</sup>. Mr. Ghouli Hafnaoui filed a complaint against unknown persons but, as of the end of 2009, no investigation had been opened<sup>11</sup>. Furthermore, on October 27, 2009, the Djelfa Court gave Mr. Hafnaoui a suspended sentence of two months in prison and a heavy fine in one of the cases brought against him by local authority bodies. He was sentenced to pay a fine of 50,000 dinars (around 500 euros) in a case brought against him by the Local Administration Department (*Direction de l'administration locale* – DAL) and the Head of DRAG following the publication of an article in *al-Wassat* on September 9, 2008, which called for “the opening of an enquiry concerning a case of corruption involving wilaya officials”<sup>12</sup>. Mr. Hafnaoui was also given a six months’ suspended prison sentence in a case brought against him by the Wali of Djelfa, who accused him of slander following the publication in *al-Wassat* on February 18, 2008 of an article that denounced local authority violation of the Constitution and the law, following the ban of a meeting organised by one NGO<sup>13</sup>. Similarly, on July 6, 2009, Mr. **Hassan Bouras**, a journalist and LADDH activist, was sentenced for “defamation” to three months in prison and a fine of 500,000 dinars (around 5,000 euros) by the Court of El Bayadh, in the west of the country. He was prosecuted following the publication of an article one month earlier in the weekly newspaper *al-Khabar Hawadith* that denounced the corruption practised by certain members of Parliament. Mr. Bouras, who had received no summons for the trial, was given the news by a lawyer who was present at the hearing. He opposed the decision but, on November 9, 2009, the El Bayadh Court upheld the sentence<sup>14</sup>. Mr. Bouras appealed against the ruling and remained free at the end of 2009. On October 13, 2009, the Sedrata Court sentenced Mr. **Ouahid Boulouh**, a correspondent for *al-Khabar* in Souk Ahras, in east Algeria, to a fine of 500,000 dinars and damages of 500,000 dinars for the civil party for “defamation” after publishing an article that referred to misappropriation of funds for community services at the Local Public Health Centre (*Entreprise publique de santé de proximité* – EPSP). He appealed against the ruling. At the end of 2009, an appeal date had still

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10 / See LADDH.

11 / *Idem*.

12 / See LADDH Press Release, October 11, 2009 and *al-Watan* article, October 28, 2009,

13 / *Idem*. Furthermore, as of the end of 2009, the four appeals made by Mr. Ghouli Hafnaoui in 2004 before the Court of Appeals against four sentences to a total of eleven months in prison and a fine of 2,262,000 dinars (around 22,143 euros) in damages and interest were still pending. These sentences followed several complaints filed in particular by the Wali of Djelfa and his family for “defamation”, “insult to the constituent bodies of the State” and “removal of a document from prison”.

not been set<sup>15</sup>. In addition, on February 11, 2009, the Appeal Court in Mascara, in west Algeria, sentenced Mr. **Layadi El Amine Yahia**, the correspondent in Mascara for the daily newspaper *Le carrefour d'Algérie*, in his absence, to one year in prison plus a fine of 20,000 dinars (around 200 euros) in a case of defamation. Proceedings had been started against him by the Director of Commerce of Mascara wilaya for an article implicating the latter in acts of corruption. Mr. Layadi El Amine Yahia, who had been acquitted by the Mascara Court at first instance on December 3, 2008, had received no summons for the hearing. He therefore opposed the decision and, at the end of 2009, he was waiting for publication of the final ruling<sup>16</sup>. Finally, Mr. **Nouri Benzenine**, a former correspondent for *Echourouk al-Youmi*, was sentenced to two months in prison and a fine of 50,000 dinars (around 500 euros) for “defamation” by the Court of Maghnia, in the west of the country, after a complaint was filed by the Senator of the province concerning a report published on March 14 and 15, 2007 denouncing petrol trafficking in the region. Mr. Benzenine opposed the decision since he had not been informed of the trial date<sup>17</sup>.

### Urgent Intervention issued by The Observatory in 2009

Name	Violations / Follow-up	Reference	Date of Issuance
Algerian Human Rights Defence League (LADDH)	Obstacles to freedom of assembly	Urgent Appeal DZA 001/1009/OBS 145	October 9, 2009

15/ *Idem*.

16/ *Idem*.

17/ *Idem*.

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# BAHRAIN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

Despite the commitments taken by the authorities and the recommendations made by the Member States of the Human Rights Council during the Universal Periodic Review (UPR) of Bahrain in April 2008, the year 2009 saw the adoption of none of the principal reforms expected to guarantee improved respect for citizens' rights<sup>1</sup>. Bahrain civil society, heavily implicated in the fight against discrimination and corruption, continued to be subjected to the interference of an all-powerful executive body. In addition, the laws regulating freedoms of association<sup>2</sup>, public assembly<sup>3</sup>, expression<sup>4</sup> and trade union freedom remained extremely restrictive.

Freedom of expression in particular deteriorated considerably, notably through blocks on Internet websites, proceedings against journalists and media campaigns against defenders. Since January 5, 2009, a Ministry of Culture and Information By-law authorises the suspension of websites by simple request of the Minister and without any judicial control. Under this by-law, "telecommunication companies and Internet service providers are required to prohibit any means that allow access to sites blocked by the Ministry, whether by Internet address, use of a proxy server or any other means" (Article 3). This measure deprives human rights defenders of a basic tool for denouncing human rights violations. At the beginning of 2009, the authorities ordered the blocking of the *Aafaq.org* information website, based in Washington (United States), the *Bahrain-eve* blog of the President of the Women's Petition Committee and the blog of the *Bahrainblogs.org* aggregator. At the end of 2009, nearly 600 websites were still inaccessible within the country<sup>5</sup>. Moreover, the blocking of websites occurred in a climate of widespread censorship; trials of journalists also increased in 2009. In addition, the draft amendment of Law No. 47 on the

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1/ An action plan for the implementation of UPR recommendations was adopted on July 10, 2008, but the principal reforms contained in the plan, relating to fundamental freedoms, remained pending at the end of 2009.

2/ See Law No. 21 of 1989 on Associations. A new Bill on Associations, drawn up in 2007 by the Ministry of Social Development in consultation with civil society organisations, had still not been presented to Parliament by the end of 2009.

3/ See Law No. 32 of 2006 on Public Assemblies.

4/ See Law No. 17 of 2002 on the Press and Publications.

5/ See Reporters Without Borders (RSF) Press Release, May 14, 2009 and BCHR.

Press, which was approved in 2008 by the Shura Council and which annuls most prison sentences against journalists, had still not been submitted by the Government to the National Assembly by the end of 2009.

2009 was also marked by the pardon granted in April 2009 by the King of Bahrain to 178 political prisoners<sup>6</sup> sentenced or prosecuted for attacks on security. Nevertheless, those who voiced opposition to the Government, especially those who denounced discrimination against the Shia population, continued to be subjected to acts of harassment.

### **Ongoing obstacles to freedom of association**

In 2009, several human rights organisations were still obliged to carry out their work without being registered, in particular the Bahrain Youth Human Rights Society (BYHRS), the National Committee for the Unemployed and the Bahrain Centre for Human Rights (BCHR). Without legal recognition, the founders of these NGOs remained liable to judicial proceedings. As an example, proceedings against Mr. **Mohammed Abdul Nabi al-Maskati**, BYHRS Director, was still being prosecuted since the end of 2007 for “operating an unregistered association before the issue of a registration license”. He risks a six months’ prison sentence and a fine of 5,000 dinars (around 9,450 euros). The hearing was postponed from November 16, 2009 to January 25, 2010.

### **Obstacles to freedom of peaceful assembly**

In 2009, there were considerable restrictions on the organisation of peaceful assemblies. On May 16, 2009, special forces prevented the organisation of a public seminar on the “political naturalisation” process in Bahrain, by which the Government naturalises foreigners belonging to the Sunni obedience in order to counteract the demographic weight of the Shia community on the country’s population, and to denounce discrimination against the Shia population. The seminar was organised by six political groups<sup>7</sup> and was due to be held at the premises of the National Democratic Action Society (Waad) in the village of Arad on Muharraq Island. The special forces surrounded the building and prevented most of the seminar organisers and participants from entering on the grounds that the authorities had not authorised the seminar. In addition, on August 25, 2009, Mr. **Nabeel Rajab**, President of BCHR, was arrested and held for

6 / Including Mr. **Hassan Abdunabi**, a member of the Unemployed and Underpaid Committee (UUC), Mr. **Naji al-Fateel**, a member of the Bahrain Youth Society for Human Rights (BYSHR), Mr. **Mohammed Abdullah al-Sengais**, founder of the Committee to Combat High Prices (CCHP), and Mr. **Isa al-Sarh**, a member of the Amal Political Society.

7 / These were the Waad, the Progressive Forum, al-Wefaq, Amal, the National Coalition and al-Ekha.

several hours by the police when he and three other people protested in front of the Saudi embassy against the arbitrary detention of a Bahraini citizen held for seven years in Saudi prisons. Mr. Rajab was threatened with reprisals if he returned to protest in front of the Saudi embassy even if there were no more than four protesters<sup>8</sup>. The police also resorted again to the use of violence to break up demonstrations or unauthorised peaceful assemblies, with complete impunity. As an example, on March 13 and 15, 2009, the special forces, which are responsible to the security services, opened fire on families who had gathered peacefully in Sitra to call for the return of their lands confiscated by the army, and at the Duraz roundabout near Manama to demand the release of political detainees. Several demonstrators were injured<sup>9</sup>. Moreover, on February 11, 2009, Mr. **Sayed Sharaf Ahmed**, a board member of the National Committee of Martyrs and Victims of Torture, was arrested at his home and held for several days with no contact with his family or with a lawyer. Mr. Sayed Sharaf Ahmed is known for his role in the organisation of peaceful sit-ins in Sitra in support of prisoners' rights. He was arrested firstly without a warrant, and then later accused of "burning tyres" and "holding up the traffic". He was released six months later due to lack of evidence<sup>10</sup>.

Bahraini defenders in exile abroad were also targets of acts of intimidation because of their participation in rallies to condemn human rights violations in their country. For instance, Messrs. **Abbass Abdul Aziz al-Omran**, a former member of BCHR, and **Ali Mushaima**, a former member of the Unemployed and Underpaid Committee (UUC), were attacked in London by three masked men on July 2, 2009. Three days later, Mr. Mushaima received a telephone call from an unknown person who threatened that he would be attacked again if he continued his protests against the Bahrain Government. Messrs. Abbas al-Omran and Ali Mushaima are regular participants in demonstrations opposite the Bahrain embassy in London<sup>11</sup>.

### **Recourse to anti-terrorist legislation to prosecute human rights defenders**

In 2009, a wave of arrests on the basis of anti-terrorist legislation, followed by a defamation campaign, targeted 35 activists including several human rights defenders accused of being involved in an "planned attack"

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8 / Law No. 32 of 2006 on Public Assemblies prohibits any unauthorised assembly of more than four people. See BCHR.

9 / See BCHR Press Release, March 26, 2009.

10 / See BCHR Press Release, March 2, 2009 and BHRS.



foiled by the authorities in December 2008. On January 26, 2009, Mr. **Hassan Mushaima**, President of the unauthorised political organisation *al-Haq*, Mr. **Abduljalil al-Sengais**, Head of the human rights unit of the same organisation, and Mr. **Habib al-Moqdad**, a religious dignitary, were arrested at their homes by security agents and then taken to Dry Dock prison on Muharraq Island. M. Abduljalil al-Sengais was released on bail on January 27, 2009. The accusations against all three included their participation in creating an illegal association in opposition to the Bahrain Constitution and resorting to terrorism to achieve its objectives, a charge that is punishable by life imprisonment, under Article 6 of Law No. 58 of 2006 on Terrorism<sup>12</sup>. Several other activists arrested in December 2008 in relation to the same case complained of being subjected to ill-treatment and torture during questioning. The police would also have forced them to make false declarations and accusations against several human rights defenders, “confessions” that were then relayed through the press and television. The trial of the 35 people involved in the so-called “terrorist plot” case, or case No. 1403/2008, was opened on February 23, 2009 before the Manama High Criminal Court. Amongst the people charged were Messrs. Hassan Mushaima, Abduljalil al-Sengais, Habib al-Moqdad, Abbass Abdul Aziz al-Omran<sup>13</sup>, **Abdul-redha Hassan al-Saffar**, known for his ties with UUC and arrested on December 21, 2008, Ali Mushaima and **Abdulraoof al-Shayeb**, former President of the Committee of Martyrs and Victims of Torture. All these people are known for their demands for equal rights. All the activists prosecuted in this case were finally granted a royal pardon by the King on April 12, 2009.

### **Judicial harassment of journalists who denounce human rights violations**

In 2009, judicial proceedings were opened against several journalists who denounced human rights violations. As an example, Ms. **Maryam al-Shorooqi**, a journalist with the *al-Wasat* daily paper, was accused of making remarks that “damage the unity of the country by introducing discrimination between Sunni and Shia Muslims”, following the publication of an article in the edition of August 27, 2008 in which she condemned discriminatory employment practices by the Civil Service Bureau (CSB). On October 17, 2009, the Manama High Criminal Court sentenced her to payment of a fine of 50 dinars (around 92 euros). She appealed against

12/ The other charges - “incitement to overthrow the Government and the political system” and “incitement to hatred of the regime” - are punishable under the Criminal Code by five and three years’ imprisonment respectively.

13/ The name of Mr. Abbass Abdulaziz al-Omran was only added on February 10, 2009 to the indictment sent by the Prosecutor to the High Criminal Court in relation to this case.

the decision<sup>14</sup>. Similarly, on March 5, 2009, the General Prosecutor summoned Ms. **Lamees Dhaif**, a journalist with the daily newspaper *al-Waqt*, after a series of articles entitled “the Dossier of Great Shame” appeared between November 22 and 26, 2008, in which she denounced the failings in the legal system and called for the adoption of a new family code. Ms. Dhaif is being prosecuted for “public insult to the constituent body” under Article 216 of the Criminal Code, punishable by a prison sentence of up to two years, rather than Law No. 47 on the Press. As of the end of 2009, proceedings against her continued<sup>15</sup>.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. <b>Abdulhadi al-Khawaja, Ali Mushaima, Abdulraoof al-Shayeb, Hasan Mushaima, Abduljalil al-Sengais, Mohamed Habib al-Meqdad, Ali Ahmed and Abdul-redha Hassan al-Saffar</b>	Defamation campaign / Arbitrary detention / Torture	Urgent Appeal BHR 001/0109/OBS 003	January 7, 2009
Messrs. <b>Abduljalil al-Sengais, Hasan Mushaima and Mohamed Habib al-Meqdad</b>	Secret detention / Harassment	Urgent Appeal BHR 001/0109/OBS 003.1	February 6, 2009
Messrs. <b>Abbass Abdul Aziz al-Omran, Abduljalil al-Sengais, Hasan Mushaima, Mohamed Habib al-Meqdad, Abdul-redha Hassan al-Saffar, Ali Mushaima and Abdulraoof al-Shayeb</b>	Judicial harassment / Arbitrary detention / Ill-treatments	Urgent Appeal BHR 001/0109/OBS 003.2	February 24, 2009
<b>Ms. Ghada Jamsheer</b>	Harassment	Joint Open Letter to the authorities	January 28, 2009
<b>Mr. Mohamed Abdul Nabi al-Maskati</b>	Judicial harassment	Press Release	March 30, 2009
<b>Mr. Maytham Bader Jassim al-Sheikh</b>	Release / Ill-treatments / Torture	Urgent Appeal BHR 001/0208/OBS 017.2	April 7, 2009
<b>Mr. Jaafar Kadhim</b>	Abduction / Attacks / Ill-treatments	Urgent Appeal BHR 002/0509/OBS 071	May 13, 2009

14/ The trial at appeal was planned for January 17, 2010. See BCHR and BHRS.

15/ See BCHR and IFEX Joint Press Release, March 10, 2009, and RSF Press Release, May 14, 2009.

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# EGYPT

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, the human rights situation in Egypt was still very worrying. Law No. 162 of 1958 imposing the state of emergency has been in force since 1981 and gives the executive powers that it uses to restrict the activities of human rights defenders. Article 3 of the State of Emergency Law indeed permits the Minister of the Interior to give orders for administrative detention, a ruling that can be renewed for an unspecified period without a charge or trial, for any person suspected of “threatening public order or State security”. The State of Emergency Law also permits the President of the Republic to refer cases implicating civilians to a military court. These courts, which are made up of the military, and whose rulings may not be appealed before an independent higher court, flout the right of all persons to a fair hearing in public before an impartial, independent court. For example, on February 11, 2009, Mr. Magdi Ahmad Hussein, a journalist and Secretary General of the Labour Party, was sentenced to two years in prison and a fine of 5,000 pounds (around 637 euros) by the al-Ismailia Military Tribunal for “illegally entering” the Gaza Strip<sup>1</sup>. He had entered Palestinian territory in January 2009 in protest against the closure of the border by the Egyptian Government at the time of the Israeli army’s massive air raids on the Gaza Strip. His hearing took place in camera and his lawyers were prevented from seeing his case file<sup>2</sup>.

Furthermore, recourse to torture in Egypt remained frequent in spite of the campaigns led by Egyptian civil society to denounce this practice<sup>3</sup>. For instance, between January and April 2009, the Egyptian Organisation for Human Rights (EOHR) had knowledge of ten cases of torture and five

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1/ At the end of 2009, Mr. Magdi Ahmad Hussein was still being held in al-Morj prison, north of Cairo. Proceedings were set in motion in accordance with Presidential Decree No. 298 of 1995, which prohibits unauthorised access to Gaza through the eastern border.

2/ See Egyptian Organisation for Human Rights (EOHR) Press Release, February 4, 2009 and al-Karama Press Release, March 9, 2009.

3/ On July 26, 2009, EOHR invited the Egyptian Government to modify the articles of the Criminal Code relating to torture and ill-treatment to bring them in line with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Egypt in 1986. Furthermore, the National Committee Against Torture, a coalition of civil society organisations, launched a campaign in July 2009 entitled “Towards a Nation without Torture”, which planned several activities to raise awareness of the issue.

deaths due to or as a result of acts of torture. In addition, the perpetrators of these acts are protected by very restrictive legislation. Indeed, under Article 126 of the Criminal Code, torture is only considered a criminal offence as such when it is practised by an agent of the State on an accused person with the intention of obtaining a confession<sup>4</sup>.

Finally, exercise of the right of freedom of expression continued to be severely repressed in 2009. Between January and April 2009, EOHR registered 132 cases of violation of the right of freedom of expression and opinion, including 110 appearances before a civil or military court for “violation of State security and peace” through subversive statements, defamation, contempt or insult to a police officer and four cases of the unwarranted use of force against journalists during political demonstrations, either by the police or by university security services<sup>5</sup>.

### **Legal and administrative obstacles to freedom of association**

Law No. 84 of 2002 on Associations provides a very strict framework for the creation and the activities of Egyptian non-governmental organisations. The latter are answerable to the executive authority both at the time of their creation and their dissolution. Under Article 11 of the law, the Ministry of Social Solidarity may indeed refuse to licence an association when it is likely to “threaten national unity, violate public order or morals”, or if it “calls for discrimination between citizens on the grounds of race, origin, colour, language, religion or creed”. In addition, under Article 6, although the Law on Associations provides for a system of declaration for the creation of an association, the practice imposed by the authorities, which refuse to issue a receipt when a dossier is filed for the creation of an association, makes approval compulsory. Under Article 42, the Ministry of Social Solidarity may also, without a judicial order, dissolve an association that, amongst other things, receives foreign funding without prior Government approval, in violation of Article 17.

For example, on April 27, 2009, EOHR received a letter from the Ministry of Social Solidarity threatening the association with dissolution and closure under Articles 42 and 17 of the law. This measure followed the organisation by EOHR, in partnership with the Centre for Media Freedom in the Middle East and North Africa, Morocco (CMF MENA), of a conference in Cairo on January 27 and 28, 2009 entitled “Information is a Right for All”. On July 31, 2008, EOHR had requested the authorities’

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4/ See EOHR, *Report presented to the UN Human Rights Council in the framework of the Universal Periodic Review*, August 31, 2009.

authorisation to receive funds from its partner CMF MENA to cover the costs of this conference. There was no response to the request. On May 10, 2009, EOHR received a letter from the Ministry of Social Solidarity indicating that no step had been taken to dissolve or close the organisation, and that the letter from the Ministry was simply a reminder of the legal procedure to be followed for foreign subsidy<sup>6</sup>. Furthermore, as of the end of 2009, the Ministry of Social Solidarity had still not implemented the decision to re-register the Association of Human Rights and Legal Aid (AHLRA), issued on October 26, 2008 by the Administrative Court<sup>7</sup>.

### Obstacles to freedom of peaceful assembly

Public assemblies are governed by Law No. 10 of 1914 on Assemblies, Law No. 14 of 1923 on Public Meetings and Demonstrations and Law No. 162 of 1958 on the State of Emergency. These laws limit the number of people who can take part in a public assembly to five (1914 Law) and authorise the police to ban or break up demonstrations (1923 Law). In 2009, several people were arrested after taking part in peaceful assemblies. On January 2, 2009, 309 people were arrested in several towns throughout the country as they were on their way to Cairo to take part in a demonstration to support the Palestinian people in Gaza who were victims of Israeli army air raids. On January 5, 2009, they were charged with “membership of an unauthorised group” and “possession of illegal documents” (Article 86 of the Criminal Code). The Prosecutor of the National Security Court<sup>8</sup> ordered their provisional detention during the investigation and they were finally released by a legal decision after 45 days of detention, without being charged<sup>9</sup>. Similarly, on February 6, 2009, Mr. **Philip Rizk**, author of the blog *Tabula Gaza*, which describes the life of Palestinians in Gaza, was arrested in Cairo together with fourteen other activists, when they were returning from a demonstration to support the Palestinian people. Members of the State security intelligence services held him secretly for five days and questioned him about his relationship with Hamas and Israel. He was released without being charged on February 11, 2009<sup>10</sup>. In addition, on May 4, 2009, the forces of law and order violently dispersed a sit-in organised in front of the Egyptian State Council and arrested around ten

6/ Article 17 of the Law on Associations does not specify whether the authorities' silence is equivalent to acceptance or rejection of the request. See EOHR Statement, May 11, 2009.

7/ AHLRA had been closed in September 2007 by order of the Ministry on the basis of allegations of financial offences.

8/ The National Security Court is a court of exception that has jurisdiction for all offences relating to “terrorist” acts or threats to State security.

9/ See EOHR Press Release, January 6, 2009.

10/ See EOHR Press Release, February 9, 2009 and Arabic Network for Human Rights Information (ANHRI) Statement, February 11, 2009.

demonstrators, including journalists and members of the “Chabab April 6” movement<sup>11</sup>. They were protesting against the export of gas to Israel because of the serious human rights violations committed in that country and the non-application of a ruling issued on November 18, 2008 by the Court of Administrative Justice ordering a halt to the export of Egyptian natural gas to a certain number of countries<sup>12</sup>. All the demonstrators were released without being charged a few hours after their arrest.

Furthermore, at the end of 2009, two defenders of the economic and social rights of the Sinai Bedouins, Mr. **Musaad abu-Fagr**, whose real name is Mus’ad Suleiman Hassan Hussein, a novelist and founder of the “Wedna N’ish” (We want to live) movement for the Sinai Bedouins, and Mr. **Yehia abu-Nusseira**, a member of the same movement, were still being held in Borg al-Arab prison near Alexandria, in spite of several legal decisions and a decree issued on June 16, 2009 by the Cairo Court of Administrative Justice ordering their release or the suspension of the detention decision<sup>13</sup>. Arrested on December 26, 2007, they were accused of “incitation to demonstrate” and “rebellion against the authorities”, following demonstrations organised in al-Arish, in the north of Sinai, to call for economic and social rights for the Sinai Bedouins<sup>14</sup>.

### **New obstacles to human rights defenders’ freedom of movement**

In 2009, several defenders were again subjected to obstacles to their freedom of movement because of their human rights activities. For instance, on June 30, 2009, Mr. **Wael Abbas**, a blogger on the site *Misr Digital*, was arrested by customs services at Cairo international airport and held without reason for ten hours when he returned from the Tällberg Forum 2009, organised from June 24 to 29, 2009 in Sweden on the theme “How on earth can we live together, within the planetary boundaries”<sup>15</sup>. Mr. Abbas’ belongings were searched thoroughly and his computer was confiscated. There has been no outcome to the complaint filed by Mr. Abbas to protest

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11/ A movement created following workers’ strikes and social protests in Mahalla in the Delta region in April 2008.

12/ See EOHR Press Release, May 4, 2009.

13/ On February 12, 2008, the Ismailia Appeal Court acquitted Mr. Musaad abu-Fagr and Mr. Yehia abu-Nusseira, confirming the verdict handed down in their favour by the al-Arish Court. However, they were kept in prison by decision of the Minister of the Interior in accordance with the powers granted to him under Article 3 of the State of Emergency Law. See Egyptian Organisation for Anti-Discrimination and Defence of Children’s Rights (EGHR) Press Release, June 2, 2009.

14/ The inhabitants of Sinai, amongst other claims, call for the right to building permits, entitlement to the land they cultivate and the release of the Bedouins arrested after the bombings in Taba, Sharm el-Sheikh and Dahab, committed between 2004 and 2006.

15/ During this conference participants sought to address the causes of the global crisis and to take initiatives to find ways out of it.

against this arrest. In addition, on September 29, 2009, the police at Cairo international airport seized Mr. Abbas' passport as he was to go to London to attend a conference on the media organised on September 30 by the Media Diversity Institute. His passport was returned to him just before his plane took off. Similarly, on September 11, 2009, Mr. **Kamal Abbas**, General Coordinator of the Centre for Trade Unions and Workers Services (CTUWS), was arrested by security agents at Cairo international airport when he was on his way to Pittsburgh in the United States to attend the 26th Congress of the American Labour Federation, due to take place from September 14 to 17, 2009. His passport was confiscated for two hours and was returned to him just before his plane took off. Furthermore, on September 29, 2009, Mr. **Per Bjorklund**, a freelance journalist who covers social demonstrations and denounces human rights violations in Egypt, was arrested by the immigration services at Cairo international airport. He was informed that for reasons of "internal security", he could no longer come to Egypt, a country where he has lived for the last three years. On October 1, 2009, Mr. Bjorklund was deported to Prague, where his flight had come from.

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

In 2009, journalists who denounce human rights violations continued to be subjected to acts of harassment. For example, on December 16, 2009, the al-Rahmaniyah Appeal Court sentenced journalist **Kamal Murad** at appeal for "insulting a police officer" to a fine of 200 Egyptian pounds (around 28 euros). Mr. Murad had been arrested on June 17, 2008 while he was interviewing peasant farmers in Exbat Mohram and photographing police officers who were beating the peasants to force them to sign leases with a local businessman in Rahmánya, in the Buhaira region in the Delta. On July 8, 2008, the Rahmánya police had started judicial proceedings against him for "assuming a false identity", "assaulting the police", "inciting to violence" and "defamation". He risked a prison sentence of between six months to three years. In addition, on May 26, 2009, the blogger **Tamer Mabrouk** was sentenced at appeal by the al-Zohor Court in Port-Said, east of Cairo, to a fine of 45,000 Egyptian pounds (around 5,760 euros) for "defamation" and "insult" for having accused the Trust Chemical Company of pollution in one of his articles. In June 2008, Mr. Tamer Mabrouk had published an article on his blog *elhakika* that accused the Trust Chemical Company of being the cause of water pollution in the region<sup>16</sup>.

**Urgent Interventions issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Egyptian Organisation for Human Rights (EOHR)	Obstacles to freedom of association	Joint Press Release	April 30, 2009
<b>Mr. Wael Abbas</b>	Arbitrary arrest / Confiscation of material	Urgent Appeal EGY 001/0709/OBS 094	July 1, 2009
Human rights organisations	Obstacles to freedom of association	Press Release	September 24, 2009
<b>Messrs. Per Bjorklund, Wael Abbas and Kamal Abbas</b>	Obstacles to freedom of movement / Risk of deportation	Urgent Appeal EGY 002/0909/OBS 142	September 30, 2009



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# ISRAEL / OCCUPIED PALESTINIAN TERRITORY

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The beginning of 2009 was marked in Israel and the Occupied Palestinian Territory (OPT) by the operation called “Cast Lead,” a broad military offensive by the Israeli army in the Gaza territory that caused the death of 1,419 Palestinians and injured 5,300 others<sup>1</sup>. During and after the conflict, Israeli forces have prevented the delivery of adequate humanitarian assistance and relief to this territory, exacerbating the humanitarian crisis caused by the blockade that has been imposed continuously by Israeli authorities since June 2007<sup>2</sup>. The blockade, which constitutes a form of collective punishment, violates numerous fundamental human rights, including the freedom of movement of persons and goods and the right to adequate shelter, and denies inter alia Palestinian civilians their right to reconstruct the thousands of homes and buildings destroyed during Cast Lead; as such, the population of Gaza continues to struggle to resume their lives in the aftermath of the offensive. In this context, the United Nations Human Rights Council adopted on October 16, 2009 the report of the international fact-finding mission headed by Judge Richard Goldstone, which concluded that war crimes or crimes against humanity had been committed by the Israeli military and Palestinian armed groups<sup>3</sup>. However, at the local level, both in OPT and Israel, no action had been taken as of late 2009 to

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1/ The operation lasted from December 27, 2008 to January 18, 2009. Among the victims, 926 were civilians. 1,600 children and 860 women were injured. See Report of the Palestinian Centre for Human Rights (PCHR), *23 days of war, 928 days of closure*, December 2009. B'Tselem considers for its part that there were 1,387 deaths and over 5,300 injured. See B'Tselem Press Release, September 9, 2009. See also the report of the fact-finding mission of the UN Human Rights Council, known as the Goldstone Report, *Report of the United Nations Fact Finding Mission on the Gaza Conflict*, UN Document A/HRC/12/48, September 25, 2009. The UN General Assembly, in a resolution on November 5, 2009, approved the recommendations of this report.

2/ The embargo was imposed after Hamas took power in the Gaza Strip and was maintained throughout 2009. In the context of the embargo, 60.5% of Gazans suffer from food shortages, 24% of essential drugs are unavailable, agricultural land has been largely destroyed, more than 50% of fuel needs are unmet, etc. See above-mentioned PCHR Report and the report of the Association for Civil Rights in Israel (ACRI), *Report on the Human Rights Situation in Israel and the Occupied Territories*, 2009.

3/ See conclusions of the above-mentioned Goldstone Report.

conduct independent investigations into these serious violations of human rights and international humanitarian law<sup>4</sup>.

In this context, human rights activities were severely hampered. Access to the Gaza Strip by the media, journalists and human rights organisations was impossible during the military offensive and very difficult thereafter. The Israel Defence Forces (IDF) indeed refused access to Gaza for several Israeli and international NGOs<sup>5</sup>.

Israel also continued to use the procedure of administrative detention, under the military legal framework applicable to the West Bank, to detain without charge or trial hundreds of Palestinian civilians, including minors, as well as several defenders who peacefully denounced Israeli policy, including the construction of the separation wall in the West Bank<sup>6</sup>. This procedure takes place outside of any judicial procedure. Administrative detainees are not informed of the charges against them and therefore can not challenge them. Over a period of three to six months, administrative detention can be renewed without limit. As of December 2009, according to B'Tselem, 278 Palestinians were under administrative detention, some for over three years<sup>7</sup>.

In the OPT, the deep crisis between the Hamas-led Government in Gaza and the Palestinian Authority in the West Bank resulted in further human rights violations. The two factions resorted to arbitrary arrests – at times with force – and torture and repressed their opponents, at times with force. In May 2009, nearly 500 people were arrested by the security services of the Palestinian Authority because of their alleged relationship with Hamas. Similarly, in the Gaza Strip, dozens of people were arrested for their alleged support to the Fatah party of the Palestinian Authority President. Dozens of others were kidnapped, tortured and executed, outside of any legal framework, for their relationship with Israel<sup>8</sup>. The December 2009 decision by the Organisation for the Liberation of Palestine to extend

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4/ According to Israeli authorities, 140 investigations were opened into the “incidents”, of which only six could lead to criminal prosecution, but these surveys were conducted by the Israeli Military Police Investigation Unit (MPIU), an institution under the military authority that can not be regarded as independent and impartial. See B'Tselem Press Release, November 4, 2009.

5/ For example, the following NGOs were forbidden access to Gaza : Human Rights Watch on January 29, B'Tselem on February 9, the Euro-Mediterranean Human Rights Network (EMHRN) in April and FIDH in January, April and May 2009.

6/ In June 2004, in an Advisory Opinion, the International Court of Justice ruled that the construction of the wall in the OPT was contrary to international law.

7/ See B'Tselem Report, *Without Trial: Administrative detention of Palestinians by Israel and the Incarceration of Unlawful Combatants Law*, October 2009.

8/ See Al-Haq Press Release, June 13, 2009.

the mandate of the President of the Palestinian Authority<sup>9</sup> is also likely to increase tensions between Hamas and Fatah.

### **Repression of defenders who denounced the construction of the separation wall and Israel's offensive**

The year 2009 was marked by intensification of repression against defenders who peacefully expressed their opposition to the construction of the separation wall in the West Bank. For instance, Mr. **Mohammed Othman**, a volunteer in the West Bank for the “Stop the Wall” Campaign<sup>10</sup>, was arrested on September 22, 2009 by Israeli soldiers while returning from Norway, where he had met with various Palestinian groups and Government members to discuss the question of the separation wall in the West Bank. He was detained for questioning for two months without any charges brought against him. The Israeli Security Agency (ISA) also questioned him about his relatives and his contacts with several European organisations and about his activity within the “Stop the Wall” Campaign. On November 22, 2009, the Court of Military Appeals ordered his release on bail on the condition not to leave the West Bank and to regularly report to a police station in Israel. However, on November 25, 2009, the Military Court of Administrative Detainees endorsed a Military Prosecutor's decision to place Mr. Mohammed Othman in administrative detention. As of late 2009, Mr. Othman was still detained without charge in the absence of judicial review at the Kishon interrogation centre in Jalameh, north of Israel<sup>11</sup>. Similarly, on December 16, 2009, Israeli authorities arrested Mr. **Jamal Juma'**, Coordinator of the “Stop the Wall” Campaign and a founding member of several other NGOs, including the Palestinian Agricultural Relief Committees. In his and his family's presence, Mr. Juma's house was searched by the army, and his computer and phones were seized. Mr. Juma' was taken to the interrogation centre of Moskobiyyeh, west Jerusalem, and his lawyer was prevented from visiting him. As of late 2009, Mr. Juma' was still in administrative detention without charge by the Israeli army, which extended twice the length of his detention period<sup>12</sup>.

Public rallies denouncing Israel's offensive were also routinely banned or repressed by Israeli authorities: those that were held were regularly met with force from Israeli military forces, including rubber bullets, sound bombs, and tear gas, and hundreds of demonstrators were arrested in Israel

9 / This mandate expired in January 2009.

10 / This campaign brings together Israeli, Palestinian and international activists.

11 / Mr. Othman was finally released on bail on January 13, 2010.

12 / Mr. Juma' was released without condition on January 13, 2010.

and the West Bank during such gatherings. Palestinians, in the OPT and citizens of Israel, in particular were victimised during arrests with physical and verbal abuse by the police<sup>13</sup>. Furthermore, since June 23, 2009, waves of night arrests, organised by the Israeli army, targeted the inhabitants of villages that weekly organised peaceful meetings against the construction of the separation wall. Between June and August 2009, over 26 residents of Bil'in, West Bank village, in which 51% of agricultural land was annexed by Israel<sup>14</sup>, were arrested at their homes during the night by the IDF<sup>15</sup>. Members of the Popular Committee of Bil'in Against the Wall and Settlements were prosecuted for "incitement", "throwing stones" and "participation in protests" under the Military Order No. 101 on the Prohibition of Acts of Incitement and Hostile Propaganda applicable to the West Bank, whose Article 3 prohibits "processions, meetings or gatherings without military authorisation"<sup>16</sup>. For example, Mr. **Abdullah Abu Rahma**, a teacher and Coordinator of the Committee, was arrested by Israeli soldiers on the night of December 9-10, 2009 and charged on December 22, 2009 by the Ofer Israeli Military Court for "inciting violence and participation in an unsanctioned meeting". As of late 2009, Mr. Abdullah Abu Rahma was still held at the Ofer military base, west of Ramallah<sup>17</sup>. Mr. **Mohammad Khatib**, member of the same movement and Secretary of the village council, was arrested on the night of August 2-3, 2009 and charged with "inciting violence". He was released on August 16, 2009 on the condition that he presents himself to an Israeli military post every day of protests, and until the end of his trial. As of late 2009, the condition was still applicable and his trial remained pending.

### **Breaking and burglary of NGO headquarters to intimidate human rights defenders**

During the year 2009, several Palestinian human rights non-governmental organisations were victims of burglary clearly aimed at intimidating them. On November 15, 2009, members of the al-Dameer Association for Human Rights, based in Gaza, reported that the headquarters of their

13/ See above-mentioned ACRI Report. The disproportionate use of force by the Israeli army in order to disperse demonstrators resulted in the death of Mr. **Bassem Ibrahim Abu Rahma**, who was killed on April 17, 2009 by a tear-gas bomb while participating in a peaceful demonstration.

14/ In September 2007, the Israeli Supreme Court ruled that the wall in Bil'in was prejudicial and ordered its modification, which would allow the village to recover nearly 50% of land that was confiscated in late 2004. Nonetheless, as of late 2009, this decision had not yet been implemented.

15/ Twelve among them were liberated on August 26, 2009, but other inhabitants of the village were arrested in the following months, including Mr. Abdallah Abu Rahma. See above-mentioned ACRI Report and B'Tselem Statement, August 18, 2009.

16/ Article 7 of the Order also prohibits incitement, defined as "every attempt, oral or by other means, to influence public opinion in the West Bank, in a way which attacks public peace and public order [...]".

17/ See B'Tselem Statement, April 22, 2009.

association had been burglarised. Papers were scattered and two computers were taken. A memory card from the association's camera was also erased. The association filed a complaint against this attack the same day. Similarly, on December 13, 2009, the offices of the Palestinian Non-Governmental Organizations Network (PNGO) and those of the Cooperative Housing Foundation (CHF), located in Gaza city, were burglarised. One thousand dollars (about 700 euros) were stolen from PNGO. An investigation was opened but, as of late 2009, none of the authors of the three burglaries had been identified.

### **Obstacles to human rights defenders' freedom of movement**

Freedom of movement within the OPT remained seriously hampered by the Israeli authorities, who have stepped up flying checkpoints – between 60 and 80 in the West Bank as of late 2009 – and blocked several roads (630 roadblocks as of late 2009)<sup>18</sup>. In addition to these major obstacles, the Israeli military authorities also banned defenders from leaving the West Bank and the Gaza Strip and travelling between the two. Such was the case of Mr. **Shawan Jabarin**, General Director of the Palestinian NGO “Al-Haq”, who scheduled to travel to the Netherlands from March 11 to 19, 2009 in order to receive, on behalf of Al-Haq, the Geuzenpenning Human Rights Award. On March 10, 2009, the Israeli Supreme Court decided to maintain the travel ban issued by the Israeli military authorities against him. From March 5 to 9, 2009, after two hearings conducted in part *ex parte*, that is, in the sole presence of judges, the General Attorney and members of the General Security Services (GSS), the judges considered possessing “secret evidence” to prove that Mr. Jabarin is an “active member of a “terrorist” organisation”<sup>19</sup>. Moreover, in the Gaza Strip, Hamas security services prevented in May 2009 a delegation of 90 women from the General Union of Palestinian Women (GUPW) from leaving the Gaza Strip to attend a GUPW conference in Ramallah, West Bank<sup>20</sup>.

Moreover, foreign nationals who come in the OPT to work for human rights organisations were confronted with increasing difficulties with regard to freedom of movement. Since August 2009, the Interior Ministry no longer issues them work permits but tourist visas, which prevent them from working or only permit them the access to areas designated by the

18/ See PCHR.

19/ Since March 23, 2006, the date on which Israeli authorities confiscated the travel documents of Mr. Jabarin, queries to obtain a travel authorisation have been systematically rejected by the Israeli army and Justice Department.

20/ Conducting activities in the economic and social fields, in 1993, GUPW established a charter for the political, economic, social and cultural rights of Palestinian women and seeks to promote the implementation of the contents of the charter. See Al-Haq Press Release, June 13, 2009.

Israeli leadership. Moreover, in January 2010, the Israeli Interior Ministry stopped granting work permits to foreign nationals working in most international NGOs operating in the OPT. These people will have to depend on the Coordinator of Government activities in the OPT, under the Ministry of Defence, who issues tourist visas with permission to work in the OPT. This measure may block the access of international NGOs in Jerusalem and 60% of the West Bank (area C), territories that are not considered by the Israeli Government as part of OPT.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Shawan Jabarin	Obstacles to the freedom of movement / Harassment	Urgent Appeal ISR 001/0607/OBS 069.2	March 18, 2009
Mr. Mohammed Othman	Arbitrary detention / Judicial harassment	Urgent Appeal ISR 001/1109/OBS 162	November 6, 2009
		Urgent Appeal ISR 001/1109/OBS 162.1	December 1, 2009
Al-Dameer Association for Human Rights	Burglary / Harassment	Urgent Appeal PAL 001/1109/OBS 170	November 19, 2009
Palestinian Non-Governmental Organizations Network (PNGO) and the Cooperative Housing Foundation (CHF)	Burglary / Harassment	Urgent Appeal PAL 002/1209/OBS 191	December 15, 2009
Mr. Jamal Juma'	Arbitrary detention / Judicial harassment	Urgent Appeal ISR 002/1209/OBS 198	December 23, 2009

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# MOROCCO / WESTERN SAHARA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

Although in 2009, on the occasion of the tenth anniversary of the accession of King Mohamed VI to the throne, the national media saluted the progress made by Morocco in terms of human rights, the assessment of the reforms has remained mixed with regard to the hopes raised by the many commitments and initiatives taken by the country in both the national and international contexts. At the end of 2009, the Moroccan Government had adopted no decree to implement the Royal Declaration of December 2008 announcing the lifting of reservations made in 1993 during the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. Neither the recommendations made by the Equity and Reconciliation Commission (*Instance équité et réconciliation* – IER) nor those expressed by the UN Human Rights Council during the Universal Periodic Review in April 2008 had been put into operation.

In 2009, there was considerable deterioration of freedom of expression, exposing many journalists to judicial proceedings and prison sentences. As an example, the Press Code, whose reform has been under discussion for three years, upholds detention sentences for press offences (Article 41). Although the press enjoys a greater freedom of tone than in many countries in the region, certain subjects remain taboo, such as religion, the King and the monarchy, the country and territorial integrity. Indeed, the Criminal Code provides for prison sentences for anyone who “insults” State bodies or “offends” the national flag (Articles 263, 265 and 267). For instance, on October 31, 2009, the Casablanca Court passed a suspended sentence of one year’s imprisonment for Mr. Taoufiq Bouachrine, Director of the newspaper *Akhbar al-Youm*, and Mr. Khalid Gueddar, a caricaturist with the daily paper, together with a fine of 10,000 dirhams (around 900 euros), following the publication in the September 27, 2009 edition of a caricature relating to the marriage ceremony of Prince Moulay Ismail. The Moroccan police closed down the newspaper’s premises on September 28, 2009 by order of the Minister of the Interior even before the court had handed down

a sentence on the case<sup>1</sup>. In addition, on October 15, 2009, the Rabat Court of First Instance sentenced Mr. Driss Chahtane, Publishing Director of the newspaper *al-Michaal*, to one year in prison and a fine of 10,000 dirhams, and Messrs. Rachid Mahamid and Mustapha Hayrane, journalists with the same weekly newspaper, to a sentence of three months' imprisonment and a fine of 5,000 dirhams (around 450 euros) for publishing an article about the King's health in September 2009<sup>2</sup>. These sentences lead to fear a climate of censorship that is a deterrent for human rights defenders.

Finally, the conflict in Western Sahara remained unresolved since the failure of direct negotiations advocated by the UN Security Council Resolution dated April 30, 2007. On May 1, 2009, as every year, the mandate of the UN Mission for the Referendum in Western Sahara (MINURSO) was extended by one year. The human rights situation in this region saw no improvement in 2009. The authorities continued in particular to hamper and suppress any form of challenge to the official position that Western Sahara is part of Morocco.

### **Certain movements are still deprived of freedom of association**

Although freedom of association in Morocco is guaranteed by the Moroccan Constitution (Article 9) and is governed by Dahir No. 1-58-376 of November 15, 1958, modified in 2002 and in 2006, and despite the declarative nature for the registration of associations, many obstacles to obtaining the status of association were still encountered not only at a legal level but also, and especially, at an administrative level. Article 3 of the Law on Associations indeed bans the creation of an association whose aim is contrary to good morals or undermines the Islamic religion, the monarchy or the territorial integrity of the country, or if it calls for discrimination. The authorities could use these very vague terms to justify a ban on the creation of an association, even though this is rarely the case. Furthermore, the system of declaration introduced in 2002 is undermined by the fact that the authorities in certain cases refuse to issue a receipt, a document that proves that a declaration has been filed and that starts the two month period following which an association is legally created<sup>3</sup>.

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1/ See Joint Press Release by the Moroccan Organisation for Human Rights (*Organisation marocaine des droits humains* - OMDH) and FIDH, October 9, 2009. The premises remained closed as of the end of 2009.

2/ See OMDH.

3/ There are two stages in the creation of an association. The founders of an association are firstly required to file a declaration of formation of an association together with a certain number of documents with the local authorities responsible to the Ministry of the Interior (bachas, caïds). At this point, the local authorities issue a provisional receipt and then, within 60 days, a final receipt. An association may operate freely without legal recognition without obtaining a final receipt (Article 5 of the Law on Associations), as lack of the receipt does not prevent the organisation from functioning.



For example, the National Association of Unemployed Graduates (*Association nationale des diplômés chômeurs* – ANDCM) and the Group Against Racism and for Assisting and Defending Foreigners and Migrants (*Groupe antiraciste d'accompagnement et de défense des étrangers et des migrants* – GADEM), which filed in 1991 and in 2006 respectively a declaration of foundation at the headquarters of the wilaya of Rabat-Salé-Zemmour-Zâir, had still not obtained a receipt as of the end of 2009<sup>4</sup>. Sometimes, the local authorities even refuse to accept the declaration presented by the representatives of an association for its registration. In November 2004, the local Casablanca wilaya authorities refused to accept the declaration of the Ennassir Association for the Support of Islamist Prisoners, on the pretext of needing to investigate the association's founder members. The association, which nevertheless at the same time declared its formation by recorded delivery letter, in accordance with the law, had still not received a receipt in 2009<sup>5</sup>. Similarly, the Laayoun local authorities have refused since 2005 to receive the foundation documents for the Saharawi Association of Victims of Grave Human Rights Violations Committed by the State of Morocco (*Association sahraouie des victimes de violations graves commises par l'Etat marocain* – ASVDH), in violation of a ruling by the Agadir Administrative Court in September 2005, which stated that the authorities had exceeded their power by refusing the ASVDH constitution papers. Without a provisional receipt, an association cannot carry out its activities fully since it is not authorised to rent premises, open a bank account, declare its employees, receive funding or subscriptions or organise a demonstration in a public space. Members of these associations are furthermore liable to prosecution for “membership of an unauthorised association”, under Article 8 of the Law on Associations<sup>6</sup>. The 2002 reform that introduced the declarative regime therefore tends to be voided of meaning by those various obstacles, maintaining associations in a situation of vulnerability.

### Obstacles to freedom of peaceful assembly

In 2009, peaceful assemblies organised to defend human rights were again sometimes severely suppressed. For instance, as in 2008, several sit-ins organised by ANDCM, mainly in front of the Parliament, were dispersed by the police forces, sometimes violently. On April 8, 2009, the

4/ See GADEM.

5/ See Ennassir.

6/ “The founders, directors or administrators of an association that operates in violation of the provisions of Article 5 are punishable by a sentence of three to six months’ imprisonment and a fine of 10,000 to 50,000 dirhams”.

police violently broke up a peaceful sit-in organised by ANDCM in front of the Ministry of Justice, injuring at least four demonstrators<sup>7</sup>.

Furthermore, 22 people were still in detention at the beginning of 2009 following the repression of a social movement in the city of Sidi Ifni in south west Morocco in 2008<sup>8</sup>, including Mr. **Brahim Bara**, Secretary General of the local committee for the Association for the Taxation of Financial Transactions for Aid to Citizens (ATTAC) and a member of the National Union of Moroccan Students (*Union nationale des étudiants marocains* – UNEM), and several members of ATTAC Morocco. On April 10, 2009, the Agadir Court sentenced 19 people to up to one and a half years' imprisonment for "contributing to and leading a criminal gang", "attempted murder", "armed assembly", "openly carrying a weapon during a demonstration", and "destruction of an industrial installation and a port installation". Mr. Brahim Bara was given an eight months' prison sentence and a two months' suspended sentence. Three people were acquitted. At the end of 2009, two were still in prison and were finishing to serve their sentences.

### **Two defenders given prison sentences for denouncing drug trafficking in northern Morocco**

In 2009, two defenders who had questioned the responsibility of the authorities in cases of drug trafficking were arrested and given prison sentences. On November 24, 2009, Mr. **Chakib El-Khayari**, President of the Rif Association of Human Rights (*Association du Rif des droits de l'Homme* – ARDH) and a member of the Federal Council of the World Amazigh Congress (*Congrès mondial amazigh* – CMA), was sentenced in appeal by the Casablanca Court to three years in prison and a fine of 750,000 dirhams (around 68,500 euros) for "undermining a constitutional body", in accordance with Articles 263 and 265 of the Criminal Code, for revealing to foreign sources information concerning senior State officials involved in a drug trafficking network in the Rif region. Held at Okacha prison in Casablanca since February 21, 2009, he was transferred on December 25 to Meknès prison without either his family or his defence lawyers being informed. Furthermore, Mr. **Hassan Barhoon**, a representative in Morocco of the Palestinian Human Rights Foundation (Monitor), a blogger and journalist for the website *Internet sans frontières*, was arrested

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7/ See Moroccan Association for Human Rights (*Association marocaine des droits humains* - AMDH) Press Release, April 8, 2009.

8/ On June 7, 2008, the forces of order brutally dispersed protesters who were blocking access to the port of the city of Sidi Ifni in protest against the socio-economic situation in the region and to call for a development policy that had been promised by the local and national authorities for several years to be accelerated.

on February 26, 2009 and sentenced by the Tétouan Court on March 8, 2009 to six months in prison and a fine of 5,000 dirhams (around 450 euros) for “defaming the judiciary” after the publication of an article questioning the responsibility of the King of Morocco’s General Prosecutor with the Tétouan Appeal Court in the escape of a drug trafficker in the city of Tétouan. The King of Morocco granted him a pardon in August 2009 after five months’ imprisonment<sup>9</sup>.

### **Ongoing harassment of defenders who denounce abuses in the fight against terrorism and prisoners’ conditions of detention**

In 2009, many defenders who fight for the respect of suspected Islamist prisoners’ rights met with reprisals by the Moroccan authorities. For instance, on April 22, 2009, the Court of Cassation upheld the decision of the Rabat Court of Appeal on July 24, 2008 that imposed a reprimand on Mr. **Taoufik Moussaif Behammou**, a lawyer at the Rabat Bar, following statements that appeared on August 19, 2006 in the daily newspaper *Annabar al-Maghribia* and in which Mr. Moussaif denounced the abuses committed by the security services and the judiciary during criminal proceedings against a terrorist network. The Court of Cassation hearing was held in the office of the President of the court, at the request of the latter, and not in the room normally used for this purpose<sup>10</sup>. Similarly, the Ennassir Association for the Support of Islamist Prisoners and its President, Mr. **Abderrahim Mouhtad**, were the target of intimidation on several occasions. The association’s headquarters were under constant surveillance by an agent standing a few metres from the entry to the premises and national security agents on several occasions came to question the association’s President about his activities. For instance, on November 26, 2009, four national security members came to the association’s headquarters to question Mr. Mouhtad about the organisation’s sources of funding and its links with international terrorism. In addition, on February 27, 2009, Mr. Mouhtad, who had broken no rule of the Highway Code, was arrested by two policemen in the Sidi Bernoussi district of Casablanca while he was riding his motorbike to the association. The policemen asked him for his papers and then accused him of answering them in a haughty tone. They immediately handcuffed him and beat him. As he retaliated to the blows he received, Mr. Mouhtad was taken to the police station and an investigation found that the blows and injuries were reciprocal<sup>11</sup>. No proceedings were subsequently opened against him.

9 / See Monitor and National Organisation for Human Rights in Syria (NOHR-S) Press Release, August 8, 2009 and OMDH.

10 / See Annual Report 2009.

11 / See OMDH.

Furthermore, the authorities brought pressure to bear on defenders and human rights organisations that have denounced police violence in Moroccan prisons and the deterioration in conditions of detention in 2009. For instance, on December 2, 2009, acts of intimidation were carried out against Ms. **Khadija Riyadi**, President of the Moroccan Association for Human Rights (*Association marocaine des droits humains* – AMDH), and Mr. **Abdel-ilah Benabdesselam**, Vice-President of the association and member of OMCT General Assembly. They were accused by Mr. Hafid Benhachem, Delegate General of the prison administration, of publishing negative reports about Morocco in order to “obtain funding” and to “betray their country”. In addition, he “advised” them to leave Morocco “if they were not happy”. These events followed the publication by AMDH on November 25, 2009 of two letters denouncing the conditions of detention of prisoners in the Casablanca and Settat centres. In addition, on December 4, 2009, a sit-in organised in front of the Ministry of Justice in Rabat by the Ennassir Association for the Support of Islamist Prisoners was violently dispersed by the police, who surrounded the demonstrators, wives, mothers and sisters of Islamist prisoners, and made them climb into buses that took them back to Casablanca, where the majority of demonstrators had come from. Many of them reported that they were insulted and even pushed around violently by plain-clothed police. The demonstration was organised in support of the hunger strike started by 91 prisoners on November 24, 2009 to denounce the poor conditions of detention in Moroccan prisons, especially in Okacha prison in Casablanca and Kenitra central prison<sup>12</sup>.

### **Harassment of defenders who denounce human rights violations in Western Sahara**

In 2009, Saharawi human rights defenders continued to be subjected to repression and intimidation. On June 24, 2009, the Agadir Court of Appeal upheld the 15-year prison sentence handed down at first instance against Mr. **Yahya Mohamed al-Hafed Aaza**, a member of the Collective of Saharawi Human Rights Defenders (*Collectif des défenseurs sahraouis des droits de l'Homme* – CODESA). Mr. Aaza was arrested on February 29, 2008 in his shop in Tan-Tan, in the south of Morocco, for having participated in peaceful protests that had taken place two days before and during which a policeman had been killed. During the hearing, the Court took no account of allegations of torture to which the accused was submitted after his arrest and during his imprisonment. As of the end of 2009, he was being held in the Aït Melloul prison, near Agadir<sup>13</sup>. Furthermore, Mr. **Ennaama Asfari**, co-President of the Committee for the Respect of

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12/ See Ennassir.

472 13/ See ASVDH.

Liberties and Human Rights in the Western Sahara (*Comité pour le respect des droits de l'Homme au Sahara occidental* – CORELSO), was placed in detention on August 14, 2009 after an argument with a policeman during a police check at a road block near the city of Tan-tan in the south of Morocco. The cause of the dispute was apparently a key ring carried by Mr. Asfari, which showed the flag of the Saharawi Arab Democratic Republic. Sentenced on August 27, 2009 to four months in prison by the Tan-tan Court for “insulting a public agent”, Mr. Asfari was released on December 14, 2009<sup>14</sup>. Furthermore, on October 8, 2009, seven human rights defenders from the Western Sahara, Mr. **Ali Salem Tamek**, Vice-President of CODESA, Mr. **Brahim Dahane**, President of ASVDH, Mr. **Ahmad Anasiri**, Secretary General of the Saharawi Committee for the Defence of Human Rights (*Comité sabraoui pour la défense des droits humains*) in Smara, a member of the ASVDH Coordinating Committee and Director General of AMDH in Smara, Mr. **Yahdih Ettarrouzi**, member of AMDH in Laayoun, Mr. **Saleh Lebayhi**, President of the Forum for the Protection of Saharawi Children (*Forum pour la protection des enfants sabraouis*) and in charge of AMDH Smara branch, Ms. **Degja Lachgar**, member of the ASVDH Executive Council, and Mr. **Rachid Sghaer**, member of the Committee Against Torture (*Comité contre la torture*) in Dakhla, were arrested by Moroccan security agents at the Mohamed V airport in Casablanca when they returned from a visit to Saharawi refugee camps in south-west Algeria. In December, they were brought before the Examining Magistrate of the Rabat Military Tribunal. At the end of 2009, they were still held without a trial in the Salé prison<sup>15</sup>. For their part, Ms. **Elghalia Djimi** and Mr. **Duihi Hassan**, respectively Vice-President and member of ASVDH, were intimidated by plain-clothes police who came to their homes on November 3 and 10, 2009 respectively, while they were being visited by Spanish lawyers who were carrying out an international investigation into the human rights situation in Western Sahara. The police officers ordered the lawyers to return to their hotel and incorrectly informed the two human rights defenders that under Moroccan law it is forbidden to receive foreigners without the authorisation of the local authorities.

### **Intimidation and defamation campaign against a group of defenders of individual freedoms**

In 2009, the organisers and participants in a protest action to support respect for individual liberties were subjected to severe intimidation, a sign of the nervousness of the authorities when they queried certain dogmas.

14/ See ASVDH Press Release, November 18, 2009.

15/ See ASVDH and AMDH. Ms. Degja Lachgar was provisionally released on health grounds on January 28, 2010.

Indeed, several acts of intimidation targeted members of the Alternative Movement for Individual Liberties (*Mouvement alternatif pour les libertés individuelles* – MALI), following an attempt by the movement to organise a picnic on September 13, 2009 in a forest close to Mohammedia, as a sign of protest against the law forbidding Muslims to eat in public during the Ramadan fasting hours. On September 13, 2009, when the members of the group arrived at Mohammedia station by train, a strong police contingent intercepted, searched, molested, insulted and took the names of six of them: Ms. **Ibtissame Betty Lachgar** and Ms. **Zeineb el-Rhazoui**, co-Founders and members of the movement, students **Abderrahim Mouktafi**, **Ghassan Bouyaghrouni** and **Nizar Benzimate** and journalist **Aziz el-Yaakoubia**. They then forced them to get back into the train. All the members later received death threats on their “Facebook” page and their e-mail and Facebook accounts were hacked. On September 15, 16 and 17, 2009, Messrs. Abderrahim Mouktafi, Ghassan Bouyaghrouni, Aziz el-Yaakoubia and Nizar Benzimate were arrested by the police and taken to Mohammedia police station. They were released very late at night without being charged. Several Moroccan newspapers subsequently published articles and comments condemning the group. In addition, in October 2009 Ms. Ibtissame Lachgar and Ms. Zeineb El-Rhazoui were banned from leaving the country when they were due to travel to Paris to take part in a meeting on October 19, 2009 to debate freedom of conscience and religion with the Association for the Manifesto for Liberties (*Association du manifeste des libertés*). This measure was lifted shortly after the meeting and debate at the request of their lawyer.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Chakib El-Khayari	Arbitrary detention	Urgent Appeal MAR 001/0309/OBS 044	March 9, 2009
	Sentencing / Arbitrary detention	Urgent Appeal MAR 001/0309/OBS 044.1	June 30, 2009
		Urgent Appeal MAR 001/0309/OBS 044.2	December 2, 2009
Ms. Ibtissame Betty Lachgar and Ms. Zeineb El-Rhazoui and Messrs. Abderrahim Mouktafi, Ghassan Bouyaghrouni, Nizar Benzimate and Aziz el-Yaakoubia	Obstacle to freedom of movement / Defamation campaign / Harassment / Death threats	Urgent Appeal MAR 002/1009/OBS 151	October 19, 2009
Ms. Elghalia Djimi and Mr. Duihi Hassan	Harassment / Attack on freedom of association	Urgent Appeal MAR 003/1109/OBS 166	November 12, 2009
Ms. Khadija Riyadi and Mr. Abdel-ilah Benabdesselam	Intimidation / Harassment	Urgent Appeal MAR 004/1209/OBS 184	December 9, 2009

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# SYRIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

Despite the improvement in diplomatic relations between Syria and several European States, the year 2009 was marked once again by regular violations of basic freedoms. The provisions of the state of emergency in force since 1963 together with those of the Criminal Code continued to give the authorities broad powers that they use to repress all forms of opposition. In particular, Articles 285 and 286 of the Criminal Code were, due to their extremely vague wording, again used frequently for passing heavy sentences on human rights defenders<sup>1</sup>. The Syrian regime moreover still tolerated no political party other than the ruling Baath party. All other political parties and movements are considered to be illegal organisations and their members are liable to prosecution under Article 288 of the Criminal Code<sup>2</sup>. Furthermore, the provisions of the state of emergency included the creation of a Supreme State Security Court (SSSC), an exceptional court established by Decree No. 47 of 1968, and jurisdiction for military courts to try civilians. SSSC trials do not respect guarantees of the right to a fair trial: its decisions are final and cannot be appealed (Article 8) and the admission of “confessions” obtained as evidence under torture is regularly reported<sup>3</sup>. For example, on September 13, 2009 the SSSC sentenced Mr. Antoine Arabji, a blogger, to three years in prison for having published criticism of the Syrian authorities on the political discussion forum *Akharawiya* (Fraternity) in 2007. At the end of 2009, he was still being held at Sednaya prison, near Damascus<sup>4</sup>.

Furthermore, the practice of forced disappearances was still widespread in Syria. In 2009, more than fifty people were victims of forced disap-

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1/ Under these articles, any person who voluntarily spreads “information known to be false or exaggerated” or “weakening national sentiment” is liable to a sentence of three to 15 years’ imprisonment. All the defenders referred to in this fact-sheet who have been given prison sentences were charged under Articles 285 and/or 286 of the Criminal Code.

2/ Article 288 provides for sentences of imprisonment or house arrest of from three months up to three years for anyone involved with a political or social association that is international in nature without government permission.

3/ See National Organisation for Human Rights in Syria (NOHR-S), *Annual Report 2009*, June 2009.

4/ See Committees for the Defence of Democratic Freedoms and Human Rights (CDF) Press Releases, August 29 and September 13, 2009.

pearance in Syria<sup>5</sup>. Human rights defenders were also arbitrarily arrested and secretly detained with no way of communicating with their family or their lawyer. In addition, the fate of detainees in Sednaya prison, where 17 people were killed on July 5, 2008 during clashes between prisoners and prison staff, was still unknown at the end of 2009. The Syrian authorities never revealed the names of the victims and visits have been banned since this incident.

In 2009, Kurdish activists were once more victims of a harsh repression and were frequently given heavy sentences. As an example, Mr. Meshal al-Tammo, Spokesman for the “Kurdish Future Movement” (*Sepela Kurdi*), an unauthorised political party, was sentenced on May 11, 2009 to three and a half years in prison under Articles 285 and 286 of the Criminal Code<sup>6</sup>. Furthermore, on April 14, 2009, the SSSC sentenced seven Kurdish activists<sup>7</sup> to between five and seven years in prison for “attempting to partition a portion of Syrian territory in order to annex it to a foreign State” (Article 267 of the Criminal Code), and for belonging to the unauthorised party “Democratic Union”. Their lawyers did not obtain the right to visit them in prison during the proceedings, nor to meet them in private<sup>8</sup>. In 2009 the Syrian security forces also suppressed several peaceful assemblies, in particular those organised in protest against Presidential Decree No. 49 of 2008 forbidding the purchase or sale of property without government authorisation in certain regions where the majority of the population is Kurdish<sup>9</sup>.

Finally, in its resolution of September 17, 2009, the European Parliament condemned “the significant repression human rights defenders in Syria still have to face”. Concerned by “the absence of progress in respect for human rights by Syrian authorities”, this body called on the Syrian authorities to “put an end to this policy of persecution and harassment against human rights defenders and their families”<sup>10</sup>.

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5/ See NOHR-S Report, *Forced Disappearances*, September 8, 2009.

6/ He was arrested in August 2008 while he was driving his car towards Aleppo. See Observatory Annual Report 2009 and CDF Report, *Report released on the occasion of Political Prisoner Day*, June 22, 2009.

7/ Messrs. Mohammed Habchi Rachou, Ibrahim Sheikhou Alouch, Salih Mastou Ibn Mohammed, Nouri Mostafa Hussein, Rachad Ibrahim Binaf, Ms Latefa Mohammed Mannan and Ms. Zaynab Mohammed Horo.

8/ See NOHR-S Press Release, April 15, 2009.

9/ See Human Rights Watch Report, *Group Denial: Repression of Kurdish Political and Cultural Rights in Syria*, November 2009.

10/ See European Parliament Resolution on Syria P7\_TA(2009)0024, September 17, 2009.



## Ongoing obstacles to the exercise of freedom of association

In Syria, the legal restrictions that require government authorisation for the creation of an association (Law No. 93 of 1958) are reinforced by the courts' lack of diligence in examining the legality of refusals to register human rights organisations. In 2009, many Syrian organisations continued to operate without confirmation of their registration by the authorities. At the end of 2009, the appeal lodged on December 27, 2006 by the National Organisation for Human Rights in Syria (NOHR-S) for annulment of Decree No. 617 of 2006 relating to the refusal to register the association, still remained pending. The Damascus Administrative Court indeed postponed the hearing on several occasions. Furthermore, on April 14, 2009 the Ministry of Social Affairs presented a written request to the Administrative Court with a view to prosecute the association's members under Article 71 of the Law on Associations, according to which any activity carried out for an unregistered association is liable to a fine and a three months' prison sentence. As of the end of 2009, the members of NOHR-S had not been informed of any progress in the new proceedings.

At the end of 2009, the Syrian authorities also blocked access to the Internet websites of three human rights organisations: the Arab Organisation for Human Rights, the Kurdish Committee for Human Rights in Syria and NOHR-S<sup>11</sup>. Furthermore, on September 13, 2009, the security services, the police and the Mayor of the district of Maza, west of Damascus, with no explanation and without presenting a legal warrant, closed the office of Mr. **Mazen Darwich**, Director of the Syrian Centre for Media and Freedom of Expression (SCM). The authorities terminated the lease contract for the premises on the pretext that they were used for commercial purposes. Members of the security services had summoned Mr. Darwich on three occasions during the previous week and ordered him to end his activities. In May 2009, Mr. Mazen Darwich had published a joint report with Front Line on the travelling ban for human rights defenders. At the end of 2009, the SCM remained closed.

## Acts of intimidation and harassment against lawyers who condemn human rights violations

In 2009, the authorities targeted lawyers who denounce human rights violations in Syria. As an example, Mr. **Muhannad al-Hassani**, a lawyer and President of the human rights organisation "Sawasiyah", was arrested on July 28, 2009. Held secretly for 12 days, proceedings against him were

11/ See Syrian Centre for Media and Freedom of Expression (SCM) Press Release, December 6, 2009. The Centre counted 244 sites censored by the Syrian authorities, but it believes the real number of blocked sites is greater.

ongoing as of the end of 2009 for “weakening national sentiment” and “spreading false information likely to weaken national sentiment” (Articles 285 and 286 of the Criminal Code), for having attended and denounced the trials of persons brought before the SSSC. In addition, on November 10, the Damascus Bar Disciplinary Committee issued a life ban on him practising as a lawyer. He was accused of infringing the code governing the legal professions by directing Sawasiyah, “created without official authorisation, to carry out its activities in a manner that is harmful to Syria” and for having “attended and documented the proceedings of the SSSC without being the lawyer of those involved in these proceedings”. Mr. al-Hassani appealed against this decision on December 10, 2009<sup>12</sup>. As of the end of 2009, he remained in provisional detention in wing seven of Adra prison<sup>13</sup>, where he was waiting to be tried before the Criminal Court. He is liable to a sentence of up to fifteen years’ imprisonment. Furthermore, Mr. **Haitham al-Maleh**, Mr. al-Hassani’s lawyer and the former President of the Human Rights Association in Syria (HRAS), was himself arrested on October 14, 2009 by State security agents and held in incommunicado detention for five days. On November 3, he was informed by the Investigating Judge of the Damascus Military Tribunal that he was being prosecuted for “spreading false information likely to weaken national sentiment” and “insulting the judiciary” (Articles 286 and 376 of the Criminal Code). These accusations followed an interview he had given in September to *Baradda TV*, a satellite television channel based in Europe, and articles in which he condemned corruption within the Government and attacks on human rights in Syria. Mr. al-Maleh risks from three to fifteen years’ imprisonment and, as of the end of 2009, he was still held at Adra prison<sup>14</sup>.

### Ongoing arbitrary detention of numerous human rights defenders

Although some defenders were released after serving their sentences, most were still held in arbitrary detention at the end of 2009. For example, although Messrs. **Michel Kilo** and **Mahmoud Issa** were released in May and June 2009 after serving the full sentence pronounced against them<sup>15</sup>, Mr. **Anwar al-Bunni**, a lawyer and founder member of HRAS, who was

12/ As of the end of 2009, examination of the appeal against disbarment was still ongoing.

13/ Wing seven is allocated to detainees sentenced for sexual offences. He is subjected to numerous acts of reprisal in prison: he does not have a bed, he is refused access to the library, he is forbidden to write, he has fewer visiting hours than are normally granted, etc.

14/ See SCM Press Release, November 4, 2009. On January 31, 2009, the Damascus Appeal Court confirmed referral of the case before the military courts but, as of the end of 2009, no date had been set for his trial.

15/ Arrested in May 2006, the two men had been sentenced on May 13, 2007 to three years in prison for having signed the Beirut-Damascus Declaration, which called for diplomatic relations to be re-established between the two countries.

sentenced to five years in prison on the same charges, was still being held at Adra prison at the end of 2009. Mr. **Walid al-Bunni**, also a member of HRAS who has been held at Adra prison since December 2007<sup>16</sup>, was again prosecuted for “spreading false information likely to weaken national sentiment” after a co-detainee accused him of having openly made insulting remarks about the Special Tribunal for Lebanon, the Syrian President, the Head of the Military Intelligence Division, and about Lebanese-Syrian relations. The Damascus Criminal Military Court finally acquitted him on June 17, 2009 for “lack of evidence”. The defenders responsible for the Damascus Declaration, Messrs. **Akram al-Bunni, Ali Abdallah, Fayez Sara, Jaber al-Shouf, Mohammed Haj Darwish, Ahmad Tohma, Yasser Tayser Aleiti, Riad Seif, Talal abu Dan, Marwan al-Esh** and Ms. **Fida al-Hurani** also remained in detention in Adra prison at the end of 2009. In December 2009, they asked to benefit from an amnesty provided for in the Criminal Code (Article 172) after serving three quarters of their sentence but the judge had still issued no ruling on their request as of the end of 2009. Similarly, the Appeal Court had still not considered the appeal filed in 2008 after they had been sentenced. Mr. **Kamal al-Labwani**, who is serving a twelve years’ prison sentence for having defended the idea of peaceful reform in Syria, and who was sentenced to a further three years in prison on April 23, 2008 for having criticised the Syrian authorities in the presence of other detainees, was also still being held at Adra prison. In addition, the family of Mr. **Nizar Ristnawi**, founder of the Arab Organisation for Human Rights in Syria (AOHRS) and a member of the Committees for the Defence of Democratic Freedoms and Human Rights (CDF), who should have been released in April 2009, still had no news of him by the end of 2009, in spite of their approaches to the authorities<sup>17</sup>. Finally, on March 15, 2009, the Damascus Criminal Court sentenced Mr. **Habib Saleh**, a writer, to three years in prison under Articles 285 and 286 of the Criminal Code. He had been arrested on May 7, 2008 for having published articles on the Internet, particularly on the website *Elaph.com*, which is censored in Syria, calling for the introduction of democracy. As of the end of 2009, he was still held at the Damascus central prison.

16/ On October 29, 2008, he was sentenced to two and a half years in prison for his involvement in the National Council of the Damascus Declaration for National Democratic Change, a huge activist opposition coalition for political reform and the establishment of a democratic regime in Syria. On December 9, 2007, in response to a meeting organised on the initiative of the Damascus Declaration, which ended with the creation of the National Council of the Damascus Declaration, the police arrested around forty activists in several cities in Syria.

17/ Arrested in April 2005, the SSSC sentenced Mr. Ristnawi on November 19, 2006 to four years in prison for having spoken about human rights in Syria and having been overheard by a member of the security services.

## Harassment of defenders of the rights of the Kurdish minority

In 2009, civil society activists who claim respect for the rights of the Kurdish minority were again subjected to reprisals. For instance, on December 12, 2009, Mr. **Mustafa Ismail**, a lawyer and Kurdish activist, was arrested after having been summoned by the local security office in Aleppo. As of the end of 2009, his family still knew neither where he was being detained nor the reasons for his arrest. Shortly before his arrest, Mr. Mustafa Ismail has published several articles on the Internet to denounce the discrimination inflicted on Syrian Kurds<sup>18</sup>.

## Obstacles to freedom of movement

Bans on leaving the country continued to affect many human rights defenders in 2009. At least 101 people were victims of a ban on leaving the country in 2009 after taking part in human rights activities<sup>19</sup>. NOHR-S members were particular targets of bans on leaving the country in 2009. For example, on January 4, 2009, Ms. **Jameela Sadeq**, NOHR-S Secretary, was prevented from going to Egypt to take part in a training on fair trials after a ban was issued on November 10, 2008 by the security services in Aleppo province. Similarly, by order of Al-Hassaqa province political security services dated December 3, 2008, Mr. **Ibraheem Issa** was prevented on January 31, 2009 from travelling to Jordan to take part in a seminar on minority rights. Furthermore, at the end of June 2009, the Syrian authorities prevented Mr. **Danial Saoud**, President of CDF, from going to Switzerland to take part in a seminar organised by OMCT from June 29 to July 3, 2009 which related to ways of “addressing the economic, social and cultural root causes of violence through the UN special procedures system”. The authorities provided no reason for these bans on leaving the country.

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18 / See NOHR-S Press Release, December 16, 2009.

480 19 / See SCM. The authorities do not acknowledge their regular recourse to this practice.

## Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Jameela Sadeq and Messrs. Ibraheem Issa and Muhammad Badee Dakelbab	Obstacles to freedom of movement / Harassment	Urgent Appeal SYR 001/0209/OBS 027	February 17, 2009
Mr. Khalil Maatuq	Judicial harassment	Urgent Appeal SYR 002/0409/OBS 065	April 24, 2009
Mr. Kamal Labwani	Arbitrary detention	Joint Press Release	April 29, 2009
Mr. Walid al-Bunni	Arbitrary detention / Judicial harassment	Urgent Appeal SYR 003/0509/OBS 081	May 29, 2009
	Acquittal / Arbitrary detention	Urgent Appeal SYR 003/0509/OBS 081.1	June 23, 2009
Mr. Danial Saoud	Obstacles to freedom of movement	Urgent Appeal SYR 004/0709/OBS 097	July 3, 2009
National Organisation for Human Rights in Syria (NOHR-S) / Mr. Ammar Qurabi	Obstacles to freedom of association / Judicial harassment	Joint Press Release	July 24, 2009
Mr. Muhannad al-Hassani	Arbitrary detention / Judicial harassment	Joint Press Release	July 31, 2009
		Joint Open Letter to the authorities	November 6, 2009
		Joint Press Release	November 19, 2009
Syrian Centre for Media and Freedom of Expression (SCM)	Obstacles to freedom of association	Joint Press Release	September 15, 2009
Mr. Haitham al-Maleh	Forced disappearance	Urgent Appeal SYR 005/1009/OBS 149	October 15, 2009
Mr. Nizar Ristnawi	Forced disappearance	Press Release	December 22, 2009

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# TUNISIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, Tunisian President Zine el-Abidine Ben Ali's discourse on respect for human rights remained ambivalent, a sign of the regime's concern for his image among the international community. While on the eve of the announcement of results of the presidential and legislative elections on October 25, 2009, he threatened to take "measures" "against those who issue accusations or doubts about the integrity of the electoral process without providing concrete evidence", in his speech opening the electoral campaign, delivered on October 11 in Rades, south of Tunis, the President reiterated his commitment since his accession to power in 1987 "to protect [human rights], to propagate culture [...] and to support civil society in their fields". He also committed "to advancing the system of protection of human rights". However, during the election campaign and since the re-election of Mr. Ben Ali<sup>1</sup>, repression of political activists and human rights defenders was further strengthened. Throughout 2009, the Tunisian authorities indeed implemented various measures of harassment against all dissenters, including defenders: creating obstacles to freedom of movement, blocking means of communication, increased police monitoring, arbitrary detention and acts of violence were daily occurrences for independent civil society.

While more than 250 newspapers, three radio stations and two television channels exist in Tunisia, almost all media remained subject to Government control in 2009. On the one hand, this is due to the fact that, at the time of the creation of media in Tunisia, the administration refused to issue receipts for submission of declarations, transforming it into a system of prior authorisation. On the other hand, opposition newspapers, like *Mouatinoun* and *El mawkif*, continued to suffer severe financial restriction insofar as they do not always have access to public funding granted to newspapers, they are deprived of public advertising, and private advertisers do not place ads with them for fear of reprisal. Finally, distribution is sometimes hampered by a series of measures limiting circulation.

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1/ The President was re-elected with 89.62% of votes in presidential elections. The Democratic Constitutional Rally (*Rassemblement constitutionnel démocratique* - RCD), the ruling party, won the elections with a score of 84.59% of the vote, retaining the majority of its seats in Parliament.

Moreover, the response of the Tunisian authorities during the review of Tunisia by the United Nations Human Rights Committee, which requested additional information, reflects the contempt it has for international commitments to human rights. The information provided by Tunisia – including on torture, the protection of defenders' activities and the review of specific requests and refusals of registration of associations defending human rights – were deemed insufficient by the Committee<sup>2</sup>.

Tunisia furthermore continued to observe severe shortcomings in the protection of fundamental rights and freedoms in 2009. State officials accused of torture and violence indeed continued to enjoy impunity on the national territory and those responsible for the violent repression of demonstrations in the Gafsa region during summer 2008 were neither disturbed for their actions<sup>3</sup>. Tunisian authorities also continued to ignore requests for visits by the United Nations Special Rapporteur on Torture, despite his request in 1998 and again in 2005, 2006 and 2007, while they had committed to a visit during the election of Tunisia to the United Nations Human Rights Council in 2006. Similarly, and despite a further request in 2008, the UN Special Rapporteur on Human Rights Defenders has still not been invited by Tunisia.

### Ongoing repression of social protest movements

The year 2009 was marked by a succession of unfair trials against human rights defenders involved in movements of social protest. On February 3, 2009, the Gafsa Court of Appeal upheld the conviction of 38 people accused of “criminal conspiracy” for leading social protests in the mining area of Gafsa-Redeyef<sup>4</sup>. The appeal trial, as with that of first instance, was

2 / See Letter from the Special Rapporteur in charge of following up final observations of the Human Rights Committee, July 30, 2009.

3 / In 2008, a broad movement of social protest against corruption, unemployment and poverty emerged in the mining region of Gafsa. This movement, which lasted several months, received widespread support from the local, national and international public. As of the end of 2009, no independent inquiry had been conducted into the death of three demonstrators in Redeyef or allegations of torture reported by the detainees. The judges did not order medical examinations despite repeated requests by the defense as evidence of the mistreatment some prisoners recorded in the appraisal report. See National Council for Freedoms in Tunisia (CNLT) and Tunisian League for the Defence of Human Rights (LTDH), *rapport de suivi des observations finales du Comité des droits de l'Homme*, March 2009.

4 / Arrested during the months of June and July 2008, they were subsequently convicted on December 11, 2008 for “belonging to a gang, participating in an agreement established for the purpose of preparing or committing an attack against persons or property” and “distribution of [...] leaflets and bulletins that may be detrimental to public order”. On appeal, five of those who were convicted in the first instance to 10 years in prison had their sentences reduced to six to eight years in prison. Nine other defendants initially sentenced to six years' imprisonment had their sentences reduced to three or four years. The Court of Appeal also reduced to one-year the four years' sentences for four defendants and issued or renewed conditional sentences for others.

marred by irregularities. Issues relating to allegations of torture, procedural deficiencies and non-hearing for defendants during the investigation phase were not addressed. The Presiding Judge also refused to read the indictment at the beginning of one hearing and the defendants had only a very short time to present their case. On August 22, 2009, the Tunis Court of Cassation rejected an appeal in cassation brought by lawyers for the defendants. However, on November 4-5, 2009, inmates still in prison were granted conditional release to mark the 22nd anniversary of accession to power of President Ben Ali. However, they could be returned to prison to finish their sentences if, within five years, they are convicted of having committed a crime punishable by deprivation of liberty. However, a case was still maintained against Mr. **Fahem Boukaddous**, correspondent for *al-Hiwar* satellite television and the online newspaper *al-Badi*<sup>5</sup>, and Mr. **Mohieddine Cherbib**, founding member 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) and President of the Federation of Tunisians for a Two-Banks Citizenship (*Fédération des Tunisiens pour une citoyenneté des deux rives* – FTCTC), who resides in France, was convicted in absentia.

Furthermore, a wave of repression in 2009 targeted unionised Tunisian students, including activists of the General Union of Tunisian Students (*Union générale des étudiants de Tunisie* – UGET). On December 14, 2009, a trial was scheduled before the Court of Manouba, a suburb of Tunis, for 20 students arrested on November 1, 2009 for holding a peaceful sit-in at al-Bassatine University in support of students of the Faculty of Manouba who claimed their right to university housing. When the court was meant to consider the case, the police beat several of the defendants with batons, as well as their lawyers. On December 22, 2009, 17 students were sentenced to terms ranging from twelve to 37 months in prison

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5/ In December 2008, Mr. Fahem Boukaddous was convicted *in absentia* and sentenced to six years' imprisonment after he published a series of articles and news stories describing the mobilisation of the inhabitants of the region. This decision was upheld on appeal on February 3, 2009. In the context of the repression of the protest movement and its relays, Mr. Boukaddous went into hiding. Following the release of prisoners of the Gafsa-Redeyef movement, Mr. Boukaddous went to the police for objecting to the sentence against him, although the authorities had not announced any leniency in his favour. On January 13, 2010, the Gafsa Court of First Instance sentenced Mr. Boukaddous to four years in prison for "participating in an agreement to prepare and commit attacks against persons and property". The decision was not accompanied by an order of imprisonment, pending appeal, which was set for February 23, 2010. Similarly, Mr. **Hassen Ben Abdallah**, an activist of the Local Committee of the Unemployed (*Comité local des chômeurs*) and the Gafsa-Redeyef Protest Movement, on the run since June 2008, was also sentenced *in absentia* to ten years in prison for the same charges on February 4, 2009. He was scheduled to be brought before the Court of Appeal on February 23 and before the Court of First Instance on February 24, 2010, for the official implementation of his sentence.



and a fine of 9.6 dinars (about five euros) for “restrictions on freedom of work”, “theft”, “degradation of property of others” and “noise”<sup>6</sup>. The cases of the other three were dismissed. On December 4, 2009, police stopped Mr. **Najeh Saghrouni**, Secretary General of the Federal Bureau of UGET in the Sfax Faculty of Economics and Legal Studies, a few days after he signed an international petition of solidarity with the UGET activists victims of repression. On December 14, 2009, he was sentenced to two months’ imprisonment by the Court of Sfax<sup>7</sup>. The 17 UGET members and Mr. Saghrouni appealed their convictions. As of late 2009, they remained detained at the Mornaguia prison in the outskirts of Tunis, where they began a hunger strike on December 24, 2009 to protest against the unfairness of their trial<sup>8</sup>.

### Restrictions on human rights defenders’ freedom of movement

In 2009, human rights defenders, both Tunisian and foreign, were again subjected to severe restrictions on their freedom of movement. Mr. **Abdelhamid Amine**, Secretary General of the Moroccan Human Rights Association (*Association marocaine des droits humains – AMDH*), was intercepted on January 23, 2009 by several officers of the border police upon his arrival at Tunis airport from Casablanca (Morocco). The agents then told him without explanation that he was “undesirable in Tunisia” and he was forced to re-embark for Casablanca. Mr. Amine went to Tunisia to present the Maghreb Coordination of Human Rights Organisations (*Coordination maghrébine des organisations des droits humains – CMODH*) to the authorities and public in Tunisia. Mr. Amine sent an open letter to the President of the Tunisian Republic to protest against his illegal removal and ask for an investigation but, as of late 2009, he had received no response. On October 20, 2009, Ms. **Radhia Nasraoui**, lawyer and President of the Tunisian Association Against Torture (*Association tunisienne de lutte contre la torture – ALTT*) and former member of OMCT Assembly of Delegates, was informed by officials of the border police at Tunis airport that she was prohibited from leaving the territory due to a criminal complaint filed against her and her husband in 2008 by an unknown person. Ms. Nasraoui was to go to France to participate on October 21 in a conference on “the situation in Redeyef and in the mining area of Gafsa”, held during the plenary session of the European Parliament in Strasbourg. Despite her efforts, as of late 2009 she had not obtained information about neither the author of the complaint nor its purpose. In late 2009, Mr. **Ali Ben Salem**, Vice-President of the Bizerte section of

6/ See LTDH Statement, December 24, 2009 and CRLDHT.

7/ See UGET Solidarity (*UGET Solidarité*) Statement, December 14, 2009.

8/ See UGET Solidarity Statement, January 1, 2010. The strike ended at the end of 2009.

the Tunisian League for the Defence of Human Rights (*Ligue tunisienne pour la défense des droits de l'Homme – LTDH*), remained banned since 2006 from leaving the country, sometimes Bizerte and even his home when he tries to move.

### **Acts of harassment against *Radio Kalima* and its contributors**

Since *Radio Kalima*, radio and online journal founded by Ms. **Sihem Bensedrine**, a journalist and Spokesman for the National Council for Freedoms in Tunisia (*Conseil national pour les libertés en Tunisie – CNLT*), began on January 26, 2009 to broadcast via satellite, several acts of harassment and intimidation targeted its journalists. Thus, on January 30, 2009, after three days of the office of *Kalima* being blockaded and encirclement by a large police presence throughout the neighbourhood, the police entered the offices of *Kalima*, confiscated all communications equipment (computers, telephones, video equipment, etc.) and put the location under seal in the presence of the Deputy Prosecutor of the Republic. A judicial inquiry was opened concerning a radio transmission without prior authorisation and a broadcast satellite from Italy, even though only the radio transmission is regulated and no law in Tunisia regulates Internet broadcasting. The radio journalists subsequently experienced various acts of intimidation by the authorities. For example, on January 29, a police officer threatened Mr. **Omar Mestiri**, Managing Editor of *Kalima*, by brandishing a knife while the latter was leaving the building. In addition, on February 1, Mr. Mestiri was unable to board a flight at Tunis airport. His business was confiscated, and upon his refusal to undergo a body search, his belongings were only returned to him after his departure of the aircraft. As of late 2009, *Kalima's* premises remained under seal and no information had been given on the progress of the criminal investigation opened against *Kalima*.

### **Attempts to cripple civil society organisations**

In 2009, the authorities continued to build barriers against the action of independent organisations of civil society. Thus, on June 11, 2009, the Court of Appeals upheld the decision of the courts of first instance and appeal of 2001 annulling the fifth congress of the LTDH, held in October 2000, and invalidating the proceedings and the resulting decisions. The proceedings had been launched following a complaint by four militants close to the ruling party who had applied to the fifth congress to serve on governing bodies within the LTDH. As they had not been elected, they had challenged the legality of the congress. Furthermore, on September 8, 2009, the Tunis Court of First Instance attributed the offices of National Union of Tunisian Journalists (*Syndicat national des journalistes tunisiens – SNJT*) to the new union's executive board, whose members, close to the

Government, were appointed on the basis of an extraordinary illegal congress. Even before the verdict, the local SNJT was surrounded by police. The Chairman of the legitimate board, Mr. **Neji Bghouri**, was also physically and verbally assaulted by police. These measures came after the publication in May 2008 of the SNJT first annual report on freedom of the press in Tunisia. Moreover, a large number of independent human rights associations remained illegal in 2009.

### **Judicial harassment, unfair trials and violence against journalists in the electoral context**

Journalists were victims of violence, acts of harassment and judicial sentences in prison because of their mobilisation in 2009 for denouncing human rights violations and practices and acts contrary to international standards that proliferated in the electoral context. On November 26, 2009, the Criminal Chamber of Tunis Tribunal of Great Instance sentenced Mr. **Taoufik Ben Brik**, a journalist and co-founder of CNLT, to six months in prison for “violating morality”, “defamation”, “aggression”, “damage to the property of others” and “blasphemy.” The accusation followed a complaint from a woman claiming to have been assaulted after a collision between her vehicle and that of Mr. Ben Brik, when in fact the opposite occurred. Mr. Ben Brik was arrested on October 2. His lawyers appealed the decision<sup>9</sup>. In late 2009, he remained detained in the Siliana prison, 200 km from Tunis. In addition, on December 1, 2009, the Criminal Chamber of the Court of First Instance of Grombalia found Mr. **Zouhair Makhoulf**, independent Tunisian journalist and Secretary General of the association for the defence of freedoms “Freedom and Equality” (*Liberté et équité*), jailed since October 21, 2009 in Mornaguia prison near Tunis, guilty of “having damaged a third party through a public telecommunications network”. He was sentenced to three months in jail, a 200 dinars (about 104 euros) fine and ordered to pay 6,000 dinars (about 3,114 euros) in damages to the complainant. His lawyers appealed the decision<sup>10</sup>. This conviction followed the production by Mr. Makhoulf and dissemination on “Facebook” of a documentary denouncing pollution and environmental degradation of the city of Nabeul because of certain industrial activities. During the trials of Mr. Ben Brik and Mr. Makhoulf, which took place on November 19 and 24, 2009 respectively, several violations of the right to a fair trial were reported. Lawyers for both defendants were repeatedly prevented from visiting their clients in prison, at the expense of preparing

9 / On January 30, 2010, the Tunis Court of Appeals upheld the sentence imposed by the court of first instance.

10 / On February 3, 2010, the Court of Appeal of Nabeul lengthened the sentence imposed by the court of first instance of one month in prison.

their defence. The principle of public hearings was not respected, and all members of civil society were denied access to the courthouse. Lawyers for the defendants were barely allowed to plead and they were constantly interrupted during the hearing. Furthermore, on October 28, 2009, Mr. **Slim Boukhdir**, journalist and founding member of the association “Freedom and Equality”, was kidnapped outside his home by unknown assailants in civilian clothes, who blindfolded him, forced him to board a vehicle and then drove to the hills of Belvedere, in the heights of Tunis, where they beat him. Mr. Boukhdir, stripped of his clothes, his wallet and his phone, was left at the scene, suffering from a broken nose and multiple bruises. Finally, Mr. **Mohamed Soudani**, a member of UGET, was arrested on October 22, 2009 following an interview on the situation of human rights in the electoral context with French journalists, and sentenced on October 24 for “violating morality”, “state of inebriety” and “blasphemy” to four months in prison, violating all principles of fair trial. Detained in the al-Mernaqia prison in a suburb of Tunis, he was finally released on December 31, 2009, after having served his sentence.

Foreign journalists also suffered reprisals in the context of presidential and legislative elections. Ms. **Florence Beaugé**, Head of the Maghreb international department of the French newspaper *Le Monde*, was expelled from Tunisia on October 21, 2009. Upon her arrival at Tunis airport, she was banned from Tunisian soil by the Tunisian authorities, which had put forward, in a statement, her “systematically hostile bias” against Tunisia, without giving further details. On the occasion of a previous mission, in early October, Ms. Beaugé had in particular interviewed the Minister of Justice and of Human Rights, Mr. Bechir Tekkari, and reported the daily life of an opponent, Mr. Hamma Hammami, and his wife, lawyer Ms. Radhia Nasraoui.

### **Continuation of smear campaigns to discredit human rights defenders**

At the end of 2009, slanderous and defamatory articles against several defenders appeared each week in newspapers close to the regime. In its December 12, 2009 edition, the weekly *Koll Ennass* launched a smear campaign against Mr. **Kamel Jendoubi**, Chairman of the CRLDHT, member of OMCT Executive Council and President of EMHRN, Ms. Sihem Bensedrine, Ms. **Sana Ben Achour**, President of the Tunisian Association of Democratic Women (*Association tunisienne des femmes démocrates* – ATFD), Mr. **Mokhtar Trifi**, President of the LTDH, and Mr. **Khemais Chammari**, board member of the Euro-Mediterranean Foundation of Support to Human Rights Defenders (EMHRF) and former Vice-President of FIDH, accusing them of collusion with the Israeli secret services and European intelligence agencies, and plotting

against the Palestinian resistance and Arab States by revealing secrets about them to reporters. The paper then shifted focus to Mr. **Michel Tubiana**, Honorary President of the French League of Human Rights (*Ligue des droits de l'Homme* – LDH, Executive Committee member of EMHRN and former Vice-President of FIDH, describing him as “a Jewish lawyer who enlists Tunisians”. The newspaper also stated that these revelations might trigger violent reactions in Beirut and Palestinian circles, thus justifying the form of a thinly disguised call for violence that might ensue from such statements. Several of these defenders lodged a complaint but, as of the end of 2009, no action had been taken.

### **Intensification of verbal and physical attacks against human rights defenders by State agents**

Violence against defenders also increased in 2009. On October 20, the police violently assaulted Ms. Sihem Bensedrine as she was preparing to attend a training course in Tunis organised by a coalition of five local NGOs in the AFD office – which itself is undergoing continuing harassment (arbitrary restrictions on activities, freezing of grants from abroad, etc.) – on the evaluation of media coverage of electoral processes. Ms. Bensedrine was brutally thrown out of her vehicle by several members of the police, beaten and brutally expelled from the Ilhem Marzouki Institute. Moreover, on June 23, 2009, lawyers Ms. Radhia Nasraoui, Mr. **Abdelraouf Ayadi**, former Secretary General of CNLT and member of the Executive Committee of “Freedom and Equality”, and Mr. **Samir Dilou**, lawyer and member of the International Association to Support Political Prisoners (*Association internationale de soutien aux prisonniers politiques* – AISPP), were welcomed at Tunis airport by plainclothes police who asked them to submit to a body search. Faced with the refusal of the lawyers who stated that, rightly, this procedure was illegal, the policemen dragged them off in rooms isolated from the airport, where they inspected the contents of their luggage. The police then deliberately tore the clothes of Mr. Ayadi and stained the contents of Mr. Dilou’s baggage. Inside and at the exit of the control area, Mr. Ayadi and Ms. Nasraoui were publicly insulted, and Mr. Ayadi received a violent blow to the knee. That same day, Mr. **Abdelwahab Maatar**, member of the AISPP, experienced similar acts upon his arrival at Sfax airport, where he was detained for two hours and violently assaulted. These acts followed the constituent congress of the International Organisation for the Return of Political Exiles (*Organisation internationale pour le retour des exilés politiques*), on June 20 and 21 in Geneva, Switzerland, which these lawyers attended. In addition, on May 19, 2009, Ms. Radhia Nasraoui returned from Paris where she had intervened on the state of freedom in Tunisia and in particular on the events of mining in response to an invitation from the “Europe-Ecologie” list.

Upon her arrival at Tunis airport, a group of officials and security agents in plain clothes stopped her. After conducting a search of her luggage and her briefcase, the officers forcibly pushed her into a small office during which time a customs official asked her to undergo a body search, which she refused. Following this, several officers insulted her and then followed her outside the airport. Similarly, on November 28, 2009, while Ms. **Néziha Rejiba**, Vice-President 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), was returning from the United States where she had just received an award from the Committee to Protect Journalists (CPJ), she suffered a humiliating body search at Tunis Carthage airport<sup>41</sup>.

### **Increased police surveillance of human rights defenders**

Close monitoring of defenders intensified in 2009, with police blocking their means of communication (telephone, Internet and mail) and encircling their private homes. Thus, the residence of Mr. Khemais Chammari was repeatedly surrounded by plainclothes police officers, preventing visitors from accessing it. On June 24, police physically blocked such access to the home of Mr. Chammari by Mr. **Ayachi Hammami**, Secretary General of the Tunis section of the LTDH, and Mr. **Lotfi Hajji**, a journalist and Vice-President of the Bizerte section of the LTDH. On July 7, 2009, Mr. Nejjib Chebbi, a lawyer and Secretary General of the Democratic and Progressive Party (*Parti démocratique et progressiste* – PDP), and his wife were prevented from entering the home of Mr. Chammari. As of late 2009, the home of Mr. Ali Ben Salem and the local section in Bizerte of LTDH also remained prohibited from receiving any external visitors. Similarly, police surveillance increased outside the homes and offices of lawyers Mr. Abderraouf Ayadi, Mr. Ayachi Hammami, Mr. Mohamed Abbou and Ms. Radhia Nasraoui. Pressure was also put on their clients for them to stop using the lawyers' services, preventing them from exercising their legal work and depriving them of their livelihoods. For instance, on May 21, 2009, police officers forbade Ms. Nasraoui to speak with her client, Mr. Ammar Amroussia, at the entrance to the town of Gafsa. The latter reportedly tried to enter Ms. Nasraoui's vehicle but was refused by the police. Mr. Amroussia had solicited the services of Ms. Nasraoui for representation in a complaint filed against policemen who allegedly assaulted him on May 15 and 16, 2009. Finally, from October 2009 onwards, Ms. Nasraoui has been denied the right to visit her clients detained either by the courts or by the prison administration.

## Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Sihem Bensedrine / <i>Radio Kalima</i>	Defamation campaign / Harassment	Urgent Appeal TUN 001/0109/OBS 001	January 6, 2009
Mr. Dhafer Otay / <i>Radio Kalima</i>	Forced disappearance / Harassment / Intimidation	Urgent Appeal TUN 001/0109/OBS 001.1	January 27, 2009
	Release / Harassment / Intimidation	Urgent Appeal TUN 001/0109/OBS 001.2	January 28, 2009
<i>Radio Kalima</i> / Mr. Omar Mestiri, Ms. Faten Haamdi, Mr. Hatem Boukersra and Ms. Zakia Dhifaoui	Search and seizure / Closure / Arbitrary arrest / Threats / Judicial harassment / Obstacle to freedom of movement	Urgent Appeal TUN 001/0109/OBS 001.3	February 3, 2009
The "Gafsa 38"	Judicial harassment	Press Release	January 9, 2009
	Conviction in appeal / Violation of the right to a fair trial	Press Release	February 11, 2009
Tunisian League for Human Rights (LTDH) / Mr. Mohamed Ben Saïd, Mr. Lofti Hajji, Mr. Salam Haddad and Mr. Abderahman Hedhili	Obstacles to freedom of movement	Press Release	June 2, 2009
The "Gafsa 38", including Mr. Béchir Labidi	Judicial harassment / Arbitrary detention	Joint Open Letter to the authorities	July 17, 2009
	Conviction / Arbitrary detention	Urgent Appeal TUN 004/0408/OBS 049.3	August 27, 2009
The "Gafsa 38", including Mr. Fahem Boukaddous and Mr. Mohieddine Cherbib	Conditional release / Judicial harassment	Joint Press Release	November 5, 2009
Mr. Abdelhamid Amine	Refoulement / Obstacles to freedom of movement	Urgent Appeal TUN 002/0109/OBS 016	January 28, 2009
Mr. Taoufik Ben Brik	Obstacles to freedom of movement	Urgent Appeal TUN 003/0509/OBS 067	May 6, 2009
Messrs. Taoufik en Brik, Slim Boukhdhir and Mouldi Zouabi	Arbitrary arrest / Judicial harassment / Aggression / Intimidations	Joint Press Release	October 29, 2009
Mr. Taoufik Ben Brik, Ms. Sihem Bensedrine, Messrs. Omar Mestiri, Lotfi Hajji, Abdelkrim Harrouni and Mohamed Soudani	Judicial harassment	Joint Press Release	November 20, 2009
	Conviction	Joint Press Release	November 26, 2009
	Arbitrary detention	Joint Press Release	December 2, 2009
Ms. Radhia Nasraoui	Burglary / Acts of harassment	Urgent Appeal TUN 004/0509/OBS 079	May 15, 2009
		Urgent Appeal TUN 004/0509/OBS 079.1	June 2, 2009
		Joint Press Release	October 21, 2009

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
LTDH		Press Release	June 15, 2009
Ms. Radhia Nasraoui, Messrs. Abdelraouf Ayadi, Samir Dilou, Abdelwahab Maatar, Khemais Chammari, Ayachi Hammami and Lotfi Hajji		Joint Press Release	June 25, 2009
Mr. Khemais Chammari	Acts of harassment	Urgent Appeal TUN 005/0709/OBS 101	July 8, 2009
National Union of Tunisian Journalists (SNJT)	Obstacles to freedom of association	Press Release	September 9, 2009
Ms. Sihem Bensedrine	Ill-treatments / Harassment / Obstacles to freedoms of peaceful assembly and association	Urgent Appeal TUN 006/1009/OBS 152	October 22, 2009
Mr. Zouhair Makhlof	Arbitrary detention / Fear for physical and psychological safety / Judicial harassment	Urgent Appeal TUN 007/1009/OBS 154	October 26, 2009
		Joint Press Release	October 29, 2009
Mr. Zouhair Makhlof and Mr. Said El Jazi	Judicial harassment	Joint Press Release	November 26, 2009
	Conviction	Joint Press Release	December 2, 2009
Ms. Sihem Bensedrine, Mr. Mohamed Abbou, Mr. Chouki Tebib, Mr. Ayachi Hammami, Mr. Nejib Chebbi and Mr. Zouhair Makhlof	Aggression / Non respect for defence rights	Joint Press Release	November 3, 2009
Mr. Abdelkrim Harouni, Mr. Hamza Hamza, Mr. Omar Mestiri and Mr. Abdelraouf Ayadi	Arbitrary arrests / Aggression / Harassment	Joint Press Release	November 17, 2009
Ms. Sihem Bensedrine, Ms. Sana Ben Achour, Mr. Khemais Chammari, Mr. Michel Tubiana and Mr. Kamel Jendoubi	Defamation	Joint Press Release	December 18, 2009



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# YEMEN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In Yemen, the year 2009 was marked by the violent war in the North of the country that opposed the Yemeni army and supporters of the Zaidi religious leader Hussain Badr al-Din al-Huthi<sup>1</sup>. This conflict, which began in 2004, was resumed with force in August 2009, giving rise to the forced displacement of nearly 175,000 people and causing the death of hundreds of civilians<sup>2</sup>. The air raid of September 16, 2009 on the village of Adi, in the south of the Sa'ada region, resulted in the deaths of 80 civilians<sup>3</sup>. Since November 5, 2009, the civilian population has also been victim of attacks by the Saudi air force, which accuses Yemeni rebels of having infiltrated the country. These attacks have resulted in the death of several dozen people, mostly women and children<sup>4</sup>. Moreover, it was almost impossible for humanitarian workers and journalists to gain access to the region.

In southern Yemen, the protest movement led by a coalition of political groups called the Southern Movement also intensified since April 2009, during a year marked by the fifteenth anniversary of the start of the civil war between the Yemeni Government in Sana'a and the southern separatists<sup>5</sup>. The authorities' response to this protest movement was accompanied by grave human rights violations: indeed, between January and October 2009, the security forces arrested over 2,300 people, mostly without a

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1/ In the 1990s, Mr. Hussain Badr al-Din al-Huthi created the Young Believers Movement (Huthis) in protest against the expansion of Sunni Islam in the majority Zaidi northern provinces. After the invasion of Iraq in 2003 by the coalition forces led by the United States, the supporters of Mr. al-Huthi organised several demonstrations, particularly in Sana'a, chanting anti-American and anti-Israeli slogans. A wave of arrests followed these demonstrations. Mr. Hussain Badr al-Din al-Huthi was killed in 2004. Violent fighting broke out between his followers and the Yemeni army. They have continued since then, interrupted by periods of truce. The Sana'a Government currently accuses the Huthis of separatist tendencies.

2/ See United Nations High Commission for Refugees (UNHCR) Briefing Note, December 11, 2009.

3/ See Cairo Institute for Human Rights Studies (CIHRS), FIDH, National Organisation for Defending Rights and Freedoms (Hood) and Sister's Arab Forum for Human Rights (SAF) Joint Press Release, September 24, 2009.

4/ See Yemen Centre for Human Rights Studies (YCHR) Press Release, December 21, 2009.

5/ The Southern Movement denounces discrimination against the inhabitants of south Yemen, especially the despoilment of lands previously nationalised after the end of the 1994 inter-Yemeni war and the forcible retirement of soldiers and civil servants of the Democratic Republic of Yemen (south Yemen) in 1994. Some protestors also call for independence for south Yemen.

warrant, several people were subject to forced disappearance, demonstrators were killed and 40 others injured during the repression of the demonstrations. Over 130 of the 2,300 people arrested were transferred to be tried by exceptional courts that do not respect international standards for fair trials<sup>6</sup>.

In addition, freedom of the press deteriorated considerably in 2009. During the month of May, publication of several newspapers, including *al-Ayyam*, *al-Nidaa*, *al-Sharq*, *al-Mustaqila*, *al-Watani*, *al-Masdar*, *al-Diar* and *al-Ahali*, was banned and they were seized because of their coverage of the demonstrations disturbing the South of the country. On May 4, 2009, the forces of law and order blocked access to the premises of *al-Ayyam*, which was accused of supporting the “secessionist movement” in the south in its articles. At the end of 2009, there was still a ban on distribution of the newspaper. Furthermore, on May 11, 2009, based on a proposal by the Justice Minister, the High Judicial Council upheld the creation of a special press court, with the status of an exceptional court, for the trial of press offences<sup>7</sup>. This measure leads to fear a worsening of the climate of repression that could also target human rights activities<sup>8</sup>. Since its creation this court has passed heavy sentences on several journalists<sup>9</sup>.

In May 2009, the UN Human Rights Council examined Yemen in the framework of the Universal Periodic Review. Although several recommendations prompted Yemen to put an end to the torture and ill treatment meted out by the Department of Political Security and members of the prison administration, the authorities have taken no steps to do so. Several recommendations also called on the authorities to end censorship, arbitrary detentions of journalists and to pay full respect to freedom of expression. The authorities were absent during the 43rd session of the UN Committee Against Torture that was due to review the second periodic report presented by Yemen in November 2009. The Committee, which expressed its concern at the widespread use of torture and ill treatment in Yemen, therefore presented its conclusions and recommendations in the absence of the State party. The Committee also expressed its “concern at reports of enforced disappearance and of the widespread practice of mass arrests without a warrant and arbitrary and prolonged detention without

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6 / See Yemen Observatory for Human Rights (YOHR).

7 / The High Judicial Council upheld this decision on May 11, 2009. See Hood.

8 / See Yemeni Organisation for the Defence of Democratic Rights and Freedoms (YODRFD) and Hood.

9 / On October 31, 2009, the Press Court gave Mr. Samir Joubrane, Editor-in-chief of the newspaper *al-Masdar*, a one year suspended sentence and suspension of his work as journalist and Editor-in-chief for one year, and sentenced the journalist Mounir al-Mawri to two years in prison and a life ban on his work as a journalist, following the publication in *al-Masdar* of an article criticising the President of the

charges and judicial process”, and “at allegations of extrajudicial killings by security forces and other serious human rights violations in different parts of the country, in particular the northern Sa’ada province and in the south”. Finally, the Committee expressed its concern regarding the situation of human rights defenders, political opponents and journalists, who are subject to arrest and arbitrary detention, as well as secret detention<sup>10</sup>.

### **Serious attacks on freedom of peaceful assembly and violent repression of demonstrators**

In 2009, there continued to be considerable restrictions on the right of peaceful assembly in Yemen. Law No. 29 of 2003 on Marches and Demonstrations indeed stipulates that notification of public demonstrations and marches must be given at least three days in advance to the local authority security department (provinces or districts). Organisers must inform this body of the place, time, cause and object of the demonstration, and also present the slogans to be chanted. The security department then has jurisdiction to forbid or alter the demonstration route (Articles 4 and 5).

In 2009, several demonstrations that took place in various towns in provinces in the south of the country were violently broken up by the forces of law and order using tear gas or firing live bullets at the demonstrators. As an example, on January 13, 2009, a peaceful assembly organised in the main square in the city of Aden to celebrate the day of forgiveness and reconciliation<sup>11</sup> was brutally broken up by the forces of law and order, which fired at the demonstrators. Five people were seriously injured and at least 144 others were arrested, including a minor who was leaving school, before being released without charge after being obliged to give a written undertaking not to take part in other rallies<sup>12</sup>. Furthermore, on July 15, 2009, Mr. **Anis Mansour**, member of the Lahaj branch of the Yemen Observatory for Human Rights (YOHR) and a journalist with *al-Ayyam*, was sentenced by the al-Qobaita Court in Lahaj to 14 months in prison for “attacking national unity”, “participation in unauthorised demonstrations” and “calling for instability” for participating in various demonstrations to denounce the discrimination of which the inhabitants of south Yemen are victim. The complaint would have been filed by the

10 / See Committee Against Torture, *Provisional concluding observations of the Committee Against Torture*, United Nations Document CAT/C/YEM/CO/2, December 17, 2009.

11 / A celebration to commemorate a conflict in 1986 that had opposed two rival families in the south of the country, leading to the death of several people and which is celebrated so that such tragedies are not repeated.

12 / See YOHR Press Release, January 13, 2009.

Organisation to Defend the Unity of Yemen, an organisation close to the Government. During the hearing, recordings dating from 2007 showed Mr. Mansour's cover of demonstrations in the Karch district. Mr. Mansour appealed against this ruling<sup>13</sup>. Similarly, on September 30, 2009, the forces of law and order used violence to disperse a peaceful demonstration in the town of al-Dale', in the south of the country, firing live bullets at the demonstrators who called for the reopening of the newspaper *al-Ayyam*, the principal independent newspaper that had been closed by the authorities in May, and for the release of prisoners arrested after taking part in demonstrations in the south during the year. Two people were killed and eight were injured. 45 people were arrested. Several reported having been ill-treated by members of national security during their detention. At the end of 2009, 12 people were still detained and accused of shooting at the police force, while the others were released without charge<sup>14</sup>. On October 6, 2009, Ms. **Tawakkol Karman**, President of Women Journalists Without Chains (WJWC), and Ms. **Lubna al-Gedsi**, Coordinator of the Rights and Freedoms Section of the same organisation, were attacked by police agents during a sit-in organised on Freedom Square in Sa'ana to call for the reopening of the *al-Ayyam* newspaper and the release of Mr. Muhammad al-Maqalih<sup>15</sup>. Violence was used to break up the sit-in and police agents brutally snatched banners out of the hands of Ms. Karman and Ms. al-Gedsi and broke their cameras<sup>16</sup>.

In addition, several journalists were targets of various acts of harassment for having denounced violations related to the repression of these demonstrations. For example, Mr. Anis Mansour and Mr. **Wajdy al-Shuaiby**, an *al-Watani* newspaper journalist specialising in human rights, who covered the demonstration on January 13, 2009 in order to denounce the violations committed during the repression of this rally, were arrested on that occasion and were only released without charge on January 15 and 27, 2009 respectively. In August 2009, the Immigration and Passport Service also refused to renew the passport of Mr. **Hisham Basharahil**, Editor-in-chief of the *al-Ayyam* daily newspaper, who was due to travel to Saudi Arabia for medical reasons. This refusal appeared to be related to the authorities' campaign against the *al-Ayyam* newspaper<sup>17</sup>.

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13/ See YOHR Press Release, July 18, 2009.

14/ See YOHR Press Releases, October 1, 2009 and January 7, 2010.

15/ See below.

16/ See YOHR and Hood.

17/ See Women Journalists Without Chains Press Release, August 19, 2009.

## **Intimidation of defenders who denounce massive human rights violations, particularly in the context of the armed conflict in the northern provinces and the tensions in the southern provinces**

In 2009, several defenders who denounced the serious human rights violations committed by the authorities, particularly in the context of the armed conflict in the North and the tensions in the southern provinces, were themselves the victim of abductions, incommunicado detention and judicial proceedings. As an example, on June 18, 2009, Mr. **Salah Yahya el-Saqladi**, a journalist in charge of the Aden branch of the Yemeni Organisation for the Defence of Democratic Rights and Freedoms (YODRFD) and political Editor for the human rights forum *Hewar*, was arrested at his home in Aden then put in the Sana'a political police prison following articles that criticised the Yemeni authorities and the human rights violations they commit in South Yemen. On December 7, 2009, he appeared before the Sana'a Special Criminal Court for "disturbing public order" and "incitement to hatred through his articles on Internet". The trial, which was due to be held on December 24, 2009, was postponed to January 4, 2010<sup>18</sup>. On September 17, 2009, Mr. **Muhammad al-Maqalih**, a member of the Yemeni Socialist Party and Editor-in-chief of the *al-Ishtiraki* Internet website, was kidnapped in the streets of Sana'a by men suspected of belonging to the security services. His fate remained unknown at the end of 2009. This kidnapping seemed to be related to the articles published by Mr. al-Maqalih on *al-Ishtiraki*, in which he accused the Yemeni army of having caused the death of several civilians in the war against the Huthi rebels in the north of the country<sup>19</sup>. Similarly, several members of YODRFD were abducted in 2009 and held at a secret location because of their work in support of detainees' rights, particularly those arrested on the fringes of the Sa'ada conflict. As an example, on September 28, 2009, Mr. **Ali Ahmad al-Saqqaf** was abducted in Sana'a when he came out of a pharmacy. He had apparently previously received several anonymous telephone calls telling him to stop his human rights activities. At the end of 2009, Mr. al-Saqqaf was still being held incommunicado without being charged<sup>20</sup>. In addition, on November 1, 2009, the trial of Mr. **Yaser Abdul-Wahab al-Wazeer**, who was accused of forming an armed group, began. Mr. al-Wazeer had been abducted on June 5, 2008 by members of the security services and held incommunicado until September of the same year. At the end of 2009, he was still being held in the Sana'a political security prison. The first trial hearing was held in camera before the Sana'a

18/ The trial verdict was due to be issued on May 24, 2010. See YOHR, Hood and Women Journalists Without Chains Press Release, November 1, 2009.

19/ See YOHR and Hood.

20/ See YODRFD.

Special Criminal Court<sup>21</sup>, without Mr. al-Wazeer's lawyer being present as he had not been informed of the hearing<sup>22</sup>. On January 26, 2009, the Yemen Appeal Court upheld the six years' prison sentence pronounced against Mr. **Abdul-Karim al-Khaiwani**, the former Editor-in-chief of the newspaper *al-Shoura*, for "collaborating with the rebellion" following the publication of articles denouncing repression linked to the Sa'ada war<sup>23</sup>. He was granted presidential pardon on March 14, 2009. As for Ms. **Amal Basha**, President of the Sister's Arab Forum for Human Rights (SAF), she was the victim of various acts of intimidation following the publication on October 12, 2009 of a report on torture in Yemen. On November 17, 2009, her car brakes were deliberately damaged. A few days later, when she was leaving a court hearing, she was attacked by an unknown person who sprayed her face with water, imitating a practise used by fundamentalists against women who do not wear a veil. In addition, on November 22, 2009, individuals broke into SAF premises and ransacked documents and archives there. Nothing was stolen. The organisation filed a complaint and an investigation was ongoing but had still not been concluded as of the end of 2009.

### Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Sister's Arab Forum for Human Rights (SAF) / Ms. Amal Basha	Break-in / Threats against physical and psychological integrity / Intimidation	Urgent Appeal YEM 001/1109/OBS 172	November 24, 2009

21/ The Sana'a Special Criminal Court was created by Decree No. 391 of 1999. This court has jurisdiction to try cases relating to national security (armed gangs, air and sea piracy, kidnapping of foreigners, etc. under application of Article 3 of the decree).

22/ The other hearings took place on November 8 and 15 and December 6, 2009. See YODRFD.

23/ Mr. Abdul-Karim al-Khaiwani had been given the same sentence at first instance on June 9, 2008 as was given by the Sana'a Court of State Security. See Hood.