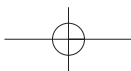
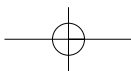
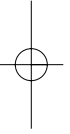
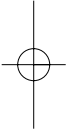
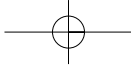


MAGHREB AND THE MIDDLE EAST





THE SITUATION OF HUMAN RIGHTS DEFENDERS

The military intervention of US-led coalition forces in Iraq and the fall of Saddam Hussein's regime have had serious repercussions throughout the region, including North Africa. Movements opposing the intervention and the subsequent occupation have grown, and governments in the region find themselves caught in a delicate balancing act between pressure from the United States, pressure from their own civil society, and the need for consolidating their power.

Another major problem continues to be the stalemate in the Israeli-Palestinian conflict, whose stakes are felt throughout the entire region and cause a great deal of tension.

Both these situations have focused more concern than ever on North Africa and Middle East. Paradoxically, the international community now seems more complacent than ever about human rights violations by governments in the region, at a time when the obsession with security and abuse of authority are growing hand in hand. Some States (Libya and, to a lesser extent, Algeria and Syria) continue to stifle dissent, while others - like Tunisia - are taking advantage of the security climate to implement repressive measures against their respective civil society.

As a result, human rights activism continues to be constrained by numerous limits on basic freedoms, especially freedom of expression, opinion, and association.

The war against terrorism and erosion of rights

While fighting terrorism is legitimate and necessary, governments in the region have for several years been using it as one of their chief justifications for implementing repressive measures. Following the terror attacks of 11th September 2001, several Heads of Government expressed satisfaction that their efforts were «finally» being recognized by the

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international community, though these efforts were directly responsible for numerous human rights violations against those calling for pluralism and peace.

Encouraged by this new support, some States have added to their legal arsenal by passing anti- terrorism legislation, while others have taken advantage of the growing security fixation to renew or strengthen already existing repressive laws. In this political climate activists are facing greater abuse of authority, against which it is becoming ever more difficult to speak out. And their situation is made more precarious by the fact that these laws further restrict their individual and collective freedoms.

In *Morocco*, the terrorist attacks perpetrated on 16th May 2003 in Casablanca gave the Government an excuse to rush through an anti-terrorism law whose provisions far surpass the original, legitimate goals of such legislation. Approved on 28th May 2003, the law reprises many of the provisions of the Arab Convention for the Suppression of Terrorism¹, whose broad definition of a terrorist act leaves much room for abuse. Under Article 1 of the law, certain infractions constitute acts of terrorism when «intentionally linked to an individual or collective undertaking intended to do serious harm to the public order through intimidation, terror or violence». In addition, the law punishes «any person who defends acts deemed to be terrorist through speeches, loud utterances or threats made in public places or at public meetings, or through written texts or publications, distributed free of charge or sold or displayed in public places or at public meetings, or by posters exhibited to the public using audiovisual or electronic means». By virtue of these broad provisions, the law risks being used to suppress both freedom of expression and peaceful, legitimate forms of protest.

On 10th December 2003, the Chamber of Deputies in *Tunisia* approved a law «supporting the international effort to combat terrorism and money laundering» (Law n° 2003-75, ratified and published in the *Official Journal* on 12th December 2003). This law qualifies as acts of terrorism «all actions, whatever their motives, [...] likely to sow terror in

1 Law adopted on 22nd April 1998 by the Council of Arab Ministers of Justice of the League of Arab States, and entered into force on 7th May 1999. See Annual Report 2002.

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the population with the aim of influencing State policy [...], disturbing the public order, peace, or international security, or causing harm to individuals or property». The law also considers as terrorist «acts of incitement to hatred or to racial or religious fanaticism, regardless of the means used». Furthermore, anyone bound by professional privilege (an attorney, for example) that fails to immediately relay information regarding terrorist acts to authorities is also considered a terrorist.

This law also imposes very strict financial control over non-profit organizations and political parties. In particular, they may not receive yearly subscriptions of more than 30 Dinars, accept any donation or other form of financial support of any value unless exempted by a special provision of the law, accept any foreign funds, unless via an officially authorized intermediary residing in Tunisia and not prohibited by the law currently in force and, finally, accept any cash funds whose value equals or exceeds five thousand Dinars. These provisions constitute a grave threat to public freedoms. The law appears as a de facto attempt to further silence any independent voice by drawing the net more tightly around human rights defenders, journalists, and lawyers, already subject to constant persecution by authorities. These new financial measures legitimize the Tunisian Government's desire to monitor, limit, or even prohibit funding of NGOs. The most flagrant example² took place in August 2003, when EU funds earmarked for the Tunisian Human Rights League (LTDH) were blocked on fallacious legal grounds.

The ease with which defenders and terrorists are lumped together makes this law all the more dangerous. In this regard, let's recall the statement made in October 2003 by Tunisia's representative at the 34th session of the African Commission on Human and Peoples' Rights, which labeled the LTDH an «illegal terrorist organization».

Other countries, such as *Syria*, *Algeria*, and *Egypt*, which have been under a state of emergency for many years, are exploiting the current climate to give new legitimacy to their repressive emergency laws. In *Egypt*, on 23rd February 2003 the People's Assembly renewed the Emergency Law (Law n° 162 of 1958, restored in 1981) for a three-year

² See Compilation of cases below.

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period. Specifically, this law allows the government to censor, seize, confiscate, or suspend publication of mail, newspapers, etc. (Article 2), and gives the Minister of Interior the power to order the arrest and detention, without any charge or trial, of «persons suspected of endangering public order or security» for one month, renewable (Article 3). Military decree n° 4 of 1992, adopted within the framework of this law, prohibits all foreign funding without prior official authorization. Several human rights defenders have been, and still are, prosecuted under this decree.

In some countries restrictive laws adopted in the wake of 11th September have made the situation worse for human rights defenders. This is particularly true in *Jordan*. The current climate, in which temporary laws enacted after 11th September have curtailed freedom of expression³, has left human rights defenders feeling more vulnerable, even though they are not being directly targeted. Despite improvements over the last few years regarding freedom of association in *Bahrain*, the Press and Publications Law (Law by Decree n° 47, adopted by Royal decree in October 2002) requires permission from the Ministry of Information before publishing any work, and a permit for publication of newsletters and magazines. This measure applies to human rights organizations as well. Under the pressure of these organizations, the Government presented an amended version of the law to the National Assembly in December 2002. Control over the press was retained, however, as was the imposition of prison sentences for criticizing the King, criticizing Islam, or undermining national security.

Finally, arguments used by the Government of *Israel* to justify its numerous atrocities against civilians in the Palestinian occupied Territories find particular resonance in the current security climate, where fighting terrorism is considered the highest priority. Israeli and Palestinian human rights defenders who condemn these violations are discredited, as demonstrated by a 21st May 2003 statement made by Israeli Minister of Foreign Affairs Silvan Shalom according to which «most human rights offices in the West Bank and Gaza Strip provide shelter for Palestinian terrorists».

³ See Annual Report 2002.

Human rights defenders in conflict zones

Human rights defenders and lawyers working in *Israel* and the *Palestinian Occupied Territories* face a particularly difficult situation, considering the countless obstacles placed on their way by the Israeli authorities (for example, restricted freedom of movement and lack of access to political detainees⁴).

This precarious situation is made even worse by increasing interference with international workers and peace activists. The latter, in addition to facing new limits on their freedom of movement, have been targeted in repeated attacks by Israeli armed forces, resulting in the death of at least two foreign peace activists this year⁵.

The Israeli civil society has not been spared either. Punishment for protesting against Israeli Army atrocities in the Occupied Territories and the extremist positions of Prime Minister Ariel Sharon is becoming more and more common. For the first time since the 1970s, in 2003 conscientious objectors were tried before a military tribunal and sentenced to prison⁶. This shift in strategy appears to be motivated by the fear that growing opposition to Israeli Army violations in the Palestinian territories (and the large increase in the number of young «refuzniks», or soldiers who refuse to serve in the Occupied Territories is a good example) will tarnish both the Army's and the Israeli government's image. Another good example is that of 27 Air Force reserve pilots who, in an open letter to Air Force Commander Dan Halutz, publicly stated that they were opposed to «carrying out attack orders that are illegal and immoral of the type the state of Israel has been conducting in the territories», and that they refused to «continue to harm innocent civilians». The Air Force immediately suspended the pilots, and seven of them, still on active duty, were not allowed to fly.

In *Iraq*, those engaged in the reconstruction process—particularly humanitarian workers and international organizations personnel—have faced an increasingly dangerous situation since the American intervention began. There have been numerous attacks against international

⁴ See Compilation of cases below.

⁵ *Idem.*

⁶ *Idem.*

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defenders by extremist forces committed to sabotaging the Iraqi process of reconstruction. These attacks reached a climax on 19th August 2003, when a suicide bombing at United Nations headquarters in Baghdad killed Sergio Vieira de Mello, High Commissioner for Human Rights, and 22 U.N. staff members. And on 27th October 2003 the headquarters of the International Committee of the Red Cross (ICRC) was also attacked. Frequent looting and crimes targeting humanitarian convoys exacerbate this dangerous situation.

In *Morocco*, the personal envoy of the UN Secretary General in the region has drawn up a new peace plan aimed at settlement of the conflict in the Western Sahara. It proposes a regime of semi-autonomy within Morocco for a transitional period of four to five years, after which a referendum will be organised. During this period the inhabitants of the territory will have to choose between independence, integration or maintaining the regime of semi-autonomy⁷. Despite this positive development, and the fact that the armed conflict in this region stopped 12 years ago, the Moroccan militants who peacefully defend the right to self-determination of the Western Sahara, and denounce the violations of human rights perpetrated in this province, are still targeted by the Moroccan authorities. In particular, three militants from «Forum Vérité Justice» - Western Sahara Section were sentenced in 2003, for «incitement to riot»⁸. In September, 20 teachers engaged in the defence of human rights, including Hamoud Ikilid, chairman of the section of the Moroccan Human Rights Association (AMDH) in Laâyoun, were transferred to remote posts in different regions of Morocco.

Repression of movements, civil society and freedom of expression

Repression of anti-war movements

The invasion of Iraq by the International coalition forces has given rise to almost unanimous hostility throughout all civil societies in the

⁷ At the end July 2003, a resolution was passed by the Security Council, within the framework of renewal of the Minurso mandate. The text affirms that the Council «supports» the Baker plan, described as «optimal political solution», before calling on the two parties to work «together with a view to its acceptance and application».

⁸ *Idem*.

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region. Meetings and demonstrations have taken place in most countries in the region, even though civil societies in some of them do not generally have the benefit of this form of expression in relation to their own governments (*Jordan, Egypt, Dubai, United Arab Emirates, Syria, etc.*).

However, these demonstrations have been repressed in several countries, especially in *Egypt*, where the provisions of the law on the state of emergency have been used in order to arrest and detain a large number of participants. On 18th January 2003, during an anti-war rally, State security police arrested and detained 11 people accused of being members of the Egyptian People's Committee for Solidarity with the Palestinian Uprising. On 8th and 9th February, some militants were arrested in their homes, and then imprisoned as a preventive measure, in anticipation of the demonstration on 15th February, including journalist Ibrahim al-Ahary and film-producer Sabri al-Shammak. On 16th March, at least five people were arrested and several wounded, and on 20th and 21st March, approximately 800 people were arrested in Cairo, including many children and several journalists. Over 60 people have been detained for several days, and numerous accounts of torture and ill treatment have been recorded.

In *Algeria*, anti-war protests have been strictly supervised and banned in the town of Algiers, where the few attempts to hold rallies have been violently repressed.

In *Morocco*, sit-ins have been banned in several towns, in a context of increased surveillance of Islamist movements. On 9th March, numerous demonstrators were arrested in Agadir, including nine members of ATTAC. Acts of police brutality have also been recorded.

In *Tunisia*, over 20 participants were wounded and 12 detained for questioning in Sfax, during the violent repression of a demonstration organized by the unions, NGOs and opposition parties on 16th February. On 22nd February, five trade unionists were hospitalised and seven members of the Committee of Solidarity with Iraq and Palestine were detained for questioning during a demonstration in Gafsa. In Kébili, police questioned the chairman of the LTDH section after informing the regional authorities of the section's decision to organize an anti-war demonstration on 13th March 2003. Similar scenarios took place in Sousse and Bizerte.

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Repression of civil society movements in favour of the defence of human rights

The freedom of peaceful assembly and demonstration is restricted in *Algeria* where families of missing people are still sometimes targeted by the authorities during their weekly assemblies. During French President Jacques Chirac's visit (2nd to 4th March 2003), members of families of missing people who tried to meet were dispersed and several women were questioned, manhandled and injured. Also during this visit, numerous members of the «Arouchs» movement were questioned, when members of the protest movement in Kabylia tried to meet in Algiers.

In *Tunisia*, human rights activists and lawyers who tried to assemble to protest against the numerous violations of the rule of law in Tunisia were also subjected to systematic and usually violent repression⁹. In addition, on 3rd June 2003, union leaders and teachers in secondary education were attacked by police officers in civilian dress, when they took part in a protest meeting in front of the Ministry of national education and vocational training. Several unionists have been ill treated, including Mr. Täieb Bouaicha, Secretary General of the union, and Mr. Sami Tahri, unionist, who has been seriously injured.

The freedom of demonstration and peaceful assembly is strictly restricted in all totalitarian countries, which do not tolerate any expression of dissent. For instance, in *Saudi Arabia*, approximately 270 people were arrested on 14th October 2003 in Riyadh, when they demonstrated to demand political reforms and the release of political prisoners. These events took place during the first seminar on human rights in Saudi Arabia, organized by the Red Crescent. Many of the people arrested, including relatives and friends of political prisoners, were beaten and ill treated by the forces of law and order. Such demonstrations were once again repressed on 23rd October in Jeddah, Dammam and Ha'il.

Obstacles to freedom of association

Freedom of association is strictly controlled by law in the region, and is even non-existent in the most closed countries. However, in *Saudi*

⁹ See Compilation of cases below.

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Arabia, the year 2003 saw the creation of the first association of journalists in February and, on 6th May a Royal decree was issued, approving the first association for the defence of human rights with the mandate of «reformulating national laws to ensure that they comply with the fundamental system of governance, based in the first instance on human rights».

In *Egypt* - where NGOs are subject to the regime of authorization - a positive step has also been taken with registration of the Egyptian Organisation for Human Rights (EOHR), which has finally obtained legal recognition after 18 years¹⁰. However, other organisations, such as the Association against torture, the Egyptian Centre for Housing Rights (ECHR), the New women's research centre, or again the World centre for human rights, were refused legal registration in 2003, on the basis of the law on associations passed in 2002¹¹. In *Syria*, the Committees for the Defence of Human Rights in Syria (CDF) and the Syrian Human Rights Association are still not recognized.

The situation is very similar in countries where NGOs are subject to a regime of declaration, since application receipts are issued in a particularly arbitrary fashion. In *Tunisia*, out of 2,000 associations officially listed, less than a dozen are actually independent from the Government. Among the latter, the Tunisian Centre for Independence of Justice (CTIJ), the Association Against Torture, the National Council for Freedoms in Tunisia (CNLT), and the International Association for Support of Political Prisoners, are still awaiting official recognition so that they can legally exercise their activities. In *Morocco*, certain Amazighs' associations are still not recognized¹². In *Lebanon*, NGOs are confronted with obstacles in obtaining their receipts, for the Ministry of Interior is trying to impose obligations that are not required by the law on associations¹³. This practice sometimes leads NGOs to register as commercial companies. The same applies in *Jordan*, and again in *Yemen*, where the Legal Assistance Centre, which is mainly dedicated to the defence of freedom of expression and opinion, has the status of a law

10 *Idem*.

11 See Annual Report 2002.

12 See Annual Report 2002.

13 See Compilation of cases below and preliminary conclusions of the Observatory enquiry - December 2003.

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firm, since it has been unable to obtain authorization from either the Ministry of Culture or the Ministry of Civil Affairs.

In *Iraq*, numerous NGOs have now been created. These organizations were strictly banned under the regime of Saddam Hussein. Most of these NGOs are engaged in investigation and research into the numerous violations committed during the former dictatorship. Some of them have done a survey of Iraqi civilian losses and have recorded violations concerning treatment of prisoners by international coalition forces.

However, the provisions in the Order issued by the Coalition Provisional Authority (CPA) on Non-Government Organisations (Order 45 dated 25th November 2003, adopted within the framework of new legislative measures implemented by the CPA) contains numerous obstacles to freedom of association. In effect, according to this Order, NGOs applying for registration in Iraq are subject to the regime of authorization, the registration procedure specifying that «the NGO Assistance Office (attached to the Ministry of Planning and Development Cooperation) will issue a registration certificate to the NGO or a written decision indicating the acceptance or rejection of registration within a period of 45 days from the date of the request» (article 3). This request must be accompanied by a presentation of a «programme established in consultation with the ministry concerned, and a budget for its first year of activity» (article 2). Article 2 states that «unregistered NGOs are not legally authorized to conduct programmes in Iraq» and that the Office «may suspend or revoke the registration of an NGO in the case of violation of the provisions of this Order, the NGO having 60 days to remedy the situation and, if necessary, apply for re-registration». However, no allowance is made for possible appeal or discussion.

In addition, the authorities have wide-ranging powers of interference in NGO activities. In effect, «the Office may conduct audits or studies on the NGO at any time and in any location in Iraq, in order to ensure that the NGO complies with this Order» (article 4); in addition, the NGO will have to submit to the Office its «quarterly activities report» (article 3), together with an «annual activities and financial report for the previous financial year» (article 9); an NGO must «inform the Office thirty days in advance of any material change related to the documents it submitted concerning its registration» (article 9) and must «inform the Office and the ministry concerned of its intentions to enter

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into a joint venture or contractual arrangement with one or more foreign entities or international organisations»; it must «inform the Office of its program within the framework of this arrangement» (article 8). The law also states that «it is recommended that NGOs attend government coordination meetings, in order to ensure that assistance is effectively provided» (art. 9).

Lastly, the freedom to create autonomous and independent unions is suppressed or hindered in most countries in the region. In *Algeria*, for example, members of the Independent National Union of Civil Servants (SNAPAP) have been suspended from their functions or posted to remote locations¹⁴, several hundred teachers belonging to the National autonomous council of secondary and technical teachers (CNAPEST) have been suspended from their functions after having exercised their right to strike. The Council was refused issue of its registration receipt on 9th November 2003, without being given any official reason.

Action taken at international and regional level*The United Nations*

The Special Representative of the UN Secretary General on Human Rights Defenders, Hina Jilani, who had requested an invitation from the Egyptian and Tunisian authorities in 2002, has not received any response to date.

The Observatory has informed the special representative of all cases processed. In addition, the Observatory has submitted to the UN Working Group on Arbitrary Detention the cases of Mr. Ali L'mrabet (Morocco), and those of Mr. Jonathan Ben Artzi, Matan Kaminer, Adam Maor and Noam Bahat, Israeli conscientious objectors. The Working Group confirmed the arbitrary nature of their detention in its decision published on 14th January 2004¹⁵. The Observatory has also provided the Working Group with additional information concerning developments on the situation of Zouhair Yahyaoui, as a follow-up to its referral of the case submitted to the Working Group in 2002.

¹⁴ See Compilation of cases below.

¹⁵ *Idem*.

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African Commission on Human and Peoples' Rights

During its 34th session, in November 2003, the African Commission on Human and Peoples' Rights adopted a mechanism of protection, by creating a «focal point» on human rights defenders¹⁶. The situation of specific defenders in Algeria, Egypt, Tunisia and the Western Sahara can now be monitored using through this mechanism.

European union

Despite numerous violations recorded, the European union did not make any public declaration on the situation of human rights defenders in Middle East/North Africa in 2003.

The European parliament passed only one resolution concerning defenders in the region. In its resolution on Egypt (10th April 2003) the European parliament «welcomes the decision of the Egyptian Court of Appeal to overthrow the verdict of the State Security Court and acquit human-rights activist Saad Eddin Ibrahim» and «urges Egyptian authorities to guarantee the right to collective peaceful expression and to prevent all forms of harassment against demonstrators and detainees and to ensure that people held are given proper legal protection».

The European union is engaged in the Barcelona process with twelve countries in the region, which involves, in particular the signing of bilateral association agreements. These agreements include a clause dedicated to the essential character of human rights in the relations between the European union and each State party. The two new agreements signed in 2002 with Lebanon and Algeria have not yet come into force at the end of 2003. A draft agreement is being negotiated with Syria, and should be signed in 2004.

In its annual report on human rights in the world in 2002 and European union policy on human rights, published in July 2003, the European parliament recommends «the setting up of a committee on human rights and democracy under the forthcoming Euro-Mediterranean parliamentary Assembly in order to allow for a more structured dialogue on human rights and democracy issues contributing to strengthened cultural sensitivity and increased effectiveness of the Euro-Mediterranean Partnership in this area».

16 See Analysis of the situation of human rights defenders in Africa.

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Intergovernmental Organisation of the Francophonie (OIF)

In the follow-up of the Francophonie Summit held in Beirut on 12th and 13th October 2002, and under Chapter V of the Bamako Declaration adopted in November 2000 regarding the monitoring of the exercise of democracy, human rights and freedoms in the French-speaking world, the Observatory developed its cooperation with OIF/ Intergovernmental Agency of the Francophonie (AIF), including submitting cases related to the situation of human rights defenders in francophone States and the annual report 2002.

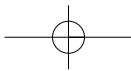
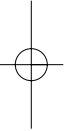
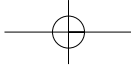
Furthermore, the Observatory participated in several meetings regarding the enforcement procedures of Chapter V of the Bamako Declaration.

World Summit on the Information Society

During the first phase of the World Summit on the Information Society in Geneva (10th-12th December 2003), the Observatory drew the attention of the International Telecommunications Union and the international community to the serious violations suffered by human rights defenders in Tunisia, and the serious attacks on freedom of expression in this country. In this context, the Observatory expresses its concern about the second phase of the Summit, scheduled to be held in Tunis in 2005, and attaches great importance to the participation of all representatives of Tunisian and international civil society.

Civil society

During a regional seminar organized by the FIDH in Ankara, on «Post 9/11 attempts on international humanitarian law and human rights in the South and East Mediterranean» (September 2003), a workshop was dedicated to the situation of defenders in Turkey and Israel/ Occupied Palestinian Territories. In the Final declaration of the seminar, participants from all the countries in the region indicated that «on the basis of vague definitions [of terrorist action] governments are criminalizing the legitimate exercise of universally recognized rights, such as freedom of expression, association, peaceful assembly, the right of access to information and the right to participate in the management of public affairs». They deplored «attacks directed against human rights defenders in the region, including journalists, together with targeting of vulnerable groups, especially civilians in occupied territories, migrants, refugees, asylum seekers and members of minority groups».



HUMAN RIGHTS DEFENDERS HARASSED

ALGERIA

Harassment of families of the disappeared and their defenders

Harassment of Mohamed Smain¹⁷

On 20th February 2003, Mr. **Mohamed Smain**, Head of the Relizane Section of the Algerian League for the Defence of Human Rights (LADDH, Ligue algérienne de défense des droits de l'Homme), was notified that he was banned from leaving Algeria just as he was about to leave for Oran Sénia airport on his way to Europe. Mr. Smain was not given any reason for this ban.

For some time now Mohamed Smain has been victim of pestering and various types of pressure from the security services on account of his work with the families of missing persons in Relizane and Oran. On 24th February 2002, following a complaint lodged by a militiaman Mohamed Ferghane and eight members of his militia, he was specifically sentenced to one year imprisonment and a fine of 5 000 dinars and 30000 dinars in damages to be paid to nine plaintiffs for «defamation, calumny and declaration of imaginary crimes». This complaint was lodged following Mr. Smain's having informed the Algerian press on 3rd February 2001 of the exhumation by the gendarmerie of a mass

17 See Urgent Appeal DZA 001/0203/OBS 008.

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grave, in the presence of Mr. Ferghane, with the intention of transferring the remains from the mass grave to an unknown destination. At the end of 2003, Mr. Smain's appeal to the Supreme Court is still pending.

In 2002, Mr. Smain was also threatened and intimidated on several occasions by Mr. Mabrouk Belala, head of the gendarmerie in the Relizane district. As of end 2003, Mr. Smain's complaint against the latter has not been pursued.

Acts of violence against families of the disappeared in Algiers¹⁸

On 9th July 2003, several relatives of disappeared persons were arrested in Oran during the weekly gathering of families, which bring together around in front of the law courts. Mrs. **Boutaibi Setti**, representative of the Committee SOS-disappeared persons, Oran district, roughly handled and forcibly bundled into a vehicle by an un-uniformed officer of the security services, after she had been interviewed by a journalist from the daily newspaper *El Rai*. Mrs. **Bouguetaya Yakout** (married name Acem) and her daughter, Mrs. **Boussekak Yamina**, married name Rached) and three other mothers of disappeared persons were also arrested. They were taken to the police station in the 2nd district of Oran, transferred to the central police station, then finally released around 7 p.m.. They were all accused of «disturbing peace» and fined 1 000 dinars by the Court in Oran, on 4th October 2003.

The names of these women were mentioned in an open letter addressed by the Association of Families of Disappeared Persons to the President of the National Consultative Commission for the Promotion and Protection of Human Rights. This letter mentioned the pressure being exerted on the families of disappeared persons, following their summon on 13th June by the intelligence and security services of the Oran District (Governorate).

Harassment of families of disappeared persons' defenders in Constantine¹⁹

Representatives of families of disappeared persons in Constantine continue to suffer from harassment. On 5th November 2003,

¹⁸ See Urgent Appeal DZA 002/0703/OBS 064.01 and 064.02.

¹⁹ See Annual Report 2002.

Mrs. **Näïma Saker**, co-ordinator of families of disappeared persons in Constantine, was intimidated by two inspectors from the General Intelligence Services, who came to her house at 9.45 p.m., claiming that they were looking for a police report sent to Mrs. Saker in 1997, notifying her of her husband's arrest and transfer to the Intelligence and Security Department (DRS) in Constantine.

Furthermore, Mr. **Sofiane Chouïter**, lawyer representing the families, is still being followed after each weekly sit-in organised by relatives of the disappeared persons. He has also been subjected to pestering by the administration in November 2003, when his request to renew his passport was blocked in the Constantine District. He received confirmation of this blockage from the El Khroub police station. Mr. Chouïter was finally able to have his passport renewed in mid-December 2003.

Detention of Larbi Tahar²⁰

On 4th October 2003, The President of the Labiodh Sidi Cheikh of the LADDH, Mr. **Larbi Tahar** received a summon from the investigating magistrate, informing him that he was accused of «riotous assembly and civil disobedience». This summon was subsequent to his participation in a peaceful assembly in support of the Independent National Union of Civil Servants on 29th September (SNAPAP), who were on hunger strike (see below).

At the end of his examination by the magistrate, on 5th October, Mr. Larbi Tahar was immediately committed and placed in detention in the prison at Labiodh Sidi Cheikh.

Five other participants - **Larbi Mohamed, Larbi Bechir, Larbi Ahmed** and **Larbi Bechir**, all members of Larbi Tahar's family, as well as **Slamani Cheick** - were also charged with the same indictment. They were arrested and placed in detention on the evening of the assembly.

On 3rd November, Mr. Tahar was beaten up by the prison director and his guards and lost three teeth as a result. Moreover he was forced to sleep on the floor, dressed in underwears, from 2nd to 4th November, and was deprived of salt and sugar through the entire period of deten-

²⁰ See Urgent Appeal DZA 002/1003/OBS 050.

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tion, although he was a diabetic. The judge ordered that Mr. Tahar undergo two medical examinations, following which he received a medical certificate for 10 days, which shows the extent of damage he suffered. On 9th November, the LADDH lodged a complaint with the public prosecutor of the court in Saida against the director of the Labiodh Sidi Cheikh prison, following these acts of ill-treatment. As of end 2003, legal proceedings are in hand, however since the sick certificate did not exceed 14 days, the perpetrators of Mr. Tahar's ill treatment at most face a fine according to the law.

On 24th November 2003, Mr. Tahar received a three months' suspended prison sentence from the court in El Bayadh, along with the five other participants.

Detention of Salah-Eddine Sidhoum²¹

Dr. **Salah-Eddine Sidhoum**, surgeon and human rights activist, gave himself up to the algerian legal authorities on 29th September 2003, after nine years underground. He then asked that the 1997 trial be revised, whereby he had been sentenced in absentia to 20 years' imprisonment for «belonging to armed groups» and «vindication of terrorism» (article 87 of the Criminal Code). After the public prosecutor informed him that a new hearing of his case would be organised a few weeks later, Dr. Sidhoum chose to be detained in the Serkadji prison, near Algiers, in the belief that his life was under less threat there than if he remained free.

Dr. Sidhoum, who was detained in extremely precarious conditions (damp dungeon, enlightened day and night and infested with vermin), went on hunger strike shortly after he was placed in detention. Despite the fact that the prison doctor requested that he be hospitalised after 10 days of hunger strike, this was refused by the prison director.

Dr. Sidhoum appeared before the criminal court in Algiers on 16th October 2003. The Observatory appointed an observer to attend the hearing, at the end of which Dr Sidhoum was acquitted of the charges brought against him and freed the very same day.

²¹ See Annual Report 2002, press releases of 30th September, 2nd October, 9th October, 16th October 2003, and mission report of legal observers, November 2003.

HUMAN RIGHTS DEFENDERS HARASSED

Dr. Sidhoum had been arrested by the police a first time in 1980 as a result of his outspoken opinions concerning the release of persons arrested during the Berber spring's demonstrations. Thereafter he had unceasingly continued to call for the attention of the international community regarding the practice of torture, extrajudicial executions and forced disappearances; in particular, he had collected and distributed accounts given by victims, whom he was called upon to attend in his orthopaedic surgery service at the Selim Zmirli d'El Harrach Hospital. In 1994, he had gone underground for fear of reprisals following a break-in by three armed individuals in his own home.

Legal proceedings against Abderrahmane Khelil²²

On 20th May 2002, Mr. **Abderrahmane Khelil**, Head of the Committee SOS-Disappeared Persons and member of the LADDH, was arrested following a visit he made to the University of Bouzaréah to enquire about the arrest of students during demonstrations on 18th May. He was detained in the El Harrache prison in extremely precarious conditions, and on 26th May, received a six months' suspended prison sentence «for encouraging unarmed assembly». Mr. Khelil appealed against this decision. As of end 2003, the proceedings are still outstanding.

Harassment of members of SNAPAP²³

Members of the Independent National Union of Civil Servants (SNAPAP, Syndicat national autonome des personnels d'administration publique - trade union which is not recognised), are still the targets of acts of repression, as is the case of Mr. **Rachid Malaoui**, Secretary General, constantly subjected to acts of harassment of intimidation.

On 29th January 2003, several hundred delegates from the National Union of Local Authority workers, which is affiliated to the SNAPAP, organised a sit-in in front of the Ministry of Interior and of Local Authorities in Algiers to defend workers' rights; participants were dispersed following a baton charge by security agents.

²² See Annual Report 2002.

²³ See Annual Report 2002.

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Moreover, in October 2003, four nurses from the Labiodh Sidi Cheikh Hospital were transferred to an establishment located between 80 and 500 km far from their initial workplace. These transfers were ordered following their hunger strike to protest against the refusal from the authorities to allow a general assembly aiming at setting up a section of the SNAPAP.

Lastly, seven of the eight trade union board members of SNAPAP in Oran, who were arrested and suspended from their functions by an Order issued by the Wali (Governor) of Oran in March 2002, have still not been reintegrated in their jobs. Mrs. **Rokia Djebbour**, Mrs. **Hakima Slimani**, Mr. **Mohamed Benaissa**, **Bouabdallah Bensakrane**, **Cheikh Hattab**, **Abdelkader Kourea**, **Youcef Charef** and **Djamel Djefjel** were arrested following the hunger strike they started in protest against the closure of the SNAPAP office in Oran and on 21st October 2002 received a three month suspended prison sentence and 5 000 dinars fine - the eighth person was acquitted but was nevertheless transferred elsewhere.

On 21st January 2003, following appeal the sentence was commuted to a fine of 5 000 dinars. Their status of trade union representative was recognised but the administration maintained their suspension, which was notified to them by the security services. The seven trade unionists have submitted an appeal to the Supreme Court.

As of end 2003, the SNAPAP office in Oran remains closed.

EGYPT

Acquittal of Dr. Saad Eddin Ibrahim²⁴

On 18th March 2003, The Supreme Course acquitted Dr. **Saad Eddin Ibrahim**, director of the Ibn Khaldun Center for Development Studies. This decision brought an end to the legal proceedings which started in November 2000, following his arrest and that of 27 of his employees in June 2000.

²⁴ See Press Release of 18th March 2003.

HUMAN RIGHTS DEFENDERS HARASSED

On 21st May 2001, Dr. Saad Eddin Ibrahim had been sentenced to seven years in prison based on decree n° 4 of 1992, adopted in the context of the law on the State of Emergency (1981) which bans the collection and receipt of foreign funds without prior approval of the authorities. He was also charged with «falsifying voting cards, disseminating false information abroad with a view to harming Egyptian interests and extortion of moneys». Following two adjournments of the case by the Supreme Court where it had quashed the seven year prison sentences handed down by the State Security Courts, on 3rd December 2002 the Supreme Court released Dr Saad Eddin Ibrahim pending a final decision being handed down.

Moreover, the Supreme Court decided to acquit Mr. **Mohamed Hussein** and Mrs. **Nadia Mohamed Ahmed**, two more employees of the Center who were still being pursued in the context of this case. Mrs. **Magda Ibrahim El Beh**, a third employee in the Center who was still being pursued, was given a six months' suspended prison sentence for «falsifying voting cards».

Legal Recognition of EOHR²⁵

On 24th June 2003, the Egyptian Organisation for Human Rights (EOHR) received its official registration number from the Ministry of Social Affairs (registration n° 5220). It has thus become a legal organisation, after an 18 years wait following the request for legal recognition. The EOHR was first of all registered as a branch of the Arab Organisation for Human Rights in 1985 then submitted a request for registration in 1987 in compliance with law 32 of 1964. Following the refusal of this by the Ministry of Social Affairs, the EOHR lodged an appeal with the Administrative Court in 1992.

The legal proceedings lasted until 2000, by which time the EOHR renewed its request for registration in compliance with the new law on association and civil institutions (law 153/1999). A registration number was granted but shortly thereafter the Constitutional Court declared the new law unconstitutional and the EOHR had to submit yet another

²⁵ See Press Release of 27th June 2003.

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request on the basis of the former law of 1964. The authorities then postponed examination of the request following the refusal by the security services. After an appeal in the Administrative Court, that court ordered the Ministry of Social Affairs to register the EOHR in July 2001. The Minister initially refused to grant this authorisation, then subsequently accepted following a new request from the EOHR in compliance with the new law on NGOs, in 2002 (law 84/2002)²⁶.

Proceedings against Mr. **Hafez Abu Sa'eda**, Secretary General of EOHR, are still under as of end 2003. Mr. Abu Sa'eda is being pursued on the basis of decree n° 4 of 1992 for having in 1998 accepted an unauthorised subsidy from the British Embassy.

Refusal of legal recognition of two organisations²⁷

In June 2003, requests for registration by two organisations, New Woman Research Center and the Land Center for Human Rights, submitted on the basis of the new law on NGOs (Law 84/2002) were rejected by the Egyptian authorities. Regarding the New Woman Research Center, the Ministry of Social Affairs, on the basis of a letter received from the Giza Department of Security, indicated that «the authorities responsible for security are not in agreement with the registration of this institution». The Land Center for Human Rights for its part has not received any response from the Ministry of Social Affairs by the end of the 60 day period foreseen by the law and it thus considered as being illegal.

Continued pressure on the ECHR²⁸

The charges against **Hany Ryadh Saker** and **Tahar Suleiman**, members of the Egyptian Center for Housing Rights (ECHR) for «usurping a journalist's identity» and «inciting social riot and violence» are still outstanding.

Moreover, Manal el Tibe, Executive Director of ECHR, regularly receives telephone calls from the security services asking her to report to the police station.

²⁶ See Annual Report 2002.

²⁷ See Open Letter to the authorities, 11th June 2003.

²⁸ See Annual Report 2002.

Lastly, on 13th September 2003, the Ministry of Social Affairs informed the ECHR that their request of 14th May 2003 for registration was rejected. The organisation made an appeal against this decision. The Supreme Court is to hand down its verdict on 22nd February 2004.

ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORIES

Situation in Israel

Conscientious objectors tackled by military justice

Trial of Jonathan Ben Artzi²⁹

On 17th February 2003, the Israeli Defence Forces decided to bring Mr. **Jonathan Ben Artzi**, a pacifist student, before a Court-Martial, for refusing to serve in the army. He has consequently been detained since 8th August 2002 in military prison n° 4 and had already been imprisoned on seven consecutive occasions on the same grounds (196 days in all) following a decision by the military authorities. On 19th February 2003, Mr. Ben Artzi was sent to «open detention» in a military camp at Tel Hashomer, in the North of Israel (persons held in «open detention» live in conditions of restricted freedom in a military camp).

The first hearing of his trial took place before the court-martial of Jaffa on 11th March 2003. For the first time since the 1970s, the trial of a conscientious objector was being held before a Court-Martial. The hearing was adjourned, the defence lawyers claiming that, according to international law, a person may not be sentenced twice for the same crime (principle of *non bis in idem*). At the hearing on 13th April the Court reject the lawyers' objection, without giving any further details.

At the same time, the Supreme Court was called upon to comment on the possible referral of the case to a civil court. The defence, also

²⁹ See Press Release, 12th March, 16th April and 21st December 2003 and Report of Legal Observation Mission *Israel- Conscientious objection tackled by military justice*, December 2003.

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speaking on behalf of other conscientious objectors, had in fact already effected a recourse, arguing that persons refusing to serve in the army could not be sued for disobedience of a military order. On 8th April, the Observatory appointed an observer to the hearing. The Supreme Court, which handed down its verdict on 15th April, rejected this request, on the grounds that there was no real difference between the proceedings in civil and military courts.

After several hearings during which the sister of Mr. Ben Artzi and the former president of the «military conscience» Committee appeared as witnesses, a final hearing took place on 8th October in the presence of a representative of the Observatory. Mr. Ben Artzi spoke for several hours explaining the reasons for his refusal to serve in the army³⁰.

On 12th November 2003, the Military Court in Jaffa handed down its verdict and recognised Mr. Ben Artzi as a pacifist. Nevertheless the Court recognised him guilty of «insubordination» and recommended to the Ministry of Defence to ensure that he be heard once again by the «Committee of military conscience» which must decide in the final analysis on his exemption.

On 8th January 2004, the Minister accepted this recommendation. Jonathan Ben Artzi was set free the same day and remains free until the hearing before the committee of «military conscience».

*Trial of five other conscientious objectors*³¹

Five further conscientious objectors, **Haggai Matar**, held in detention since 23rd October 2002, and **Matan Kaminer**, **Shimri Zameret**, **Adam Maor**, **Noam Bahat**, in detention since December 2002, were brought to trial before the Military Court of Jaffa on 15th April 2003 for having refused to do their military service.

Although not opposed to doing military service *stricto sensu*, these latter refused to serve in an «occupying force» and called into question the actions undertaken by the Israeli army in the Palestinian Territories; for this reason they are considered to be «selective objectors». They are among the 300 signatories of the letter of «High School Seniors» sent to

30 Report of the Observatory *Israel: conscientious objectors facing military justice; the trial of Ben Artzi*, December 2003.

31 See Press Releases, 16th April 2003 and 5th January 2004.

the Prime Minister Ariel Sharon in January 2002, explaining their refusal to support the occupation of Palestinian Territories.

On 8th April 2003, at the end of a hearing where the Observatory sent an observer, the Court ordered that they be freed until 19th April when they would have to return to prison. However, they remained in «open detention» throughout their trial.

On 2nd May 2003, the Observatory contacted the United Nations Working Group on Arbitrary Detention and informed it of the situation of Jonathan Ben Artzi, Matan Kaminer, Adam Maor, Noam Bahat³². On 16th December, they were recognised guilty of «insubordination»...

On 4th January 2004, the Court sentenced Mr Matar, Kaminer, Zameret, Maor and Bahat to one year imprisonment for «insubordination» and recommended that the Army re-examine their exemption at the end of their sentence. They were taken to military prison n° 6, near Haifa.

On 15th January 2004, the United Nations Working Group on Arbitrary Detention published its decision according to which the repeated deprivation of freedom of Jonathan Ben Artzi, Matan Kaminer, Adam Maor and Noam Bahat was contrary to article 14.7 of the International Pact on civil and political rights of 1966 which states that "no-one can be pursued or punished for an offence of which he has already been acquitted or for which he has already been sentenced.

*Enquiry against the Adalah association*³³

On 23rd August 2002, the organisation Adalah - «Legal Centre for Arab Minority Rights in Israel» (NGO registered in 1996) - received a letter from the Register of Associations services at the Ministry of Interior, confirming that an official enquiry was being initiated on the association's activities. The launch of this enquiry see Mrs. to be linked to Adalah's activities, which, through its legal activities, denounces violations of civil, political, economic and social rights of Arab citizens in Israel. Adalah lodged an appeal against this decision on 5th December

32 In a previous recommendation, the Working Group (E/CN.4/2001/14, chap. IV, sect. B), indicated that «justice should not be used in such a way as to make the objector go against his or her convictions».

33 See Annual Report 2002.

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2002. In May 2003, legal counsel submitted a list of 25 questions in the context of the enquiry.

As of end 2003, the appeal procedure is still under way.

*Torture and detention of Mr. Daoud Dirawi*³⁴

On 21st February 2003, Mr. **Daoud Dirawi**, lawyer and co-ordinator of the juvenile justice programme in Defence for Children International/Section Palestine (DCI/PS), was stopped by Israeli soldiers for an ID check. He was taken to the police station at Qehle near Bab al Khaleel, where he spent 24 hours and then appeared before a magistrate. The following morning, his wife was informed that he had been taken to an unnamed place by the Israeli secret service (Shabak) for questioning which lasted 12 days (according to Israeli law, a prisoner may be detained for 12 days without being charged before being brought before a military judge).

On 24th February, a lawyer was able to visit him in the military prison at Asyun. According to his account, during his transfer to prison Mr. Dirawi was severely beaten up by soldiers who threw him to the ground kicking and punching him with their fists and the but of their rifles, leaving Mr. Dirawi with multiple bruises and a broken jaw. On arrival at the prison in Asyun, on 22nd February at 1.30 a.m., Mr. Dirawi got his wrists tied up, hold above his head (a form of torture known as *shabah*). He was left like that for 11 hours outside in the snow. The soldiers clearly stepped up their treatment of him when they learned that he was a human rights activist.

On 3rd March, the military authorities ordered that Mr. Dirawi be held in administrative detention for six months - no account was taken of the 12 days preventive detention - on the grounds that he constituted a «threat to security in the zone» and that he was in particular suspected of meeting a member of the Popular Front for the Liberation of Palestine (FPLP). On 1st September, he was informed that the administrative detention order was being renewed for a further six months.

On 15th October, he was brought before the Military Court in Ofer. The judge had asked the director of public prosecutions that he be

³⁴ See Urgent Appeal ISR 001/0303/OBS 010.

brought before a military court - in which case the administrative detention could be annulled - or to close the case before the military court and to pursue the administrative detention. In his decision of 4th December, the DPP pronounced in favour of maintaining administrative detention and of trial before a military court, so that he could be judged on his student activities dating back to 1995-96. A hearing was set for 8th February 2004.

Daoud Dirawi had been arrested in September 2001 and sentenced to six months preventive detention for belonging to an illegal association (the FPLP). This charge was made in the context of his student activities in 1995 and 1996 when active member of the Student's Workers Front (SWF), considered by the Israeli authorities as being linked to the FPLP. He was set free in March 2002.

As of end 2003, Mr. Dirawi is detained in the prison at Ketziot, in the Negev Desert. The enquiry mission mandated by the Observatory in Israel and in the Palestinian Territories (17th to 23rd November) was unable to obtain permission to visit Mr. Dirawi.

Situation in the Occupied Palestinian Territories

Human Rights NGOs accused of supporting terrorism³⁵

On 21st May 2003, the Israeli Minister of Foreign Affairs, Silvan Shalom, declared that «most human rights offices in the West bank and the Gaza Strip are shelters for Palestinian terrorists». These comments which constitute a genuine threat for activists, come on top of the restrictions to which they are subjected regarding freedom of movement and has consequences for their security in particular.

Obstacles to the freedom of action of Israeli and Palestinian NGOs³⁶

Israeli and Palestinian NGOs carrying out activities in the field, observe violations of human and humanitarian rights committed in the Occupied Territories, denounce these violations or even give support to

³⁵ See Press Release, 27th May 2003.

³⁶ Preliminary conclusions of the international enquiry mission mandated by the Observatory, jointly with OMCT and Forefront (17th to 23rd November 2003).

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the local population; in so doing, they encounter many obstacles, set by the Israeli authorities, essentially relating to obstacles to freedom of movement in the Occupied Territories. In fact for 26 months, they have imposed a closing-off of the Gaza Strip at all frontier points with Egypt and Israel. Moreover they have increased the restrictions to freedom of movement even within the Gaza Strip by repeatedly closing military barriers, forbidding Palestinians from travelling from one town to another, even making it impossible to move around within certain zones under curfew. Access to victims and witnesses is made all the more difficult in that, following an Israeli military attack, access to the theatre of operations is blocked off to organisations wishing to carry out certain investigations.

On account of these obstacles, Israeli NGOs, such as B'Tselem, are sometimes obliged to have recourse to local employees who develop activities in their own zone, within the Territories. Palestinians have considerable difficulties in moving around within the Territories, which hampers them not only when they are collecting information but also is an obstacle for many lawyers, who are regularly prevented from seeing their clients and from going to Israeli and Palestinian Courts to defend them. This is the case of the Palestinian Center for Human Rights (PCHR), or Al-Haq organisation.

These obstacles also have serious consequences for medical and humanitarian assistance. Accordingly, members of Physicians for Human Rights (PHR), based in Tel Aviv, have been refused access to the Gaza Strip for three years and are regularly refused entry to the West Bank, in areas A and B³⁷, when each Saturday they attempt to set up «mobile clinics» in Palestinian villages. They are only permitted to work in zone C, under Israeli military occupation.

Similarly, the Palestinian Red Crescent is hampered by these restrictions, in particular, ambulances and other vehicles for medical and humanitarian assistance are not allowed to circulate freely between the towns of the West Bank and the Gaza Strip. These obstacles have far-reaching consequences for the humanitarian and sanitary situation in

³⁷ Zone A: placed under Palestinian autonomy. Zone B: mixed zone-Palestinian civil sovereignty and Israeli security.

the Occupied Territories, resulting in lack of vaccines for children, female or infant mortality at birth, or patients dying in ambulances in particular at the long queues at check-points.

Lastly, these restrictions have specific consequences for Palestinian activists prevented from travelling abroad, such as Mr. **Raji Sourani**, director of the PCHR and FIDH vice-President, who, on many occasions, has been prevented from travelling abroad to participate in international fora. In particular, in early November 2003, Mr. Sourani was prevented from going to Tel Aviv for a meeting at the US Embassy and was unable to go to Paris to attend the FIDH International Bureau. On 15th October 2003, Mr. **Hassan Barghouthi**, Director General of Democracy and Workers' Rights Centre Society in Palestine (DWRCP), was unable to travel to Brussels for an international conference, having been detained for seven hours at the border with Jordan; he was requested to present himself at the Israeli security services in Ramallah on 21st October. Young activists are also suffering from the restrictions imposed on young Palestinians, and are prevented from leaving the Territories on the grounds that they belong to the range of population most likely to commit suicide bomb attacks in Israel. Thus, a member of the PCHR was prevented from travelling to Strasbourg where he was due to attend a training session at the International Institute of Human Rights in June/July 2003, on the grounds that he was under the age of 35.

These obstacles increase even more the isolation of Palestinian human rights activists. In this way, they are prevented from reporting on the human rights situation in the Territories, prevented from exchanging ideas and from undertaking lobbying at international fora.

Lastly, these controls are followed up with confiscation of equipment as was the case in January 2003, when DWRCP representatives were arrested and interrogated and then had their equipment and publication confiscated at the Qalandia check-point (between Jerusalem and Ramallah) for «reasons of security» when in fact they are on their way to attend the World Social Forum in Porto Alegre. The reports were handed back to the organisation one month later.

Members of NGOs have also have to face violent action such as was the case in November 2003, while a delegation from Rabbis for Human Rights (RHR) was gathering information on the destruction of several hundred olive trees in Ein Abus and Isawiya (West Bank) it was attacked by colonists, some of them armed with clubs and with their faces

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hidden. Mr. **John Ross**, journalist, Rabbi **Arik Ascherman** and M. **David Nir**, activist, were beaten; another activist, M. **Dalya Bones**, was threatened.

Restrictions on foreign human rights activists and humanitarian personnel³⁸

Restrictions on freedom of circulation in the Gaza Strip

On 9th May 2003, the Israeli authorities decided to increase restrictions on foreigners entering the Gaza Strip by requiring that their entry be conditioned by the signature of a declaration discharging the Israeli authorities of all responsibility in case these foreigners «are killed, injured or victim of theft of property in the context of a military operation». This document furthermore foresees that «all foreign persons must not in any way hamper the actions of the Israel Defence Forces (IDF)».

The same day, representatives of Amnesty International were banned access to Gaza after having refused to sign this declaration.

The Gaza Strip was subsequently closed and is still inaccessible to foreigners, excepting diplomats and emergency humanitarian workers who have been strictly selected.

These measures considerably restrict the freedom of circulation of human rights and humanitarian workers, pacifist activists, journalists and are aimed at reducing the possibility of any observation of the human rights situation in the Occupied Palestinian Territories.

Attack on the offices of the International Solidarity Movement (ISM)

On 9th May 2003, Israeli forces launched an attack on the offices of the International Solidarity Movement (ISM) in Beit Sahour, West Bank, by sending a lorry and 15 vehicles. The soldiers took away laptop computers and the organisation's files. Moreover, Mrs. **Miranda Sissons**, from Human Rights Watch (HRW) was arrested while making a routine visit to ISM, threatened with expulsion, and interrogated by the immigration services of the Israeli Ministry of Interior. She was released without having been informed of the charges being brought against her.

³⁸ See Press Release, 12th and 27th May 2003.

HUMAN RIGHTS DEFENDERS HARASSED

ISM, which was set up in 2001, has sent dozens of foreign volunteer workers to the West Bank and the Gaza Strip in an attempt to give non-violent protection to Palestinian civilians against Israeli military action.

*International pacifists being targeted*³⁹

On 16th March 2003, Mrs. **Rachel Corrie**, pacifist and US citizen, member of International Protection for Palestinians (GIPP) / ISM was killed in Rafah (South of the Gaza Strip) by an Israeli army bulldozer, while she was trying to prevent the demolition of a Palestinian house.

On 11th April, Mr. **Tom Hurdall**, member of ISM and UK citizen, was seriously injured by a sniper who shot him in the head while he was trying to shelter children from Israeli gunfire. He died on 13th January 2004 in a London hospital after having been in a coma for nine months. The Israeli Defence Forces have decided to pursue the soldier suspected of having fired at Hurdall. According to the Israeli authorities in London, the soldier could be charged and sent for trial.

On 5th April, Mr. **Brian Avery**, member of ISM and US citizen, was seriously injured in Jenin, when he was caught in Israeli army gunfire.

On 26th December, Mr. **Gil Na'amati**, an Israeli pacifist, was very seriously injured in the leg by an Israeli soldier while he was demonstrating against the separation wall in the village of Maskha, in the Western part of the West Bank. The bullet severed the femoral artery, Mr. Gil Na'amati had to receive a blood transfusion and did not finally have to have his leg amputated.

LEBANON

Freedom of association⁴⁰

Freedom of association in Lebanon was instituted by law on 3rd August 1909, and that of 9th October 1962. It states that associations

³⁹ See Press Release, 27th May 2003.

⁴⁰ See Preliminary conclusions of the report of the international enquiry mission of the Observatory, 25th - 31st December 2003.

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may be set up freely, a member of the association has to register the statutes and names of the association's officers with the Ministry of Interior and receives a receipt in return. Foreign associations may be set up, providing that there is reciprocal legislation in the country of origin of the foreign nationals involved.

Nevertheless, the practice of the Ministry of Interior has removed the concept of freedom from this law by refusing to provide a receipt for registration of the appropriate form *Ilm wa Khabar*. Moreover, it tries to impose on associations some unexpected obligations such as the adoption of standard statutes which require that the Ministry of Interior be informed of the date and place of general assemblies, or to submit renewals of its governing bodies or amendments to statutes to the Ministry for authorisation. This practice is contrary to the spirit of the law in force.

In order to get round this practice, some associations have chosen to register their statutes and names of their officers with a lawyer and to have this fact recorded by a bailiff who then notifies the Ministry of the Interior. Associations have also submitted an appeal to the Supreme Court. In a decision handed down on 11th December 2003, this latter contradicts the interpretation of the Ministry of the Interior: «It follows on from the very principle of freedom that associations may be set up freely and may be made public knowledge on the basis of a simple statement». Accordingly "setting up associations when they appear to be tainted with being annulled or having illicit aims, cannot be subject to the administrative authorities or even judicial authorities for verification of their validity».

As a corollary to this decree of the Supreme Court, the Ministry of Interior has to stop this practice and provide a receipt to associations submitting declarations to it, without trying to impose on them any statute of its choice nor having them submitting renewal of their officers or statutes for it's an *a priori* authorisation, these changes being simply declared by the associations and are confirmed by the Ministry issuing a receipt. The principles must be enforced, including with regard to human rights associations.

Arrest and legal proceedings against Mohamed Mugraby⁴¹

On 8th August 2003, Mr. **Muhamad Mugraby**, barrister at the Bar of Beyrouth and human rights activist, in particular renowned for his commitment to fighting corruption in Lebanese legal circles, was arrested and taken to the central bureau of criminal enquiries of the Ministry of Justice.

The Director of Public Prosecutions order Mr. Mugraby's arrest following a complaint lodged by the Bar of Beyrouth, accusing him of having made illegal use of his title of barrister. According to Lebanese law, this crime is liable for sentence of 6 months to 3 years imprisonment. The Bar accused Mr. Mugraby of continuing to practise law whereas two disciplinary commissions had withdrawn this right on 4th April 2002 and on 17th January 2003, following proceedings against him for «defamation of judicial power». These decisions however were not enforceable, as Mr. Mugraby had appealed against them and that appeal was still under way.

On 29th August, Mr. Mugraby was released but he is still pursued for «defamation of judicial power» and has been debarred. Furthermore, his two defence lawyers, Mr. **Muhamed Mahmoud Fakh** and Mr. **Jihad Abu-Nader**, members of the Bar of Beyrouth, have also been suspended for two months for having defended Mr. Mugraby. The Bar interprets article 94 of the Code for the organisation of the profession of barrister, which required that barristers obtain permission before undertaking legal proceedings against another barrister, as well as forbidding a barrister from initiating proceedings against the Bar without having obtained prior authorisation to do so. These lawyers are questioning the functioning of the Bar and in particular the legality of its rules of procedure.

Interrogation of Samira Trad⁴²

Mrs. **Samira Trad**, Head of the Frontiers Center, a NGO for the defence of non-Palestinian refugees in Lebanon, received a summon on

⁴¹ *Idem* and Urgent Appeal LBN 001/0005/OBS 33.01.

⁴² *Idem* and Press Release of 10th September 2003.

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10th September 2003 from the General Security - General Directorate of Beyrouth, following her return from Europe on 4th September, where she had paid a visit to meet with international NGOs for the defence of human rights, and aid donors. In the afternoon, the staff of the organisation learned that she had been arrested.

She was released on 11th September and was cautioned that she could be pursued at any time for participating in an illegal organisation and for having damaged the reputation of Lebanon abroad.

Thereafter, on several occasions throughout October, the office of public prosecutions of Beyrouth and an officer from General Security, requested Mrs. Samira Trad to present herself at the offices of General Security although there was no official summons. This harassment was to convince her to stop her work at the Frontiers Center in the context of illegal pressure designed to ban the work of associations dealing with refugees and asylum-seekers.

On 23rd December a representative of the Observatory met the Director General of General Security, M. Jamil Al Sayyed, following his decision to forbid Mrs. Samira Trad and Mr. Nizar Saghieh, legal counsel for Frontiers Center, from exercising any rights vis-à-vis General Security. The Director General confirmed this ban, but assured him that, contrary to her fears, Mrs. Samira Trad was entirely free to travel abroad.

Refusal to register the PHRO⁴³

Palestinian Human Rights Organisation (PHRO) which was set up on 29th November 1997 and which defends the rights of Palestinian refugees in Lebanon, submitted a request for registration with the Ministry of Interior in January 2001 using the form *Ilm wa Khabar* foreseen for this purpose. In principle, foreigners may set up associations in Lebanon, provided there is reciprocity; however, in the absence of a Palestinian State, freedom of association of Palestinians is hindered. In the case of the PHRO, the declaration concerns a Lebanese association since this organisation is based in Lebanon and all the directors whose names appear on the declaration of or Lebanese nationality.

43 *Idem.*

By the end of December 2003, the PHRO has still not received official acknowledgement of receipt or a registration number enabling it to appear on the register of associations and to carry out its activities legally. Despite repeated requests for an interview with the Ministry of the Interior, particularly in January and May 2002, the association did not receive any reply. This situation constitutes a serious obstacle to the organisation's action and it is facing financing problems in addition to the risk of having its name usurped.

MOROCCO

Torture and detention of Mr. Mohammed Rachid Chrii⁴⁴

Mr. **Mohammed Rachid Chrii**, deputy Secretary General of the Section of the Moroccan Human Rights Association (AMDH, Association marocaine des droits de l'Homme) in Safi, was taken in for questioning on 22nd April 2003 following an argument he had with a policeman who was beating up a man in the street. Shortly after this argument, he was arrested and taken to an unofficial detention centre, where he was tortured and subjected to ill treatment (beaten, electric shock treatment, introduction of an object into his anus, etc.). He was subsequently taken to the police station where he was once again tortured.

On 9th May 2003, the Court of first instance in Safi sentenced Mr. Chrii to 18 months in prison and a fine of 4,000 dirhas for «insulting a public official while in the course of duty». This verdict was confirmed by the appeal court in Safi on 10th June 2003. Mr. Chrii's lawyers denounced the conditions under which the enquiry and the trial took place, in particular the falsification of the official report of the criminal police and the absence of any material proof.

⁴⁴ See Open Letter to the authorities 5th December 2003 and Urgent Appeal MAR 002/1003/OBS 057.01.

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Mr. Chrii was initially imprisoned in Safi but was transferred twice, first of all to the prison in Benhamed then to that of Aladir on the outskirts of El Jadida. This last prison was particularly far removed from Mr. Chrii's family home, so, with the support of AMDH, he requested that he be transferred to the prison in Safi. However, this request was not met, despite assurances he had had to that effect from the Ministry of Justice. Mr. Chrii went on hunger strike three times to protest against his detention.

Despite medical certificates proving the torture and traumatism which Mr. Chrii underwent, and a complaint having been lodged with the Office of Public Prosecutions at the court in Safi, no enquiry had been opened on these events at end 2003.

Mr. Chrii was released on 7th January 2004, in the context of a Royal pardon granted to 33 political prisoners.

Detention of M. Ali L'mrabet⁴⁵

On 21st May 2003, Mr. **Ali L'mrabet**, director of two satirical publications, *Demain magazine* and *Douman*, was sentenced to four years' imprisonment and fined 20,000 dirhas by the Court of first instance in Rabat for «insulting his Royal Majesty». The Court also banned his two publications. The Observatory appointed an observer to the hearing, where Mr. Ali L'mrabet appeared considerably weakened, having been on hunger strike since 6th May, date of his arrest, in protest against his arrest and against repeated intimidation of «his printer and other persons will to print [his] newspapers».

He was placed under a committal order on leaving the court.

During the appeal hearing at the Court of Appeal of Rabat, on 6th and 10th June 2003, the Presiding judge considered that, as of adjournment of the session and before any hearing, the judges in first instances could not be pursued regarding the conditions of the arrest of Ali L'mrabet, considered as arbitrary by his lawyers. Moreover, the presiding judge refused to include subtilisation of certain documents in the

⁴⁵ See Press Releases of 10th and 17th June 2003 and Urgent Appeal MAR 002/1003/OBS 057 and 057.01.

file of the official record. Lastly, the Court rejected the request for provisional release requested by the lawyers, despite the worrisome state of Mr. Ali L'mrabet's health, as he was still on hunger strike and hospitalised since 26th May. The Observatory appointed an observer for the two hearings.

On 17th June 2003, the Court of Appeal of Rabat gave its verdict and confirmed Mr. Ali L'mrabet's sentence, although there was no debate on substance. His sentence was reduced to three years and 20,000 dirhas fine. The ban on his two publications was confirmed.

As of October, members of his family were subjected to increasingly detailed searches when they visited him. Their repeated requests that he undergo a medical examination went unheeded, whereas Mr. L'mrabet suffered the consequences of his 50 days hunger strike, problems with his eyesight and trembling of the right hand and foot.

On 14th October, two employees from the Ministry of Justice visited him in his cell to ask him to stop publishing articles while in detention. On 17th October a nurse and prison guard ordered him not to leave his cell and threatened that they would hide hashish among his personal effects if he went against this order, leaving him to understand that he could be charged with drugs trafficking. Mr. Ali L'mrabet was released on 7th January 2004 having been granted a Royal pardon. He is still nevertheless concerned by a second law suit in the context of a second affair, so-called «the holy stone» where he had been sentenced to four months' imprisonment in 2001. The Director of Public Prosecutions was appealing this verdict. The hearing, scheduled for 7th January in the Court of Appeal of Rabat, has been postponed to April 2004.

Enquiry on threats against Mrs. Hakima Chaoui⁴⁶

Following acts of intimidation and defamation against Mrs. **Hakima Chaoui**, member of the AMDH in 2001 and 2002, an enquiry was opened but had not come up with any concrete results by end 2003. The preacher at the mosque in Midelt was questioned for the purposes of the enquiry, but he denied having committed any acts of intimidation.

⁴⁶ See Annual Reports 2001 and 2002.

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Mrs. Chaoui was threatened and discredited by persons belonging to Islamic movements on account of her poems in favour of women's rights.

Obstacle to organising a caravan⁴⁷

On 7th October 2003, the Wilaya (Governorate) of Casablanca notified the Forum Truth and Justice (Forum Vérité Justice), that the organisation of a Caravan going to the former secret detention centre of Agdez in Ouarzazate province, planned for 10th to 12th October 2003, was banned by a decision of the Ministry of Interior. No reasons were given for this decision.

The aim of the Caravan was to provide enlightenment on the serious human rights violations committed in Morocco during the «dark years», and was initially planned for Spring 2003; it had been postponed on account of the tense situation in the region and in Morocco at that time. Despite their repeated requests, the caravan organisers were not invited to the Ministry of Interior.

Caravan participants left from Rabat and Casablanca by coach on 10th October. However, the Forum did not receive permission from the Ministry of Transport to charter coaches, as this required signature by the Wilaya of Casablanca.

Furthermore, the Wilaya of Agdez notified the ban of the sit-in in front of the former detention centre.

The Executive Bureau of the Forum Truth and Justice was finally able to organise this action from 17th to 19th October, with the permission of the Moroccan authorities. The Forum regretted nevertheless a strong loss of interest as a result of the date being postponed, as participants had covered long distances first time round and were unable to renew their commitment a second time.

⁴⁷ See Urgent Appeal MAR 003/1003/OBS 052.

Repression of Saharawi activists and organisations

Obstacles to freedom of circulation⁴⁸

On 27th March 2003, 14 human rights activists and members of families of disappeared Saharawi persons were arrested by the Moroccan police in the international zone of the airport in Casablanca. Their passports and other documents (video-cassettes, photos) were confiscated and they were notified that they were forbidden from leaving Moroccan territory.

The persons in question were Messrs. **Brahim Dahane** and **Bacher Lakhfaoui**, former disappeared persons and members of the Co-ordinating Committee of Saharawi families, Mr. **Sidi Mohammed Daddach**, former prisoner and winner of the 2002 Rafto Foundation prize for human rights (Norway), Messrs. **Brahim Noumri** and **Brahim Guarbi**, former disappeared persons and members of Forum Truth Justice - Sahara section (Forum Vérité et Justice-section Sahara), Mr. **Khaya Cheikh**, former prisoner, as well as eight family members of Saharawi disappeared persons.

These persons had received their Swiss visas to be able to participate in meetings on the forced disappearances in Western Sahara organised by the International Bureau on the respect of human rights. Mr. Dahane and Noumri were also due to participate in the 59th session of the Human Rights Commission of the United Nations in Geneva. They had received accreditation from the International Association of Democratic Lawyers.

They were immediately released but their passports and documents were not returned to them.

As of end 2003, their letters requesting that these be returned had gone unanswered.

Closing of the Sahara section of the Forum Truth Justice⁴⁹

On 17th April 2003, the criminal investigation police requested the disbanding of the Sahara section of the Moroccan Forum Truth Justice (FMVJ, Forum marocain Vérité Justice), the request was submitted to

⁴⁸ See Urgent Appeal MAR 001/0303/OBS 017.

⁴⁹ See Urgent Appeal MAR 002/0603/OBS 029.

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the Court of first instance on the basis of articles 3 and 7 of the Code of freedom, on the basis of activities likely to cause disturbance of the peace, inciting unauthorised demonstration and other activities likely to damage Morocco's territorial integrity.

On 18th June 2003, the Court of first instance in Laâyoun decided to disband the Sahara section of the FMVJ mainly on account of illegal and separatist activities not in compliance with its statutes. The verdict also included a ban on all meetings of members of the section, closing of the premises and winding up of the goods and property of the section to be transferred to the FMVJ Executive Bureau.

According to the judge, the activities of the Sahara section on behalf of Saharawi prisoners and meetings of its members with foreign organisations (NGO - non governmental organisation, IGO - intergovernmental organisation, etc) were proof of the separatist ideas of the group and hampered Morocco's diplomatic relations. Moreover, all demonstrations organised in Western Sahara were imputed to the section, even if the demonstrators were not members of the Forum.

There has been no specific event which can justify the legal action taken against the section. This action consequently appears to be the final outcome of the strategy set up by the authorities, aiming at hampering the activities of the Sahara section of the FMVJ since its inception in June 2000 (harassment, arrests and arbitrary sentences, abusive redundancies, etc.).

As of end 2003, the association's premises were still closed. Moreover, the verdict had not been notified to the section President nor to the lawyers, which means that this prevent them from appealing, since this is the required procedure to do so, according to Moroccan law.

Legal proceedings and harassment of members of the Sahara section of FMVJ⁵⁰

The members of the Sahara Section of FMVJ suffer constant harassment, on account of their denouncing of human rights violations perpetrated in Western Occidental and their pacific commitment to the right of self-determination for the inhabitants in this province.

⁵⁰ See Press Release of 4th July 2003.

On 12th March 2003, Mr. **Salek Bazid**, arrested on 24th September 2002, was sentenced to 10 years' imprisonment for «constituting a criminal gang, destroying food products, goods, property and furniture by acts of violence».

On 25th June 2003, Mr. **Dkhil El Moussaoui** was sentenced to one year imprisonment and fined 5,000 dirhams. by the Court of Appeal of Laâyoune for «inciting disturbance of peace» and specifically «constituting a criminal gang to commit crimes against persons and property and goods and participating in an act of voluntary arson in a public edifice».

They were granted a Royal pardon on 7th January 2004, were released as was Mr. **Ali Salem Tamek**, who had been sentenced to two years' imprisonment and fined 10,000 DH (1,000 euros) for «damaging internal State security» on 17th October 2002.

Mr. **Ahmed Nassiri**, also member of FMVJ, sentenced to 18 months' imprisonment in November 2002, was released on 21st December 2003, having served his one and a half year prison sentence. He was accused of inciting to riot during the bloody demonstrations in the town of S'mara which took place on 17th November 2001.

Moreover, Mr. **Moutik Lahoussine**, President of the Sahara section until it was disbanded, is still victim of constant harassment. Mr. Lahoussine was fired from his job as director of the accounts and computer service of a large company, following a hearing which he granted to an ad hoc commission on Western Sahara of the European Commission in February 2002. The accountant firm he has set up is under permanent surveillance by members of the Secret Services (Direction de surveillance du Territoire - DST) and his clients are subjected to pressure to discourage them from using his services.

Trial of perpetrators of ill treatment of workers in the Evitima factory⁵¹

The trial of the presumed perpetrators of ill treatment and torture of 21 workers of the Evitima factory, all members of the Moroccan Labour Union (UMT, Union marocaine du travail), while they were being arres-

⁵¹ See Annual Reports 2001 and 2002.

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ted on 2nd September 1999, is still being postponed. The 21 workers had been ill treated during their arrest on 2nd September 1999, following the strike and sit-in. On 12th December 2001, they received a two months suspended prison sentence and were fined 500 dirhams.

A further hearing is foreseen on 29th January 2004.

Legal proceedings against members of ANDCM⁵²

The appeal of the 22 members of the National Association of Unemployed Graduates (ANDCM, Association nationale des diplômés chômeurs - not recognised), who had been arrested on 18th and 19th June 2000 following a peaceful demonstration, is still under way. On 2nd July 2000, three of them received a two month prison sentence and the remaining 19 a two month suspended prison sentence.

SYRIA

Pressure on the CDF⁵³

During 2003, members of Committees for the Defence of Human Rights in Syria (Comités pour la défense des droits de l'Homme en Syrie - CDF) continued pursuing their activities despite the lack of legal recognition of their organisation and constant pressure by the Syrian authorities.

CDF members come under systematic surveillance (telephone tapping, mail confiscated, being followed, etc.). Mr. **Akhtam Naisseh**, President, is regularly called in by the security services and intimidated and his e-mail continues to be intercepted and medicine sent from abroad regularly confiscated. Such pressure is also exerted on the family of Mrs. **Mouzon Molshed**, member of the Board of Directors, to dis-

⁵² See Annual Reports 2001 and 2002.

⁵³ See Press Release 3rd September 2003.

courage her from pursuing her activities within the organisation. Mr. **Aref Hamza** and Mr. **Nidal Darwish**, also members of the CDF Board of Directors, are regularly subjected to harassment. In November, Mr. Darwish was refused permission to organise a conference in the North of Syria in the Al Hasaka region.

Between May and September 2003, between 25 and 30 CDF members received summons in the region of Hama alone. In particular on 27th August 2003, following criticism by the CDF of the authorities' policy regarding Syrian exiles, Mr. Naisse was called in by the military security services in Damascus. During his interview, he was threatened and insulted by officers who informed him that all CDF activities were banned until further notice.

CDF members decided to ignore this warning. 88 CDF activists received summons in the days preceding the organisation's Congress in October. However, CDF, unable to obtain permission to organise the Congress in Syria, held it in Cairo, in addition to two training courses for CDF members and supporters from CDF, from 10th to 21st October.

Detention of human rights activists⁵⁴

Mr. **Kamal Labwani**, member of the CDF Board of Directors, Mr. **Aref Alilah**, professor of economics and human rights activist, and Mr. **Habib Hissa**, member of the Founding Committee of the Syrian Human Rights Association, were still being detained at the end of 2003. They were sentenced respectively to five, six and five years' prison and deprived of their civil and political rights in August 2002, by the State Supreme Court for Security. They were arrested arbitrarily in September 2001, during a wave of arrests targeting ten opponents and/or human rights activists in August and September 2001.

⁵⁴ See Annual Report 2002.

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TUNISIA

Harassment of LTDH and its members*Legal proceedings*⁵⁵

At the end of 2003, the Tunisian Human Rights League (LTDH, Ligue tunisienne des droits de l'Homme) was the object of examination by magistrates and open complaints on several occasions targeting the League itself, its sections, officers and some of its members.

Trial of the Steering Committee of LTDH

The appeal to quash the proceedings against the LTDH Steering Committee, following its 5th congress, is still under way. On 21st June 2001, the Court of Appeal of Tunis confirmed the verdict of the Court of first instance to cancel the proceedings of the last LTDH congress (October 2000), on the basis of a complaint lodged by four members of LTDH, supporters of the Democratic Constitutional Party (Rassemblement constitutionnel démocratique -RCD, party in government).

Legal proceedings against LTDH sections

Gabès Section: following brutal police intervention on 19th October 2002, the congress of the Gabès Section was banned. It did nevertheless take place on 1st December 2002, but a participant lodged a complaint to have the proceedings cancelled. This cancellation was confirmed by decision of the court of first instance in Tunis on 12th May 2003. The League appealed against the verdict.

Korba and Kébilia Sections and of Hammam-Lif Ez-zahra and Radhès: the LTDH was the object of summary judgements, on 29th November and 20th December 2003 respectively, aiming at cancelling the general assemblies of these sections on account of refusal by certain RCD members to merge with the sections of Korba and Kébilia and of Hammam-Lif Ez-zahra and Radhès. The question of substance, to be examined by the Court of first instance of Tunis, is outstanding as of end 2003.

⁵⁵ See Annual Report 2002.

Sfax Section: On 18th January 2003, four members of the LTDH section, RCD members, lodged a complaint against the League which had convened a congress for 1st and 2nd February in order to set up a second section in Sfax. On 30th January 2003, the judge in chambers decided to stay the committee's decision to hold a congress, this judgement is to be confirmed by the Court of first instance in Tunis.

Monastir Section: the appeal proceedings in the matter of confiscation of the premises of the Monastir Section are still under way. In 2002, the owner of the premises of the section obtained cancellation of the tenancy contract which had just been signed with the LTDH, stating that she (the owner) was not in full possession of her faculties at the time of signing. The LTDH, which appealed the decision, was able to rent another office as from September 2003.

Obstacles to LTDH financing

On 29th August 2003, the Director for Political Affairs of the Ministry of Interior notified Mr. **Mokhtar Trifi**, President of LTDH, of the ban imposed by the Tunisian Government on receiving the second volume of financing granted by the European union (EU) to the LTDH, in the context of the European initiative for democracy and human rights (IEDDH). On 12th September, the LTDH was informed by its bank (BIAT) that the proceeding of this second transfer «could not be made available to the [LTDH] due to lack of necessary authorisations». To justify this obstacle, the authorities based themselves on the measures of law 154 (1959) and of the decree of 8th May 1922. However, the law only concerns charity associations and «those recognised of national interest» which is not the case of the LTDH, and the decree only concerns money resulting from public collection. This funding was obtained by the LTDH in April 2001 in the framework of a project entitled «restructuring the LTDH (project B7-70/2001/3185)» and the first phase has been completed.

By the end 2003, financing designed to the LTDH were still frozen.

On 9th January 2004, in reply to a question in parliament concerning financing by the EU of independent NGO in Tunisia, the Commissioner for Foreign Affairs of the European union, Mr. Christopher Patten, stated that the «European commission raised the question with the Tunisian authorities» and that they had «explained that law [154] is indeed applicable to all Tunisian NGO receiving foreign financing», but that «in a spirit of tolerance and conciliation» it

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had not been applied to the first payment by the Commission in the framework of this project. Moreover, the authorities recalled that the LTDH had been the object of a court decision concerning its activities in preparing its forthcoming general assembly and re-election of its bureau. The Commissioner stated that «without passing any judgement on the legal basis mentioned by the Tunisian authorities, the Commission was in favour of a political solution to this problem».

Legal proceedings and harassment of officers and members of the LTDH

A complaint was lodged on 28th December 2002 against Mr. **Hamda Mezguich**, member of the Bizerte Section, by a member of the LTDH, RCD supporter of the Jendouba Section, for acts of violence during the Jendouba Congress (September 2002). The proceedings are still under way.

On 26th April 2003, M. **Néji Marzouk**, publisher, member of the Steering Committee of the LTDH, was ordered by security agents to leave the *2003 Book Fair* where he had a stand. He was not allowed to attend the Opening Ceremony of the Fair with the Head of State.

Mr. **Anouar Kousri**, vice-President of LTDH, is still subjected to harassment (surveillance of his house, his office and followed wherever he goes) and his clients are still being subjected to intimidation to try and discourage them from employing his services as a lawyer.

Legal proceedings against Mr. Mokhtar Trifi, and Mr. **Slaheddine Jouchi**, first vice-President are still under way. They have both been accused of «circulating false information» and «of not respecting a court verdict» in March 2001 and December 2000 respectively.

The appeal of Mr. **Khémaïs Ksila**, Secretary General and obliged to stay in exile, sentenced in absentia to 10 years prison and a fine of 10,000 dinars following accusation under ordinary law, is still outstanding.

The CNLT and its members are being targeted*Obstacles to freedom of assembly⁵⁶*

The National Council for Freedoms in Tunisia (CNLT, Conseil national des libertés en Tunisie), has still been legally registered in 2003, despite repeated requests by its members over the last five years.

⁵⁶ See Annual Report 2002.

They still constantly encounter obstacles to their activities. Meetings are more or less systematically banned and the offices in Tunis under constant surveillance. Tunisian police have also intervened on many occasions encircling the premises where meetings or assemblies organised by the CNLT were due to take place, in order to prevent them from taking place. On 24th October 2003, the CNLT tried to organise a press conference to launch the International Campaign for Freedom in Tunisia. Its premises were surrounded by an impressive number of policemen who banned access.

Visitors are also frequently intimidated and it is becoming increasingly difficult for them to come to present their case or to bear witness.

Harassment and aggression against Sihem Ben Sedrine⁵⁷

In April 2003, Mrs. **Sihem Ben Sedrine**, then spokes-person of the CNLT, was the target of a virulent campaign of defamation and of denigration in the press. She was accused of betraying the Arab cause, whereas she had just returned from mission in Iraq, under US occupation since March.

Early December 2003, her car was completely trashed and vandalised, and on 5th January 2004, Mrs. Ben Sedrine was attacked in the street while making her way home, which is also the HQ of the CNLT. She was knocked to the ground by an unidentified individual who molested her, in the presence of two acolytes, Sihem Ben Sedrine was punched several times and had her lip split and suffered many bumps and bruises. It is believed that this attack was carried out on order of the security services who keep her home under constant surveillance.

Lastly, the proceedings opened in June 2001 against Mrs. Ben Sedrine, for «dissemination of false information likely to cause disturbance of the peace» and «attacking judicial institutions» are still outstanding. Mrs. Ben Sedrine was charged after being interviewed by the Arab television channel Al Mustaqiya, in London, on the question of torture and corruption in Tunisia.

⁵⁷ *Idem.*

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*Sentencing of Om Zied*⁵⁸

On 25th September 2003, Mrs. **Neziha Rejiba**, alias Om Zied, Editor-in-chief of the newspaper *Kalima* - banned by the Tunisian authorities - and Head of communication of the Liaison Committee of the CNLT, was summoned to appear at the Department of Customs, Bureau for Exchange rate crime. She was told that she was being charged with «illegal detention of foreign currency» according to articles 6, 22, 35, 36 and 37 of the Code of Foreign Exchange. She was charged with having handed over the sum of 170 euros to a close acquaintance of a Tunisian political refugee the day after her return from a stay in France.

Om Zied was summoned to appear on 28th October 2003 before the 3rd Criminal Court of first instance in Tunis. On 18th November 2003, during a second hearing, Om Zied received an eight months suspended prison sentence and was fined 1,200 Tunisian dinars.

The Observatory appointed an observer to the two hearings of her trial following which the political nature of the charges became quite clear. In fact, the sum of money brought back by Om Zied had been declared to the Customs. Moreover, the lawyers for the defence referred to article 36 of the enabling acts of the Code of Foreign Exchange of 1977, according to which Tunisian residents who bring back foreign exchange have seven days within which to exchange this money for Tunisian dinars.

The appeal hearing was scheduled for 31st December 2003, but has been postponed until 25th February 2004.

Om Zied is moreover victim of harassment and intimidation on a regular basis in particular on account of the criticism and articles she writes in her newspaper and for her public stance on foreign TV channels. Her home is under constant surveillance by a team of un-uniformed policemen who keep up a barrage of provocation to her sons. Her mail is also opened and sometimes confiscated. Her telephone line is constantly tapped and frequently cut to prevent her from communicating with foreign media.

⁵⁸ See Press Release 19th November 2003.

*Harassment of several members of CNLT*⁵⁹

Mr. **Abderraouf Ayadi**, lawyer and Secretary General of CNLT, is still the victim of constant harassment at his office, his home and during visits elsewhere, and his clients are kept under surveillance. Mr. **Nejib Hosni**, spokes-person of the CNLT, is also subjected to such pressure, as well as Mr. **Hedi Manai** and Mr. **Said Mechichi**, respectively former and current officers of the Jendouba section of CNLT.

The legal proceedings against Mr. **Omar Mestiri**, former Secretary General of CNLT and Dr. **Moncef Marzouki**, former spokes-person, are still under way. Mr. Mestiri and Mr. Marzouki were charged in 1999 with «disseminating false information» and «maintaining an unrecognised association».

Mr. **M'hamed Ali Bedoui**, brother of Dr. Moncef Marzouki, was banned several times from leaving Tunisian territory although he has a «Schengen» visa and a valid passport and has not been the object of any legal proceedings. For several years now, Mr. Bedoui has been subjected to systematic harassment and acts of persecution which have led to his becoming unemployed and being unable to leave Tunisia.

Mr. **Abdelkader Ben Khemis**, leading member of CNLT from 2001 to 2003 and founder of the chemistry laboratory in Monastir, has been obliged to give up his functions on account of the recurrent obstacles to his professional activities. His request for his functions to be prolonged was in fact refused when he reached retirement age.

Right to strike by lawyers called to the Bar called into question⁶⁰

On 8th July 2003, the Court of Appeal of Tunis handed down its verdict in the case involving six lawyers, RCD members (party in government) and the Bar association. According to the verdict, the plaintiffs were entitled to request retroactive cancellation of the strike called by the Bar Association on 2nd February 2002, on the grounds of «illegal stri-

⁵⁹ See Annual Report 2002.

⁶⁰ See Press release, 16th May 2003 and 4th and 9th July 2003, (See Reports of international missions of judicial observation, Trial against the Bar, Tunisia, May 2003, Observatory International Commission of Lawyers, *Avocats sans frontières*).

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ke».

The strike was called to protest against the many irregularities occurring in the trial of Hamma Hamami, leader of the communist workers' party of Tunisia (PCOT) and against acts of violence perpetrated against observers and lawyers on that occasion.

The Observatory appointed an observer to four of the five hearings of the trial, jointly with the International Commission of Lawyers and Avocats Sans Frontières - Belgique. The plaintiffs maintained that their «right to work» had been trampled, whereas lawyers close to power who had not wanted to participate in the strike movement had not been prevented from exercising their profession on 7th February 2002.

The verdict on 8th July constitutes a worrisome precedent. The Bar Association is henceforth prevented from calling a strike- a right which exists in the Tunisian Constitution - and lawyers can henceforth be the object of disciplinary action in the event of strike.

This verdict clearly intends to rein in an overly independent Bar Association. With its election methods, commitment to defending individual liberties, in particular the fight against police violence, torture and malfunction of the legal system, the Bar association indeed is one of the last bastions against arbitrary decisions in Tunisia.

This verdict comes on top of all the pressure exerted on members of the Bar Association. By way of example, a delegation headed by Mr. Bechir Essid, President of the Bar, and consisting of members of the Bar and the Association of Young Lawyers was prevented on 26th March 2003, from having access to the Iraq Embassy to express its solidarity with the Iraqi people.

On 21st April 2003, an assembly which the Bar Association was to organise in front of the Ministry of Justice and of Human Rights in protest against the refusal of the Ministry to reply to their demands concerning their moral and material situation, was banned by the police which surrounded the Law Courts in Tunis. The lawyers were in a meeting with the President of the Bar Association at the Association's headquarters so that the lawyers were prevented from leaving and going to the place of assembly.

Furthermore, in the night of 10th to 11th May 2003, Mr. Bechir Essid was attacked by members of the police force when he was going to the Lawyers' Club to find out by these premises had been banned for lawyers that very day.

Lastly, on 15th May 2003, Mr. **Mohamed Jmour**, Secretary General of the Bar Association and **Néji Marzouk**, member of the LTDH Steering Committee, were searched at the airport when they were leaving the country on the pretext of «instructions received». Mr. Jmour was subsequently searched and subjected to harassment regularly when leaving the country, in particular on 8th December 2003, when he was leaving for Geneva to attend the World Summit on the Information Society.

Refusal to register the Tunisian Association Against Torture and harassment of its President, Radhia Nasraoui

Refusal to register the Tunisian Association Against Torture⁶¹

On 26th June 2003, Mrs. **Radhia Nasraoui**, **Chokri Latif**, **Ali Ben Salem** and **Ridha Barakati**, founding members of the Tunisian Association Against Torture (ALTT, Association de lutte contre la torture en Tunisie), went to the offices of the Governorate of Tunis, to present documents relevant to the setting up of ALTT in order to obtain a receipt of legal registration. They were turned back by security persons at the entrance and were refused access to the relevant bureau.

The ALTT, whose creation was announced on 26th June, the United Nations International Day for Support to Victims of Torture, has as its mandate the promotion of local legislation to protect victims from torture, identify cases and ensure follow-up, and provide support to victims on both medical and legal levels with a view to lodging complaints before national and international bodies.

Harassment and aggression against Radhia Nasraoui⁶²

On 16th April 2003, the offices of Mrs. Radhia Nasraoui were surrounded by about 40 members of the political police. Mr. Béchir Essid and Mr. Mohamed Jmour, who went there were refused access to her offices.

On 13th July 2003, Mrs. Radhia Nasraoui was attacked by un-uniformed policemen on her way to a reception at the Tunisian League of

⁶¹ See Urgent Appeal TUN 001/0603/OBS 030.

⁶² See Urgent Appeal TUN 002/0703/OBS 033 and Press Release, 20th October 2003 and 12th November 2003.

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Free Writers, an unrecognised association, on the occasion of the second anniversary of the association. When Mrs. Nasraoui and Mr. Jalloul Azzouna, writer and President of the League of Free Writers, went through the impressive police barrage designed to prevent the reception from taking place, Mrs. Nasraoui was pushed against a wall then struck violently by policemen. Mr. Azzouna, who tried to defend her was mishandled in the fray. Mrs. Nasraoui, who suffered bruising to her arms was off work sick for six days

By end 2003, there had been no follow-up to the complaint which she had lodged with the police services.

On 15th October 2003, Mrs. Radhia Nasraoui started a hunger strike in protest against the systematic obstacles she encountered in the exercise of her profession as a lawyer and of the constant harassment to which she, her family and her clients were subjected over the years. In fact, the several years her house was under constant surveillance by the police, her telephone tapped, and her mail intercepted. Similarly her clients were subjected to very strong pressure to discourage them from employing her services.

The Observatory appointed two solidarity missions to support Mrs. Radhia Nasraoui, from 7th to 10th November and from 28th to 30th.

On 10th December 2003, Mrs. Radhia Nasraoui announced during a press conference that she was going to stop her hunger strike. Mrs. Nasraoui appeared very weakened having lost 16 kilos.

At end 2003, her home is still under surveillance. Mrs. Nasraoui has nevertheless managed to attract the attention of many representatives of the international community and of the media to the many serious violations of the law by the State and of violations of human rights in Tunisia.

Harassment of Mr Mohamed Nouri⁶³

On 18th July 2003, Mr. **Mohamed Nouri**, President of the International Association for solidarity with Political Prisoners (AISPP, Association internationale de solidarité avec les prisonniers politiques),

⁶³ See Annual Report 2002.

found his home surrounded with a massive police barrier through an entire day when he returned from Switzerland.

On 5th December 2003, Mr. Nouri's office was surrounded by policemen to prevent a press conference from taking place. Representatives of civil society, including the Dean of the Bar Association of Tunisia, had made a plea to denounce the dramatic situation of political prisoner in Tunisia, in particular those in Borg el-Amri, who were on the 34th day of their hunger strike.

On 9th December, he was prevented from leaving Tunisian territory to go to Geneva.

Detention and release of Zouhair Yahyaoui⁶⁴

M. **Zouhair Yahyaoui**, founder and moderator of the internet site Internet TUNeZINE devoted to fundamental liberties in Tunisia, held in detention since 4th June 2002, was freed on 18th November 2003, thanks to national and international mobilisation.

Mr. Zouhair Yahyaoui was arrested on 4th June 2002 and sentenced on 20th June 2002 by the Court of first instance and then in appeal on 10th July to 2 years prison for «disseminating false information» following a trial at which the Observatory observed and considered to be unjust. The Observatory had informed the United Nations Working Group on Arbitrary Detention of his case on 27th August 2002.

Mr. Yahyaoui left prison in a extremely weakened physical state on account of the precarious and degrading conditions of his detention. In particular, he lost all his teeth, as well as having lost a lot of weight.

In 2003, Mr. Zouhair Yahyaoui undertook three hunger strikes to protest against his sentence and the conditions of his detention. In addition to the degrading conditions on the physical level (crowded prison cell, extreme heat, no access to medical care, etc.), Mr. Zouhair Yahyaoui was subjected to persecutions, humiliation and punitive measures by the prison warders. These measures were stepped up particularly after the solidarity assembly organised on his behalf in front of the

⁶⁴ See Press Release of 6th February, 13th June and 18th November 2003 and Urgent Appeal TUN 004/0804/OBS 036.02.

⁶⁵ See above.

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prison at Borj El Amri on 6th February 2003⁶⁵. From that time on, food which was sent to him by his family was regularly stolen and what he did get was deliberately dirtied by the prison warders. All reading matter was banned, his correspondence was confiscated and his daily walk banned. Mr. Yahyaoui was also put in the solitary confinement without food for two days following protests by his family about the conditions of visits. These punitive measures were stepped up again just before his release.

On 4th June 2003, his fiancée, Ms. **Sophie Piekarec**, a French citizen and new moderator of TUNeZINE, was refused entry to Tunisia. Mrs. Sophie Piekarec wanted to visit Zouhair's family, one year to the day after his arrest, she also wanted to meet with the French Ambassador in Tunis.

Harassment of members of RAID⁶⁶

Mr. **Fathi Chamkhi**, spokes-person of the Assembly for Alternative International Development (CNLT, Conseil national des libertés en Tunisie) RAID - ATTAC/Tunisie, Rassemblement pour une alternative internationale de développement), was attacked by a guard of the university police on 28th February 2003 in front of the Faculty of Arts of La Manouba (near Tunis), where he teaches. Subsequently, police from the nearby police station subjected him to harassment.

Mr. **Sadri Khiari**, founding member of CNLT and member of RAID was able to leave Tunisia in May 2003 and now lives abroad. Mr. Khiari had been banned from leaving Tunisia since July 2000, on the grounds that he was the object of legal proceedings, whereas he had never received any information about these legal proceedings.

Refusal of passport and smear campaign against human rights activists⁶⁷

Government-organised smear campaigns in the so-called independent press (and described as «the gutter press» by defence associations)

⁶⁶ See Annual Report 2002.

⁶⁷ See Annual Report 2002.

HUMAN RIGHTS DEFENDERS HARASSED

have continued persecuting Mrs. **Khedija Cherif**, vice-President of the Tunisian Association of Democrat Women (ATFD, Association tunisienne des femmes démocrates), Mrs. Souhayr Belhassen, vice-President of LTDH, Mrs. Sihem Ben Sedrine, member of CNLT and director of the internet magazine *Kalima*, Mrs. **Bohra Bel Haj Hamida**, ex-President of ATFD, Mr. Mokhtar Trifi, President of LTDH, Mr. Omar Mestiri, member of CNLT, Mr. **Khémaïs Chammari**, ex-vice President of LTDH and member of the Committee for the Respect of Human Rights and Liberties (CRLDHT, Comité pour le respect des droits de l'Homme et Libertés) forced into exile, **Kamel Jendoubi**, President of the Euro-Mediterranean Network for Human Rights (REMDH, Réseau euro-méditerranéen des droits de l'Homme) and of CRLDHT. Mr. Jendoubi, now living in France, is still deprived of his Tunisian passport.

