

**TUNISIA:**  
**Human Rights Crisis of 1987**

A report of the  
**Minnesota Lawyers International Human Rights Committee**  
430 Marquette Avenue, Suite 402  
Minneapolis, Minnesota 55401

January 1988

**c Copyright 1988 by the  
Minnesota Lawyers International Human Rights Committee**

**All Rights Reserved.**

**Printed in the United States of America.**

**Bound copies available for \$7.00**

## TABLE OF CONTENTS

|  |           |
|--|-----------|
| <b>PREFACE</b>   | <b>i</b>  |
| <b>I. INTRODUCTION</b>   | <b>1</b>  |
| <b>II. OFFICIAL RECOGNITION OF HUMAN RIGHTS IN TUNISIA</b>                                     | <b>7</b>  |
| <b>A. Ratification of the International Covenant on Civil and Political Rights</b>             | <b>7</b>  |
| <b>B. Constitutional Proclamations of Human Rights</b>   | <b>8</b>  |
| <b>C. The Tunisian Government's Report to the Human Rights Committee of the United Nations</b> | <b>10</b> |
| 1. Article 2: Respect for Human Rights and Guarantees Concerning Remedies                      | 10        |
| 2. Article 7: Prohibition of Torture and Treatment Harmful to the Individual                   | 11        |
| 3. Article 9: Liberty and Security of Person   | 12        |
| 4. Article 10: System of Detention   | 12        |
| 5. Article 14: Safeguards for the Administration of Justice                                    | 13        |
| 6. Article 17: Privacy   | 14        |
| 7. Article 18: Freedom of Thought, Conscience and Religion                                     | 15        |
| 8. Article 19: Freedom of Opinion and Expression   | 15        |
| 9. Article 21: Right of Assembly   | 16        |
| 10. Article 22: Freedom of Association   | 17        |
| 11. Establishment of a Tunisian League for Human Rights  | 18        |

|   |           |
|---|-----------|
| <b>III. THE HUMAN RIGHTS SITUATION IN TUNISIA</b>   | <b>19</b> |
| <b>A. Features of Tunisian Law that Allow for the Violation of Human Rights</b>           | <b>19</b> |
| 1. The Absence of Constitutional Safeguards   | 19        |
| 2. Pre-trial Detention ( <i>La Détention Provisoire</i> )                                 | 20        |
| 3. The State Security Court ( <i>Cour de Sûreté de l'Etat</i> )                           | 21        |
| 4. The Press Code and The Law of Defamation   | 24        |
| 5. The Law of Association and The Law on Public Gatherings                                | 28        |
| <b>B. Human Rights Reports: Detention, Torture, Censorship and Harassment</b>             | <b>31</b> |
| 1. Interviews With Families and Acquaintances of Detained Religious and Student Activists | 31        |
| 2. Human Rights Leaders and Attorneys   | 37        |
| 3. Members of the Political Opposition  | 39        |
| 4. Reports of Human Rights Violations   | 40        |
| <b>IV. HUMAN RIGHTS ORGANIZATIONS IN TUNISIA</b>  | <b>43</b> |
| <b>A. The Tunisian League for the Defense of Human Rights</b>                             | <b>43</b> |
| 1. Creation   | 43        |
| 2. Charter and Statute  | 44        |
| 3. Organizational Structure and Membership  | 44        |
| 4. Objectives   | 47        |
| 5. Daily Activities   | 47        |
| <b>B. The Association for the Protection of Human Rights and Public Liberties</b>         | <b>51</b> |
| 1. Creation   | 51        |

|              |   |           |
|--------------|---|-----------|
| 2.           | Charter and Statute                                     | 53        |
| 3.           | Organizational Structure and Membership                 | 53        |
| 4.           | Objectives  | 55        |
| 5.           | Daily Activities  | 55        |
| <b>V.</b>    | <b>SUMMARY OF FINDINGS AND RECOMMENDATIONS</b>          | <b>59</b> |
| A.           | The Recognition of Human Rights Standards<br>in Tunisia | 59        |
| B.           | The Human Rights Situation in Tunisia                   | 60        |
| C.           | Human Rights Organizations in Tunisia                   | 64        |
| <b>VI.</b>   | <b>CONCLUSION</b>                                       | <b>65</b> |
| <b>VII.</b>  | <b>EPILOGUE</b>   | <b>67</b> |
| <b>VIII.</b> | <b>SOURCES</b>  | <b>69</b> |



## PREFACE

This report gives an account of human rights conditions in Tunisia in July 1987. The report is based on information obtained by John Borman and Inger Tangborn (hereinafter "the delegation") of the Minnesota Lawyers International Human Rights Committee during a fact-finding mission in Tunisia from July 26 to August 1, 1987.

The fact-finding mission was authorized by the Minnesota Lawyers International Human Rights Committee for three reasons. The first reason was to investigate human rights abuses in Tunisia that were being reported to the Committee by Tunisians living or visiting Minnesota and confirmed by reports of human rights organizations such as Amnesty International and the world press.

The second reason was to examine the legal system in Tunisia that was reportedly allowing such abuses to take place, in many cases, under the color of law. There was a need to examine evidence of violations firsthand and to determine whether the reported violations of human rights had become institutionalized within the legal system such that no effective means of redress remained available to victims.

The third reason was to investigate allegations that the protection of

human rights in Tunisia was being jeopardized by the creation of an organization called the Association for the Protection of Human Rights and Public Liberties, which seemed to threaten the continued existence and independence of the internationally recognized Tunisian League for the Defense of Human Rights. Several reports indicated that the new human rights organization was nothing more than a creation of the Tunisian Government whose purpose was to discredit and destroy the independent League.

Prior to undertaking the fact-finding mission to Tunisia, the delegation conducted a study of the Tunisian Constitution and various Tunisian laws in conjunction with a review of materials issued by the United Nations, the United States Department of State, Human Rights Internet, Amnesty International, the International Federation of Human Rights, and various newspapers.

Once in Tunisia, the delegation established immediate contact with the Tunisian Bar Association, which arranged for the observation of trials and participation in a round table discussion of various aspects of the Tunisian legal system. The delegation was also able to arrange for interviews with leaders of the Tunisian League for the Defense of Human Rights and the Association for the Protection of Human Rights and Public Liberties. Finally, the delegation was able to meet with the families of several detainees, which allowed for the direct confirmation of human rights abuses and the receipt of additional unconfirmed reports concerning human rights abuses in Tunisia.

Although appropriate diplomatic requests for meetings were made, both before and after the delegation's arrival in Tunisia, the Tunisian Government did not provide an opportunity for the delegation to interview ministers or any other representative of the Government.

This report was edited by Barbara A. Frey, Wood R. Foster, Jr. and Arthur C. Benson of the Minnesota Lawyers International Human Rights Committee. The authors wish to express their appreciation to the law firm of Robins, Zelle, Larson & Kaplan for its generous support of pro bono work. Special thanks are given to Gerald Dillon, Jill Ostrowski, Vickie Inget, Carole Hansen, and Janet Liliemark for their assistance with this report. Finally, prior to departure, the delegation received sound advice from Steven Carlson, a former resident of Tunisia and current member of the Minnesota Lawyers International Human Rights Committee, which proved to be particularly helpful during the fact-finding mission.

John Borman

Inger Tangborn



## **I. INTRODUCTION**

The detention on April 28, 1987, of Khemais Chamari, the Chairman of the Tunisian League for the Defense of Human Rights, was one in a series of detentions of leaders and members of opposition parties, religious movements and trade unions in Tunisia. The arrest of Khemais Chamari, in particular, raised serious questions about the respect for human rights and the future of political stability in Tunisia.

Tunisia, the smallest of the North African countries (about the geographical size of Missouri), is located between Libya and Algeria. It gained independence in 1956 after 75 years as a French protectorate.

Habib Bourguiba led the struggle for independence and ruled the country until he was removed from power in a constitutional coup on November 7, 1987.<sup>1</sup> While the Constitution calls for the president to be elected for a five-year term and permits unlimited reelection, Bourguiba had made himself President-For-Life by means of a constitutional amendment in 1974. In the early years of his rule, President Bourguiba was responsible for significant reforms that led the former colony on the road to significant economic

---

<sup>1</sup> See Part VII., Epilogue.

development. By adopting pro-Western policies, including the recognition of basic human rights, Bourguiba became a valuable friend of France and the United States. In recent years, however, Tunisia began to experience an economic downturn and political upheaval. In response, Bourguiba seemed to abandon his commitment to reform and, instead, adopted policies which led to allegations of widespread human rights violations.

President Bourguiba's early recognition of basic human rights led to the creation of the Tunisian League for the Defense of Human Rights in 1977. A unique institution in the Arab world, the League has over three thousand members and receives approximately one thousand requests per year to intervene in human rights cases. Although the League has achieved success in working with the Government to resolve a number of domestic political crises, it has actively opposed the Government's policy of prolonged detention of dissidents without charge. It has also pressed the Government to revise restrictive laws regulating freedom of expression and association.

In an apparent reaction to recent League activities, the Government detained its Chairman, Khemais Chamari, on April 28, 1987. Although released for health reasons, he remained accused of "disseminating false information and defamation of public order and public institutions." The accusations appeared to be based on interviews given by Chamari to foreign journalists and his contacts with international human rights organizations.

The deterioration of the human rights situation in Tunisia appears to reflect an atmosphere of political uncertainty that stemmed from Bourguiba's advanced age, his leadership style and the restrictions placed on political parties. Prior to his removal, Bourguiba, who is well past 80 years old, had been declining in health and unable to practice the kind of personal rule that had marked his Presidency. As a result, political discussions in Tunisia began

to focus on who would succeed Bourguiba as President. Under the provisions of the Constitution, the Prime Minister automatically accedes to the Presidency in the event of death, resignation or absolute disability. Under Bourguiba, however, anyone who displayed independence or attracted too much popular support found themselves banished. For example, Prime Minister Mohammed Mzali was abruptly dismissed by Bourguiba in August 1986 and subsequently fled the country. His replacement was Rachid Sfar, a veteran of several Cabinet posts, but a man perceived as lacking in charisma and without a political base of his own.<sup>2</sup>

Not only did Bourguiba stifle the development of political leadership in recent years, he also suppressed political activity that appeared to threaten his continued rule. Although Tunisia is nominally a constitutional democracy, Bourguiba's Destourian Socialist Party (PSD) has always enjoyed political dominance. In order to preserve that monopoly, Bourguiba instituted a series of government crackdowns over the past several years that virtually decimated opposition parties, trade unions and student movements. The largest opposition party -- the Movement of Social Democrats (MDS) -- and two smaller parties -- the Popular Unity Movement (MUP) and the Popular Unity Party (PUP) -- have had their access to public media severely curtailed while party officials have been subjected to official harassment. For example, MDS leader Ahmed Mestiri was jailed in the spring of 1986 after a public demonstration opposing the United States bombing of Libya on charges that he was disturbing the public peace. As a result of his detention, he was effectively prevented from participating in the November 1986 elections. With the restrictions on public expression, none of the opposition parties have had the opportunity to distinguish their policies from the ruling PSD. Despite its overwhelming victory in November 1986, the PSD has lost much of its public

---

<sup>2</sup> Prime Minister Sfar was replaced by General Zine el Abidine Ben Ali, the current President, on October 2, 1987.

credibility.

The General Union of Tunisian Workers (UGTT) has also had a troubled relationship with the Government. An umbrella labor organization, similar to the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the UGTT once had a very close working relationship with the Government and held a number of seats in the National Assembly. Relations became strained after harsh Government suppression of labor riots in 1978 and as younger union activists asserted themselves within the union. In 1986, the Government launched a crackdown that resulted in the detention of virtually the entire UGTT leadership and its replacement by officials appointed by the Government.

The decline of political parties and labor unions has created an opening for the Islamic movement. It is important to note that the Islamic movement in Tunisia is distinguishable from that associated with the Shiite movement in Iran. The vast majority of Tunisians espouse, at least in principle, a moderate form of Sunni Islam. Many Tunisians, however, have reacted against the secularist implications of Bourguiba's policies and now emphasize the need to return to the teachings of the Koran in order to maintain organization and discipline in society. The Islamic Tendency Movement (MTI) is a leading force of Islamic thought in Tunisia at the present time, although the organization is semi-clandestine, not legally sanctioned and more conservative in its theology than the vast majority of Sunni adherents in the general population. The MTI has drawn an increasing amount of strength from university campuses, among faculty and students alike. Its several applications to the Government for official recognition as a political party have been rejected and the MTI's application for status as a "cultural association" has languished.

Unlike nearby Egypt, which granted a limited voice to Islamic fundamentalists, the Government opted to accuse the MTI of promoting an Iranian-style movement in Tunisia. Under the direction of Zine el-Abidine Ben Ali, the former Minister of the Interior (now President), the Government carried out a massive crackdown against leaders, members and sympathizers of the MTI over the past year. After a four-week trial before the State Security Court that began on August 27, 1987, 56 MTI members were sentenced to prison, two members were hanged, and MTI leader, Rachid Ghannouchi, was sentenced to life imprisonment.

This report consists of a review of the Tunisian Government's official position regarding human rights and the current human rights situation in Tunisia, including specific reports of human rights violations. This report also discusses the human rights associations currently in existence in Tunisia and their efforts to safeguard human rights. Finally, this report presents a summary of findings and recommendations based upon information obtained during the fact-finding mission.



## II. OFFICIAL RECOGNITION OF HUMAN RIGHTS IN TUNISIA

### A. Ratification of the International Covenant on Civil and Political Rights

Tunisia is a party to a number of international human rights covenants and conventions, including the International Covenant on Civil and Political Rights (hereinafter, "Covenant").<sup>3</sup>

In accordance with Article 40 of the Covenant, the Tunisian Government has reported to the United Nations that international human rights treaties are fully implemented in Tunisia. In its second periodic report to the Human Rights Committee of the United Nations, the Government explained that:

Tunisian law has no particular procedure for incorporating a ratified convention into the political system, since the ratification by itself is equivalent to incorporation.<sup>4</sup>

---

<sup>3</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 11.

<sup>4</sup> Ibid.

The same report notes that duly ratified treaties shall take precedence over internal laws and explains that:

Once ratified by the Chamber of Deputies, these instruments are not only considered to be an integral part of Tunisian domestic legislation, but also to carry greater legal weight than laws. As a result, laws contrary to a duly ratified convention cannot be enforced. Similarly, domestic laws subsequently to the convention must conform to it. Tunisian judges are also required to apply the provisions of a duly ratified convention and to disregard any law contrary to it.<sup>5</sup>

In addition, the report states that:

[T]he rights recognized by the Covenant are prescribed by the Constitution, which is at the top of the hierarchy of legal rules, and consequently no provisions at the lower level, not to mention any interpretation, could violate the rights proclaimed by the Constitution.<sup>6</sup>

It follows therefore that the articles of the Covenant and the articles of the Tunisian Constitution constitute controlling legal provisions regulating fundamental human rights in Tunisia.

#### **B. Constitutional Proclamations of Human Rights**

The Preamble to the Constitution of 1 June 1959 proclaims the will of the Tunisian people "to remain faithful to human values, which constitute the

---

<sup>5</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 11.

<sup>6</sup> Ibid., para. 45.

common heritage of peoples attached to human dignity, justice and liberty."<sup>7</sup>

The fundamental rights and freedoms of the individual are set forth in Articles 5 through 17 of the Constitution.<sup>8</sup> Of particular relevance are the following:

Article 5

The Tunisian Republic guarantees the inviolability of the human person and freedom of conscience, and protects the free exercise of beliefs, with reservation that they do not disturb the public order.

Article 6

All citizens have the same rights and the same duties. They are equal before the law.

Article 7

The citizens exercise the plenitude of their rights in the forms and conditions foreseen by the law. The exercise of these rights cannot be limited except by a law enacted for the protection of others, the respect for the public order, the national defense, the development of the economy and social progress.

Article 8

The liberties of opinion, expression, the press, publication, assembly and association are guaranteed and exercised within the conditions defined by the law.

The right of unionization is guaranteed.

---

<sup>7</sup> Constitution (la Constitution de la République Tunisienne) 1959, revised 1976, in *Constitutions of the Countries of the World* (English Translation) (A. P. Blaustein and G. H. Flanz, ed., Oceana Publications, July 1977.)

<sup>8</sup> Ibid.

Article 9

The inviolability of the domicile and the secrecy of correspondence are guaranteed, save in exceptional cases foreseen by the law.

Article 12

Every accused person is presumed innocent until his guilt is established in accordance with a procedure offering him guarantees indispensable for his defence.

**C. The Tunisian Government's Report to the Human Rights Committee**

Governments which have signed and ratified the International Covenant on Civil and Political Rights are required to submit periodic reports on measures they have taken to ensure that the wide range of rights guaranteed by the Covenant are in practice enjoyed by their citizens. These reports are reviewed by the Human Rights Committee of the United Nations, which is an elected body of eighteen experts who serve in a personal capacity and are nationals of states which have ratified the Covenant.

Tunisia submitted its second periodic report to the Human Rights Committee on February 27, 1986. The following extracts from the second periodic report gives the Tunisian Government's official view of the observance of fundamental human rights in Tunisia.

1. Article 2: Respect for Human Rights and Guarantees  
Concerning Remedies

In its periodic report, Tunisia recognizes that, in accordance with Article 2 of the Covenant, it is obligated to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, as well as remedies against any

violation of these rights.<sup>9</sup>

Tunisia reports that, by means of progressive development, it had introduced procedures to give full effect to human rights, whether provided for by the Constitution, by the International Covenant on Civil and Political Rights, or by the various human rights conventions which it has ratified.<sup>10</sup>

2. Article 7: Prohibition of Torture and Treatment Harmful to the Individual

Tunisia recognizes that Article 7 of the Covenant seeks to protect the individual from being subjected to any kind of violence, whether by a private individual or by a public official.<sup>11</sup>

Tunisia points out that the Penal Code of Tunisia prescribes severe penalties, including imprisonment and substantial fines, for the perpetration of violence upon any individual by a public official or similar person.<sup>12</sup> The report states that the Tunisian Government has tabled a bill amending some articles of the Code of Penal Procedure that would restrict police custody to a very brief period required for investigation and allow detainees the right to request a medical examination during or on the expiration of the period of detention.<sup>13</sup>

---

<sup>9</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 16.

<sup>10</sup> *Ibid.*, para. 20.

<sup>11</sup> *Ibid.*, para. 57.

<sup>12</sup> *Ibid.*, para 58.

<sup>13</sup> *Ibid.*, para. 59.

### 3. Article 9: Liberty and Security of Person

Tunisia recognizes that Article 9 of the Covenant prohibits any arbitrary arrest or detention.<sup>14</sup>

Tunisia reports that police officers are authorized, as a part of their function, to take any measures necessary in conducting inquiry proceedings. Article 12 of the Code of Penal Procedure, as interpreted in the case law and in practice, allows police officers to conduct inquiries within "a reasonable period" of the arrest or detention.<sup>15</sup>

Tunisia also reports, however, that there has been a problem with the interpretation of what "a reasonable period" means. In order to do away with all interpretations, a bill limiting to four (4) days the period of custody that can be imposed by judicial police officers was drafted by the Government and presented to the Chamber of Deputies. Under the bill, the period could be extended only on the express authorization of the Public Prosecutor to whom such officers are responsible. Only one such extension could be authorized and for the same period.<sup>16</sup> Unfortunately, the delegation learned that this bill has been tabled by the Chamber of Deputies.

### 4. Article 10: System of Detention

Tunisia recognizes that, under Article 10 of the Covenant, persons deprived of their liberty shall be treated with humanity and with respect for

---

<sup>14</sup> U.N. doc. CCPR/C/28/Add.5/Rev. 1, para. 68.

<sup>15</sup> *Ibid.*, para. 69.

<sup>16</sup> *Ibid.*, para. 70.

the inherent dignity of the human person.<sup>17</sup>

The Government reports that Tunisian law has taken account of these guarantees in the regulations that govern prison administrators concerning the conditions of prisons and the execution of sentences. The administration of prisons is organized under Decree No. 60-85 of March 16, 1960, which defines the competence of the prison's administration and grants a number of rights to detained persons, in particular, the right to receive visits, the right to confer with their attorneys, the right to medical care and the right to remuneration for the work that they perform while in prison.<sup>18</sup>

5. Article 14: Safeguards for the Administration of Justice

Tunisia recognizes that Article 14 of the Covenant provides for a set of safeguards for the administration of justice. One of those safeguards is the impartiality and the independence of the judiciary.<sup>19</sup>

Tunisia reports that the impartiality and independence of the judiciary are embodied in the Constitution and in legislation on the administration of justice. The Government also reports that the organization of the judiciary in Tunisia is based on the principle of "the separation of powers." Article 65 of the Constitution, which is found in the chapter entitled "The Judicial Power," provides that "[t]he judicial authority is independent; the magistrates in the exercise of their functions are not subjected to any authority other

---

<sup>17</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 80.

<sup>18</sup> *Ibid.*, para. 81.

<sup>19</sup> *Ibid.*, para. 90.

than the law."<sup>20</sup>

#### 6. Article 17: Privacy

Tunisia recognizes that, under Article 17 of the Covenant, no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honor and reputation.<sup>21</sup>

Article 9 of the Tunisian Constitution guarantees the inviolability of the home, except in special cases provided by law. Tunisia reports that this guarantee is insured by a number of legislative provisions. The Penal Code penalizes those entering or remaining on premises used for habitation against the will of the owner. The penalty is even more severe if the offense is committed during the night, in a group, by breaking and entering, or if the perpetrators are armed. Article 102 of the Penal Code prescribes penalties for public officials or persons in a similar capacity, who, without observing the required formalities or without any demonstrable need, enter the residence of a private person against the person's will.<sup>22</sup>

Tunisia reports, however, that the principle of the inviolability of the home is subject to a number of exceptions stipulated by law for the maintenance of public order, safety or for the enforcement of judicial decisions. One exception is set forth in Article 93 of the Code of Penal Procedure, which permits searches to be carried out in all places where there may be objects whose discovery would be useful in ascertaining the

---

<sup>20</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 92.

<sup>21</sup> *Ibid.*, para. 109.

<sup>22</sup> *Ibid.*, para. 112.

truth. All searches must be accomplished by day, except in the case of a gross crime or offense or when there are grounds for entry, even without the consent of the master of the house, for the purpose of apprehending an accused person or arresting an escaped prisoner.<sup>23</sup>

7. Article 18: Freedom of Thought, Conscience and Religion

Tunisia recognizes that Article 18 of the Covenant guarantees freedom of thought, conscience and religion.<sup>24</sup>

The Government reports, however, that there are limits to this guaranteed freedom set forth in Article 5 of the Constitution, which provides: "The Republic of Tunisia guarantees the dignity of the individual and freedom of conscience, and protects the free exercise of religion, provided that it does not disturb the public order" (emphasis added).<sup>25</sup>

8. Article 19: Freedom of Opinion and Expression

Tunisia recognizes that Article 19 of the Covenant guarantees freedom of opinion.

The Government reports that this freedom is guaranteed under Article 8 of the Constitution, which concerns not only the individual expression of opinions, but also their dissemination by all communications media, with a

---

<sup>23</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 112.

<sup>24</sup> *Ibid.*, para. 114.

<sup>25</sup> *Ibid.*

view to making others aware of them.<sup>26</sup>

Tunisia reports that the press represents the mainstay of the freedom of opinion and expression. Neither Act No. 75-32 of April 28, 1975, enacting the Press Code, nor applicable legislation contains any provisions restricting the freedom to seek, receive or disseminate information of any kind. The creation of a new periodical is subject to prior notification to the Ministry of Interior, and refusal of such a permit may be appealed to the Administrative Tribunal. The publication, introduction and circulation of foreign periodicals in Tunisia require no prior authorization. Foreign periodicals may be banned, however, by the Minister of the Interior, on the recommendation of the Minister for Information, where they present a danger to public order or national security.<sup>27</sup>

Tunisia also reports that national practice regarding the freedom of the press is increasingly liberal. Information, ideas and publications are reported to circulate freely. Some twenty (20) national publications belonging mostly to private persons or to publishing houses serve as a means of expression for the various trends of thought, including seven (7) publications belonging to opposition movements.<sup>28</sup>

#### 9. Article 21: Right of Assembly

Tunisia recognizes that Article 21 of the Covenant guarantees the right of peaceful assembly. Freedom of assembly is guaranteed by Article 8 of the

---

<sup>26</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 117.

<sup>27</sup> *Ibid.*, para. 119.

<sup>28</sup> *Ibid.*, para. 121.

Constitution.<sup>29</sup>

Although the freedom of association is guaranteed by the Constitution, Tunisia reports that it is to be exercised in the manner stipulated by law. Article 1 of Act No. 69-4 of January 24, 1969 relates to public meetings, processions, parades, demonstrations and assemblies. The law stipulates that public meetings may be held freely and without prior authorization, but that there are a number of formalities to be observed. Advance notice must be given for each meeting and there must be a committee responsible for maintaining order and preventing any breach of the law. The responsible authorities may prohibit, by decree, any meeting likely to be detrimental to public safety or to law and order. Such decrees are subject to appeal to the Administrative Tribunal on the grounds of Government misuse of power. The Government is authorized to assign an official to attend each public meeting. The official is authorized to declare the meeting dissolved at the request of the responsible committee or if clashes or acts of violence occur. Processions and parades may be held freely, but prior notice is required. The authorities may prohibit by decree any demonstration likely to be detrimental to public safety or law and order.<sup>30</sup>

10. Article 22: Freedom of Association and Freedom to Form  
and Join Trade Unions

Tunisia recognizes that Article 22 of the Covenant guarantees freedom of association and freedom to form and join trade unions. Article 8 of the Tunisian Constitution guarantees "freedom of association" and "the right to

---

<sup>29</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 128.

<sup>30</sup> *Ibid.*, para. 128.

form and join trade unions."<sup>31</sup>

The Government makes reference to Act. No. 59-154 of November 7, 1959, which defines the conditions in which the freedom of association may be exercised. Article 2 of the Act provides for restrictions similar to those referred to in Article 22(2) of the Covenant by stipulating that "the cause and object of such an agreement shall, under no circumstances, be contrary to the law or to morals, likely to disrupt public order or detrimental to the integrity of the national territory or to the republic form of the State." The formation of an association is subject to the completion of a number of formalities such as the submission of a declaration indicating the name, purpose and headquarters of the association; the full name, date of birth, and nationality of each of its officers; and, copies of its regulations. Its legal existence is subject to authorization by the authorities. The political parties permitted in Tunisia derive their authorization from this Act.<sup>32</sup>

#### 11. Establishment of a Tunisian League for Human Rights

In its periodic report, Tunisia made specific reference to the Tunisian League for the Defense of Human Rights and its establishment in 1977 for the purpose of defending human rights in Tunisia. The report states that the League collaborates with the public authorities on questions related to the defense of human rights.<sup>33</sup>

---

<sup>31</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 130.

<sup>32</sup> *Ibid.*, para. 131.

<sup>33</sup> *Ibid.*, para. 12.

### **III. THE HUMAN RIGHTS SITUATION IN TUNISIA**

#### **A. Features of Tunisian Law That Allow for the Violation of Human Rights**

The delegation's examination of the Tunisian legal system was greatly facilitated by the Tunisian Bar Association. A three-hour round-table presentation by lawyers and law professors was arranged by the Bar Association on July 29, 1987. Presentations were made on various aspects of the Tunisian legal system, with a question and answer period following each presentation. The Bar Association also arranged for the observation of two separate trials by the delegation: one involving the trial of 39 young people and another involving the trial of the publisher of a banned newspaper, both of which will be reported below.

##### **1. The Absence of Constitutional Safeguards**

One of the topics of discussion by members of the Tunisian Bar Association at the round table was the absence of constitutional safeguards in Tunisia. Although the Tunisian Constitution contains guarantees of numerous civil and political rights, which may be asserted on behalf of an individual, the enforcement of those rights is solely within the discretion of the judge

or magistrate presiding over the case. Government actions may be reviewed by the Administrative Tribunal in certain limited circumstances, such as cases involving a refusal to allow the publication of a new periodical or the prohibition of a public meeting, but the review is limited to determining whether the Government misused its authority.<sup>34</sup> There exists in Tunisia no judicial body such as the French Constitutional Council or the U.S. Supreme Court which makes final determinations regarding the constitutionality of actions by the Government. As a result, individual Tunisians theoretically enjoy a wide range of liberties set forth in the Constitution, but in practice have no effective means of seeking enforcement of those constitutional rights.

## 2. Pre-Trial Detention (*La Détention Provisoire*)

The Tunisian Code of Criminal Procedure contains no provisions whatsoever pertaining to the maximum duration of pre-trial or even pre-indictment detention. As a result, suspects are often held for periods of weeks or months without the right to contact their families or lawyers. Most of the reported incidents of torture occurred during either *garde-à-vue* (*incommunicado*) detention, *préventive* detention, or *le rasle* detention (the detention of large groups of demonstrators or the detention of families and friends of suspects without probable cause).

*Garde-à-vue* detention, an institution inherited from the penal law system in France, is wholly unregulated in Tunisia. Suspects may be apprehended in their homes, at their place of employment, or elsewhere and detained for long periods of time with no obligation on the part of the authorities to notify the detainee's family or lawyer. Whereas in France the period of *garde-à-vue* detention is limited to 48 hours, the delegation found

---

<sup>34</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, paras. 119, 128.

that certain Tunisian detainees were seized and held during the spring and summer of 1987 for periods of two to four months without their families or lawyers being notified of their whereabouts.<sup>35</sup> It is reported that Rachid Ghannouche was arrested on March 9, 1987 and held *garde-à-vue* until August 13, 1987, when he was finally brought before the investigating magistrate.<sup>36</sup>

*Détention préventive*, or preventive detention, is much like *garde-à-vue* in that it can last for months, but is preceded by the issuance of a warrant by the presiding magistrate in an investigation. Normally, it is to be invoked for specific reasons, such as to prevent the fleeing of suspects before formal charges can be brought, to prevent threats to witnesses from being carried out, and other such reasons.<sup>37</sup> The delegation found one instance, however, where preventive detention was used as a justification for an earlier arrest attempt that went awry.<sup>38</sup>

### 3. The State Security Court (*Cour de Sûreté de l'Etat*)

The State Security Court is an institution of grave concern to human rights in Tunisia.

---

<sup>35</sup> See: The cases of Mabruk Zran, Hashmi Hamdi, Ali Fikih-Romdhane, *infra*. See also: O. Sidem-Poulain, *Rapport de Mission des 24-28 Avril 1987 à Tunis* (Fédération Internationale des Droits de l'Homme), at 19.

<sup>36</sup> O. Sidem-Poulain, *Rapport de Mission du 31 août au 7 septembre et des 14-21 septembre, 1987* (Fédération Internationale des Droits de l'Homme, Procès des Islamistes Tunisiens devant la Cour de Sûreté de l'état).

<sup>37</sup> Round-table discussion of July 29, 1987, with members of the Tunisian Bar Association.

<sup>38</sup> See: The case of Tammaam al-Uсбуai, *infra*.

The State Security Court was created in 1968<sup>39</sup> during a Government attempt to suppress certain leftist movements in Tunisia. It is composed of five judges, over whom presides the Tunisian *procureur général* or attorney general. The president of the court is assisted by four *assesseurs* (assistant judges), two of whom are judges of the *Cour de Cassation* (Supreme Court) and nominated with recommendation of the Justice Minister. The other two are members of the National Assembly and nominated upon recommendation of the President.<sup>40</sup>

Both the constitutionality and the impartiality of the State Security Court have been questioned by lawyers, law professors and legal writers in Tunisia. Considerable attention was paid to these questions by law professors and lawyers during the round-table arranged by the Tunisian Bar Association for the delegation.

One writer asserts that Article 65 of the Constitution guarantees the independence of the judiciary, yet the independence of the State Security Court is fictitious. Moreover, the selection of two members of the National Assembly by the President to serve on the State Security Court is in violation of the principle of separation of powers. Finally, the objectivity of the National Assembly members is questioned, since history has shown that members have normally been selected on the basis of their outspokenness against the alleged crimes.<sup>41</sup>

The exceptional jurisdiction of the State Security Court is also

---

<sup>39</sup> Law No. 68-17 of 2 July 1968.

<sup>40</sup> Chkir, Hafidha, *Quelques Réflexions sur la Cour de Sûreté de l'Etat*, 1980 Rev. Tunis. Dr. at 191.

<sup>41</sup> *Ibid.* at 206.

questionable since the Court may not act except on the initiative of the Attorney General and by written order of the Minister of Justice. Furthermore, history has shown that, except for the trials of the labor leaders in 1978, the State Security Court has devoted itself exclusively to the trials of unrecognized political movements. Moreover, the law creating the State Security Court does not define what constitutes internal state security. The Tunisian Penal Code enumerates the various crimes which constitute a threat to the country's external security, but there is no reference to internal security. As a result, most crimes charged as being threatening to internal security are of a political nature.<sup>42</sup>

The difficulty of representing defendants before the State Security Court is also a matter of concern. Article 17 of the Law of July 2, 1968 provides that any attorney who oversteps "the limits of his obligation" may be cited immediately by the court's presiding judge for contempt of court. These sanctions may be imposed by the judge without the attorney being allowed to plead in his own defense.<sup>43</sup> This aspect of the State Security court was of particular concern to the lawyers and law professors who presented their views to the delegation at the round-table arranged by the Bar Association.

The State Security Court was convened on April 15, 1987 for the first time in seven years with the arrest of scores of Islamic fundamentalists accused of attempting to overthrow the Tunisian Government with the

---

<sup>42</sup> Chkir, Hafidha, *Quelques Réflexions sur la Cour de Sûreté de l'Etat*, 1980 Rev. Tunis. Dr. at 205.

<sup>43</sup> *Ibid.* at 206.

assistance of the Government of Iran.<sup>44</sup>

Subsequent to the mission, 90 alleged members of the Islamic Tendency Movement (MTI) (40 in absentia) were brought before the State Security Court in a trial that began on August 27, 1987. Reports of the proceedings have indicated that the proceedings were characterized by allegedly aggressive conduct towards the defendants by the presiding judge and that efforts by defense lawyers to intervene and question their clients were frustrated by the Court.<sup>45</sup> At the conclusion of a four-week trial, 56 MTI members were sentenced to prison, two members were hanged, and MTI leader, Rachid Ghannouchi, was sentenced to life imprisonment. Thirty-seven of the defendants were tried in absentia and five of them were sentenced to death.<sup>46</sup>

#### 4. The Press Code and The Law of Defamation

The Tunisian Press Code, enacted in 1975, is primarily devoted to enumerating procedures, prohibited acts and sanctions related to freedom of the press.

Although the Government reports that neither the Press Code nor applicable legislation contains any provisions restricting the freedom to seek,

---

<sup>44</sup> The last time proceedings were brought before the State Security Court was on the occasion of the Gafsa uprising in April 1980 when allegedly Libyan-backed insurgents mounted an attack on the town of Gafsa in an apparent attempt to overthrow the Tunisian government.

<sup>45</sup> Urgent Action, Amnesty International, DOC UA 121/87 (18 September 1987, 16 October 1987).

<sup>46</sup> *The New York Times*, September 28, 1987, at 4, col. 6.

receive or disseminate information of any kind,<sup>47</sup> the Press Code institutionalizes a system of prior authorization for publications. Preliminary copies of each publication must be submitted to the Ministry of Interior, who will forward a copy to the Ministry of Information and to the office of the Public Prosecutor. Publication without due authorization is a punishable offense. Without the authorization of the Ministry of Interior, the owner, publisher or director of the periodical may incur a fine of 120 to 1,200 dinars (Tunisian)<sup>48</sup>. Once the authorization for the publication is granted, the Press Code requires that a specified number of the first printed copies of every book, brochure, periodical or document be submitted to the authorities, apparently for the purpose of keeping a record of all published material in Tunisia.<sup>49</sup>

The Press Code does not specify a remedy for the failure of the Ministry of Interior to authorize publication of a document. The only available remedy appears to be that, under Tunisian law, an appeal may be made to the Administrative Tribunal for abuse of authority.<sup>50</sup> The Law of the Administrative Tribunal, however, includes an additional requirement. Before an appeal to the Administrative Tribunal is made, an administrative request for review must be made to the authority which performed the act complained of; in this case, the Ministry of Interior.<sup>51</sup> The delegation received no indications that such a recourse was actually allowed by the

---

<sup>47</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 119.

<sup>48</sup> One dinar equals approximately 1.42 U.S. dollars.

<sup>49</sup> Article 19, *Freedom of Information and Expression in Tunisia*, (1987) pp. 14-15, 19-20.

<sup>50</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 119.

<sup>51</sup> Act No. 72-40 of 1 June 1972.

Government to be used as a remedy for the denial of the right to publish a periodical.<sup>52</sup>

On Friday, July 31, 1987, the delegation met with journalists Siham Ben-Sedrine and Rachid Khechana,<sup>53</sup> who were writers for the opposition paper, *Al-Mawqif*. The two journalists described Government tactics designed to prevent publication of newspapers such as *Al-Mawqif*. Rather than banning the newspaper altogether, Interior Ministry officials would demand that the first copy of each edition of the newspaper be submitted to the Ministry's office. Week after week, the Interior Ministry would censor the edition just as it was about to be published. Finally, the costly and demoralizing effects of the Government's practices forced the newspaper to cease operations, despite never having been officially banned. As a result of Government censorship, there were no opposition newspapers being published in Tunisia in July 1987. Moreover, the French daily, *Le Monde*, was banned on one occasion while the delegation was in Tunisia.

The law of defamation is also frequently used by the Government to suppress the exercise of freedom of expression. The law of defamation can be found both in the Penal Code and the Press Code. Under the Penal Code, defamation "consists of any public allegation or imputation concerning a fact which impunes the honor or reputation of a person or an established body."<sup>54</sup>

---

<sup>52</sup> See also, *Freedom of Information and Expression in Tunisia*, Article 19 (1987) p. 14-16.

<sup>53</sup> Rachid Khechana had just been released from prison. He had been arrested only weeks before and held in preventive detention for possession of a banned book entitled "Wa Yahdathu fii Tunis" by the Syrian author, Mahmoud Darawiche.

<sup>54</sup> Tunisian Penal Code 1985, Article 245.

The definition of defamation in the Press Code is more extensive: defamation consists of an allegation or imputation, either directly or by reproduction, even if the defamation is expressed with a certain doubt or if it is directed against a person or an established body not explicitly named but identifiable by imputation.<sup>55</sup>

The delegation found that the provisions of the Penal Code and the Press Code pose potentially insurmountable problems for any public criticism of the work of governmental organizations or agencies.<sup>56</sup>

A good example is the case of Khemeis Chamari, the Chairman of the Tunisian League for the Defense of Human Rights, who was arrested on April 28, 1987 and held *garde-à-vue* until May 11, 1987 for allegedly making defamatory statements to the foreign press. Mr. Chamari was charged with: 1) "propagation of false information"; 2) "defamation of the public order"; and 3) "defamation of the person of the Prime Minister" after he gave interviews to Radio France International and the London-based magazine *Al-Majallah*. The interviews were not in conjunction with Mr. Chamari's position as Chairman of the Tunisian League for the Defense of Human Rights, but rather as a member of the governing bureau of the Movement of Social Democrats (MSD), a recognized opposition party. He was released for reasons of poor health on May 20, 1987 pending trial. His trial was postponed indefinitely on

---

<sup>55</sup> Tunisian Press Code, Article 50.

<sup>56</sup> In addition to defamation, the offenses of libel, insult, slander and slanderous allegation seem to present opportunities for the suppression of criticism of the authorities. Article 50 of the Penal Code deals with the offense against the Head of State: "any insulting expression uttered against the President of the Republic, the President of Assembly, a member of the Government" is a punishable offense. Article 54 of the Penal Code defines libel as "any offensive expression, term of contempt or invective which does not involve an imputation of a specific fact."

May 23, 1987 pending the accumulation of further information. At a similar hearing approximately one month later, the trial was postponed until October 7, 1987. On October 7, 1987, it was again postponed until January 1988.

Another example of how the law of defamation is used to suppress freedom of expression is the case of Ismail Bou-Lahia, who is the editor of a newspaper named *Al-Mustaqbal*.<sup>57</sup> On Wednesday, July 20, 1987, the delegation attended the trial of Mr. Bou-Lahia, who was charged with violations of the Press Code and defamation. Attorney Abdel Wahab Behi, a member of the Tunisian Bar Association, presented oral arguments for the defendant. Mr. Behi argued that the charges of defamation were unfounded. Since *Al-Mustaqbal* had been suspended six months, the alleged defamatory article had never appeared in publication. A judge declared a "non-lieu," which in the penal law signified a declaration that the evidence presented was insufficient.<sup>58</sup>

#### 5. The Law of Association and the Law On Public Gatherings

The Law of Association, which was enacted in 1959, governs associations and provides restrictions on any association that is perceived to be contrary to the law or to morals, likely to disrupt public order, or detrimental to the integrity of the state.<sup>59</sup> The formation of an association

---

<sup>57</sup> Translation: "The Future."

<sup>58</sup> At that point, the indictment was dismissed. After the judge made the declaration of "non-lieu," all of the attorneys in the courtroom responded with great astonishment. There was speculation that the presence of the delegation in the courtroom, which was made known to the judge prior to the opening of court that day, may have been a factor in the court's determination.

<sup>59</sup> Act No. 59-154 of November 7, 1959.

is subject to the completion of a number of formalities such as the filing of a declaration indicating the name, purpose and headquarters of the association; the full name, date of birth, and nationality of each of its officers; and the submission of copies of its regulations. Its legal existence is subject to authorization by the government.<sup>60</sup>

The Law on Public Gatherings (*Loi contre l'attroupelement sur la voie publique*) of July 24, 1969, is frequently used by the Tunisian Government to limit freedom of expression.<sup>61</sup> Article 29 stipulates a punishment of one month to one year in prison for an unarmed participant who continues to participate in an armed or unarmed demonstration after a single warning and an order to disperse. The punishment is six months to three years in prison if the dispersion of the demonstration necessitates the use of force.<sup>62</sup>

On Wednesday, July 20, 1987, the delegation attended the trial of 39 young men and women, who were described as Islamic fundamentalists.<sup>63</sup> The

---

<sup>60</sup> U.N. doc. CCPR/C/28/Add. 5/Rev. 1, para. 131.

<sup>61</sup> Article 29 of the Law of July 24, 1969.

<sup>62</sup> O. Sidem-Poulain, *Rapport de Mission - Procès de M. Ahmad Mestiri* (Fédération Internationale des Droits de l'Homme, La Lettre de la FIDH Hors Serie) June 4, 1986.

<sup>63</sup> The accused persons in Case No. 2935/6 were: El Hamel Ben Mohamed El Miftahi; Mongi Ben Otmen El Ayadi; Mohamed Ben Said Ainoubli; Abdelhamid Ben Rabah Kchini; Salah Eddine Ben Hafnaoui Kalifi; Naji Ben Ali El Merdassi; Tarek Ben Mohamed Moumni; Mouldi Ben Mohamed El Garbi; El Azhar Ben Mohamed Ennafti; Abdellatif Ben Mamadi Ouislati; Mohsen Ben Etetabi El Garbi; Aissa Ben Klipha El Amri; Amhed Echerif Ben Mohamed Salah Hamdi; Mounir Ben El Bahri El Abidi; Adel Ben Ahmed Manai; Mongi Ben Mohamed Ali El Abidi; Abdessatar Ben Bechir Essidani; Tawfik Ben Ali Essidi; Chafik Ben Amor El Mejri; Chaker Echarfi; Malik Ben Brahim Touihri; Abdessatar Ben Jabeur El Amraoui; Ridha Ben Ahmed Mezni; Samir Ben Ali El Ayadi; Ahmed Cherif Ben Med Salah Homdi; Mounir Ben Bahri

trial was held in Chamber 6 of the Correctional Court in the Ministry of Justice, which is located in Tunis. The case had been moved from another district because of the political nature of the charge. All 39 were tried at once by a substitute judge.<sup>64</sup>

The various charges against the 39 Islamic fundamentalists were as follows: (1) membership in an illegal association in violation of the Law on Association; (2) violation of the Law on Public Gatherings; and (3) defamation of the President of the Republic.

At the trial, each of the 39 defendants was called before the judge who had before him the dossier containing the prosecutor's case. Many of the dossiers contained signed confessions by the accused to many or all of the charges against them. When the judge asked each of them about the confessions, nearly all of the accused responded that they had signed the confessions after being beaten by the interrogators or out of fear of further abuse. The presiding judge had no reaction to these statements. The trial lasted approximately one and one half hours. At the conclusion of the trial, all 39 were sentenced to prison terms of two to four years.

---

Labidi; Adel Ben Ahmed Manaie; Mokthar Ben Ali Inoubli; Kamel Ben Aisoï Atafi; Hamadi Ben Ali Boulafimi; Younes Ben Ali Atheminia; Abdel Wahed Ben Ismail Dressi; Mabrouk Ben Med Clinier; El Fadhei Ben Med Lamine Baldi; Med ElMancef Ben Lamine Kmiri; Med Ben Thorher Sbitli; Khaled Ben Ahmed Mezni; Adel Ben Chedli dKhili; Bader Edine Ben Ali ElMazni; Ridhir Ben Elhabio Med ElKamir; Monior Alias Faten Touifiri.

<sup>64</sup> The judge that usually presided in that chamber had been attacked in June by a young man, allegedly an Islamic fundamentalist, who threw acid in his eyes.

**B. Human Rights Reports: Detention, Torture, Censorship, and Harassment**

By means of interviews with acquaintances and families of current detainees and with former detainees who were jailed on account of their human rights activities or political activities, the delegation was able to substantiate accounts of illegal and prolonged detentions, torture, censorship, and harassment.

1. Interviews with Families and Acquaintances of Detained Religious and Student Activists

Mabruk Zran: On Friday, July 31, 1987, the delegation met with acquaintances and members of the family of Mabruk Zran, a 55-year-old high school religion teacher of 30 years. Mr. Zran was seized at his home in Tunis on March 12, 1987 by four policemen, who came to the Zran home late at night posing as acquaintances of Mr. Zran in order to gain entry.

Mr. Zran was dragged from his bed and accused of having subversive literature in his possession. The policemen searched the house and eventually seized several human rights documents and Islamic religious books. Mr. Zran was taken away to a police detention center and held *garde-à-vue* for over four and a half months until his interrogation before the investigating magistrate of the State Security Court on the evening of July 16, 1987.<sup>65</sup>

The family was unable to visit Mr. Zran at the "Ninth of April" prison where he was held until July 24, 1987. Mr. Zran had been forced to shave

---

<sup>65</sup> See Urgent Action, Amnesty International, DOC UA 121/87 ("Further Information on UA 96/87") concerning the pretrial investigation and *incommunicado* detention of and reports of torture of Mabruk Zran and others.

(in an apparent attempt to humiliate him, as beards are a symbol of religious devotion in Islam) and was reportedly being held with common law prisoners.<sup>66</sup> To the family's knowledge, Mr. Zran had not been tortured, because there were no outwardly visible signs of mistreatment. The family members stated, however, that they were afraid to ask how he had been treated, because detainees who complain of torture are very often severely punished for it.

Mr. Zran, who suffers from various health problems and requires medication for high blood pressure, was unable to receive any clothes or medicine from his family for the first six weeks of his detention, and then only after going on a hunger strike.

Hashmi Hamdi: On July 31, 1987, the delegation met with family members and acquaintances of Hashmi Hamdi, a 37-year-old bank employee who was arrested at his place of employment on March 12, 1987. He was held *garde-à-vue* until his interrogation before the investigating magistrate on the night of June 20, 1987.<sup>67</sup> As of July 31, 1987, he had yet to be formally charged with anything. Mr. Hamdi's arrest and detention were carried out without the issuance of any kind of summons or warrant, and it was only through his co-workers that family members learned of his detention.

Mr. Hamdi was originally placed in the "Ninth of April" prison following his interrogation. During the second family visit in late June 1987, he asked

---

<sup>66</sup> Various victims of human rights abuses who have been detained in Tunisia complained to us about the refusal of the authorities to provide separate detention facilities for political detainees (i.e. violations of the Press Code, the Law of Associations, etc.).

<sup>67</sup> Many of the former prisoners, as well as families of the detainees, told of frequent all-night interrogations of the accused, a method intended to break down the morale of individuals and, hence, induce confessions.

to be allowed to hug his young daughter. When this request was refused by the prison guards, he began to shout in protest, which resulted in him being taken away. Because of his protest, Mr. Hamdi was transferred to Bourj ar-Roumi prison in Bizerte.<sup>68</sup> The transfer caused an extreme hardship and financial burden for Mrs. Hamdi and her five children, because she was forced to spend most of the family income for transportation expenses in order to visit her husband in prison.

Tammaam al-Usbuai: On August 1, 1987, the delegation met with a member of the family of Tammaam al-Usbuai, a 23-year-old university student activist studying computer science who was detained by Tunisian authorities on March 4, 1987.

Before recounting the brutal details of Tammaam's detention since March 1987, the individual told of Tammaam's first arrest on December 25, 1986. Police arrived at the al-Usbuai home at 2:30 a.m. and knocked at the door complaining of car trouble. When Mr. al-Usbuai asked them to come back the next morning, they broke down the door, grabbed Tammaam and began to kick him repeatedly. Tammaam was then detained for eight days, during which time he was tortured, beaten and continually kicked in the kidneys to the point at which he lost all control of his urinary functions. The torture consisted of chemicals being applied to his genitals, which resulted in painful burns. Upon Tammaam's release, both he and his father were told that the incident had been meant to serve as a warning and as a demonstration of the authorities' displeasure with Tammaam's membership and

---

<sup>68</sup> Bourj al-Roumi, the prison in which many of Tunisia's political prisoners are kept, is reportedly extremely damp, contributing to health problems of detainees. Amor Shashiya, who was director of Tunisian prisons in 1982, reportedly recommended to the authorities that the facility be closed due to the injurious health conditions that prevailed in it.

activities in the student union.

The al-Usubuai family's problems with the police had begun on April 18, 1986, the day Uthman Bin-Aamuud, a classmate of Tammaam's and a fellow activist, was shot while riding a motorcycle in Tunis. As a result of his son's association with Uthman Bin-Aamuud, Mr. al-Usubuai was accused of allowing his home to be used as a center for subversive activities.

On March 4, 1987, the authorities issued a warrant for Tammaam's arrest after they mistakenly broke into a neighbor's home the night before with the belief that it was the al-Usubuai home. After his detention, Tammaam was held *garde-à-vue* in the detention center of the Ministry of the Interior for a period of 15 days and then transferred to Abu Chuchua prison. The al-Usubuai family was never notified of their son's location by the authorities and was only able to receive information from released detainees who told of their son's whereabouts.

After 84 days of preventive detention, an acquaintance finally saw Tammaam at the hospital under what can best be described as extraordinary circumstances. Prison officials had taken him to the hospital for treatment of injuries sustained while in detention. Tammaam was still in the same clothes (unlaundered) that he had been wearing the day of his arrest and had not been allowed to bathe. The acquaintance gave Tammaam clean clothes and kept the soiled ones, which were later photographed.<sup>69</sup>

Despite doctor's orders, Tammaam was apparently taken back to the detention center on June 6, 1987 after the police learned of the escape from the hospital of another young detainee named Mohammed Fawzi Chaabani.

---

<sup>69</sup> The delegation was provided with copies of the photographs.

The delegation was provided with a copy of an affidavit from Tammaam's physician in which the doctor attests that the police took Tammaam from the hospital despite the doctor's demand that treatment be completed.<sup>70</sup>

The latest news concerning Tammaam came in the form of a telephone call on July 28, 1987 from an anonymous caller, who informed the family that Tammaam was in good health, that the police had completed their interrogation of him, and that he would soon be taken to prison and be allowed to make contact with his family.

Ali Fikih-Romdhane: Also on the morning of August 1, 1987, the delegation met with members of the family of Ali Fikih-Romdhane. The family's story was not only of arbitrary arrest and detention but of harassment and maltreatment by Tunisian authorities, with tragic consequences.

At the time of his arrest in April 1987, Mr. Fikih-Romdhane was a 27-year-old student at the *Institut d'Électronique et d'Automatisme*. He was first arrested in 1981 during the period of widespread arrests of Islamic activists, but was not charged and was released.

The family told of some rather horrifying incidents that Mrs. Fikih-Romdhane had experienced even before Mr. Fikih-Romdhane's present detention. In November 1986, while travelling on a motorcycle near the city of Sousse in southern Tunisia, the couple and their young child were stopped by the police and their possessions searched. The police forced them to stop by surrounding the motorcycle and causing it to overturn. Mr. Fikih-

---

<sup>70</sup> The members of the mission were provided with a copy of the affidavit, which was written and signed by a physician. According to Mr. al-Usbuai, Tammaam has also developed heart problems.

Romdhane was beaten in front of his wife and daughter by the police. Mrs. Fikih-Romdhane, who was pregnant with twins at the time, was physically and emotionally distraught as a result of the incident. Two days later, while shopping alone in the same area, Mrs. Fikih-Romdhane saw the same policemen coming toward her and ran. Two days later, she was hospitalized and was diagnosed as suffering from shock. Eleven days later, after her condition had worsened, she was advised that her unborn twins would have to be aborted. After these traumatic experiences, Mrs. Fikih-Romdhane went to stay with her parents in the south of Tunisia while her husband stayed in Tunis to attend school.

While his wife stayed with her parents, Mr. Fikih-Romdhane was living with six other students. Late one night in April 1987, the police came and arrested all of them. Mrs. Fikih-Romdhane was unable to learn where her husband was being held until late May 1987, when a friend was released from prison and told her that he had seen her husband at the Ministry of Interior detention center. Mrs. Fikih-Romdhane gathered some of her husband's clothes, went to the Interior Ministry and asked to be allowed to see him, but the police refused. When she insisted that someone listen to her, they took out their pistols and started shooting into the air. Her daughter, Tayseer, was with her at the time. The child has since become extremely frightened whenever she sees policemen. Mrs. Fikih-Romdhane nevertheless continued to go to the prison daily for a week and was finally allowed to bring clothes to her husband. She has never been able to see him and has never been given the first set of clothes to wash, which makes her suspicious that the police have retained them because they show signs of torture or other maltreatment.

Two days before the delegation interviewed the family, Mrs. Fikih-Romdhane learned that her husband had been interrogated by the

investigating magistrate on July 27, 1987. Although the family had retained an attorney to represent Mr. Fikih-Romdhane, another attorney was appointed by the court to represent him.

The family also told the delegation that Mrs. Fikih-Romdhane had been harassed by the police as recently as June 1987, when she was thrown off of a bus in southern Tunisia by police and forced to make her way home on foot.

## 2. Human Rights Leaders and Attorneys

Khemeis Chamari: Khemeis Chamari, the Chairman of the Tunisian League for the Defense of Human Rights, was interviewed on July 28 and 30, 1987. Mr. Chamari was detained by police on April 28, 1987 and held *incommunicado* until May 11, 1987, when he was interrogated by an inquiring magistrate. He was released for reasons of poor health on May 20, 1987 pending trial. His trial was postponed indefinitely on May 23, 1987 pending the accumulation of further information and then, at a similar hearing approximately one month later, the trial was postponed until October 7, 1987. On October 7, 1987, it was again postponed until January 1988.

Mr. Chamari was charged with: 1) "propagation of false information"; 2) "defamation of the public order"; and 3) "defamation of the person of the Prime Minister" after he gave interviews to Radio France International and the London-based magazine *Al-Majallah*. The interviews were not in conjunction with Mr. Chamari's position as Chairman of the Tunisian League for the Defense of Human Rights, but rather as a member of the governing bureau of the *Mouvement des Démocrates Socialistes* (Democratic Socialist Movement), a recognized opposition party led by Ahmed Mestiri.

Legal experts in Tunisia with whom the delegation spoke agreed that the charges against Mr. Chamari following the two interviews have no juridical basis and that the authorities have initiated the proceedings in an attempt to harass Mr. Chamari and the Tunisian League for the Defense of Human Rights in the wake of their increasing outspokenness about human rights violations in Tunisia. This harassment is evidenced in the fact that the authorities confronted Mr. Chamari during his detention with recordings of telephone conversations he had had with international human rights groups which could have only been obtained by means of wiretapping. Based upon the recordings, the authorities brought the charges of defamation.

Mr. Chamari himself attributes the arrest to certain positions taken by the Tunisian League for the Defense of Human Rights during the weeks prior to his arrest, such as: the continued disagreement between the League and the Minister of the Interior over the duration of *garde-à-vue* detention; negotiations over proposed reforms in detention procedures; a letter from the President of the League to the Government expressing concern over the continued imprisonment of labor leader, Habib Achour; and a communique issued April 3, 1987 by the League deploring the detentions of members of the Islamic Tendency Movement and the harassment of the families of suspected members.

Mohammed Nouri: Mohammed Nouri is a Tunisian attorney who has been active in the promotion of human rights and has participated in the defense of many of the Islamic fundamentalists arrested since March 1987. Mr. Nouri was interviewed by the delegation on July 31, 1987. On May 1, 1987, he was seized and held *garde-à-vue* by Tunisian police. At the time he was seized, Mr. Nouri's house was thoroughly searched by police, despite the absence of any search warrant. During his detention, Mr. Nouri was questioned about his defense of members of the Islamic Tendency Movement, about the actions of

his clients and about his knowledge of the organization. He refused to answer any of the questions and was released after four days.

### 3. Members of the Political Opposition

Ahmed Mestiri: On Thursday, July 30, 1987, the delegation met with Ahmed Mestiri, the Secretary General of the Movement of Social Democrats (MDS). Mr. Mestiri described events following a meeting on April 11, 1987 when leaders of five opposition parties<sup>71</sup> met to discuss the serious implications of the widespread arrests and detentions of the Islamists. During the meeting, Tunisian police raided the premises -- the meeting was held at MDS headquarters -- and charged the participants with violation of the Law on Public Gatherings. In addition, Mr. Mestiri was charged with defamation arising out of the publication of a joint communique about the raid because of the allegedly "defamatory" contents of the communique. At the time the delegation met with Mr. Mestiri, he was awaiting further proceedings.

Siham Ben-Sedrine: On Saturday, July 31, 1987, the delegation met with a young woman named Siham Ben-Sedrine, who is a journalist, a member of the Progressive Socialist Union and a member of the Board of Directors of the Tunisian League for the Defense of Human Rights. Due to her membership in the Progressive Socialist Union, which is a tolerated but unrecognized political party in Tunisia, she was charged with membership in an illegal association in December 1983. She was not actually tried and sentenced, however, until April 23, 1987. Following sentencing, Ms. Ben-Sedrine was held in the Gorjani Detention Center for two days and nights before being transferred to a women's prison. She described the conditions

---

<sup>71</sup> The MDS (Movement of Social Democrats), the MUP (Movement of Popular Unity), the PCT (Tunisian Communist Party), the RSP (Progressive Social Union), and the PUP (Popular Unity Party).

of the detention center to the delegation. She was held in a cell that was approximately three meters by five meters, with a number of women that ranged from eight to 30 women during the period of time she was detained. The floor was covered with dirt. The toilet facilities consisted of a stream of water coming out of the wall into a hole in the floor. No soap or toiletries were provided to the prisoners, nor were they allowed any change of clothes. There were no beds to sleep on, and the only sleeping materials provided were a limited number of dirty blankets and sleeping pads. Only one meal per day was served, and that meal consisted of a sandwich and three French fries.

Although Ms. Ben-Sedrine stated that the conditions at the women's prison were better, she described how several children were being held with their mothers in prison. The children, who ranged in age from infants to school age, were confined to their mothers' cells for 24 hours a day and were not allowed outside for any reason. Ms. Ben-Sedrine also reported bedbugs, and that requests for toiletries, publications and writing materials were denied.

#### 4. Reports of Human Rights Violations

The following reports of human rights abuses came from a variety of sources. Unfortunately, the delegation did not have sufficient time to interview families or acquaintances of the victims during the fact-finding mission.

Nabil Barakati: On May 1, 1987, Mr. Barakati, who was a teacher and trade unionist, was arrested for distributing labor leaflets in the City of Gaafour. On May 10, 1987, it was reported that Mr. Barakati had died while in detention as a result of being tortured during interrogation.

Ali Bourawi: On May 1, 1987, Mr. Bourawi, who is a journalist for the London-based Arab newspaper named *Al-Alam*, was detained in Tunis for allegedly writing pro-Iranian newspaper articles. It is reported that, while being held in detention, he suffered loss of memory as a result of being brutally beaten. Therefore, at the time he was interrogated by the investigating magistrate, he was unable to answer any of the questions presented to him. Despite his condition, he was forced to sign a confession.

Unidentified young man from Sousse. Approximately one week before the delegation arrived in Tunisia, a young man was shot and killed by a police officer. The young man had been singing Islamic songs on the beach with a group of young people when the police arrived. The young man panicked and started to run away, but then stopped and started walking back towards the police with his hands behind his head. As he walked back towards the police, he was shot and killed by a police officer, whose identity is known to many concerned with human rights because of his brutal activities. Despite the circumstances of the shooting and the reputation of the police officer involved, it was reported to the delegation that no investigation was being considered for the purpose of reprimanding or punishing the policeman.



#### IV. HUMAN RIGHTS ORGANIZATIONS IN TUNISIA

##### A. The Tunisian League for the Defense of Human Rights

The delegation was able to interview the following members of the Board of Directors of the Tunisian League for the Defense of Human Rights: Chairman Khemeis Chamari on Tuesday, July 28 and 30, 1987; President Saadeddine Zmerli, Vice-Chairman Slaheddine El Jourchi, and Director Serge Adda on Thursday, July 30, 1987.

##### 1. Creation

The Tunisian League for the Defense of Human Rights (*La Ligue Tunisienne Pour la Défense des Droits de l'Homme (LTDH)*) was founded on May 7, 1977, in accordance with the Law on Associations.<sup>72</sup> The League was formed only after an extended series of discussions with the Minister of Interior. As a result of a compromise, the first Board of Directors was comprised of 15 independents (non-members of governing Destourian party)

---

<sup>72</sup> Ligue Tunisienne Pour la Défense des Droits de l'Homme, Report of the Second National Congress of the Tunisian League for the Defense of Human Rights, Tunis Amilcar (March 23-24, 1985) page 1.