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@Rhetoric versus reality: the failure of a human rights bureaucracy

INTRODUCTION

"Human rights are our choice and our policy"
(President Ben Ali, 12 May 1992, in a speech to mark Agriculture Day)

There are few countries where human rights have a higher profile than Tunisia. Praise of human rights appears in nearly every speech by nearly every public figure. Human rights are cited daily in press articles, and several major conferences a year relate to human rights. Tunis is the seat of the Institut arabe des droits de l'homme, Arab Institute for Human Rights, it hosts an Amnesty International Section and in November 1992 it was the venue for the African Regional Meeting of the World Conference on Human Rights. At the United Nations (UN), Tunisian officials sit on most of the UN committees dealing with human rights. Tunisia has ratified nearly all UN human rights instruments and regularly submits, on time, its reports to the appropriate committees. Several government ministries contain a unit which specializes in human rights; there is also a Principal Presidential Adviser for Human Rights, an ombudsman and a state-appointed Higher Committee for Human Rights and Basic Freedoms. The Universal Declaration of Human Rights is apparently to be found in all police stations, and all new police recruits are said to attend human rights courses. Numerous brochures on human rights are printed by government agencies. A human rights medal has been instituted and a special human rights chair created to introduce human rights courses into the country's university law faculties.

As a result of its high international human rights profile, its constant emphasis in speeches on the importance of these rights and its appointment of human rights officials and commissions, the Tunisian Government should have, and is probably widely perceived as having, an excellent human rights record. Sadly, the reality is very different. The basic rights to life, liberty and security of person and to freedom from torture or arbitrary detention contained in Articles 3, 5 and 9 of the Universal Declaration of Human Rights have been consistently violated. Over the past three years thousands of suspected political opponents have been subjected to arbitrary arrest; held in illegally prolonged incommunicado detention; tortured; and imprisoned after unfair trials. At least eight detainees have died under torture. Safeguards enshrined in Tunisian law and international standards have been systematically ignored. The circle of repression, which began in 1990 to 1991 with the wholesale arrest of members and suspected supporters of the Islamic party *al-Nahda* (Renaissance), has expanded and now embraces members of leftist parties; relatives and friends of those already detained; and human rights activists. The forms of repression are varied and include arbitrary arrest, short-term detention, administrative control, house searches, repeated summonses to the police station and refusal to issue passports and business licenses.

Amnesty International has written a series of reports raising serious concerns in Tunisia over the past few
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years¹. The government has responded by appointing human rights advisers; a commission of inquiry into Amnesty International's allegations; an ombudsman. But the government has denied the existence of systematic violations; it has participated in a cover-up; it has failed to bring perpetrators to justice; and it has, in effect, justified gross human rights violations against suspected supporters of illegal groups. By so doing the authorities have allowed human rights violations to be committed with impunity in Tunisia.

As human rights have continued to deteriorate it has become increasingly clear that without government determination to enforce human rights standards, the appointment of a human rights bureaucracy or the ratifying of treaties have little effect on the reality of the human rights situation in the country. The authorities' boast that no emergency legislation has been introduced should be seen in the light of their systematic failure to respect the safeguards and limits enshrined in the existing Criminal Procedure Code (Code de procédure pénale, CPP). Members of the security services have committed human rights violations with impunity. Judges, magistrates and prosecutors, by their silence, acquiescence and failure to investigate violations, have failed to fulfil the solemn obligations of their office. Officials up to the highest level of the Ministries of Justice and the Interior have condoned flagrant abuses. The battery of officially-appointed human rights advisers, powerless to prevent violations, spend their time defending Tunisia's human rights record to the outside world rather than defending and protecting those who suffer from human rights abuses in Tunisia.

The country is not unique. In this report on Tunisia, Amnesty International shows how a sophisticated human rights language and high-profile human rights officers can fail to prevent the perpetration of systematic, serious human rights violations.

The Chapter One describes the background to the human rights violations of 1990 to 1993 and the machinery set up in Tunisia between 1991 and 1993, much of it in response to adverse criticism of Tunisia's human rights record. Chapters Two to Four describe in more detail the system which has facilitated human rights violations, particularly prolonged incommunicado detention and torture, and Amnesty International's efforts on behalf of the victims of such violations and government responses in particular cases. The sentencing of political detainees in unfair trials, often under laws which permit the imprisonment of prisoners of conscience, has meant that thousands of people have been jailed unjustly in Tunisia. Sometimes suspects have been tried several times (some have been tried for a second time in absentia while actually serving prison sentences, or have been immediately rearrested on release and tried for the same offence). Amnesty International sent observers to trials in 1991 and 1992 and has documented trial violations in two mass trials in the Bouchoucha and Bab Saadoun military courts of alleged plotters in 1992.

However, this paper concentrates on the failure of the Tunisian Government and its human rights machinery to investigate and stop the cases of prolonged incommunicado detention and torture brought to its attention since 1991. All the cases mentioned in this report have already been brought to the attention of the government; none of them has been resolved or elucidated by government action. Chapter Five analyses the wider human rights situation in Tunisia in an attempt to indicate other factors which have led to this failure.

¹ *Tunisia: Summary of Amnesty International's Concerns* (AI Index: MDE 30/03/90); *Tunisia: Deaths in Custody* (MDE 30/22/91); *Tunisia: Incommunicado Detention and Torture* (MDE 30/04/92); *Tunisia: Heavy Sentences after Unfair Trials* (MDE 30/23/92); *Tunisia: Women Victims of Harassment, Torture and Imprisonment* (MDE 30/02/93).
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I. BACKGROUND: VIOLATIONS AND THE INSTALLATION OF A HUMAN RIGHTS BUREAUCRACY

"Our supreme objective remains that of fully guaranteeing all human rights"
(President Ben Ali, 12 May 1992)

1.1 The reforms of 1987 to 1988

President Zine el-Abidine Ben Ali took power from the aging President Habib Bourguiba in November 1987 at a time when Tunisia appeared to be descending into a human rights crisis. In 1987 hundreds of suspected supporters of the *Mouvement de la tendance islamique* (MTI), Islamic Tendency Party, were arrested and many were tried in an unfair trial before the State Security Court. Most had been held in prolonged incommunicado detention and tortured before being brought to trial. Seven death sentences were imposed, five *in absentia*, the other two being executed in October.

President Ben Ali promised a break with the violations of the past. One of his first promises, made in his inaugural speech on 7 November 1987, was that he would introduce political pluralism and restore the rule of law. Within three weeks, on 26 November 1987, Law 87-70 amended CPP Articles 13 and 57 limiting the duration of *garde à vue* detention (the period after arrest during which a suspect may be held by the police without access to lawyer or family) and introducing a number of safeguards. Law 87-79 abolished the State Security Court, which had been responsible for a number of unfair trials in the time of Habib Bourguiba. Decree 1876 of 4 November 1988 recognized extra visiting and hygiene rights for prisoners and, in 1989, Law 89-93 abolished hard labour as punishment.

Other laws passed in 1988 included a new Law on Political Parties (Organic Law 88-32) which opened the way for seven opposition parties to be legalised. Amendments to the existing Press Code (Organic Law 88-89) and Law on Associations (Organic Law 88-90) only very slightly curtailed the executive's wide powers to control freedom of expression. In addition, on 23 September 1988 the government ratified the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment without reservation.

1.2 Tunisia's International Human Rights Profile

The ratification of the Convention Against Torture exemplified Tunisia's traditionally high human rights profile within the UN. Tunisia has ratified nearly all the the UN human rights instruments (as well as making declarations under Articles 21 and 22 of the Convention Against Torture, allowing communications from States and from individuals). In 1991 it ratified the UN Convention on the Rights of the Child and in 1993 it made a declaration under Article 41 of the International Covenant on Civil and Political Rights (ICCPR), allowing communications from states, although it has not yet ratified either the (First) Optional Protocol (allowing communications from individuals on violations of the treaty) or the Second Optional Protocol (aiming at the abolition of the death penalty). Tunisia has one of the better records in the presentation of periodic reports to UN committees, submitting three periodic reports since 1977 on its implementation of the ICCPR to the Human Rights Committee and, in 1990, a report to the Committee against Torture. Tunisian officials are active as members of committees and commissions Amnesty International January 1994AI Index: MDE 30/01/94

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dealing with human rights matters. In 1993-1994 the Tunisian Permanent Representative to the UN in Geneva was President of the Commission on Human Rights; in 1992 the Tunisian President of the Arab Human Rights Institute was elected to the Committee Against Torture; a Tunisian nominee is also on the Committee on the Elimination of Racial Discrimination (CERD), there is a Tunisian member of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and a Tunisian is UN Special Rapporteur on religious intolerance. Furthermore, Tunisia hosted, in November 1992, the African Regional Preparatory Conference for the 1993 World Conference on Human Rights held in Vienna.

In the Organization of African Unity (OAU) Tunisia also plays an active role in human rights. It was one of the first states to submit an initial periodic report to the African Commission on Human and Peoples' Rights (although its second and third periodic reports are now overdue). A Tunisian has been elected to serve on the African Commission on Human and Peoples' Rights. In June 1994 the OAU Assembly of Heads of State and Government (OAU Assembly) will meet in Tunis and President Ben Ali will become the Chairman of the OAU Assembly.

1.3 Background to Human Rights Violations: 1990 to June 1991

In a report published in September 1990 (*Tunisia: Summary of Amnesty International's Concerns*, AI Index: MDE 30/03/90) Amnesty International welcomed the reforms of 1987 and 1988 but expressed concern about the continued existence of prolonged incommunicado detention and torture in Tunisia and the authorities' failure to see that the courts ordered investigations into torture allegations and made public the investigations which, so the government insisted, were carried out whenever torture was reported.

The report also expressed concern about the use of certain laws to limit rights of freedom of association and expression between 1987 and 1990, and mentioned occasions when people had been tried and sentenced for writing or distributing leaflets criticizing the government. Article 3 of the Law on Political Parties proscribes parties whose principles, activities and programme are based on a particular language, race, sex or religion. This article was used to prevent the registration of *al-Nahda*, founded in 1989, which replaced the MTI and called for the formation of a state based on Islamic principles. However, both *al-Nahda* and the *Parti communiste des ouvriers de Tunisie* (PCOT), Tunisian Communist Workers' Party, although not legally recognized, were allowed to operate openly until 1991. *Al-Nahda* candidates contested the 1989 local elections as independents and in 1990 both parties were allowed to publish a journal. *Al-Fajr* (Dawn), the newspaper of *al-Nahda*, and *al-Badil* (Change) the paper of the PCOT, both appeared intermittently as weeklies in 1990 but were suspended in 1991.

Relations between the government and the Islamists remained tense throughout the period after 1987. There were demonstrations and riots followed by arrests in the universities in 1989 and 1990 and other, mostly short-term, arrests of *al-Nahda* sympathizers. But it was in September 1990 that the first big wave of *al-Nahda* supporters' arrests took place. They occurred during and after a series of demonstrations, triggered off by the death of a student, Tayeb Hammasi, shot dead by police in the course of a demonstration. Demonstrators were arrested by the police and these arrests were followed by further protests which led to more arrests. During this period hundreds of arrests took place. Many of those detained were soon released; however, it was during this period, from September 1990 till February 1991, that more and more reports came in of *garde à vue* detention being extended beyond the permitted 10-day

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limit and of detainees being tortured.

The demonstrations by *al-Nahda* supporters and their suppression were accompanied by incidents where violent acts were committed by alleged supporters of *al-Nahda*. In the autumn of 1990 *al-Nahda* supporters were involved in thefts of explosives, apparently intended for use in acts of sabotage. One night in February 1991 a group of youths, said to be *al-Nahda* supporters, attacked and burned down the central office in Bab Souika of the ruling *Rassemblement constitutionnelle démocratique* (RCD) Democratic Constitutional Rally, causing the death of one of its guards and seriously wounding others.

The attack on this office brought another wave of arrests which was to intensify in the following months. Although accurate figures have never been published, Amnesty International has estimated that at least 8,000 suspected *al-Nahda* supporters were arrested between 1990 and 1992. The arrested were regularly held in incommunicado detention which was illegally prolonged - sometimes for months - beyond the 10-day permitted maximum. Detainees both in police and *gendarmérie* stations and in the Ministry of the Interior were systematically tortured: at least eight of them died in custody between April 1991 and January 1992 in circumstances suggesting that torture had caused or hastened their death. Most of those arrested were brought to trial between 1991 and 1993 and sentenced to prison terms in hundreds of trials. Delegates from Amnesty International and other human rights organizations who observed trials during this period reported that they fell far short of international standards. A few defendants were accused of offences involving violence or plotting against the state but most were sentenced to imprisonment under the Press Code, the Law on Political Parties, the Law on Associations, and the Law on Public Meetings on charges such as defamation; membership of unauthorized organizations; holding illegal meetings; and distribution of leaflets. These "laws on public liberties" have made it possible to sentence thousands of people for non-violently exercising their basic right to freedom of expression. Most of those who have since been released after sentence have found their freedom restricted.

1.4 Human Rights Measures introduced by the Tunisian Government between 1991 and 1993

Many of the measures adopted by the government have ostensibly been in response to recommendations made by Amnesty International, such as the appointment of: a national committee on human rights (entitled, at the request of the President, to visit prisons); a commission of inquiry; a special presidential adviser on human rights; human rights units in a number of ministries; and an ombudsman. In addition, human rights training for the police is now said to take place. The failure of these reforms to redress the systematic violations of human rights may be assigned to various causes:

- >the failure to ensure that these bodies are independent of government control;
- >the failure to give them powers to enable them to do their job properly;
- >the failure to bring to justice openly and publicly those who commit human rights violations.

However, the government's failure to publicly recognize the gravity and systematic nature of the human rights violations taking place underlies all the other failures. It is this that has led to a public relations approach in which violations are both condoned and denied rather than combatted and redressed.

1.4.1 *Comité supérieur des droits de l'homme et des libertés fondamentales* (CSDHLF) Higher

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Committee for Human Rights and Basic Freedoms - a body without teeth

The CSDHLF was set up in April 1991 following Decree 91-54 of January 1991 which established its statutes. This decree was modified in December 1992 so as to allow the Chair of the CSDHLF, accompanied by two members, to visit prisons "when necessary at the President [of the Republic's] request". The CSDHLF is composed of between 10 and 14 independent personalities, eight representatives of various professional or human rights associations and nine representatives of various ministries. All members of the committee are appointed by the President of the Republic. The committee meets twice a year, or more frequently at the President's request. Its work is confidential and an annual report on the human rights situation is submitted to the head of state. Rachid Driss, a former Tunisian ambassador to the UN, was appointed Chair of the body.

Since the work of the CSDHLF has been and is carried out only in the strictest confidence, it is not possible to make any comments on its effectiveness or otherwise as a means of raising human rights concerns with the government and acting as an effective lobbying force. It is not known whether any prison visits have been carried out since December 1992; the fact that these may only take place at the request of President of the Republic, in addition to the fact that all members of the committee are nominated directly by him and that one-third of its voting members are representatives of government ministries, considerably limits the independence of the CSDHLF.

In 1993 the CSDHLF published a 486-page report entitled *Human Rights in Tunisia*. This book contains texts of UN human rights instruments and relevant Tunisian law. It describes the bodies and government units set up in Tunisia to work in the field of human rights and it lists foreign human rights organizations and their relations with Tunisia.

1.4.2 Driss Commission of Inquiry - the dangers of confidentiality

On 20 June 1991, after news releases by the *Ligue tunisienne des droits de l'homme* (LTDH), Tunisian Human Rights League, and Amnesty International on human rights violations in Tunisia, particularly on prolonged incommunicado detention and torture, President Ben Ali summoned leaders of human rights bodies to the Presidential Palace and set up a Commission of Inquiry to examine these allegations and to propose recommendations. The commission, headed by Rachid Driss, contained six members, including representatives of the CSDHLF and the LTDH.

Amnesty International welcomed the establishment of this commission of inquiry, hoping that it would lead to a full investigation of reports of prolonged *garde à vue* detention and torture and the prosecution of officials found guilty of torturing detainees or violating the rules of Tunisian criminal procedure. In August 1991 the chair of the commission apparently asked the President for wider powers and was given the right to visit prisons and question prisoners. The commission visited three prisons: Borj El-Roumi, 9 Avril and Mornag. However, no public commission sessions were held. Its report was said to have been presented to President Ben Ali in September and a news release on 20 October publicized the report's purported conclusions and recommendations. The news release stated that "some abuses did occur" but that these

"were individual and isolated acts that went against government policy and the guidelines set by the President of the Republic. The allegations of abuse made by relatives of the detainees were, however,

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proven groundless by the testimony of the detainees themselves and their physicians".

However, this news release appears not to have accurately reflected the actual contents of the report, which had confirmed Amnesty International's accounts of systematically prolonged *garde à vue* detention, falsified arrest dates, and torture. The six recommendations to the President included a carefully-worded plea to end impunity:

"To make known, as widely as possible, both within the country and abroad, the policy of the State and its achievements which do credit to Tunisia in the field of human rights, all the while stressing the fact that the perpetrators of abuses are disciplined following thorough investigation, and indicating those cases in which disciplinary measures have been taken".

The commission also called for the "dissemination of human rights principles", the development of laws, cooperation with human rights organizations and the creation of appropriate mechanisms to ensure the application of international standards and to intervene with the courts on exceptional cases.

In April 1992, Rachid Driss was asked to conduct another commission of inquiry into the implementation of recommendations made by the first commission of inquiry. This report was, as promised, published, in July 1992. Former commission members apparently did not serve on this new commission, and the names of its members, appointed by Rachid Driss, are not known. The commission visited five prisons and six police stations. The report described a large number of positive measures that had been taken to make the security forces and prison staff more aware of human rights, including six circulars issued by the Ministry of the Interior between December 1991 and February 1992 relating to human rights and the introduction of a manual for all police forces containing the texts of UN human rights instruments (such as the Universal Declaration of Human Rights and the ICCPR). The report stressed "the need to test [officers] regularly in order to determine the extent of their acquaintance with the circulars mentioned above and the actual implementation of them"².

In a letter sent to Rachid Driss in August 1992, Amnesty International commented that "long experience in human rights protection has led us, unfortunately, to doubt reliance on directives sent round or posted up in police stations or of human rights education alone without the use of strong administrative action to reinforce these directives". The continuation of human rights violations has, unfortunately, shown the validity of this statement.

1.4.3 The Principal Presidential Adviser for Human Rights - a lack of accountability

The post of principal presidential adviser for human rights was created in June 1991 at the same time as the Driss Commission of Inquiry. The first principal presidential adviser, Sadok Chaabane, a former professor of international law, was appointed Minister of Justice in June 1992. He was succeeded by Iadh Ouederni, a former sociology professor at Tunis University. Amnesty International visited the principal presidential adviser for human rights in November 1991 and July 1992, and Professor Chaabane visited the headquarters of Amnesty International and many other human rights organizations in Europe and the United States in the autumn of 1991. In addition to advising the President on human rights issues, supervising studies and following the human rights work of governmental and non-governmental bodies,

²Other areas included in the second Driss report - relating to "perpetrators of abuses" and deaths in custody - will be detailed below.

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Amnesty International was told that families could complain to the principal presidential adviser and in each case would receive answers. In May 1992 the families of five of the detainees who had died in custody received "humanitarian aid" via the principal presidential adviser's office. However, families have stated that they have not received information from the office when they have sought to discover the whereabouts of individuals held in prolonged incommunicado detention.

The principal presidential adviser's office does not seem to have conducted any independent inquiries, nor has it issued any public reports about its activities. Like the CSDHLF and the Driss Commission of Inquiry, it is accountable only to the President of the Republic. In 1992 and 1993 Amnesty International delegates expressed dismay over the length of time taken to complete inquiries into cases of deaths in custody. The principal presidential adviser told them he could not pronounce on cases until official inquiries were completed.

1.4.4 Human Rights units in ministries - problems of powerlessness

In March 1992, 10 days after an Amnesty International report on torture in Tunisia was published, human rights units, headed by directors, were established in the Ministries of the Interior, Justice and Foreign Affairs. Human rights units were also set up in the Ministries of Education and Social Affairs and the Secretariat of State for Information. There is also a human rights unit in the Prime Minister's Office, charged with preparing reports submitted to the United Nations. These are coordinated by the office of the principal presidential adviser for human rights. Amnesty International has frequently consulted these advisers in the Ministries of Justice and the Interior about individuals in prolonged incommunicado detention hoping that they would be able to ensure respect for the law. The human rights unit in the Ministry of the Interior is charged with informing families about the whereabouts and legal status of detainees, investigating and responding to complaints of citizens, and "making suggestions to enhance human rights". However, after a number of occasions in 1993 when contacts with the units failed to produce any information on the whereabouts of detainees held incommunicado for several weeks it became clear that, whatever they themselves might wish to achieve, these human rights units were unable to ensure respect for the law.

1.4.5 The Ombudsman - failure to take action

An ombudsman (*médiateur administratif*), Hassine Chérif, was appointed in November 1992. According to Decree 92-2143 he was to receive individual requests about actions by any public body. These have to be made in person, either by the victim or by those directly concerned. Such personal visits are difficult for victims or families living far from Tunis. Although there has now been an ombudsman for more than a year, his activities are not widely known. When Amnesty International telephoned him about individuals in prolonged incommunicado detention, the organization was advised to contact Rachid Driss at the CSDHLF office in the same building.

The ombudsman should have a mandate to investigate alleged or apparent instances of violations of fundamental freedoms, abuse of power and unlawful, oppressive or unfair treatment of civilians. He should have the power to take appropriate action to remedy, correct and reverse abuses including bringing proceedings in a competent court, making necessary recommendations to the competent authorities and making his concerns public.

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1.4.6 The ineffectiveness of the new human rights bodies

Families of detainees in illegally prolonged *garde à vue* detention have tried to find out from one or another of these bodies just where their detained relatives were. The relative of such a detainee might contact Rachid Driss, the Chair of the CSDHLF; Hassine Chérif, the Ombudsman; Iadh Ouederni, the principal presidential adviser for human rights; the human rights units in the Ministries of the Interior or Justice. Others contacted may include the Director of Political Affairs at the Ministry of the Interior and the *Procureur de la République* of the region where the arrest took place. It is not clear whether human rights are best served by such a plethora of human rights public servants who often have vague or overlapping tasks and seldom, if ever, are able to prevent abuses. Amnesty International, when trying to use this official human rights machinery has, on occasion, spent as long as a month sending faxes and ringing up each office in turn. (Rare responses, concerning the release of two women arbitrarily arrested, have come from the Director of Political Affairs at the Ministry of the Interior and the office of the Special Presidential Adviser for Human Rights). The frustration of families must be even greater.

In March 1992 the UN Commission on Human Rights in Resolution 1992/54 endorsed principles on the status of national human rights institutions. The resolution spells out internationally-recognized minimum guidelines for the establishment of national bodies to promote human rights and Amnesty International, in *Proposed standards for national human rights commissions* (AI Index: IOR 40/01/93), has recommended strengthening these standards . The Convention against Torture and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establish internationally-recognized minimum requirements for the investigation of torture and deaths in custody. Common to all these standards are the requirements that the bodies be independent and impartial, that they have adequate powers to do their work effectively and that they issue public reports. None of the institutions established by Tunisia, which are characterised by lack of independence, powerlessness, and secrecy, satisfy the requirements of these international standards.

II. PROLONGED INCOMMUNICADO DETENTION : SYSTEMATIC FALSIFICATION OF RECORDS

"Tunisia ... has managed to bar the road to religious fanaticism and its terrorist practices without having recourse to special laws nor emergency measures..."
(President Ben Ali, 12 May 1992)

International standards require that all persons in detention be able to inform their families immediately of their detention (Rule 92 of the Standard Minimum Rules for the Treatment of Prisoners) and to have prompt access to a lawyer and their families. This, even in exceptional cases, may "not be denied for more than a matter of days" (Principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment). The UN Basic Principles on the Role of Lawyers makes clear that this may not exceed two days: "Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of detention." (Principle 7).

2.1 Disregard of the Safeguards in Tunisian Law

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Law 87/70 (see 1.1, The Reforms of 1987 to 1988) amending Article 13bis of the Tunisian *Code de procédure pénale* (CPP) set limits on the period, previously unlimited, during which a suspect might be held in *garde à vue* detention and instituted certain safeguards. This law, although publicised by the Tunisian Government as a major reform, has been consistently broken. The length of *garde à vue* detention (supposed to last four days, renewable to an absolute maximum of 10 days) has been routinely prolonged; to conceal this illegal prolongation records at police stations and courts have been systematically falsified and detainees' legal safeguards have been ignored. These violations have been brought, both privately and publicly, to the attention of the government over the past three years, yet no effective measures have been taken to ensure respect for the law. Well-documented, systematic disregard of prescribed limits has been consistently denied by the government. In this situation the human rights bureaucracy has restricted its activities to covering up human rights violations they are unwilling to admit to and powerless to prevent.

CPP Article 13bis states that suspects may not be detained by the police or the *gendarmerie* for more than four days. The *Procureur de la République* must be informed of any detention and may prolong *garde à vue*, by written order, for a further four days. Only "in case of absolute necessity" may *garde à vue* be prolonged for a further two days to a total of 10 days. During or after the *garde à vue* period the detainee or any member of his or her immediate family may request a medical examination. The dates and times of the beginning and end of *garde à vue* detention and the dates and times at which each interrogation starts and finishes must be noted in a register kept in each police station.

Amnesty International was informed by lawyers of instances before 1990 where the legal safeguards for the defendant had been respected. In one criminal prosecution a lawyer had obtained a medical examination during *garde à vue* detention in order to confirm the truth of torture allegations. The subsequent case was then dismissed by the judge owing to the defendant's torture.

By 1990, however, Amnesty International was expressing concern that in practice *garde à vue* detention was frequently, rather than exceptionally, extended to 10 days and that detainees were rarely granted access to a doctor. From early autumn 1990, reports of prolonged *garde à vue* detention (usually accompanied by reports of torture) became more frequent. By April 1991, in the context of what was later to be declared a plot against President Ben Ali, hundreds of Islamists were being arrested and held for weeks and even months in incommunicado detention. In Tunis relatives of those arrested - wives, mothers, fathers, brothers and sisters - besieged police stations and Procureurs' offices, asking where their detained relatives were. They formed queues at the offices of the LTDH which set up a special *Comité des libertés* to deal with these complaints. They crowded into lawyers' lobbies; they filed official complaints at the law courts; they registered requests under CPP 13bis for access to medical care; they came in delegations to the President of the Arab Human Rights Institute; they sent telegrams to the President of the Republic. Only one family member is known to have gained access to a relative in incommunicado detention: an elderly woman, who, for four weeks, had received no news of her son, arrested in April 1991, screamed on the steps of the Ministry of the Interior that her son was being killed. She was eventually taken up to the fourth floor of the ministry where she saw her son but was not allowed to talk to him. She reported that his hands and face were bruised and that he was extremely thin.

2.2 Systematic Falsification of Records

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CPP 13bis requires the police to keep accurate records of the beginning and end of *garde à vue* detention. The Standard Minimum Rules (Rule 7) and the UN Body of Principles (Principle 12) also require detailed records to be kept of any detention. Nevertheless, responses on individual cases have shown that the Tunisian police and gendarmerie, aided by the tacit consent or active assistance of justice officials, have created an elaborate system for falsifying records systematically in order to make it appear as though the legal limits of *garde à vue* detention are adhered to and to hide the extent of human rights violations in Tunisia. Research carried out by Amnesty International delegates in the law courts showed that the date of arrest on the official telegrams recording arrests sent from the arresting police, gendarmerie or national guard station to the *Procureur de la République* of the local area and to the *Procureur général de la République* is internally consistent with the date of arrest entered in the arrests register in the law courts. Yet these arrests had been witnessed and often referred to publicly by Amnesty International several days before these official arrest dates. The evidence for consistent falsification of arrest dates is inescapable.

◆**Moncef Triki**, a suspected al-Nahda member and human rights activist, was arrested on 11 May 1991. His arrest was witnessed by family and neighbours and a fax was sent the same day to Amnesty International. His wife made two requests for a medical examination under CPP 13bis. Amnesty International visited his house and raised his prolonged incommunicado detention with the Minister of Justice on 24 May. The date of arrest given on his police statement was 27 June -46 days after the actual date of arrest.

◆**Abdellatif Mekki**, former secretary-general of the Islamist *Union générale tunisienne des étudiants* (UGTE), General Tunisian Students' Union, was arrested on 14 May 1991. The official date of his arrest, according to police records and the *procès verbal* (police statement), was given as 11 July 1991, even though his arrest had been announced at a press conference by the Minister of the Interior on 22 May.

The mass falsification of records has meant that the official dates of arrest are consistently after the dates on which Amnesty International has publicly raised its concerns.

◆**Noureddine Mabrouk**, a 27-year-old high school teacher from Bizerta, was arrested on 3 February 1992 and his illegally prolonged incommunicado detention was raised publicly by Amnesty International on 6 March. Government statements give his official date of arrest as 11 March.

◆**Ezzeddine Hadj Belgacem**, a 33-year-old accountant from Gabes, was arrested on 7 February 1992 and held in *garde à vue* detention in Gabes Police Station. Although Amnesty International made his arrest public on 6 March 1992 his trial documents stated that he was arrested on 19 March 1992.

◆**Zouhair Mhiri**, a 24-year-old European literature teacher from Sousse was arrested on 15 April 1992. Amnesty International made his arrest public on 28 April 1992. He was eventually presented before the investigating judge (*juge d'instruction*) on 21 May 1992, the date officially given by the Tunisian authorities for his arrest.

Sometimes the falsifications appear as inconsistencies in the actual official records.

◆**Kamal ben Hassouna Fathalli** was arrested in September 1992. His police statement, which gives a date of arrest of 2 October, is contradicted by a medical certificate dated 25 September, according to

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which he was taken by the police to hospital for emergency treatment.

2.3 Tunisian Government Responses to Amnesty International's Actions

On receiving reports of detainees reportedly held *garde à vue* for longer than 10 days, Amnesty International at first raised their cases with the Tunisian Ministry of the Interior. When it became clear that appeals to appropriate government bodies were not receiving any response, Amnesty International began making public such cases. But Tunisian ministers and government spokespeople continued to ignore irrefutable evidence of widespread falsification of arrest dates.

The Amnesty International delegates to Tunisia gave the Minister of Justice on 24 May 1991 a list of 72 people still believed to be detained incommunicado, some for more than three months. Government officials said that before taking action they would need more information and first asked the delegates to supply addresses, then identity card numbers and then reference numbers given on receipt of an official complaint. Meanwhile, Abdelraouf Laaribi, one of the detainees on the list, had died on 26 or 27 May in circumstances suggesting he had been tortured to death.

In June 1991 a revised list of 57 people still believed to be in prolonged *garde à vue* detention was sent to the Prime Minister and the Ministers of Justice and the Interior. However, information about the arrest dates and dates of release or presentation to the investigating judge of the individuals contained on Amnesty International's list was not forthcoming. The government's failure to admit there had been major violations or to take any steps to rectify the situation prompted Amnesty International's news release of June 1991 and the government's appointment of a principal presidential adviser for human rights, Sadok Chaabane, and the Driss Commission of Inquiry.

A further list of 134 individuals who had been held in prolonged *garde à vue* detention between September 1990 and October 1991 was given to the Ministers of Justice and the Interior and to Sadok Chaabane by Amnesty International's delegates to Tunis in December 1991 without evoking any response.

Although in its statements the government has admitted "isolated abuses", it has never once conceded the truth of a single specific case of prolonged incommunicado detention or torture raised by Amnesty International. On the contrary, it has consistently denied that serious human rights violations occur and has questioned the accuracy of Amnesty International's information, claiming:

- 1) that the information comes from biased (Islamist or leftist) sources;
- 2) that the families frequently inform Amnesty International of the arrest of members who have actually gone into hiding.

Information made public by Amnesty International is carefully checked with all available sources. Facts about arrests, whose dates have been later falsified by the Tunisian authorities, have been obtained from families, friends, and lawyers, sometimes supported by dozens of eyewitnesses. Even in July 1992, after ample evidence had been obtained of systematic prolonged incommunicado detention, the Minister of Justice, Sadok Chaabane, and Ministry of Justice officials assured delegates that they had checked the records and telegrams and found no proof of excessive *garde à vue* detention; they suggested that any

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excesses must occur at the administrative level. By failing to investigate well-documented and incontestable cases of falsified arrest dates, the responsible officials in the Tunisian Ministry of Justice and the Interior have shown that they are either ignoring or condoning the very violations they should have been preventing.

2.4 Raising Individual Cases; the failure of a human rights bureaucracy

After publishing a report on incommunicado detention and torture in Tunisia (Tunisia: Prolonged Incommunicado Detention and Torture, AI Index: MDE 30/04/92), Amnesty International sent another delegation to the country in July 1992. It met the Ministers of the Interior, Justice, Defence and Foreign Affairs, and the Secretary General of Amnesty International met President Ben Ali. In the course of talks, Tunisian authorities kept insisting that no more human rights violations were being committed and that, if individual cases of human rights violation were to be submitted to the government before being raised publicly, steps would immediately be taken to investigate and rectify the matter.

During 1992 and 1993 Amnesty International raised individual cases with the Ministries of Justice and the Interior and members of the Tunisian human rights bureaucracy with little success. Officials in the government human rights machinery proved unwilling to admit the grave human rights violations which occurred and unable to remedy them or to release those being victimised.

◆**Abderrazak Hamzaoui** from Kasserine, a second-year computer studies student at Tunis University, was arrested on 19 September 1992 at Ben Arous near the hostel where he was staying. Amnesty International sent a letter about him on 9 October, following it up by telephoning the Director of Political Affairs at the Ministry of the Interior. An urgent public appeal was issued on 23 October 1992 after Abderrazak Hamzaoui had been in prolonged incommunicado detention for 34 days. After 40 days' detention, he was brought before the *Procureur de la République* on 29 October 1992. However, a statement issued by the government and sent to Amnesty International and the UN Special Rapporteur on torture stated that he had been arrested on 24 October - 15 days after Amnesty International had first raised his prolonged detention with the Ministry of the Interior and one day after the organization had publicized his detention.

In July and August 1993 there was a fresh wave of arrests. A similar pattern of human rights violations to that reported in 1991 - illegally prolonged incommunicado detention, falsified arrest dates, routine ill-treatment and torture, often followed by unfair trials and prison sentences - again occurred and appeals to the human rights bureaucracy by relatives or non-governmental organizations such as Amnesty International had little effect. An apparently new development, reported in more than one case, was the use of secret villas to hold detainees incommunicado for interrogation and torture before taking them to police stations or other legal detention centres. Many of the people detained were Tunisian students or residents in France returning home for their holidays.

◆**Samir Moussa** was arrested on 25 July 1993 at Tunis airport. He had been studying abroad for the past three years and had returned to Tunisia with a group of scouts. His family and Amnesty International appealed to the chair of the CSDHLLF, the ombudsman, the principal presidential adviser for human rights and the director of political affairs at the Ministry of the Interior. Three unsuccessful urgent appeals publicising his case were launched. He was eventually released without charge on 21 September.

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♦**Tawfik Rajhi**, a 32-year-old academic at the University of Paris, resident in France since 1982, was arrested on 26 July. His arrest was made public by his colleagues and family and Amnesty International launched an urgent public appeal on 6 August. He was brought before the *Procureur* on 18 August with his arrest date falsified to 11 August. During his trial on 26 August, Tawfik Rajhi testified that he was beaten in detention. He was sentenced to two years' imprisonment followed by two years' administrative control for membership of an unrecognized organization (*al-Nahda*) on the basis of confessions extracted under duress and denied in court. The court record made no mention of the illegally prolonged *garde à vue* detention and ill-treatment which had been raised by defence lawyers and rejected by the judge. At the appeal on 8 October the sentence was lowered to eight months.

The failure of the Tunisian human rights bureaucracy is illustrated by the case of **Salaheddine Zikikout**, a 30-year-old student at the Paris National Conservatory of Arts and Crafts (*Conservatoire national des arts et métiers*) since 1988. He was arrested on arrival at the port in Tunis on 8 August 1993. On 27 August, after he had been 19 days in incommunicado detention, Amnesty International contacted the CSDHLF office of Rachid Driss and was told that he could only act if contacted by the family. Over the next month members of the Zikikout family and Amnesty International contacted by fax and telephone, sometimes on a daily basis, every relevant member of Tunisia's human rights bureaucracy: Rachid Driss and the office of the CSDHLF; the ombudsman; the human rights officials at the Ministries of the Interior and Justice (who were touring the USA for part of this period); the office of the Principal Presidential Adviser for Human Rights and the Director of Political Affairs at the Ministry of the Interior. Amnesty International made urgent public appeals for Salaheddine Zikikout on 6 and 28 September. On 29 September, after 52 days incommunicado detention, 42 days more than the legal maximum, Salaheddine Zikikout was able to see his lawyer for the first time. The date of his arrest according to police documents was 19 September. During his first weeks in detention he had reportedly been held in a secret villa in Sidi Thabet, on the road to Bizerta.

III. FAILURE TO HALT OR INVESTIGATE TORTURE

"Today we are proud that through our legislation, initiatives and daily practice, the Tunisian people are assured of their rights... In the field of legislation we have taken the initiative firstly to guarantee the individual's physical integrity by drawing up regulations on detention for the first time in Tunisia..."

(President Ben Ali on 7 November 1992, the fifth anniversary of his coming to power)

3.1 Disregard of International Standards and Legal Safeguards

In its Constitution, legal codes and statements, Tunisia outlaws torture. Yet torture is practised not only in police, gendarmerie and national guard stations throughout Tunisia but even in the Ministry of the Interior, a few metres away from the office of the Minister himself. By perpetually denying, in the face of compelling evidence, that torture occurs and by failing to take action against it, the government has in effect offered the torturers immunity from punishment and encouraged the continuation of a practice it professes to abhor.

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The laws forbidding torture are frequently quoted in Tunisian documents. Article 5 of the Tunisian Constitution states that:

"The Tunisian Republic guarantees the inviolability of the human person..."

Article 101 of the *Code Pénal* states that:

"Any public official or agent who, in the exercise or during the exercise of his duties has used or caused violence to be used against persons without legitimate reason is punishable by imprisonment of five years and a fine of 500 francs".

The Convention Against Torture, ratified by Tunisia in 1988, lays down in its Article 2 that:

"1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

In its first report in October 1990 to the UN Committee against Torture, Tunisia stated categorically that:

"No juridical disposition allows any state agent to order or practise acts of torture or violence against the person" (UN Doc.CAT/C/7/Add.3 para.88).

The Convention requires Tunisia to keep under review its practices and arrangements for the custody and treatment of detainees "with a view to preventing any cases of torture" (Article 11). Yet torture has been routinely inflicted on suspected government opponents including sympathizers of *al-Nahda* and of the PCOT. By November 1991 Amnesty International had a list of 84 people who alleged that they had been tortured over the previous year. Many of their cases were supported by medical certificates and some by the testimony of eyewitnesses and lawyers. Today the list of those who have been tortured since 1990 runs to several hundreds, but few dare to have their names published. Methods of torture used include: severe beating, sometimes while being suspended in contorted positions; electric shocks; and insertion up the anus of broken bottles or other sharp objects. The main purpose of torture appears to be the extraction of confessions or information. But frequently punishment or intimidation appears to be the prime motive.

3.2 The judicial system's failure to halt or investigate torture

The provisions in the Tunisian CPP have failed to prevent torture and have allowed impunity to those who inflict it. The Tunisian legal system contains various loopholes which render safeguards against torture ineffective. Even more serious, however, is the failure of security and judicial officials under the authority of the Ministries of the Interior and of Justice to follow legal procedures; to implement the safeguards that do exist; to exercise control over detention centres and their officials; and to bring to justice those who commit abuses.

The human rights bureaucracy, through its unwillingness or inability to act, has shown itself to be largely irrelevant in this process.

3.2.1 Failure of the Procureurs

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The *procureurs de la République* have consistently failed to fulfil their obligations according to international and Tunisian law.

Articles 12 and 13 of the Convention against Torture require the investigation of torture reports. Guideline 16 of the UN Guidelines on the Role of Prosecutors states:

"When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice".

Tunisian criminal procedure requires the Procureurs to supervise pre-trial *garde à vue* detention. This means that any renewal of *garde à vue* has to be signed by the *Procureur* (CPP 13bis); the *Procureur* has an obligation to order a medical examination if the detainee or a close relative requests this during or immediately after the period of *garde à vue* (CPP 13bis); the *Procureur* is charged with overseeing the *police judiciaire* (judiciary police) and the *garde nationale* (national guard; CPP 10); the *Procureur* has the right and, thus, the duty to visit places of pre-trial detention. Nevertheless:

- formal requests, stamped by the *Procureur's* office, for the medical examination of political detainees, in accordance with CPP Article 13bis, have been consistently ignored;
- Procureurs have been ready, without question, to accept forged documents produced by the police and their own officials while ignoring well-attested evidence of illegally prolonged *garde à vue* detention;
- detention centres, where inmates have been illegally held and tortured, have not been visited or inspected by the Procureurs. In 1991 the Tunis Procureur de la République told Amnesty International delegates that they were too busy to make such inspections;
- the few investigations opened by Procureurs into cases of ill-treatment, torture, or suspicious death have either been dropped or else have dragged on interminably and without results.

3.2.2 Failure of the judiciary

At every level of the judiciary, from the investigating judges (*juges d'instruction*) to the final appeal in the Court of Cassation (*cour de cassation*) the Tunisian judicial system has failed to act on evidence of widespread and flagrant human rights violations. By narrowly defining their terms of reference Tunisian judges have, in effect, condoned the very human rights violations they should have acted to stop.

Loopholes in Tunisian legal procedures have been reinforced by the negligence of judges. Under standard Tunisian legal procedure, at the end of *garde à vue* detention, the detainee should be brought before the Procureur de la République who may then assign the business of interrogation to an investigating judge. An investigating judge who receives a torture complaint may accept it, but then passes it on to the *Procureur*. He or she may hold a separate investigation into the torture, but the result of the investigation

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(if any) is not brought to bear on the original case. The investigating judge mentions the torture allegation in his report and then ignores it except insofar as he rejects the statements made before the *police judiciaire* by proceeding to a new interrogation. Investigating judges have failed to ensure that people claiming to have been tortured have immediately received medical examinations. They have also failed to see that the torture dossiers passed to the *Procureur* are actually investigated. Investigating judges have the power to open their own investigation into a complaint of torture; however, whenever an investigation into ill-treatment, torture or death in custody has been opened into cases known to Amnesty International, the judges have failed to bring the case to a conclusion. Thus the perpetrators of torture have been allowed to escape from justice.

Court judges at every level have failed to ensure that defendants received medical examinations or that their torture allegations were properly investigated, even when there was clear evidence of torture in pre-trial detention.

◆ **Mansouri Toumi**, a member of the *al-Nahda* legislative council, after having been reportedly suspended from an iron bar two metres above ground, was unable to walk unaided to his trial before the El Kef Appeal Court, on 16 December 1991. The judge failed to order an investigation into his allegations of torture.

◆ Exceptionally, during the two 1992 mass trials at Bouchoucha and Bab Saadoun attended by foreign observers, where over 200 defendants alleged torture, the judges ordered medical examinations for 69 of them who still, over one year later, bore visible marks. The doctors described the injuries of the victims but did not relate their findings to the specific torture allegations. No further action was ordered by the judge.

◆ During the case of **Tawfik Rajhi**, cited above, tried on 26 August 1993, the judge at the Tunis Court of First Instance refused to order an investigation of his allegations of ill-treatment. The reports of ill-treatment were not even included on the court record.

Although Tunisia's Constitution states that international conventions ratified by Tunisia override provisions of national law, in practice lawcourts consistently reject defence pleas based on them. Occasionally a *Procureur* has acted on a relative's or lawyer's complaint and ordered an investigation. Sometimes an investigating judge has tried to get to the bottom of a suspect death; sometimes courts have acquitted torture victims; sometimes a trial judge has ordered a medical examination. Sadly, such cases are few and far between. But, although the government has cited cases of police being punished for violence against criminal suspects, no case has been reported to Amnesty International of any security agent ever being prosecuted for torturing a political detainee.

3.3 Tunisian Government Responses

Responding to Amnesty International's concerns about torture the Tunisian Government has denied its existence, covered up evidence and, by implication, justified its use. Although the government has accepted that "certain abuses" have been committed it has never accepted the validity of any specific cases of torture raised by Amnesty International. Official government responses to Amnesty International's reports have:

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- denied without investigation or proof well-founded reports attested to by independent witnesses;
- cited, in contradicting torture allegations, details or names never mentioned in Amnesty International's reports. For instance a 28-year-old youth centre supervisor, Abdelkhalik Alaoui, someone whose torture was raised in Amnesty International's March 1992 report, was arrested in March 1991 and seen by three independent witnesses in hospital 12 days later. Amnesty International's report states that: [Abdelkhalik Alaoui's] "body was dark blue with bruises all over except on his face". The government response says that "Amnesty claims that Abdelkhalik Alaoui was tortured and his right arm pierced by an electric drill";
- cited statements ostensibly made by LTDH or Driss Commission delegates who had visited detainees which appear never to have been made. For instance the prolonged *garde à vue* detention and reported torture of Ajmi Lourimi (a member of *al-Nahda's* legislative council) was raised publicly by Amnesty International in April 1991. According to many Tunisian press and government statements human rights delegates who had seen him in prison had said that he had denied being tortured. But delegates have privately denied making any such statement and, at his trial in July 1992, Ajmi Lourimi stated that he had been tortured.

Tunisia, both in government responses and in the Driss Commission report, "has never denied that certain abuses have been committed" but that they had been "isolated" instances. It has stressed that the country is a bastion of democracy against "extremist religious currents" which "don't hesitate to manipulate the human rights agenda in order to tarnish the image of existing governments, no matter how developed these may be in terms of democracy" and complain that "Amnesty doesn't seem to take into account the pressures threatening nascent democracies".

The language used by the government sometimes appears to justify violations. Government responses have stressed the violence of the *al-Nahda* movement and suggested that those who have been arrested are hardened terrorists³, trained to conceal information - which might involve arms caches - for up to 48 hours after arrest. This 48-hour period was frequently mentioned by Sadok Chaabane when visiting human rights organizations in western Europe and the United States in 1991 as principal presidential adviser for human rights.

By 1992 the "terrorist" argument was being used in a tacit - although seldom an actual - admission that legal limits on *garde à vue* detention were being ignored. Sadok Chaabane, by then Minister of Justice, asserted that:

"Amnesty International says that it is not interested in political motives. I was formerly a teacher of human rights and in the LTDH. Now I have another idea. Now I feel differently - when I see the Minister of the Interior and the police who don't sleep, and then I'm asked for information about whether *garde à vue* is prolonged. It is difficult for them. Tunisia has no state of exception. I know that in the texts Tunisia should respect the period - but if you look at the violence it is difficult to respect this".

The UN Convention against Torture states strongly, in Article 2(2), that:

³Most suspected members and supporters of *al-Nahda* arrested and sentenced to prison terms for belonging to an unrecognized organization, holding unauthorised meetings and similar offences, are not accused of having used or advocated violence and are prisoners of conscience.

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

3.4 Impunity and Torture

The impunity offered to torturers by the Tunisian Government has meant that the practice of torture as described in Amnesty International's previous reports continues unchecked.

In its report *Tunisia: Prolonged Incommunicado Detention and Torture*, Amnesty International described 10 torture cases whose victims were still alive. None of these cases is known to have been the subject of impartial investigations in accordance with Articles 12 and 13 of the Convention against Torture. Instead, those whose cases were cited, and their relatives, tended to be subjected to additional harassment such as a police summons or house searches. In its June 1993 report, *Tunisia: Women Victims of harassment, torture and imprisonment* (AI Index: MDE 30/02/93), detailing human rights violations against women including torture and ill-treatment of wives and female relatives of political detainees or *al-Nahda* supporters in exile, Amnesty International decided no longer to give the names of those who had suffered violations.

At various times, the government has stated that police officers have been punished for abuses of power. In an interview with *Le Monde* on 12 July 1991, President Ben Ali said that three policemen had been found guilty by the Appeal Court for abuse of power and that 22 police had been dismissed the previous week for the same reason. In a response to Amnesty International's report *Tunisia: Incommunicado Detention and Torture* in March 1992, the government said that legal proceedings had been taken against 74 law enforcement officers. The published report of the second Driss Commission of Inquiry, in July 1992, stated that 116 police officers had been implicated in 105 cases, 55 of whom had been found guilty and the cases of 50 were still being investigated. The report mentioned six of these but gave no other details about their cases.

Yet the government has never given the information which would allow the public to know the details of the offence committed by each security officer involved, the date, place and circumstances of the incident, and the punishment received by security officers found guilty. Such information is indispensable for a proper assessment of the measures taken against the serious human rights violations recorded during 1990 to 1993. From the information given at various times by the government it remains impossible to tell whether any one of the security officers mentioned in various government responses had been involved in the systematic incommunicado detention and torture of detainees referred to by Amnesty International. No victim who has alleged torture to Amnesty International is known to have been compensated for the pain, humiliation and often permanent damage he or she has suffered.

IV DEATHS IN CUSTODY: IMPUNITY AT WORK

Between April 1991 and January 1992 eight political detainees died in circumstances suggesting that torture had been the cause of their deaths. Held, like others, in *garde à vue* detention which was sometimes prolonged, their families had no information about their whereabouts until members of the security services informed them that their relatives had died - usually of "a heart attack". When the body

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was brought to them they would not be allowed to examine it and would be forced to bury it rapidly and sometimes almost secretly. Despite incessant requests no medical or autopsy reports have ever been handed over by the government. The one and only medical report Amnesty International has ever obtained (Faisal Barakat's) proved conclusively that the victim said to have died in a car accident had actually died under torture.

The UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions establish stringent requirements on governments to conduct "a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions". The investigation must "include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses" (Principle 9). "The body of the deceased person shall not be disposed of until an adequate autopsy is conducted by a physician, who shall, if possible, be an expert in forensic pathology" with access to all relevant information (Principle 12). "Those conducting the autopsy must be able to function impartially and independently" (Principle 13). "Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation", and those potentially implicated in the death should be suspended pending the outcome of the investigation (Principle 15). Families of the deceased and their lawyers shall have access to all relevant information and be able to present evidence (Principle 16), and a "written report shall be made within a reasonable period of time on the methods and findings of such investigations" and "shall be made public immediately" (Principle 17).

The authorities have failed to comply with any of the above international obligations to conduct thorough, prompt and impartial investigations, thus denying victims' families their right to learn the truth, and to see those responsible for the crimes brought to justice. This failure has also ensured that human rights violations continue to be committed with complete impunity.

Five of these deaths in custody occurred between April and August 1991. Those who died were:

◆**Abdelaziz Mahuashi**, a Ministry of the Interior employee who failed to return home from work on 21 April 1991. On 30 April Ministry of Defence officials told the family that he had died of a heart attack the previous day. A few hours later his body was returned to his home but his family were told it should be buried within two hours and were permitted to see only his face.

◆**Abdelraouf Laaribi** was arrested on 3 May 1991 and held incommunicado until his death on 26 or 27 May. On 27 May the Tunisian authorities notified his family that he had died of a heart attack. His body was delivered to the family early on 28 May and they were told to bury it immediately. No autopsy report or any other medical certificate indicating the cause of death was given to the family and injuries were visible on his legs.

◆**Abdelwahed Abdelli**, a student at the Ecole Normale Supérieure, died in Sousse on about 30 June 1991. Fellow detainees in Sousse Prison said he had been shot in the leg and arrested two days before he died. He was left without medical attention and allegedly tortured while in detention. His family was not allowed to examine his body before burial.

◆**Ameur Degache**, a third-year theology student at Tunis University was arrested in June 1991. His family were informed by police on 11 July that he had died and would be buried that day. They were not

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told the cause of death or given any medical certificate. At the burial they were not allowed to examine the body.

◆**Fathi Khiari**, a 33-year-old post office worker and brother-in-law of Abdelraouf Laaribi, was arrested at 4.30 am on 16 July 1991. On 5 August police officers asked his father and brother to go to a police station. There they were told that he had died of an unspecified illness and that they should go directly to the cemetery at 7am the next day for the burial. They were not allowed to examine the body, which appeared to be wrapped in plastic beneath the shroud, and were given no medical certificate or autopsy report.

The government has consistently covered up these deaths in suspicious circumstances, frequently denying the initial arrest. For example in the case of Abdelraouf Laaribi, whose death they described in a response to the UN Special Rapporteur on Torture in December 1991 as "an alleged torture during an alleged detention".

Neither of the Driss Commissions of Inquiry appears to have conducted a full investigation of these deaths. However, according to the second Driss Inquiry "the [first] commission of enquiry had concluded, in its report dated September 11, 1991, that a number of deaths had taken place in unclear and suspicious circumstances". This conclusion was not mentioned in government reports of the findings of the first Commission of Inquiry. Rachid Driss met relatives of Abdelaziz Mahuashi, Abderraouf Laaribi and Ameer Degache and commented that "regarding the judicial investigation underway in the cases of their kin, they unanimously stated that they had not been summoned to testify for the purpose of the investigation". Families of the five who died before the first Driss report were allotted a pension (a 2000 or 3000 dinar lump sum and 100 dinars - about \$100 - a month) as "humanitarian aid...without prejudice to the outcome of judicial proceedings". No "humanitarian aid" has been given to the families of three who died after the first Driss Commission.

In no case of a suspect death has any public inquiry been held. In some cases official inquiries are said to have been initiated, apparently conducted by the *Procureur* of the region where the death has occurred and as such they cannot be said to be independent. No detailed report of their findings has ever been made public. More than two years after the deaths in question, Amnesty International has still not received any evidence to suggest that those who might be able to supply information about a particular death, (relatives of the deceased, fellow detainees, members of the security forces, or members of the hospital staff), have been asked to give evidence before these "inquiries".

4.1 Failure of the Courts

◆The case of **Mouldi Ben Amor** shows how far the courts, by not swiftly investigating allegations of torture, are maintaining a system where torture is allowed to continue unbridled and become systematic. Mouldi Ben Amor, who was born on 7 February 1951, was Deputy Director of the Tunis Société des Bâtiments. He was arrested in November 1991 and held in *garde à vue* detention beyond the 10-day maximum permitted period. At his first court hearing on 4 December 1991 in Ben Arous he stated that he had been tortured. When his lawyer, who confirmed that Mouldi Ben Amor bore torture marks and walked with difficulty, requested a medical examination, the judge asked for a request in writing. This was duly presented to the court on 6 December. However, it was not until 23 December that the

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procuracy asked the court for the case file and not until 7 January 1992 that they agreed to a medical examination. The case then went back to the court. On 18 January the court authorized a medical examination and two days later, sent a written authorization to 9 Avril Prison. Mouldi Ben Amor was not present at the 22 January hearing; the reason given by the court was that the prison officers had failed to bring him.

However, on 21 January, police officers from Ben Arous had already told his wife that he had died the previous day. They gave no reason for his death. She was taken to the cemetery for his immediate burial, but allowed to see nothing but his face, which was bruised. The death certificate given to his relatives did not state the cause of death, and repeated requests by the family and lawyer for a death certificate stating the cause of death have remained unanswered. An anonymous letter to his family said he had died on 17 January and gave the names of the guards who had beaten him. On 28 January the lawyer wrote to the *Procureur de la République* enclosing a copy of this letter and requesting an autopsy and an inquiry into the circumstances and causes of the death. The family also saw the *Procureur* and confirmed that they wanted an inquiry. Two years of repeated requests by Mouldi Ben Amor's family and lawyer have produced merely the information that a questionnaire had been sent to the prison governor. Neither family nor lawyer have so far managed to obtain any information about the cause of death or the progress of any inquiry.

In a November 1992 reply to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, the Tunisian Government stated that :

"Mouldi Ben Amor was arrested on 20 July 1991 (not on 15 December 1991) [sic] and brought before the court of first instance in Tunis on 21 July 1991... Mr Ben Amor, who was in medical treatment, had to be transferred to Marsa hospital after complications. He died there despite intensive care. A death certificate delivered by a doctor of Marsa hospital confirmed that his body did not show any trace of violence or traumatism and that his death was from natural causes."

[UN Index E/CN.4/1993/46]

The Tunisian Government did not give any further details, including the date of Mouldi Ben Amor's death.

4.2 Failure of Judicial Inquiries

Inquiries held by the *Procureur* or by the investigating judge appear to have merely reinforced the impunity of those who commit human rights violations. Although the Driss Report states that 116 members of the security forces have been punished for perpetrating abuses, in not one of the cases raised by Amnesty International over the last four years is any judicial inquiry known to have resulted in the prosecution of any member of the security services.

Investigations conducted by the *Procureurs de la République* in Tunis and Grombalia were said to have been held into the cases of those who died in custody. No outcome from these judicial inquiries is known.

◆The death after torture in Nabeul Police Station of **Rachid Chammakhi**, who was arrested on 24 October 1991 and died on 28 October 1991 illustrates how judicial inquiries are consistently stalled or

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dropped. The investigating judge at Grombalia opened an investigation into the death of Rachid Chammakhi under CP Articles 201 and 202 (Case No. 13455) against "persons unknown for premeditated voluntary homicide" and interviewed the father of the deceased. The *Procureur de la République* of Grombalia was unable to say whether the investigating judge had also interviewed members of the security forces or doctors and nurses at the hospital. The inquiry was closed on 21 November 1991, apparently after the investigating judge had received a medical report stating that Rachid Chammakhi had died a "natural death following acute renal failure". The *Procureur* could not say why the investigating judge had not received this report immediately after the death of Rachid Chammakhi. The Tunisian External Communication Agency (an agency set up and directly controlled by the Tunisian Government which has frequently been the medium through which responses have been made to concerns raised by Amnesty International) described the concern that Rachid Chammakhi had died after severe torture as "once again a case of outright false information... Rachid Chammakhi was arrested on 22/10/1991 and died the same day [sic]. Two doctors of the Nabeul University Hospital carried out the autopsy and finally declared that Rachid Chammakhi died from kidney failure which had been left unattended for a long time".

In January 1992 Amnesty International received eyewitness testimony from people held at Nabeul Police Station that Rachid Chammakhi had been there on the night of 27 October. They said that he had been wearing only his underclothes and his body bore clear marks of torture and bruises. He had been handcuffed and made to stand in a corner for three hours on end, then taken into a room for interrogation. The sound of beating and screams could be heard for several hours. Afterwards he had collapsed in the bathroom and been taken to hospital. Another witness who reported seeing him in hospital said that his body had been covered in wounds and bruises; he had had difficulty talking and complained of pain. He had died in the early hours of 28 October.

Amnesty International made this testimony public and members of the organization asked the government to reopen the inquiry, but received no response. In July 1992 an Amnesty International delegate visited the *Procureur de la République* of Grombalia who stated that there was insufficient evidence to warrant reopening the case. He refused to give the delegate a copy of the autopsy report that he had quoted to her but said that the family was entitled to request resumption of the inquiry and to study the case file. He was not, apparently, aware that a demand for the inquiry to be reopened had already been made by the family on 20 May 1992. Three days later members of the family who went to the Grombalia lawcourts were told that the case had now been sent for review so the file was no longer available.

However, the case of Rachid Chammakhi has not been reopened. The Minister of Foreign Affairs told Amnesty International on 15 October 1992 that "nothing new has come to add to the dossier to enable it to be reopened according to CPP 121" (which allows cases to be reopened on receipt of new evidence). To the UN Special Rapporteur on Summary and Arbitrary Executions the Tunisian Government responded, in November 1992, that:

"Rachid Chammakhi was arrested on 26 November 1991 [sic] (not on 24 October)...He died in the University Hospital Centre at Nabeul some hours after his arrest. Two medical examinations determined hepatic and renal insufficiency as cause of death. He had not been tortured contrary to allegations...The Public Prosecutor of Grombalia examined the allegations of direct or indirect ill-treatment, but did not find elements to justify a reopening of the case..."(E/CN.4/1993/46 para.576)

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According to Rachid Driss the testimony of fellow detainees who bore witness to the period that Rachid Chammakhi spent in Nabeul Police Station was useless as long as it remained anonymous. However, the *Procureur* of Grombalia made no attempt to question fellow detainees of Rachid Chammakhi nor those witnesses in Nabeul Hospital who testified to seeing marks of torture on him. Amnesty International has never been asked for further information on the testimony submitted to the Tunisian Government and which was ignored. Despite numerous requests, no autopsy report on his death has ever been supplied.

4.3 Tunisian authorities' cover up

The death in custody of Faisal Barakat is, perhaps, the best example of how, despite overwhelming evidence that his death had been caused by torture, no action has been taken to bring the torturers to justice, clarify the circumstances of his death or compensate the family.

◆**Faisal Barakat**, a 25-year-old mathematics and physics student at Tunis University, was a well known member of *al-Nahda* and of the Islamist students' union, the *Union générale tunisienne des étudiants* (UGTE), General Tunisian Students' Union. After 8 March 1991, when he had been interviewed on Tunisian television protesting about the government's handling of clashes with the police which had left several students dead, he went into hiding and was later sentenced *in absentia* to six months' imprisonment. At the beginning of October 1991 his brother Jamal Barakat was arrested by the police, possibly as a means of putting pressure on Faisal to give himself up. Faisal Barakat was arrested on 8 October at the place where he was hiding with four other men. On 17 October his family was told he had died in a traffic accident. His body was said to have been found by the side of a road in Manzil Bouzalfa after an anonymous telephone call to the police. However, Amnesty International had received evidence that he had been arrested and in October 1991 had raised his case as one of death in custody.

The assumption that this death had been caused by torture was vigorously denied by the Tunisian External Communication Agency:

"Should members of the so-called Ennahda movement wear phosphorescent armbands so that cars pay particular attention to them and drivers may not be accused of premeditated murder? And should the Tunisian State be accused every time a Tunisian citizen is the victim of a road accident?"

Amnesty International delegates visiting Tunisia in December 1991 expressed disquiet over Faisal Barakat's death and were told that his father had accepted that he had been killed in a traffic accident. They repeated that the evidence showed that Faisal Barakat had been in detention before his death. During the following month, this statement was confirmed by the testimony of eyewitnesses who maintained that they had seen Faisal Barakat in Nabeul Police Station after his arrest on 8 October. They said that he had obviously already been tortured; he was bare-chested and bound, his face looked bruised and he was bleeding round the eyes. He was taken into the office of the head of the station where the noise of beating and screaming was heard to go on for four hours. Afterwards his apparently lifeless body had been removed and dumped in the corridor. It was contorted into the *poulet rôti* position (where the victim is tied to a horizontal pole with hands and feet crossed over in front of the body and head hanging back). Some water was thrown over him. About 30 fellow-detainees were in the corridor; at first they were not allowed to touch him but later they were permitted to carry him to a chair. It took half an hour for the doctor to be summoned.

This was the only one of these deaths in which the medical certificate was made available to certain people, apparently by the Tunisian authorities, and Amnesty International managed to obtain a copy. When the case was raised by the UN Special Rapporteur on torture the government response, dated 16 December 1991, stated that an "autopsy was carried out by order of the courts by two doctors from the university hospital of Nabeul and their report shows that the body of the victim showed no trace of degrading or inhuman treatment". However, the medical report issued by Nabeul Hospital and dated 11 October 1991, which is in the possession of Amnesty International, lists a number of the external and internal injuries of an "unidentified man" brought in by the Manzil Bouzalfa traffic police. Among the external marks were "bruises on the soles of both feet"; and among the findings of the autopsy was a "small haematoma of the pelvis with perforation of the rectosigmoid junction". Amnesty International sent this certificate to a forensic pathologist who concluded that death could not have been caused by a traffic accident but had resulted from "the forcible insertion of a foreign object at least 6 inches into the anus".

"Prior to his death he had been beaten about the soles of his feet and buttocks. Other scattered injuries to the body are consistent with further blows. The entire pattern of injury is that of a systematic physical assault and very strongly corroborates the allegation of ill-treatment and torture that has been made. The injury pattern as a whole and the injuries to the anus, feet and buttocks in particular are incompatible with involvement in a road traffic accident and this explanation of the death has no credibility in the light of the autopsy findings".

This forensic pathologist's report was presented to the government on 3 March 1992, the day before publication of Amnesty International's report: *Tunisia: Incommunicado Detention and Torture*. In its response, issued on 20 March 1992, the government still insisted that Faisal Barakat had "died in a road accident". In July 1992, four months after the expert opinion had been submitted to the government, the inquiry into the death had still not been resumed. The Minister of the Interior told Amnesty International delegates that he could not concern himself with traffic accidents as every day at least three people were killed on the roads and 30 injured. The Minister of Justice, Sadok Chaabane, and the Principal Presidential Adviser for Human Rights, Iadh Ouederni promised that the inquiry was to be reopened under the charge of the *Procureur de la République* of Grombalia. Rachid Driss also told the delegates that he had requested the reopening of the inquiry. However, when one Amnesty International delegate went to Grombalia on 5 July the *Procureur* informed her that he had never been given the expert opinion on the autopsy report and that the inquiry remained closed. He said that the inquiry had remained open until the end of February as he had been disturbed by the fact that the original autopsy had put the cause of his death in the subjunctive. In February a further autopsy had been carried out which had clearly stated that the individual had died from a road accident. However, he assured the delegate that he was able to reopen the inquiry if fresh evidence appeared.

Government spokespeople later assured Amnesty International that the inquiry into Faisal Barakat's death would be reopened. The Foreign Minister, Habib Ben Yahia, told the organization that the *Procureur de la République* was empowered, under CPP 121, to reopen a closed inquiry and had done so. "The procedure is now following its course". The Tunisian Government also informed the UN Special Rapporteur on extrajudicial, summary or arbitrary executions that the *Procureur de la République* of Grombalia had "recently decided...to reopen the investigations".

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Over twelve months later these investigations into the death of Faisal Barakat are still "ongoing". There is no evidence to suggest that any former detainees, guards, or nurses at the hospital to which Faisal Barakat was taken have yet been questioned.

4.4 Failure to investigate "disappearance"

The deaths in custody listed above may only be a proportion of those who died in custody during 1991 and 1992 when torture of political detainees was most severe and systematic. Amnesty International also raised with the Tunisian Government the deaths of two common-law detainees said to have died in custody after torture. Some people narrowly escaped death and others have been found dead with no explanation of how they came by their fatal injuries. There is also a "disappearance" case where the available evidence strongly suggests that the victim had died in custody.

◆**Kamal Matmati**, born on 3 March 1956, was an employee of the Société générale d'électricité et de gaz (Electricity and Gas Company). On 8 October 1991 his fellow workers witnessed his arrest at his workplace by three plainclothes police. Next day his family went to Gabes police station to find out where he was. They said they knew nothing about the case - although the family reportedly noticed they had a file there with his name on it. They later went to the *Procureur's* office, where they were told that Kamal Matmati had never been arrested. However, he was reportedly seen in Gabes police station a week after his arrest by another detainee, who said that he had been taken to hospital after having been beaten. His family made repeated attempts to extract information from several prison authorities in Tunisia and asked for help from the CSDHLF, but they were unsuccessful. In April 1992 they were informed at Gabes Police Station that he had previously been sentenced *in absentia* to 17 years' imprisonment (Case No.293) and that he was now detained in Tunis. No further details were given on his whereabouts. In October 1993 the government informed Amnesty International that Kamal Matmati had never been arrested and was in hiding.

Amnesty International has received alarming but unconfirmed reports that Kamal Matmati died during his second week in detention and was buried in Boulbab Cemetery in Gabes.

V THE WIDENING CIRCLE OF REPRESSION

The circle of repression in Tunisia has widened: from those who were members or known supporters of unauthorized Islamist or leftist groups it now includes many relatives, sympathizers and friends. People who give money to detainees' families are targeted and shopkeepers and schoolgirls with no known connections with *al-Nahda* have been given custodial sentences for passing small sums equivalent to a few dollars to families without breadwinners. At the same time, germane to the system of human rights violations and the impunity with which the perpetrators are able to act, are the collection of non-custodial methods employed by the security services to restrict the freedom of expression and movement of supposed government opponents. Steps are taken to curtail the freedom of expression of people liable to comment critically on human rights violations: human rights organizations, activists, opposition politicians, lawyers and the press.

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5.1 Control and Harassment

Increasingly those who are released from prison for political offences are subject to *contrôle administratif*, administrative control. This should be given as part of the sentence but increasingly the great majority of released political detainees have become subject to administrative control whether or not it was in their original sentences. They may have to surrender their passports and they are issued with new identity cards which do not state their profession but marks them as 'unemployed' or 'casual workers'. They must report to their local police station at least once a week and to the regional police authority once a month. Often, reporting to the police station entails waiting in offices for hours on end. In practice, this means that those subject to administrative control have their movements so restricted that they find it extremely difficult to get a job and are forced to depend financially on family and friends.

◆ One student who was sentenced to three months for membership of an unauthorised organization was told, after his release in September 1992, to sign each day at the police station even though his sentence had not mentioned administrative control. In April 1993 he was told to sign twice a day between 8am and 6pm, which meant that he was unable to sit his university exams.

◆ A former prisoner of conscience from Tunis released in 1992 had to go to the police station and sign twice a day despite no mention of administrative control in the judgment. Some months later he was required to sign once a day.

Other methods of repression, harassment or control are used against suspected sympathizers of opposition groups and families of those in detention, in hiding or in exile. Relatives face nocturnal house searches in the course of which they and their children may be subjected to humiliating treatment. Children of detainees have been called out of school to be interrogated at police stations. Women relatives have been summoned to the Ministry of the Interior or police stations, detained and subjected to cruel or degrading treatment. Those who wear an Islamic *hijab* (veil) have suffered particular harassment. Women who wear the *hijab* have not been allowed to visit detainees and told to remove the *hijab*; sometimes the veil is said to have been torn off by the prison guards. Veiled women are refused work in government offices and schools; sometimes they have been refused medical treatment. One woman relative of a detainee, summoned to the police station, was told to come back wearing a shorter skirt and without the *hijab*. Another, who does not wear Islamic dress but is the daughter of a detainee, said that she was summoned to the police station and asked why she was not wearing a *hijab*.

Former detainees, relatives and others, including human rights activists and those who send information abroad are harassed in innumerable ways: they may not get passports or have their passports confiscated; business people may not have licences for imports, shops or hotels renewed.

Those who are known to have given information on human rights violations over the past few years have frequently been subjected to this type of harassment. In its report of June 1993, *Tunisia: Women victims of harassment, torture and imprisonment*, Amnesty International considered it no longer safe to give the names of victims of human rights violations.

Lawyers who defend political cases have suffered similar harassment. In mid-1991 the police descended

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on the office of two lawyers, a husband and wife well-known for defending Islamists, and arrested all the clients they found waiting for them. The clients were questioned, sometimes for several hours, then released. One client, who had no known political affiliations but had visited the office simply to enquire about a divorce, was detained overnight then released the following day. Some lawyers who have defended Islamist cases have been unable to obtain or renew their passports for themselves or their families.

5.2 Restrictions on Human Rights Activists and the Press

Over the last years the Tunisian Government has taken a number of steps to limit the possibilities of human rights violations being raised or any criticism of the government being voiced openly. Arrest and harassment, used against individuals and organizations who have questioned government actions, have made the free expression of critical opinion almost impossible. In this way, the repressive system which has allowed human rights violations to flourish has been reinforced.

5.2.1 The *Ligue tunisienne des droits de l'homme* (LTDH), Tunisian Human Rights League

The LTDH, founded in 1977, is one of the oldest existing human rights leagues in the Arab world. For nearly 20 years, even when there were wholesale human rights violations - mass imprisonment, torture, unfair trials and executions - under former President Bourguiba, it was still able to maintain its independent existence, issue communiques and provide some form of appeal independent of government control for victims of human rights violations and their families.

During 1991 the LTDH set up a *Comité des Libertés* to listen to complaints, mostly from families whose relatives had been arrested and held in prolonged incommunicado detention. The League sent a number of lists and complaints to the Ministry of the Interior without receiving any substantive reply. In June and December 1991 it issued two communiques raising the human rights violations taking place in Tunisia, especially prolonged incommunicado detention, torture and deaths in custody. It was the only legal organization to do this.

Two months after its December communique, in February 1992, the Law on Associations was amended. Only the LTDH appears to have suffered as a result of this law. The amendment to the law stated that associations registered as "general" may not refuse membership to anyone who wished to become a member and may not allow people with membership in leading bodies of political parties to hold membership in their leading bodies. For the LTDH there appeared to be a danger that its membership might become flooded by government security agents who would damage its independence. In addition, the clause forbidding political activists from membership on "general" associations' leading bodies seemed directly aimed at the LTDH whose central committee was carefully balanced to represent all legal political parties, with 12 of its 25 members composed of two representatives each from legal political parties.

As a result of the failure to gain acceptance for a compromise solution the LTDH was "declared dissolved" in June 1992 for non-conformity with the new law. Several months later, a decision of the administrative court allowed the LTDH to re-form, but it still faced the problem of conforming with the

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Law on Associations, which has meant that no new inaugural meeting has taken place. In July 1992 Amnesty International stated that it considered the amendments to the Tunisian law on associations to be "in violation of the right of freedom of association guaranteed in international human rights treaties to which Tunisia is a party". The dissolution of the LTDH has meant that it has not been able to issue communiques on human rights violations in Tunisia in 1992 or 1993 and no intervention is apparently taking place on behalf of victims of human rights abuses in Tunisia.

5.2.2 *Comité National de Défense des Prisonniers d'Opinion* (CNDPO) National Committee for the Defence of Prisoners of Conscience

On 2 February 1993 a group of 18 academics, trade unionists and professionals issued a statement expressing concern over the deterioration of human rights in recent months, including the prolongation of *garde à vue*, acts of torture and the imprisonment of prisoners of conscience. They announced the formation of a *Comité National de Défense des Prisonniers d'Opinion* (CNDPO), National Committee for the Defence of Prisoners of Conscience. Their protest was motivated by the arrest, torture and trials of PCOT militants over the past months. On 3 February those who had signed the statement were summoned by the police and interrogated. Most of them were released after a few hours but their coordinator, Salah Hamzaoui, a sociology lecturer, was detained. He was held for four days in *garde à vue* detention isolated in a small cell in Bouchoucha and then moved to 9 Avril Prison. During his detention he had to sleep on the floor; he was not allowed to keep his spectacles and was held with common-law prisoners. According to the Secretary of State for Information, Fethi Houidi, the group were guilty of forming an association without going through the proper channels, of disturbing public order and of spreading false information (by referring to human rights abuses and prisoners of conscience). Salah Hamzaoui was eventually released on 18 February after worldwide appeals. Another member of the committee, an Algerian who had lived in Tunisia for 35 years, was dismissed from his job and told he would have to leave the country; the deportation order was later cancelled.

The case against the 18 is still pending. The practice of keeping such cases pending helps to hinder those involved in such cases or lawyers from taking any action which might encourage the government to press charges against them.

5.2.3 Restrictions on Freedom of the Press

Since 1991 it has become almost impossible to find any article even slightly critical of government policy in the Tunisian press. For a time, in 1990 and the beginning of 1991, two newspapers critical of the government and run by non-authorized organizations, were allowed to publish: *al-Fajr*, Dawn, controlled by *al-Nahda* and *al-Badil*, Change, controlled by the PCOT. Both were suspended from January 1991 and have never been allowed to reopen. The managing director of *al-Badil*, Hama Hammami, was arrested by the police in January 1993 and went into hiding after his release in February.

An independent weekly, *Le Maghreb*, which was considered critical of the government, had to close for financial reasons in December 1990. The director of the paper served nearly all of a 10-month prison sentence for "defaming public order and disseminating false information" after alleging that the Minister of Transport favoured one car company over another; In another case he was fined 1,800 dinars for describing a former member of the government as "mediocre".

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Four opposition newspapers were closed for financial reasons between 1990 and 1992. Some papers were allowed to resume publication in 1992, after the government announced subsidies to help the opposition press. They are able to report on activities of legal opposition parties but still offer no criticism of the government. New rules have supposedly stopped pre-publication censorship, but newspapers are seized after publication if they contain anything defamatory; they then lose the costs of publishing that particular issue. This helps to ensure great caution and self-censorship in political reporting and comment.

During the trials at Bouchoucha and Bab Saadoun Military Courts, which were attended by numerous foreign observers, journalists from most Tunisian papers were present and certain papers published full reports of the case. On the first day of the trial *Al-Sabah*, the Morning, and *Le Temps*, Time, its sister paper, mentioned defendants' testimonies that they had signed police statements from fear or after threats; Hedi Ghali, the first prisoner to be interrogated, was recorded as saying that he was unable to walk into the office of the investigating judge. However, nothing was included in the newspapers on subsequent days to suggest that any detainee had been ill-treated, although nearly every defendant reported torture in the custody of the police or gendarmerie, some even needing to be supported or carried into the courtroom.

On several occasions between 1991 and 1993, editions of the French daily *Le Monde* which included articles critical of Tunisian policy were banned from distribution in Tunisia. One such edition contained a public statement by 200 Tunisian intellectuals criticising the decline in human rights in Tunisia.

This heavy censorship and control of the press means that Tunisian newspapers have never - or only most obliquely - been able to mention gross human rights violations over the past three years, and have even less been able to fulfil the task of the press in criticising the Tunisian Government for the human rights violations it has been committing.

CONCLUSION

In making this report public, Amnesty International makes no new recommendations to the Tunisian Government beyond calling for an immediate end to human rights violations.

Amnesty International has made many detailed recommendations to the Tunisian Government in recent years, but violations continue and the circle of repression widens.

The organization now feels unable to recommend that the Tunisian Government set up any new human rights bodies since those in place so signally fail to achieve their purpose.

Prolonged incommunicado detention is still hidden by falsified arrest dates; ill-treatment and torture remains widespread and uninvestigated. Over a thousand political prisoners, sentenced after unfair trials, remain in Tunisian prisons; many of them are prisoners of conscience. Thousands of released political prisoners, their families, and other government critics have suffered restrictions in their rights to expression, association and movement laid down in the Universal Declaration of Human Rights. Amnesty International is now placing the information in this report on public record and is calling on the Tunisian government to take immediate steps to end the violations of the last three years.

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Specifically, Amnesty International is drawing attention to recommendations it has made to the Tunisian authorities in the following reports:

>>Tunisia: Summary of Amnesty International's Concerns

(AI Index: MDE 30/03/90)

>>Tunisia: Deaths in Custody

(AI Index: MDE 30/22/91)

>>Tunisia: Prolonged Incommunicado Detention and Torture

(AI Index: MDE 30/04/92)

>>Tunisia: Heavy Sentences after Unfair Trials

(AI Index: MDE 30/23/92)

>>Tunisia: Women Victims of Harassment, Torture and Imprisonment

(AI Index: MDE 30/02/93)