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# £TUNISIA

## @Repression thrives on impunity

### INTRODUCTION

Amnesty International's current concerns in Tunisia arise against a background of human rights violations which have continued over the past eight years, and which have become particularly widespread over the last five years. Since the end of 1990, thousands of known or suspected government opponents and critics have been detained and imprisoned for their political ideas and activities under laws which provide for imprisonment for the peaceful exercise of the right to freedom of expression and association. Most of them were convicted in unfair trials and widespread reports of torture and ill-treatment have not been adequately investigated. International human rights treaties ratified by Tunisia and Tunisian laws have been consistently violated and disregarded.

When President Zine el Abidine Ben Ali, former Minister of the Interior under President Habib Bourguiba who ruled Tunisia for over 30 years, came to power on 7 November 1987 he stated his commitment to respecting human rights. In the first year of his presidency Tunisia ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture);<sup>1</sup> new laws were passed which, if applied, would have provided important safeguards against human rights violations;<sup>2</sup> and thousands of criminal and political prisoners, including prisoners of conscience, were granted amnesties. Amnesty International welcomed the amnesties and legal reforms passed soon after President Ben Ali came to power, his stated commitment to human rights and opposition to the death penalty.

However, human rights violations continued. In September 1990 Amnesty International issued a report<sup>3</sup> detailing its concerns at the torture and ill-treatment of detainees during incommunicado detention, the imprisonment of prisoners of conscience, unfair trials and the failure of the authorities to conduct thorough, prompt, and impartial investigations into these violations.

In November 1987, President Ben Ali pledged to introduce a multi-party system. In May 1988 a law on political parties was passed and some political parties were legalized. Among the parties which were not granted authorization were *al-Nahda* (Renaissance);<sup>4</sup> the *Parti communiste des ouvriers tunisiens* (PCOT), Tunisian Workers' Communist Party; the *Rassemblement unioniste démocrate* (RUD),

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<sup>1</sup>The UN Convention against Torture was ratified on 23 September 1988.

<sup>2</sup>Act 87-70 of 26 November 1987, amending Articles 13 and 57 of the Code de Procédure Pénale (CPP), Code of Penal Procedure, limited the period of incommunicado (*garde à vue*) detention after arrest to an absolute maximum of 10 days. Act 87-79 of 29 December 1987 abolished the State Security Court, and Decree 1876 of 4 November 1988 recognized a number of rights for prisoners in areas of hygiene, visits and disciplinary measures.

<sup>3</sup>*Tunisia: Summary of Amnesty International's Concerns*; (AI Index: MDE 30/03/90).

<sup>4</sup>*Al-Nahda* was known as the *Mouvement de la tendance islamique* (MTI) until 1989. Since it was not granted legal registration by the authorities, *al-Nahda* could not participate in the legislative elections on 2 April 1989. However, *al-Nahda* backed independent candidates who, according to official results, won 17.75% of the votes.

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Democratic Unionist Rally; and the *Mouvement de l'unité populaire* (MUP), Movement of Popular Unity. Thousands of known or suspected activists and sympathizers of these unauthorized parties, most of them from *al-Nahda* but also from PCOT, have been arrested and imprisoned since 1990.<sup>5</sup> The vast majority of them have been imprisoned on charges of belonging to, or maintaining, an unauthorized association and holding, or participating in, unauthorized meetings. Many have also been charged with unauthorized distribution of leaflets and, in the last three years, with unauthorized collection of money (for families of political prisoners). Virtually all those accused of belonging to unauthorized political parties, like *al-Nahda* or the PCOT, have been convicted on the basis of a law on associations which dates back to 1969; the law of 1988 on political parties does not appear to have been used.

Human rights violations became widespread after October 1990, when a major crackdown began on known and suspected members and sympathizers of *al-Nahda*. Although most of the victims have been supporters and suspected sympathizers of *al-Nahda*, supporters and suspected sympathizers of the PCOT and other tendencies across the political spectrum have suffered the same fate. In addition, relatives and friends of political opponents, not themselves involved in political activities, have also been targeted. Of thousands of individuals detained for political reasons over the past five years, most of them prisoners of conscience, many remain in prison today.

## BACKGROUND: FREEDOM OF EXPRESSION AND ASSOCIATION UNDER ATTACK

The human rights violations of concern to Amnesty International detailed in the following sections of this report have been taking place against a background of escalating harassment and intimidation of people for exercising their right to freedom of expression and association.

The restrictions on freedom of expression and association which began in 1990 have increased since the time of the campaign for the presidential and legislative elections of March 1994, and have led to the arbitrary detention and imprisonment of prisoners of conscience. Unprecedented restrictions were imposed on the activities of Tunisian non-governmental organizations and on the media<sup>6</sup>. Foreign journalists and observers, including an Amnesty International delegate and a lawyer from *Reporters sans*

<sup>5</sup>Supporters of the RUD and MUP were also arrested up to 1991, but in recent years Amnesty International has not received reports of arrests of supporters of these movements, which do not appear to have undertaken any activities. The leader of the MUP has been in exile for some years and a leading figure of the RUD was imprisoned in 1989 for three years and has been under strict surveillance since his release.

<sup>6</sup> These restrictions included a ban on the broadcasting of the French television program *Géopolis*, the banning of foreign newspapers like the French dailies *Le Monde* and *Libération*, the French monthly *Le Monde Diplomatique*, the British daily *The Guardian*, and the Arabic-language daily *al-Hayat*. Some of these publications remained banned for over a year, and subsequent issues continued to be seized whenever they carried articles critical of the Tunisian Government. Foreign journalists, including correspondents from *Le Monde*, the BBC and *Agence France Press* were expelled, or forbidden entry to Tunisia, and Tunisian journalists who contributed to foreign newspaper articles considered to be critical of the Tunisian Government have been subjected to harassment. A journalist who worked for the official Tunisian press agency was dismissed on these grounds.

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*frontières*, were expelled or denied access to Tunisia. Amnesty International's delegate continues to be denied access to the country.

Boujema Remili, a leading figure of the *Tajdid* party (Renewal, former communist party), was arrested on 21 March 1994 after giving an interview to a foreign news agency in which he talked about alleged irregularities in the elections. He was released on bail a week later. He was sentenced in July to eight months' imprisonment (suspended) for "spreading false information".

Individuals or groups of individuals who sought to protest at the increased censorship were prosecuted or threatened with prosecution if they did not withdraw their statements. A group of women who signed a petition calling for the respect of freedom of expression, which was published in foreign media outside Tunisia, were summoned by police for questioning, and were told to formally deny having signed the petition. Some reported having been threatened with prosecution and dismissal from their jobs. A similar incident had also occurred in February 1993, when a group of left-wing intellectuals set up a committee to defend prisoners of conscience. The committee was immediately banned and Salah Hamzaoui, an academic and the coordinator of the committee, was detained for two weeks during which he was ill-treated. All the members of the committee were interrogated and threatened with prosecution on charges of setting up an unauthorized association; their passports were confiscated, some of them for more than two years.

In April 1994 Mustapha Ben Jaafar, a former leader of the *Mouvement des démocrates socialistes*, MDS (Movement of Socialist Democrats), issued a communique stating that he had applied for registration for a new association, the *Forum démocratique* (Democratic Forum). He was immediately arrested, detained for several hours and threatened with prosecution for setting up an unauthorized association, an offence punishable with up to five years' imprisonment.<sup>7</sup> His passport, and the passports of others who had signed the request for legalization of the association, were confiscated.

The practice of confiscating passports and preventing people from leaving the country has been increasingly used against individuals, including lawyers and human rights activists known for denouncing human rights violations.<sup>8</sup> In November 1994 the then Minister of the Interior, Abdallah Kallel, stated in

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<sup>7</sup>According to the law on associations, Law 59-154 of 7 November 1959, amended by law 92-25 of 2 April 1992, an association is considered legally authorized three months after the submission of the registration request, unless the Ministry of the Interior issues a refusal. The law states that anyone submitting a request to register an association must be given a receipt, and there are no provisions under which the authorities can refuse to accept submissions for registration or refuse to give a receipt for the submission. However, in practice the authorities have refused to accept submissions for registering an association and to give a receipt for the submission. Applicants are therefore denied access to the legal procedure, and the formation of the association will lead to prosecution for setting up an unauthorized association.

<sup>8</sup> These include Moncef Marzouki, the former President of the *Ligue tunisienne des droits de l'homme*, LTDH, Tunisian Human Rights League; Salaheddine Jourchi, Vice-President of the LTDH, Radhia Nasraoui, a well-known human rights lawyer and wife of a leading figure of the unauthorized PCOT (Hamma Hammami, currently imprisoned as a prisoner of conscience); Bachir Essid, a human rights lawyer and leader of the unauthorized RUD who was imprisoned in 1989 for three years; Mohamed Chakroun, a former head of the Bar Association; Anouar Kousri, a human rights lawyer  
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parliament that passports could be denied to "those who are non-patriotic and who go to complain abroad".

In November 1994, a group of magistrates who had attended a two-week seminar on "the functions and independence of the judiciary in Tunisia" organized by the International Commission of Jurists (ICJ) were summoned to the Ministry of Justice. They reported having been asked to withdraw their signatures from the report summarizing the seminar, and to sign another statement drafted by the authorities which did not reflect the content of the seminar.

The current degree of self-censorship exercised by victims of human rights violations and their relatives, as well as by human rights activists and lawyers, must be understood in the context of the systematic repression against those who have denounced such abuses in the past years, whether individually, or collectively.<sup>9</sup> In this context the arrest and detention in 1994 of Moncef Marzouki, a well-known professor of medicine and the former president of the *Ligue Tunisienne des Droits de l'Homme* (LTDH), Tunisian Human Rights League, stands out as an exemplary case of repression (his case is described on page 8). If such a well-known and respected human rights activist and academic could be arbitrarily detained for months despite the large mobilization on an international scale for his release, the other victims who are not known in Tunisia or abroad have every reason to fear a worse fate. Indeed this is the case of thousands of ordinary Tunisians who have been arrested and detained over the past years.

#### The authorities' response to criticisms of their human rights record

The Tunisian authorities have repeatedly stated that they are committed to respecting human rights. Since 1992 a number of official human rights bodies have been set up, after concern was expressed at the national and international level at the widespread use of torture after the mass arrests in 1991.<sup>10</sup> However, these bodies have failed to investigate adequately the cases of torture, ill-treatment, deaths in custody and illegally prolonged *garde à vue* detention brought to their attention.

In January 1994 Amnesty International issued a report<sup>11</sup> detailing its concern about the continuing pattern of human rights violations and the ineffectiveness of the official human rights bureaucracy, which seemed more concerned with hiding the violations than with investigating and preventing them. Since then, not only has the human rights situation failed to improve, but increasingly sophisticated repressive measures have been used against those who have sought to denounce human rights violations by the security forces and the judicial authorities, or to criticize the ruling party's policies. Victims, their relatives, lawyers,

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and the President of one of the LTDH sections; and Messaoud Chebbi, a well known lawyer.

<sup>9</sup> It was after the LTDH had denounced serious and widespread human rights violations in 1991 and 1992 that a new law on associations was passed which led to its dissolution.

<sup>10</sup> These concerns are detailed in four reports issued by Amnesty International in 1991, 1992 and 1993.

*Tunisia: Deaths in custody during garde à vue detention* (AI Index: 30/22/91) of October 1991.

*Tunisia: Prolonged Incommunicado Detention and Torture* (AI Index: MDE 30/04/92) of March 1992.

*Tunisia: Heavy Sentences After Unfair Trials* (AI Index: MDE 30/23/92) of October 1992.

*Tunisia: Women victims of harassment, torture and imprisonment* (AI Index: MDE 30/02/93) of June 1993.

<sup>11</sup> *Tunisia, Rhetoric versus reality: the failure of a human rights bureaucracy*; (AI Index: MDE 30/01/94). Amnesty International November 1995 AI Index: MDE 30/19/95

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human rights activists, journalists and government opponents and critics have systematically been silenced through detention, imprisonment, threats of prosecution, and other forms of harassment.

Measures such as administrative control (*contrôle administratif*, whereby individuals are ordered to report to police stations daily, weekly or even twice a day), often imposed by the police without any court order, have been widely used against former political prisoners and others. Other measures of intimidation have included police raids on houses and offices, short-term detention for questioning, dismissal or threats of dismissal for those who work in the public sector, confiscation of passports and interception of mail and telephone calls.

Human rights lawyers who spoke out against human rights violations and demanded investigations into such cases have reported having had their offices raided and their clients questioned, being questioned and threatened with prosecution on charges of spreading false information, and being denied access to their clients in prison or to their clients' files.<sup>12</sup> Although trial documents are public documents available from the courts, most of the lawyers who in the past used to provide these documents and other information to Amnesty International and other international human rights organizations about their clients' cases now say that they are no longer able to do so as they fear being arrested and prosecuted.

Former prisoners of conscience who are subjected to administrative control have reported that it is virtually impossible for them to work because they have to report daily, or twice a day, during working hours to police stations, where they are often kept waiting before being allowed to sign. Administrative control has been imposed by the police without any court order on released prisoners and on relatives of detained or exiled political opponents. Most of those ordered to report to the police comply out of fear of further detention. A new law passed in November 1993 made matters worse by automatically imposing administrative control on all those convicted for certain offences, upon expiry of their prison sentence (see page 23). In addition, these released prisoners have often had their passports and identity cards confiscated, which puts them at risk of further arrest if they are stopped for identity checks.

In addition to being harassed, detained and imprisoned, relatives, particularly wives and children, of political opposition activists who have left the country have had their passports confiscated and cannot leave Tunisia to visit or join their exiled relatives. Others have been detained upon their return and interrogated about the whereabouts and activities of their exiled relatives. Relatives of victims of human rights violations whose cases were publicly raised by Amnesty International or other international human rights organizations have been detained, questioned and threatened with prosecution and further detention and in some cases ill-treated, even though they had not themselves provided the information on the case of their relatives to these organizations. As a result, families and lawyers of victims are increasingly

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12A well-known human-rights lawyer, whose husband is currently imprisoned as a prisoner of conscience, has been subjected to continuous harassment, especially after her husband went into hiding at the end of 1992 (he was subsequently arrested in early 1994). Police officers repeatedly visited her home and her parents' home, often at night and without presenting any search warrant. On one occasion when she refused to open the door the police officers broke it down. On another occasion police officers interrogated her small daughters in her absence. She is often not informed of her husband's and her clients' transfers from prison to prison. At times she has been denied access to her husband and to her clients. Another lawyer and president of one of the LTDH's sections has been denied access to prisons on several occasions.

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unwilling to publicize the cases of their relatives and clients.

Such intimidation denies victims of human rights violations their right to a remedy under Article 2 (3) of the International Covenant on Civil and Political Rights (ICCPR). In particular, it denies victims and witnesses of torture and ill-treatment the right to complain and to testify without being intimidated, in violation of Article 13 of the UN Convention against Torture.

In addition, amendments to the Penal Code and to the Code of Penal Procedure in November 1993 provide for imprisonment of any Tunisian accused of having engaged in unauthorized political activities, including participating in meetings and demonstrations outside Tunisia, even if these activities are not considered as punishable offences under the law of the countries where they took place. As a result of these new laws (described on page 22) several Tunisians living abroad have been imprisoned upon their return to Tunisia for visits.

In October 1994 the UN Human Rights Committee examining Tunisia's fourth periodic report on its implementation of the ICCPR, stated that:<sup>13</sup>

"The Committee cannot conceal its disappointment with the deterioration of the protection of human rights in Tunisia in the period under review (since 1990). It is concerned, in particular, at the growing gap between law and actual practice with regard to guarantees and safeguards for the protection of human rights. Although there is now in place an impressive array of State organs for the promotion and protection of human rights at various levels, the Committee notes that they have been concentrated exclusively within the executive branch of the Government".

The main recommendations of the Committee are noted at the end of this report.

## ARBITRARY DETENTION AND IMPRISONMENT: AN EFFECTIVE TOOL OF REPRESSION

### Detention of human rights activists

Prisoners of conscience continue to be detained as a means of preventing and discouraging individuals and groups of individuals from exercising their right to freedom of expression.

**Moncef MARZOUKI**, a well-known professor of medicine and the former president of the LTDH, was arrested on 23 March 1994. In February 1994, Moncef Marzouki had announced his intention to stand as a candidate against President Ben Ali in the presidential elections the following month.<sup>14</sup> Shortly afterwards he began to be harassed by security agents in a more obvious way.<sup>15</sup> On 23 March 1994,

<sup>13</sup>Comments adopted by the UN Human Rights Committee at its 1383 meeting (fifty-second session)

on 2 November 1994, after consideration of the fourth periodic report by Tunisia (CCPR/C/84/Add.1).

<sup>14</sup>President Ben Ali was the only candidate in the elections held in March 1994; according to official figures he won over 99% of the votes.

<sup>15</sup>On one occasion he was accused by police of having stolen a car.

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immediately after the elections, he was arrested and charged with having questioned the independence of the Tunisian judiciary in an interview with a Spanish newspaper.<sup>16</sup> Moncef Marzouki denied having questioned the independence of the judiciary in his interview, and the newspaper stated publicly that he had been misquoted due to a mistake in translating the interview into Spanish. Even if it had been confirmed that he had made the declarations which were attributed to him, prosecution for such declarations clearly violates the right to freedom of expression guaranteed by Article 19 of the ICCPR.

Moncef Marzouki was detained for four months. He was released on bail on 13 July 1994 and no date has yet been set for his trial. After his release he continued to be subjected to harassment, such as denial of his right to travel for prolonged periods of time. His passport was returned to him on 21 June 1995. On the same day his nephew, Riadh Bedoui, a 23-year-old student from Douz, was arrested. He was tried on 10 August with ten others and was sentenced to two and half year's imprisonment on charges of belonging to an unauthorized association (*al-Nahda*) and unauthorized collection of money. Moncef Marzouki's brother was also imprisoned at the end of 1993 for 15 months on similar charges, and since his release he has been unable to work because he has to report every day at the police station.

The only other person who had announced his intention to stand against President Ben Ali in the March 1994 elections, lawyer **Abderrahmane HANI**, was also detained. He was arrested on 15 February 1994 and held on charges of "setting up an unauthorized association and spreading false information". He was released on bail on 23 April 1994, reportedly after asking for presidential pardon. He was later tried and convicted, and received a suspended prison sentence of eight months.

One of Moncef Marzouki's defence lawyers, **Najib HOSNI**, a well-known human rights lawyer from El Kef who defended detainees accused of political offences across the political spectrum, was arrested on 15 June 1994. He remains detained (at the time of writing) without trial, in breach of both Tunisian law, which sets a maximum limit of 14 months pre-trial detention,<sup>17</sup> and international standards which require trial within a reasonable time or release. He was charged with falsifying a land contract in 1989, a civil offence which does not normally justify pre-trial detention. During his detention he has been subjected to unprecedented restrictions, even by Tunisian prison standards. In August 1994, soon after the Tunisian Bar Association had passed a motion calling for his release, his defence lawyers were unable to obtain permits to visit him for several weeks, in breach of Tunisian law, which guarantees detainees' access to legal counsel at all times<sup>18</sup>. Since January 1995 he has not received any visits by his defence lawyers because the prison authorities have made these visits conditional to degrading body searches - a condition which he refuses and which is usually only known to have been imposed on dangerous criminals. Repeated requests by his defence lawyers for these restrictions to be lifted have been turned down<sup>19</sup>.

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<sup>16</sup>*Diario 16*, a newspaper which is not sold in Tunisia.

<sup>17</sup>Article 85 of the *Code de Procedure Pénale* (CPP), Code of Penal Procedure, was amended in November 1993 to reduce the maximum period of pre-trial detention from 18 to 14 months for crimes (*crimes*) and from 12 to nine months for lesser crimes (*délits*). However, such prolonged pre-trial detention is inconsistent with the right to trial within a reasonable time or release as guaranteed by Article 9 (3) of the ICCPR.

<sup>18</sup>According to Article 70 of the CPP.

<sup>19</sup>The only exception was one occasion at the beginning of August 1995, when he was allowed a visit by the former head of the Tunisian Bar Association.

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Earlier in the year the Lawyers' Committee for Human Rights, an international non-governmental human rights organization, requested permission from the Tunisian authorities to travel to Tunisia to visit Najib Hosni, but their request was refused.

Najib Hosni, who had received an award from the Lawyers' Committee for Human Rights in 1992, had been subjected to harassment from the authorities for some time prior to his arrest. During visits by delegates of Amnesty International and other international human rights organizations, Najib Hosni's house and office were under obvious surveillance by the security forces and his staff and clients were questioned on leaving the office. Prior to his arrest he had remained one of the few lawyers who continued to be outspoken against human rights violations by the security forces and breaches of procedures during trials. In June 1995, while he remained detained, he was awarded an honorary degree by the Dickinson School of Law in Carlisle, USA, and in August he received an international human rights award from the American Bar Association in recognition of his human rights work.

### The widening circle of repression

At the beginning of the large scale arrests and imprisonment of Islamist political activists in 1990 and 1991, the Tunisian authorities sought to justify these as necessary measures against an organization "threatening democracy and plotting to overthrow the government".<sup>20</sup> Two hundred and seventy-nine people (56 *in absentia*), including most of the leadership of *al-Nahda*, were tried by two military courts on charges which included plotting to overthrow the government; 265 of them were sentenced in August 1992 to up to life imprisonment. Observers from Amnesty International and other international human rights organizations who attended the trials concluded that there was no convincing evidence that any plot to overthrow the government by violence existed, and that the trials had violated international fair trial standards.<sup>21</sup>

After most of the leaders and many of the known supporters and sympathizers of *al-Nahda* were imprisoned or had fled Tunisia, the authorities increasingly used the same methods of repression against activists and suspected sympathizers of the unauthorized PCOT, the only other unauthorized opposition party which continued to actively criticize the government, and other government critics. The charges and methods of intimidation used against known and suspected PCOT activists and sympathizers, other government critics, and human rights activists, have been the virtually the same as those used against *al-Nahda*.

The most widely used charge is belonging to, or maintaining, an unauthorized association. Thousands of individuals, most of them prisoners of conscience, have been detained or imprisoned on this charge in the past five years. In the vast majority of cases the charge related to alleged membership or support of *al-*

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<sup>20</sup>On 22 May 1991, the then Minister of the Interior stated in a press conference that the security services had unveiled a plot by *al-Nahda* to overthrow the government by violent means.

<sup>21</sup>For further details about these trials see Amnesty International's report: *Tunisia, Heavy sentences after unfair trials* (AI Index: MDE 30/23/92), of October 1992. Reports were also produced by the Lawyers' Committee for Human Rights, Human Rights Watch (Middle East), and the *Fédération internationale des droits de l'homme* (FIDH).

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*Nahda*, but also to alleged membership of the *Union générale tunisienne des étudiants* (UGTE), Tunisian General Union of Students, which was reportedly close to *al-Nahda* and which was banned in 1991, as well as other small, unauthorized Islamist groups. The same charge has also been used to imprison known or suspected activists or sympathizers of the PCOT, and in some cases alleged sympathizers of other small left-wing groups such as the *Organisation communiste révolutionnaire* (OCR), Communist Revolutionary Organization, as well as other groups of people who attempted to set up small committees or signed petitions. For example this charge was brought against a small group of left-wing intellectuals who tried to set up a committee to defend prisoners of conscience in 1993.<sup>22</sup> A group of left-wing women who signed a petition protesting at the increased restriction on freedom of expression and association in 1994 were also threatened with prosecution on this charge.

Convictions and sentences for unauthorized meetings, or "secret meetings" (as these are sometimes called in trial documents and police statements) result from a misapplication of the law. There is no law in Tunisia regulating private meetings, but Law 69-4 of 24 January 1969, which regulates public meetings, is used to convict individuals accused of having met with others (sometimes only one other) in private. Moreover, the police statements and trial documents do not in most cases refer to the specific dates and place where these meetings are supposed to have taken place.

Similarly, convictions and sentences for "unauthorized collection of money or donations" result from a misapplication of a law of 8 May 1922. Under this law those who donate money cannot be prosecuted, and those who receive money can only be prosecuted if they deliberately made an effort to collect the money, not for simply accepting small sums of money from relatives or friends - as has been the case for those known by Amnesty International to have been convicted on such charges over the past three years.

Detention and imprisonment of prisoners of conscience for the peaceful exercise of their right to freedom of expression and association violates international human rights treaties to which Tunisia is a state party. These fundamental rights are guaranteed by the ICCPR, which states in Article 19:

"1. Everyone shall have the right to hold opinions without interference".

"2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

The same Article states in its paragraph 3 that the exercise of the rights provided for in paragraph 2 carries with it special duties and responsibilities, and it may therefore be subject to certain restrictions, but only such as provided by law and are necessary for the respect of the right or reputation of others and for the protection of national security or of public order, or of public health or morals. Having closely monitored the human rights situation in Tunisia over many years, Amnesty International believes that the detention and imprisonment of thousands of known or suspected opposition activists and sympathizers and government critics across the political spectrum who are not known to have used or advocated violence cannot be justified as a necessary measure to protect public order. Many of those currently imprisoned had been already been imprisoned on similar charges in the past, both under the previous government of President Habib Bourguiba and under the present government of President Ben Ali.

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<sup>22</sup>The case of Salah Hamzaoui, mentioned on page 3.  
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## Prisoners of conscience accused of supporting the PCOT

**Hamma HAMMAMI**, the leading figure of the PCOT and director of *al-Badil*, the PCOT newspaper banned in 1991, was arrested on 14 February 1994 on charges of maintaining an unauthorized association, holding unauthorized meetings and distributing leaflets. After his arrest he was also charged with carrying a false identity card and assaulting and injuring two of the armed police officers who arrested him.

At the time of arrest he had been in hiding since November 1992. He was tried *in absentia* with 11 others in December 1992 in Gabès, and sentenced to four years and nine months' imprisonment for maintaining an unauthorized association, holding unauthorized meetings, distributing leaflets and collecting money without authorization. He was retried for these offences<sup>23</sup> on 7 April 1994 in Gabès and was sentenced to four years and one month's imprisonment. He was also tried on 6 April 1994 in Sousse on charges of carrying a false identity card and assaulting two of the policemen who arrested him. The prosecution presented a medical certificate stating that these police officers had been injured, but refused to call them to court to testify. No other evidence was produced to substantiate the charges, but he was nonetheless convicted and sentenced to five years and six months' imprisonment.

In both trials defence lawyers were not allowed to call any witnesses, and the judges failed to address breaches of procedure in pre-trial detention and to order investigations into allegations that Hamma Hammami had been tortured and ill-treated. International observers, including an Amnesty International observer, who had travelled to Tunisia in March to observe the trials, found that the trials had been postponed without prior notice. Another Amnesty International delegate who sought to observe the trials in April 1994 was refused entry to Tunisia. At the appeal in June 1994 the defence lawyers withdrew from the hearing in protest at the constant interruptions by the judge to their speeches. The convictions were upheld and the sentence for both cases was reduced by one year, bringing the total sentence from nine years and seven months, to eight years and seven months.

In 1991 Hamma Hammami had also received a suspended sentence of two and half years' imprisonment for publishing articles critical of the government in *al-Badil*.

**Mohamed Hedi SASSI** was arrested on the night of 18 April 1994 and accused of distributing PCOT leaflets about the case of Hamma Hammami, and writing PCOT slogans on the walls, quoting a verse from a well-known Tunisian poet.<sup>24</sup> He was charged with maintaining an unauthorized association, distributing leaflets insulting public order and writing slogans on the walls. On 11 May 1994 he was sentenced by the Tunis court to four years and one month's imprisonment. The sentence was reduced on appeal on 27 February 1995 to three years.

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<sup>23</sup>According to Tunisian law those sentenced *in absentia* have the right to be re-tried after their arrest.

<sup>24</sup>The verse "the chains must be broken" from a poem by Belkacem Chebbi.

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He had been previously sentenced *in absentia* on 10 November 1993 in Monastir to 18 months' imprisonment for maintaining an unauthorized association, holding unauthorized meetings and distributing leaflets. He was re-tried for these offences on 16 November 1994, and the sentence was reduced to four months' imprisonment. He is now serving a total sentence of three years and four months.

**Mohamed KILANI**, a leading figure of the PCOT and editor of *al-Badil*, was arrested on 29 January 1995. At the time of his arrest he had been in hiding since November 1992, when other PCOT activists had been arrested and imprisoned. He had been tried *in absentia* in the same trial as Hamma Hammami and 10 others in December 1992 in Gabès, and sentenced to two years' imprisonment for maintaining an unauthorized association, and participating in unauthorized meetings. He was retried for these offences on 22 February 1995 in Gabès and was sentenced to two years' imprisonment. The sentence was confirmed by the appeal court on 22 May.

He was also sentenced to an additional five years' imprisonment in a separate trial on 27 April in Tunis on charges of possessing an Islamist leaflet, which was reportedly found by members of the security forces who searched his house in his absence shortly before his arrest. The leaflet, reportedly produced by *al-Nahda* at the time of mass arrest of *al-Nahda* supporters in 1991, contains a caricature of the former Minister of the Interior with bloody hands and a dagger in his belt, implying that he was responsible for the torture of detainees. At the trial Mohamed Kilani stated that he recalled seeing the leaflet in 1991, when he was the editor of *al-Badil*, but that he did not recall if he had kept it in his house. The leaflet was not included in the trial file made available to his defence lawyers, who withdrew from the trial in protest at this breach of procedure. He was tried and convicted without defence.

It is on the basis of a new law of November 1993 (described on page 22), qualifying "terrorist" activities in vague terms, that Mohamed Kilani, who is well-known for his opposition to the political program of *al-Nahda* and other Islamist parties or groups, was convicted of supporting a "terrorist organization", for possessing a leaflet produced by *al-Nahda*.

Hamma Hammami and Mohamed Kilani had been previously adopted as prisoners of conscience by Amnesty International in the 1970s, when they had been imprisoned for their political activities.

**Ali BAAZAOU**, a teacher of physical education in a high school in Kairouan, was arrested on 19 May 1995 and accused of belonging to an unauthorized association and distributing leaflets calling for the boycott of the municipal elections.<sup>25</sup> In court he denied having written or distributed the leaflets. A request by his defence lawyers to have the leaflets examined by a graphology expert was refused by the court. Various books on Lenin and on imperialism, a book on secularism by Hamma Hammami and the manifesto of the Communist Party of Marx and Engels, were seized from his home by police officers who searched the house at 5am without presenting any search warrant. Although these books are not banned in Tunisia and are sold in bookshops, the court ordered that they be destroyed.

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<sup>25</sup>The municipal elections were held on 20 May 1995. The ruling *Rassemblement Constitutionnel Démocratique* (RCD), Democratic Constitutional Rally, retained control of all the 247 municipalities.

The legal opposition got six seats out of a total of 4,090.

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In June 1995 Ali Baazaoui was sentenced to three years' imprisonment. His sentence was increased on appeal on 8 August 1995 by the addition of three years' administrative control as a result of the application of Article 52 bis of the Penal Code on "terrorist" activities.

### Prisoners of conscience accused of supporting *al-Nahda*

Known and suspected supporters of *al-Nahda* have continued to be imprisoned. Since the beginning of 1994 Amnesty International has received reports of hundreds of cases of people imprisoned on charges of belonging to, or supporting, *al-Nahda*. Many of them were convicted on the basis of confessions of other detainees who named them as having participated in meetings, often several years before. Most of these accused denied belonging to or supporting *al-Nahda* and stated in court that they had participated in meetings of the student union UGTE before 1991, when it was a legal organization, or that they had met other Tunisians accused of belonging to *al-Nahda* as friends and not in the context of any political activity.

**Imed EBDELLI**, a 29-year-old philosophy student at Tunis University was arrested on 23 March 1995 when he went to the Ministry of the Interior in response to a summons he had received. He was detained in illegally prolonged *garde à vue* (incommunicado) detention in the Ministry of the Interior until 18 April, that is 17 days beyond the maximum legal period of 10 days permitted by Tunisian law. During this time he was reportedly beaten and ill-treated. He was tried on 18 May 1995 in the court of first instance in Tunis and was sentenced to three years' imprisonment on charges of belonging to an unauthorized association and participating in unauthorized meetings. The sentence was upheld on appeal on 15 July 1995.

Prior to this arrest Imed Ebdelli had been imprisoned twice before; the first time in June 1987, when he was detained for six months in Mornag prison in Tunis without charge or trial and then released on 24 October 1987. He was rearrested on 23 November 1991 and held in illegally prolonged *garde à vue* detention for 50 days in the Ministry of the Interior, where he was reportedly tortured and beaten. He was sentenced in January 1992 to two years' imprisonment and three years' administrative control on charges of supporting an unauthorized association. Both in the court of first instance and in the appeal court the judge refused to take into consideration the fact that he had withdrawn his confession both in front of the examining magistrate and in court, stating that he had been forced to sign it under torture. His sentence was upheld on appeal on 7 July 1992.

After serving his sentence he was released on 11 January 1994,<sup>26</sup> and even though the court order stated that he was subject to monthly administrative control, between his release in January 1994 and his arrest in March 1995 he had to report every day to his local police station in Ouardia, once a week to the police

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He should have been released by the end of November 1993, on expiry of his two-year sentence, but the date of his arrest had been falsified on the police record to hide the fact that he had been detained in prolonged *garde à vue* detention beyond the maximum 10-day limit under Tunisian law. The practice of falsifying arrest dates to hide illegally prolonged *garde à vue* detention has been very widespread in Tunisia (see Amnesty

International reports of 1991, 1992, 1993 and 1994).

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station in al-Gorjani district, and once a month to the Central Police Station in the Bardo District and the National Guard Station in the Ibn Khaldoun/Bardo district. He was unable to resume his university studies, which had been interrupted twice by his arrests in 1987 and 1991, until December 1994. After he resumed his studies he reported that he had been questioned by police on several occasions about his contacts with other students in the university. Like others in his situation, he had his passport confiscated after his arrest in 1991 and never recovered it.

Three brothers, **Mohamed Ali ABROUK**, a junior doctor; **Mohamed Naceur JOUINI**, an engineer; and **Younes JOUINI**, a high school student currently doing his military service, were arrested in November 1994. The first two were arrested in mid-November and the third was arrested a few days later after he telephoned another brother, who is a political refugee in France, to inform him of the arrest of his brothers. All three had been previously imprisoned between 1991 and 1994 for periods varying from seven months to two years on charges of supporting *al-Nahda* and participating in unauthorized meetings. All three had been continually harassed and interrogated after their release. After this latest arrest they were held in illegally prolonged *garde à vue* detention and reportedly ill-treated and tortured. Despite repeated inquiries with the local authorities, their family was unable to obtain any information on their whereabouts for several weeks after their arrest. Their mother was able to see Mohamed Ali Abrouk and Mohamed Naceur Jouini for the first time on 16 December 1994 in the prefecture in Siliana. She later learned that Younes Jouini was imprisoned in El Kef. Mohamed Ali Abrouk and Mohamed Naceur Jouini were sentenced on 12 January 1995 to two years' imprisonment for belonging to an unauthorized association, and Mohamed Naceur Jouini was given an additional sentence of three months' imprisonment for unauthorized collection of money, reportedly for accepting 100 dinars from a friend to help the family of another imprisoned brother. In the same trials their cousin, Lotfi Jouini, and their brother Brahim Jouini, a political refugee in France, were also given prison sentences for the same charges, the latter *in absentia*. Younes Jouini was sentenced to one year's imprisonment on 11 January 1995.

Two other brothers, **Naoui JOUINI and Mohamed Hedi JOUINI** have also been imprisoned since 1991 on charges including belonging to *al-Nahda*, and are serving sentences of seven and five years respectively. They have been repeatedly moved to different prisons around the country. The five brothers currently imprisoned are all held in different prisons, which makes it difficult for their mother, a widow with no source of income, to visit them due to the distance and the cost of travelling. Moreover, since families are not usually informed of their relatives' transfers to other prison, on several occasions she undertook long journeys to visit her sons in prison only to find out that they had been moved elsewhere.

**Hedi AKOURI**, a thirty-year-old father of two, was arrested in Gafsa on 28 December 1994 and sentenced to three years' imprisonment on charges of belonging to an unauthorized association (*al-Nahda*). According to his defence lawyer and to other lawyers present at the trial, his conviction was based on the confession of another detainee who had reportedly stated in a police statement that Hedi Akouri had given money for *al-Nahda* in 1988-89. However, this detainee, who was later released, reportedly denied the content of the police statement he had signed and stated that he had signed it under torture. Hedi Akouri's three-year prison sentence was confirmed on appeal on 29 March 1995. His defence lawyer was not able to call the witness whose statement alleged that Hedi Akouri had given money to *al-Nahda*, to cross-examine him; the practice of not calling prosecution witnesses to court to be cross-examined by defence lawyers has been and continues to be very widespread.

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## Women prisoners of conscience

Increasingly, individuals known or suspected of having given financial assistance, however small, to the families of imprisoned or exiled *al-Nahda* supporters have been imprisoned; those who are known or suspected of having received assistance have also been imprisoned. Since 1993 many of the wives of imprisoned or exiled Islamists who did not work or have lost their jobs have reported being questioned by the security forces about their sources of income.

Virtually all the women known to Amnesty International to have been imprisoned for political reasons were convicted of unauthorized collection of money or donations. In most cases these women were also accused in police statements of participating in unauthorized meetings and supporting an unauthorized association. In some cases it was simply the contact with the people who gave or received donations which laid a person open to the charge of holding unauthorized meetings. In addition, the conclusion of the courts is that those who give financial help to families of known or suspected *al-Nahda* activists in prison or in exile are by definition themselves supporters of *al-Nahda*, regardless of whether they themselves sympathize with *al-Nahda* or whether they gave financial assistance to relatives or friends out of humanitarian concern. In May and June 1995 several women were imprisoned on these charges.

**Aicha DHAOUADI**, a secondary school teacher from Bizerte and mother of a four-year-old girl, was arrested and imprisoned on 19 May 1995. Her husband, a sympathizer of *al-Nahda*, fled Tunisia in 1992 to seek political asylum in France. She was first arrested in November 1993, and on several occasions since then, and had reportedly been questioned about the whereabouts of her husband and about her contacts with the families of other imprisoned *al-Nahda* supporters. At the beginning of 1994, she was sentenced to two years and three months' imprisonment, on charges of maintaining an illegal political party and collecting donations. Her sentence was reduced to nine months' imprisonment on appeal at the beginning of 1995, and she remained on bail until her imprisonment on 19 May 1995.

The police statement, which she later denied, does not indicate that she ever took part in any violent activities. It states that she had been a sympathizer of the MTI during her university studies and given money to the group until 1991, and after that date had given money to families of imprisoned supporters of *al-Nahda*. When she was first arrested she was reportedly told that if she did not stop wearing the *hijab* (headscarf) she would lose her job and face imprisonment for illegal political activities. Over the past few years reports have increased of pressures by the security forces on women, especially younger ones, to stop covering their hair as this is regarded as an indication of their support for *al-Nahda*.

Her husband, **Mohamed KEFFI**, was also sentenced in the same trial, *in absentia*, to four years' imprisonment, along with 19 other people, some of whom were also tried *in absentia*. Nineteen were given prison sentences varying from four years and six months to two years, and one was acquitted. Among those tried with Aicha Dhaouadi are five other women, Kheiria El Qallali, Khira Al Mouaddeb, Najet Al Zemitri, Souad Kshouk, and Latifa Addali. They were given prison sentences varying from one year and two months to two years and nine months. They are reported to have been arrested and imprisoned shortly after Aicha Dhaouadi's arrest.

**Tourkia HAMADI**, a 29-year-old mother of two girls aged three and six, was arrested and imprisoned on

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10 July 1995. She had been tried on 5 May and sentenced to six months' imprisonment on charges of maintaining an unauthorized association and assisting her husband to leave the country. Her sentence was confirmed by the appeal court in Gabès on 10 July 1995 and she was immediately arrested. Since 1992, and especially from October 1994, Tourkia Hamadi was often arrested and reportedly questioned about the whereabouts of her husband, a sympathizer of *al-Nahda* who fled Tunisia in 1992 to seek political asylum in France.

Ten other people were also sentenced on the same charges in the same trial as Tourkia Hamadi. Her husband, **Fadel BEDA**, and three others, Omar, Ali and Hassan Dakhil, all of them asylum-seekers in France, were sentenced to three years' imprisonment *in absentia*. The other six were all reportedly arrested in October 1994 and received prison sentences of three and four years. They include Mohamed el'Idi el-Gasri, brother-in-law of Tourkia Hamadi, and Belkacem Al Midani and Ahmed Dakhil, brothers of Omar, Ali and Hassan Dakhil. Another brother of Tourkia Hamadi's husband, Abdelkader Beda, was released in July 1994 after serving a two-year sentence on charges of belonging to an unauthorized association (*al-Nahda*). He was also given five years' administrative control and he has to report to two different police stations in the Qbilli area where he lives every day, and often twice a day.

Aicha Dhaouadi and Tourkia Hamadi, like other women whose husbands have fled Tunisia, had their passport confiscated and have been unable to leave the country with their children to go to join their husbands abroad.

The cases described above and in other sections of this report are only few examples of a pattern of widespread violations of Tunisian laws and international human rights treaties, as well as deliberate misapplication of Tunisian laws at all stages of the proceedings before and during the trials. The convictions result from the application of broadly and vaguely worded laws which permit the imprisonment of prisoners of conscience solely for having exercised their right to freedom of expression and association. In the majority of these cases no evidence was brought by the prosecution to prove that those convicted on this charge were in fact members or supporters of these unauthorized parties, or that they had undertaken activities on behalf of these parties. The sole evidence produced in other cases consisted of unsubstantiated police statements by the accused or other detainees who later withdrew their statements saying that they had been forced to sign the police statement under duress.

In addition to those who have been imprisoned, relatives of opposition political activists, especially of *al-Nahda* supporters in exile or in prison, have continued to be harassed by the security forces. Increasingly families, especially wives, of those who have fled Tunisia to claim political asylum in other countries have reported being visited by members of the security forces, who searched their homes without a search warrant, confiscated letters and photographs and asked for the addresses and telephone numbers of their relatives abroad. Some people have reported being asked to put pressure on their relatives wanted by the authorities to go back to Tunisia and being threatened with imprisonment if their relatives do not return and give themselves up. Several women have reported being asked to divorce their imprisoned or exiled husbands. The father of a Tunisian refugee in Europe was detained on two occasions in December 1994, after he had been to Europe to visit some of his relatives, and was asked to provide his son's address. The sister of a refugee who left Tunisia in 1992, and whose father has been in prison since 1991, reported that she has been repeatedly detained by the police over the past three years, questioned about her brother's activities and his address, and herself threatened with imprisonment if he does not return to Tunisia. The

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wives of two other refugees, including one whose brother died in custody in 1992, reported being beaten, sexually abused and threatened with rape during questioning on several occasions in 1994 and 1995, both in the police station and in their homes, and being threatened with prosecution for complicity if they do not divorce their husbands. They, like the wives and children of other refugees, have been unable to obtain a passport for themselves and their children. At the time of writing they continue to report to the local police station several times a week.

A post-graduate university student who was detained on three occasions in 1991 and 1992 recently succeeded in leaving Tunisia and told Amnesty International that after her release in 1992 she was told to stop wearing the headscarf and to sign at the police station three times a week. In addition she was often visited by security officers at the university campus in Tunis and at her home in the countryside, and was asked to give detailed reports of her contacts with other students and to provide information about the activities of other students. After she left the country members of the security forces reportedly questioned her family on several occasions asking for information on her whereabouts and activities.

## NEW LAWS FURTHER CURTAILING BASIC FREEDOMS

In addition to existing laws which allow for imprisonment of prisoners of conscience, and which have been used extensively over the past years, amendments to the Tunisian *Code Pénal* (CP) and *Code de Procédure Pénale* (CPP) passed on 22 November 1993 have further curtailed freedom of expression and association for Tunisians in their country or elsewhere. The application of these new laws has resulted in the imprisonment of other prisoners of conscience.

The new Article 52 bis of the CP defines in broad and vague terms "terrorist activities" and automatically imposes a period of five years of administrative control upon release of the detainee. It states:

"...Are defined as terrorist all actions relating to individual or collective initiative, aiming at undermining individuals or properties, through intimidation or terror. Acts of incitement to hatred or to religious or other fanaticism, regardless of the means used, are treated in the same way. The imposition of administrative controls for a period of five years is compulsory... The sentence cannot be reduced to less than half the maximum..."

Both the UN Working Group on Arbitrary Detention and the Human Rights Committee, the body of experts which monitors implementation of the ICCPR, have expressed their concern about legislation which is broadly and vaguely worded. On a number of occasions, the Working Group has called upon governments to eliminate offences which are described vaguely or encompass indeterminate situations.

Article 305 of the CPP now makes it possible to prosecute Tunisian citizens for their activities outside Tunisia, if these are considered an offence under Tunisian law, even if they are not punishable under the law of that country. It states:

"Any Tunisian who commits, outside Tunisian territory, one of the offences mentioned in Article 52 bis of the CP, can be prosecuted and tried by Tunisian courts - even though these offences are not punishable under the law of the country where they were committed".

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Prior to this amendment Article 305 of the CPP stated that Tunisians could be prosecuted and tried by Tunisian courts for offences committed outside Tunisia, "...unless it is recognized that the foreign law does not punish the offence concerned...".

In the past 18 months Tunisians living or studying abroad, or returning from other countries, were imprisoned when they returned to Tunisia on application of Article 305 of the CPP and Article 52 bis of the CP on charges of activities which are protected by international law, including Tunisia's treaty obligation under the ICCPR.<sup>27</sup> Article 52 bis of the CP has also been used increasingly against other individuals accused of belonging to, or having links with, *al-Nahda*, in much the same way as the law on associations<sup>28</sup> has been used. The application of Article 52 bis provides for a minimum sentence of two and half years' imprisonment (half of the maximum sentence) followed by administrative control in all cases, whereas the law on association provides for sentences from one to five years' imprisonment.

Even before the amendment to Article 305 of the CPP, individuals had been imprisoned for their alleged participation in meetings, demonstrations or other peaceful activities outside Tunisia, even though Tunisian law stated clearly that no one could be prosecuted for acts committed in a country where such acts are not punishable under the law of that country. Since their promulgation in November 1993, Article 305 and Article 52 bis of the CP have been used retroactively: individuals arrested in 1994 and 1995 have been imprisoned on charges of having participated in meetings outside Tunisia before Article 305 was amended. Such retroactive punishment violates the fundamental principle common to all legal systems of *nulla poena sine lege* (no punishment without law). It violates both Article 13 of the Tunisian Constitution, and Article 15 of the ICCPR.<sup>29</sup> In some cases the charges against the defendants related to alleged meetings or demonstrations which had taken place more than three years before, which therefore fell beyond the statute of limitation under Tunisian law<sup>30</sup>.

Article 305 of the CPP was amended soon after international human rights organizations had condemned the imprisonment of Taoufik Rajhi, a Tunisian academic living in France who was arrested when he returned to Tunisia to visit his family in 1993, on charges of having met *al-Nahda* supporters in France. His case, the first such case to be publicized, was described in an Amnesty International report issued in January 1994<sup>31</sup>.

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27Many of those returning to Tunisia could not have been expected to know that such protected activities would subject them to criminal prosecution when they returned to Tunisia.

28Law No 59-154 of 7 November 1959 (modified by the Organic law No 88-90 of 2 August 1988).

29Article 13 of the Tunisian Constitution states:

"...the penalty can only be imposed according to a law passed prior to the punishable offence".

Article 15 of the ICCPR, which may never be derogated from under any circumstances, states that:

"No one shall be guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed...".

30 Article 5 of the CPP stipulates that the statute of limitation is of three years for lesser crimes (*délits*) punishable by up to five years' imprisonment.

31Tunisia: *Rhetoric versus reality: the failure of a human rights bureaucracy* (AI Index: MDE 30/01/94). *The Fédération internationale des droits de l'homme*, FIDH (International Federation of Human Rights), AI Index: MDE 30/19/95Amnesty International November 1995

## Prisoners of conscience imprisoned under these new laws

**Ali MABOUJ**, a former student in France, was arrested at his home in Ben Guerdane (near Medenine) on 6 February 1994 when he was visiting his family. He was held in *garde à vue* detention illegally prolonged until 22 February,<sup>32</sup> during which time Amnesty International contacted the Tunisian authorities on several occasions seeking information on his whereabouts without receiving any reply. He was tried in Medenine in May 1994 on charges of belonging to an unauthorized association (*al-Nahda*), participating in illegal meetings and collecting money without authorization.

In court he denied the content of the police statement, that he had participated in meetings with other supporters of *al-Nahda* in the late 1980s in Tunisia and more recently in France, and stated that he had been forced to sign it under torture. However, he was sentenced to three years and nine months' imprisonment,<sup>33</sup> reduced to three years on appeal on 28 September 1994.

**Adel SELMI**, a doctoral student at the *Ecole des Hautes Etudes de Sciences Sociales* (EHESS) in Paris, was arrested on 10 June 1994 on arrival at Tunis airport and held in illegally prolonged *garde à vue* detention for 17 days. He stated in court that he had been forced to sign a *procès verbal* (police statement) under torture, and denied the accusations of belonging to *al-Nahda*, participating in a demonstration in January 1991 and collecting money without authorization. The charges were vaguely formulated: the association he was accused of belonging to, believed to be *al-Nahda*, was not mentioned in the charge; no date or venue was mentioned for the demonstrations he was accused of having participated in in January 1991.

According to his defence lawyers and to international observers present at the trial, the only evidence produced by the prosecution to substantiate the charges was a confession which he denied in court. The individuals named by the prosecution as having accused the defendant of the above offences were never brought to court to testify, despite requests from defence lawyers. He was sentenced to four years and two months' imprisonment on 12 July 1994 and his sentence was upheld on appeal on 20 September. At the beginning of 1995 one of Adel Selmi's professors from France went to Tunisia but was refused permission to visit him in prison.

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concluded that Taoufik Rajhi had been denied the right to fair trial, guaranteed by Article 14 of the ICCPR and other international standards, on a number of grounds, and that there were no grounds under Tunisian law for his conviction for alleged meetings in France.

<sup>32</sup>The maximum period of *garde à vue* detention permitted by Tunisian law is four days, renewable once by written order of the *procureur de la République* (state prosecutor), and may be extended by two days "in case of absolute necessity" to an absolute maximum of 10 days.

<sup>33</sup>Two and half years for belonging to an unauthorized organization, one year for participating in illegal meetings and three months for unauthorized collection of funds.

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**Jalel MAALEJ**, a 28-year-old post-doctoral researcher at the *Centre Scientifique et Technique du Batiment* (CSTB) in Paris who had been studying in France since 1985, was arrested on 4 December 1994 on arrival in Tunisia for a family visit. He was held in *garde à vue* detention until 3 January 1995. He reported having been subjected to torture and ill-treatment during the first 18 days of his detention in the Ministry of the Interior in Tunis, and subsequently in a police station in Sfax. During this time his family, his professors and colleagues in France and Amnesty International made numerous requests to the Tunisian authorities for information on his whereabouts and reason for his detention, but were unable to obtain any information. The *procès verbal* presented as evidence at the trial on 4 February 1995 in Sfax stated that he belonged to *al-Nahda* and had participated in meetings with its supporters in France, but he denied the accusations and stated that he had been forced to sign the police statement under torture. He was sentenced to three years' imprisonment and two years of administrative control.

**Sofiane MOURALI**, a 31-year-old student of electrical engineering at Wolfenbuttel University in Germany since 1987, was arrested on 10 March 1995 at Monastir airport as he was leaving Tunisia after visiting his family since 25 February 1995. He was held in illegally prolonged *garde à vue* detention until 19 April, thirty days beyond the legal maximum period, during which he was reportedly tortured and beaten. He was sentenced on 18 May to three years' imprisonment and five years' administrative control, on charges of belonging to an unauthorized association (*al-Nahda*), and participating in unauthorized meetings. A specific reference in the trial was his alleged participation in a demonstration in Germany criticizing the Tunisian Government, but he denied the accusations.

**Hafedh BEN GHARBIA**, also a student of electrical engineering at Wolfenbuttel University in Germany since 1986, who reportedly suffered from serious depression, was arrested on 21 April on arrival at Monastir airport and was held in illegally prolonged *garde à vue* detention until 18 May 1995. He was tried on 27 May 1995 and sentenced to one year and two months' imprisonment on charges of participating in a meeting and demonstration of the UGTE in Germany in 1988, which he reportedly denied. The UGTE was a legal student organization in Tunisia until 1991.

**Kamel MASMOUDI**, who has joint Tunisian and Canadian nationality, was recently released by presidential pardon after having been sentenced to five years' imprisonment and five years administrative control on charges of membership of a "terrorist organization" (*al-Nahda*), meetings with *al-Nahda* members in the United States and contribution of funds to *al-Nahda*. He was arrested on 4 March 1995 at Tunis airport as he was returning to Canada after visiting his family in Tunisia, and was held in *garde à vue* detention for 12 days. At the trial, held on 23 March and attended by international observers,

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journalists and Canadian diplomats, Kamel Masmoudi denied the content of the *procès verbal*, stating that he had been forced to sign it under duress. In spite of evidence provided by the Canadian and the United States Administrations, proving that some of the accusations against him were unfounded,<sup>34</sup> the court of appeal upheld his conviction and sentence. He was released on 28 June, by presidential pardon. His conviction showed, once again, the utter disregard by the Tunisian authorities and by Tunisian magistrates and judges for internationally recognized standards for fair trial, as well as Tunisian laws.

In all the cases described in this section, the dates of arrest on the police statements were falsified to hide the fact that the defendants had been held in illegally prolonged *garde à vue* detention.<sup>35</sup> Complaints by the accused before the court that they had been forced to sign police statements after suffering torture and ill-treatment during *garde à vue* detention were ignored, as were requests from their lawyers for investigations into the allegations.

## TORTURE AND ILL-TREATMENT IN *GARDE À VUE* DETENTION AND IN PRISONS

Torture and ill-treatment continue to be reported in police and security centres and in prisons across Tunisia, and in the Ministry of the Interior in Tunis. Most reports concern detainees held in often illegally prolonged *garde à vue* detention, but in the past two years reports of beatings and ill-treatment in prisons have increased.

Since 1991 delegates from Amnesty International and other international human rights organizations have observed trials which violated international standards for fair trials at every stage of the proceedings. Defendants' complaints to the courts that they had been tortured and ill-treated during *garde à vue* detention to force them to sign *procès verbaux*, were ignored by the judges, even when the defendants bore obvious marks of torture weeks or months after their arrest. Many of these victims remain in prison today and to date not a single case has been thoroughly, independently and impartially investigated, and requests by detainees and their lawyers for medical examinations and investigations into allegations of torture and ill-treatment have not been acted upon by the courts. Magistrates and judges consistently failed to order investigations into these allegations, even in cases where there was compelling evidence that torture had been used and defendants still bore obvious marks of torture, and accepted these police statements as evidence. By so doing, the judicial authorities have failed to comply with their solemn obligations under international human rights treaties to which Tunisia is a state party.

Both at the time of their ratification and according to Article 32 of the Tunisian Constitution, the ICCPR and the UN Convention against Torture were declared superior to Tunisian law. Neither the UN Convention against Torture, nor the prohibition of torture and ill-treatment in Article 7 of the ICCPR may

<sup>34</sup>Notably that of having met the leader of *al-Nahda* in the United States, at a time when the latter had not been in the United States, and of having met a leading figure of *al-Nahda* in Tunisia, at a time when the latter was already imprisoned.

<sup>35</sup>For example, the date of arrest of Jalel Maalej was recorded as 22 December 1994, that is 18 days after the actual date of arrest.

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be derogated from in any circumstances. Article 7 of the ICCPR states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...".

Article 2 of the UN Convention against Torture states:

2) "No exceptional circumstance whatsoever, whether a state of war or threat of war, internal political instability or other public emergency, may be invoked as a justification for torture."

Torture is also prohibited by Tunisian law; Article 101 of the Tunisian Penal Code which provides for five years' imprisonment for "any public servant or similar person who, in the exercise of or in connection with his functions, uses violence or causes it to be used against any person without legitimate motive". Article 103 of the same code states specifically that use of violence or ill-treatment against accused, witnesses or experts to obtain confessions or declarations is punishable by five years' imprisonment, and the threat of violence is punishable by six months' imprisonment.

Cases where repeated and public complaints are made by the prisoners and by their lawyers are today quite rare, as most of the lawyers who in previous years used to lodge complaints about their clients' allegations of torture and ill-treatment and to inform national and international human rights organizations no longer feel able to do so because of the pressure they have been subjected to. Nonetheless, they continue to raise before the courts their clients' allegations that they were tortured or ill-treated to force them to sign police statements, and that they were held in illegally prolonged incommunicado detention.

In the few cases known to Amnesty International where requests for medical examination were granted to detainees who alleged that they had been tortured or ill-treated, these were carried out by doctors appointed by the authorities and not until several weeks after the torture or ill-treatment had taken place. In the few cases when commissions of inquiry were set up by the authorities to investigate complaints of torture and ill-treatment of detainees, these commissions did not carry out full and impartial inquiries and did not make their findings public. No judicial investigation is known to have been carried out into allegations of torture and ill-treatment of detainees, including in cases where detainees died in detention in circumstances which strongly indicate, or prove, that torture and ill-treatment had been the cause of their death. Doctors who in the past years provided medical certificates to individuals who had been tortured and then released have reported having been subjected to various kind of pressures and are now no longer willing to issue such certificates. Families who have raised their relatives' complaints of human rights violations have increasingly been intimidated.<sup>36</sup>

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<sup>36</sup>In July 1995, after the wife of Mohamed Kilani (whose case is described on page 14) had written to the Minister of the Interior to ask for the improvement of her husband's prison conditions, she was summoned by the Direction of Political Affairs in the Ministry of the Interior and questioned about a letter detailing Mohamed Kilani's previous imprisonment, arrests and trials, which she denied having written. Soon after she was also summoned by a staff member in the Human Rights Unit in the Ministry of Justice and was questioned about the same letter and was reportedly told that she might be prosecuted for illegal distribution of leaflets. On 21 August 1995 she was questioned by the examining magistrate about the same letter. She was not allowed the presence of a lawyer during her questioning by the examining magistrate because she was told that she was being questioned as a witness, without clarifying in relation to which case she was requested to testify.

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By such practices the Tunisian authorities have not only failed to comply with their obligations to investigate human rights violations, bring to justice those responsible and compensate the victims, but have also created a situation in which perpetrators of human rights violations are afforded impunity and the victims are deprived of all means of redress and exposed to further violations. Even though the Tunisian authorities have stated that investigations have been carried out into "isolated cases of abuses by members of the security forces" and that these have been sanctioned, they have so far refused to provide the names and functions of these law-enforcement officers, or any details of judicial investigation and prosecution against them.<sup>37</sup> In October 1994 a request by the UN Human Rights Committee to the Tunisian Government delegation to provide details of cases of law-enforcement officials who have been brought to justice for violations they had committed remained unanswered. In the meantime, reports of torture and ill-treatment of political detainees and prisoners have continued to be widespread and none of these are known to have been promptly and impartially investigated.

**Adel SELMI** (whose case is mentioned on page 25) stated in court that he had been tortured during his illegally prolonged *garde à vue* detention in June 1994. He said that he had been suspended in contorted positions and had his head plunged in a bucket of water. He showed his wrists and ankles which reportedly still bore marks, but the court took no action.

**Hamma HAMMAMI** (whose case is mentioned on page 13) stated in court that he had been tortured and ill-treated during *garde à vue* detention in February 1994, in Sousse police station and in the Ministry of the Interior in Tunis. He stated that he was severely beaten on the head and body, sexually humiliated and threatened with rape, and made to lie on the ground while a policeman pressed his neck down with his foot, causing near-asphyxiation, and another put a gun to his head threatening to kill him. His family and lawyers, including lawyers from the LTDH, who saw him days after his arrest, confirmed that he bore bruises and marks on his face and neck. A photograph taken by the police after the arrest also shows swelling and marks on his face. After repeated requests by himself, his family and lawyers, he was examined three weeks later by a doctor appointed by the authorities, whose report stated that "there were no signs of trauma to the head, trunk or limbs". No judicial investigation into his complaint has been carried out to date.

**Mohamed Hedi SASSI** (whose case is mentioned on page 14) stated in court that during *garde à vue* detention in police stations in Den-Den and in Bardo (both in Tunis) he had been tortured by being suspended in contorted positions, having liquid poured into his nose, which came out of his ears, and being severely beaten all over his body. Defence lawyers who saw him over a week after his arrest confirmed that he bore marks and bruises above his left eye, and on his wrists, ankles, toes and lower calves, which were consistent with his allegations. He complained of sharp pain and loss of hearing in his left ear, but repeated requests for a medical examination were ignored by the authorities. The complaint filed by his lawyers was reportedly forwarded to the police station where he was allegedly tortured, and no judicial investigation has been carried out to date.

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<sup>37</sup>Although the Tunisian Government stated in its fourth periodic report to the Human Rights Committee (dated March 1993) that more than 100 police officers have been brought to justice for "offences constituting an abuse of authority", that other cases are pending before the courts, and that more than 20 law-enforcement officers have been dismissed by the Ministry of the Interior "on grounds of violence and abuse of authority", they have provided no details of any of these investigations.

Throughout 1994 and at the beginning of 1995, both Hamma Hammami and Mohamed Hedi Sassi undertook repeated hunger strikes to protest at their imprisonment and conditions of detention, and at the lack of investigations into their allegations of torture and ill-treatment. On every occasion they were punished by the prison authorities, by being kept chained by the foot in isolation cells (in breach of Rule 33 of the UN Standard Minimum Rules for the Treatment of Prisoners), being refused water, and being forbidden visits by their families and lawyers.<sup>38</sup>

Punishments of various kind are inflicted on prisoners who protest at their ill-treatment and/or condition of detention. Such punishment clearly violates the UN Convention against Torture, which states in its Article 13:

"... any individual who alleges that he has been subject to torture... has the right to complain to, and to have his case promptly examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

Given the punishments imposed on the prisoners who go on hunger strike, these are extremely rare among prisoners. As well as the punishment described above, Hamma Hammami and Mohamed Hedi Sassi were also reportedly beaten and ill-treated by prison staff after their hunger strikes and especially between March and July 1995. Mohamed Hedi Sassi reported that he was beaten by the same people against whom he had lodged a complaint shortly before.

Hamma Hammami and Mohamed Hedi Sassi are among the very few prisoners known to have recently protested openly at their ill-treatment by security forces and prison staff by undertaking repeated hunger strikes and lodging formal complaints. Even though they have had the support of lawyers and human activists in Tunisia and abroad, they have continued to be subjected to pressure and further ill-treatment whenever they complained at the violation of their fundamental rights. After national and international pressure for investigations into their cases a commission<sup>39</sup> of inquiry was set-up in June 1995 to investigate reports of their ill-treatment in prison, but not their allegations of torture and ill-treatment after arrest in February and April 1994.

On 14 August 1995 the chairman of the commission of inquiry announced that "there were only very few and isolated cases of any breaches being committed" in prisons, and that "these rare cases were the result of individual interpretation of the application of the laws or because some of the provisions of the laws did not cover certain situations". In this case, like in all previous cases, no judicial investigation was carried out and no details whatsoever were provided of the "very rare cases" of abuses to which the commission of inquiry referred to, or of any measures taken against the law-enforcement officers

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<sup>38</sup>Article 70 of the Tunisian CPP states that detainees have access to legal counsel at all times.

<sup>39</sup>The commission was composed of officials from the Ministries of the Interior, Justice and Foreign Affairs, and headed by a member of the Higher Committee for Human Rights and Basic Freedoms, set up in April 1991 by presidential decree (for details of this committee see Amnesty International's report *Tunisia, Rhetoric versus reality: the failure of a human rights bureaucracy* (AI Index: MDE 30/01/94) of January 1994.

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responsible for these abuses.

By accepting as evidence statements denied by defendants who state that they were forced to sign them under pressure, a widespread practice in Tunisian courts, Tunisian magistrates and judges violate Tunisia's solemn obligations under the ICCPR and the UN Convention against Torture. Article 14 (3) (g) of the ICCPR guarantees the right "not to be compelled to testify against himself or to confess guilt".

Article 15 of the UN Convention against Torture states:

"...any statement made as a result of torture shall not be invoked as evidence in any proceedings except against a person accused of torture as evidence that the statement was made".

Article 12 of the same Convention obliges the Tunisian authorities to carry out prompt and impartial investigations whenever there is reasonable ground to believe that torture has taken place, even if no complaint has been lodged.

However, not a single case of arbitrary detention, torture, ill-treatment or death in custody of political detainees and prisoners has been thoroughly, independently and publicly investigated over the past eight years. In addition, increasing restrictions have been imposed on lawyers and human rights workers seeking to investigate human rights violations.

The inadequacy of the investigations carried out by previous commissions of inquiry set up by the Tunisian authorities prior to 1994 are detailed in the report *Rhetoric versus reality: the failure of a human rights bureaucracy* (AI Index: MDE 30/01/94), published in January 1994. The shortcomings of the most recent inquiry into allegations of torture and ill-treatment of Hamma Hammami and Mohamed Hedi Sassi indicate that, despite the repeatedly stated commitment of the Tunisian authorities to respecting human rights, in practice law-enforcement officers who commit human rights violations continue to be afforded impunity at the highest level, and the victims have no way of seeking redress for the abuses they have been subjected to.

## LACK OF INVESTIGATIONS INTO DEATHS IN CUSTODY

Since 1991 Amnesty International has continued to urge the Tunisian authorities to ensure that the deaths of detainees during *garde à vue* detention in circumstances which suggested that torture had caused their deaths be thoroughly, independently and impartially investigated in compliance with internationally recognized human rights standards.

The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions set out certain fundamental principles for such investigations. According to these principles, the Tunisian authorities are required to ensure that:

- the investigative authority has the power to obtain all the information necessary to the inquiry, including all physical and documentary evidence and statements from witnesses, who shall be protected from violence, threat of violence or any other form of intimidation;

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- the family of the deceased and their legal representatives have access to all information relevant to the investigation, and have the right to insist that a medical or other qualified representative be present at the autopsy;

- a written report be made within a reasonable period of time on the methods and finding of such investigations, and be made public immediately upon the time of writing;

The UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment also requires that deaths in custody be investigated.

However, not a single case of death in custody during the past five years has been adequately investigated, and no action is known to have been taken by the Tunisian authorities to bring to justice members of the security forces alleged to have caused the death of detainees. In the cases where autopsies are known to have been carried out, doctors chosen by the families or other independent observers were not allowed to be present, and the autopsy reports given to the families did not contain the necessary details about the examinations conducted and about the exact causes and circumstances of the deaths.

In the only case where Amnesty International was able to obtain a slightly more detailed autopsy report (of 25-year-old **Faisal BARAKAT**, who died during incommunicado detention in October 1991, and whose case has been described in detail in a previous report,<sup>40</sup>) this contained compelling evidence that he had died as a result of torture.<sup>41</sup> Amnesty International also received testimonies from individuals who had been detained with Faisal Barakat and who described the torture to which he had been subjected to, and his death in Nabeul Police Station. However, the Tunisian authorities denied that Faisal Barakat had ever been arrested, and claimed that he had been killed in a road accident. After repeated requests by the organization for an investigation into the death of Faisal Barakat, in 1992 the Tunisian authorities stated that they had decided to reopen the investigation. However, four years later, no new information has been provided about this investigation.

The report of a commission of inquiry set up by the authorities in 1991 concluded that a number of individuals had died in suspicious circumstances, but it did not provide any details about these cases. The families of five detainees who had died prior to the setting-up of this commission were allotted a pension as "humanitarian aid". However, to date the authorities have not provided any information about any concrete measures taken to investigate these and other deaths in custody and to bring to justice members of the security forces responsible for these deaths, and no "humanitarian aid" is known to have been granted to the families of other detainees who died in custody, allegedly as a result of torture, after this commission of inquiry.

In 1994 at least two individuals are known to have died during *garde à vue* detention in police custody, in circumstances which indicate that torture or ill-treatment may have caused, or contributed to, their deaths.

**Lotfi GLAA** was arrested on 27 February 1994 at Djerba airport on arrival from France where he had

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<sup>40</sup>Tunisia, *Rhetoric versus reality: the failure of a human rights bureaucracy* (AI Index: MDE 30/01/94), published in January 1994.

<sup>41</sup>As certified by several international forensic pathologists who have examined the autopsy report; Amnesty International issued a Medical Action on this case in March 1992 (AI Index: MDE 30/03/92). AI Index: MDE 30/19/95 Amnesty International November 1995

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been studying literature for the previous three years. He was known to have been a supporter of *al-Nahda* when he was studying at Manouba University in Tunis, where he was active in the student union, but was reported to have ceased his political activities after he went to study in France. His family, who were waiting for him at the airport, were allowed to take his luggage and were told he had been detained for questioning but would be released soon, but he never reappeared. They subsequently made repeated inquiries to the authorities concerning his whereabouts, but were unable to obtain any information until 6 March 1994, when they were contacted by police officers who told them that he had died.

**Ameur EL BEJI**, a father of six children and vice-president of the section of Jbeyniana (Sfax) of the *Mouvement des démocrates socialistes* (MDS, a legal political party), was known as a long-standing sympathizer of *al-Nahda*. He was arrested on 9 November 1994 from his home and held incommunicado by the state security police in Jbeyniana. The following day his family was informed that he had committed suicide by hanging himself with a blanket from the window of his cell.

No public investigation was carried out to establish the circumstances and causes of the death of Lotfi Glaa and Ameur el Beji, and Amnesty International's requests to the Tunisian authorities for information on these cases received no reply. In the case of Ameur el Beji, a post-mortem examination carried out by a doctor appointed by the authorities reportedly confirmed that he had committed suicide, and no information is available about the death of Lotfi Glaa.

At least three political detainees, all of them members or sympathizers of *al-Nahda*, are known to have died in prison as a result of illness in the last two years; there are reports that they had been denied the medical care necessary for their condition. Denial of medical care to political prisoners has been a long-standing concern in Tunisia. Amnesty International has been receiving information over the past four years from families of political prisoners who have been suffering from illnesses which have been left untreated despite repeated requests for treatment by the detainees and their families and lawyers. Detainees who were arrested and tortured as far back as 1990 and 1991, including some who were still unable to stand and had to be supported by guards in court some 18 months after their arrest, have so far been unable to receive medical treatment for the injuries sustained as a result of torture.

**Ismail KHEMIRA**, a mathematics professor arrested in 1991 and sentenced to four years' imprisonment for political activities on behalf of *al-Nahda*, died in the 9 Avril Prison in Tunis, reportedly from a lesion to the spinal cord, which caused an infection of the spinal marrow. He was reported to have been severely tortured after his arrest and at the time of his trial his lawyer had asked that he be given medical treatment for back injuries. According to the information received by Amnesty International, Ismail Khemira was reported to be in poor physical condition throughout his detention and his condition had reportedly been aggravated by beatings by the prison guards and by the lack of medical care. He was reported to have been beaten for the last time in the first week of February 1994 and eyewitnesses who saw him in the second week of February stated that he was almost completely paralysed.

**Ezzeddine BEN AICHA**, a member of an Islamist group known as the "Habib Lassoued group",<sup>42</sup> died in Nadhor Prison around 18 August 1994. He was serving a 20-year sentence imposed by the Military Court in Bab Saâdoun in August 1992, in a mass trial of 279 members and suspected members of *al-Nahda* and

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<sup>42</sup>A splinter group from the *Mouvement de la tendance islamique*, MTI (Mouvement of the Islamic Tendency, known as *al-Nahda* after 1989).

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other groups. He was reported to have been beaten with a stick, including on his head, by prison guards a few days before he died.

**Sahnoun JAOUHARI**, a former member of the directing committee of the Tunisian Human Rights League (LTDH), leading figure in *al-Nahda* and journalist for *al-Fajr* (Dawn, the journal of *al-Nahda*, banned in 1991) and other magazines, died in 9 Avril Prison on 26 January 1995. He had been arrested in 1991 and had been severely tortured during illegally prolonged incommunicado detention. He was also sentenced in the Bab Saâdoun trial in August 1992 to 15 years' imprisonment. Although he was reported to have been seriously ill long before his death, he did not receive necessary medical care. On 17 January 1995 he was taken to hospital with a haemorrhage and was diagnosed as suffering from a lymphoma, but died before he could be given chemotherapy. After his death his wife, a medical doctor, and the rest of his family were not allowed to see his body in the hospital. The body was brought to the house for a few minutes in a sealed coffin by the security forces on 27 January on the way to the cemetery.

In all the cases known to Amnesty International of detainees and prisoners who died in custody the bodies of the deceased were reportedly taken directly to the cemetery or brought back to the family home in a sealed coffin on the way to the cemetery, and families were not allowed to see the bodies of their deceased relatives. No independent and public inquiry was carried out into any of these cases.

## CONCLUSION AND RECOMMENDATIONS

Even though the intimidation of victims, their families, lawyers and human rights activists has created a situation in which fewer and fewer individuals dare to file complaints in Tunisia for fear of reprisals and further repression, many continue to provide information about human rights violations to Amnesty International and other human rights organizations. Amnesty International has continued to submit cases of reported human rights violations to the highest Tunisian authorities, including President Ben Ali, the Ministers of the Interior, Justice, Foreign Affairs, as well as other officials. These cases include prisoners of conscience, political prisoners convicted after unfair trials, individuals who have been held in illegally prolonged incommunicado detention in violation of both international standards and Tunisian law, and those who have been tortured and ill-treated or who have died in detention. The organization has repeatedly requested information about these cases, and urged the Tunisian authorities to investigate these and other reports of human rights violations and to act to put an end to these violations.

As a matter of urgency Amnesty International urges the Tunisian authorities to:

- Immediately and unconditionally release all prisoners of conscience.
- Repeal or amend all laws which authorize the imprisonment of prisoners of conscience.
- Release or retry according to international standards for fair trial all political prisoners convicted and sentenced after unfair trials.

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-Ensure that detainees are not held in prolonged incommunicado detention, that the families of those arrested are immediately informed of their relatives' place of detention, and that untried detainees are promptly allowed access to their lawyers, their families, and independent medical doctors.

-Ensure that all allegations of torture and ill-treatment, and all deaths in custody are promptly, thoroughly and impartially investigated and the full findings of investigations made public.

-Ensure that those responsible for human rights violations are brought to justice.

Over the past five years Amnesty International has made detailed recommendations to the Tunisian Government for concrete steps to be taken to ensure that cases of torture and deaths in custody are promptly, impartially and independently investigated. The organization has suggested a number of concrete steps which the Tunisian Government could take to implement these recommendations. The organization remains concerned that these recommendations have not been implemented.

Amnesty International is also concerned that the judiciary should be enabled to exercise its profession with independence and impartiality:

-The independence of the judiciary from executive control or influence should be made absolute.

-The judges and magistrates should ensure that all allegations of torture, ill-treatment and violations of pre-trial procedures are promptly, thoroughly and impartially investigated.

-No confessions or other evidence obtained under torture or duress should be admissible in court.

-Judges should ensure the application of international human rights standards which have been ratified by Tunisia, and which according to the Tunisian Constitution supercede Tunisian law.

-Judges should refuse to sentence individuals under laws which violate international human rights standards ratified by Tunisia.

Furthermore, Amnesty International urges the Tunisian authorities to implement the recommendations made by the UN Human Rights Committee in October 1994 [see UN Index: M/CCPR/C/52/COM/TUN/3], some of which overlap with the recommendations made by Amnesty International; these include:

- [E/para.14] "that steps be taken to strengthen the independence of human rights institutions in Tunisia" in order to "close the gap between law and practice and enhance the confidence of the public in those institutions"; the work of "any commission investigating reports of human rights abuses should be transparent and the results should be made public"; steps should be taken to "strengthen the independence of the judiciary, particularly from the executive branch";

-[E/para.15] a strong recommendation that Tunisia "consider ratifying or acceding to the first Optional Protocol to the International Covenant on Civil and Political Rights";

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-[E/para.16] with reference to reports of torture and ill-treatment of detainees, the Committee makes strong and detailed recommendations for "closer monitoring of the arrest and detention process; systematic, prompt and open investigation into allegations; prosecution and punishment of offenders; and the provision of legal remedies for victims" and notes that there should be "strict enforcement of registration procedures, including prompt notification of family members of persons taken into custody, and the 10-day limit to preventive detention. Steps should also be taken to ensure that medical examinations are automatically provided following allegations of [torture or ill-treatment] and that thorough autopsies are performed following any death in custody"; finally the Committee urges that in "all cases where investigations are undertaken, the findings should be made public";

-[E/para.19] the Committee recommends that "measures be taken to ensure the exercise of the freedom of opinion and expression in accordance with article 19 of the Covenant" and in particular urges a "review and, where appropriate, amendment of those provisions of the Press Code which unduly protect Government policy and officials from criticism";

-[E/para.20] the Committee also recommends that the Associations Act, the Passport Act and the Political Parties Act be reviewed "to ensure that they are in full conformity with the requirements of the Covenant" and that "there be a close and independent monitoring of the exercise of [the right to freedom of religion] by all groups in Tunisia."

It should be further noted that the United Nations Human Rights Commission, at its 42nd meeting in February 1995, urged "States parties to take duly into account, in implementing the provisions of the Covenants [including the Covenant on Civil and Political Rights], the observations made at the conclusion of the consideration of their reports by the Human Rights Committee [...]"