HUMAN RIGHTS WATCH

The Price of Independence

Silencing Labor and Student Unions in Tunisia

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Glossary of Acronyms

ACHPR	African Charter for Human and People's Rights
ATJ	Association of Tunisian Journalists
CFA	Committee on Freedom of Association (part of the ILO)
CGTT	General League for Tunisian Labor
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFJ	International Federation of Journalists
ILO	International Labour Organization
NSTJ	National Syndicate of Tunisian Journalists
TJU	Tunisian Journalists Union
UGET	The General Union for Tunisian Students
UGTT	Tunisian General Labor Union
CGTT	Tunisian General Labor Confederation

Summary

Trade unions have long played a crucial role in Tunisia's political, social, and economic life. In the 1940s and 1950s, the Tunisian General Labor Union (UGTT)—a national confederation of labor unions—promoted social reform and played an active role in fighting France's occupation of Tunisia. Later, amid economic crisis in the 1970s and early 1980s, it led a mass mobilization against the government of Habib Bourguiba.[1]

The right of citizens to form unions and operate independent of government interference is secured in Tunisia's Constitution (article 8) and Labor Code, as well as the UN and Africa human rights treaties and International Labor Organization conventions, which Tunisia has ratified.[2] Despite this, Tunisian workers and union members face undue restrictions on their right to freely organize, including denial of legal status to unions outside of the UGTT, government infiltration and takeover of critical unions, and persecution of student union members.

While the UGTT's relationship with the government has traditionally fluctuated between cooperation and confrontation, Tunisians still tend to see it as an independent body that fights for workers' interests. However, many members of the Tunisian General Labor Union (UGTT) say the union's leadership has shifted over the last decade towards a more complicit relationship with the government, much to the dismay of its more independent-minded members. Keen to maintain control over such a powerful organization, the government has quashed attempts to form new unions, and relentlessly persecuted unionists through harassment, intimidation, detention, and even torture.

Even unions with existing legal recognition have faced increased government interference and control. For example, when the National Syndicate of Tunisian Journalists (NSTJ)—the only legally recognized union outside the UGTT umbrella—began to criticize the government for restricting press freedom and treating journalists harshly in 2009, the government orchestrated a successful campaign to oust the syndicate's independent board and replace it with one loyal to the president.

The General Union for Tunisian Students (UGET), the country's only student union with members from universities across the country, has also found itself in the government's cross-hairs. Based at the University of Tunis, it protects Tunisian students' interests and

[1] Stephen King, The New Authoritarianism in the Middle East and North Africa (Bloomington, Indiana University Press, 2009).

[2] Tunisian Labor Code, articles 242 and 250, available at: http://www.snjt.org/images/snjt/travail.pdf.

advocates on their behalf for lower tuition, educational reform, and the right to housing. Although technically an association, it essentially fulfills the function of a union. Moreover, like the UGTT, the UGET has always been a powerful political and social player, with a strong student body active in several political parties. As a result, the government has often treated it like an independent union, persecuting its leaders and arresting and torturing its members. The strategy has proved effective. Today, this once thriving body is weak, and its activity and membership at an all time low due to fears of government repression.

Such behavior undermines an important and constitutionally guaranteed segment of civil society, and reflects the government's overall intolerance for any assembly or organization outside its control. It also contravenes basic tenets of international law—including the right to freedom of expression and association, and the associated right to freedom of assembly. Furthermore, it negates the essentially liberal character of the country's law governing labor unions. This requires founders of a union to simply inform the government of their intentions in order for the union to be legally recognized. However, union members say that Tunisian authorities withhold legal recognition by not giving applicants a receipt for their submitted application, which they later deny ever receiving—even when it is submitted by registered mail. The government then claims the new union is unauthorized. Moreover, while Tunisian law guarantees the right to strike, it also requires that the UGTT receive notice of a strike 10 days in advance and pre-approve such action, which places unjustified limitations on workers' rights to strike.

The international community, and particularly the European Union (EU)—with which Tunisia has requested advanced status—should ensure that Tunisia respects its citizens' right to freedom of assembly and expression. In May 2010, the Tunisia-European Union Association Council's 8th session, held in Brussels, explored further co-operation between Tunisia and the EU, and the progress of the Association Agreement and the Action Neighborhood Plan. The EU should press Tunisia to honor its commitments to human rights within the European Neighborhood Policy, and ensure that further negotiations with Tunisia include clear requirements for respecting human rights.[3] This comes at a particularly crucial time. In July 2010, the Tunisian cabinet passed an amendment to article 61 of the Tunisian Penal Code, criminalizing "any persons who shall, directly or indirectly, have contacts with agents of a foreign country, foreign institution or organization in order to encourage them to affect the vital interests of Tunisia and its economic

[3] See European Commission: European Neighborhood Policy: http://ec.europa.eu/world/enp/policy_en.htm.

security". This law could potentially affect Tunisians lobbying with the EU to press their government to improve its human rights record.[4]

The International Labour Organization should also work directly with the Tunisian government to ensure that its practices are in line with the ILO conventions it has ratified.

Public relations firms working with Tunisia's leadership, such as the Washington Media Group, which the government recently hired to promote its business sector, should be careful not to contribute to the repression of Tunisians by whitewashing the government's abuses to international audiences. Instead, they should make it clear to Tunisia that its image is best improved by making clear changes on the ground, in line with international standards of basic human rights.

Recommendations

To the Government of Tunisia

- Ensure that the Ministry of Interior accepts all applications to form unions, supply applicants with a receipt, and acknowledges union formation in accordance with Tunisian law.
- Refrain from subjecting union members to police surveillance and harassment, unless there is sufficient evidence of criminal activity to justify surveillance of individuals, and investigate all acts of police violence against unionists promptly and impartially.
- Uphold the right to association and assembly of union members, including the right to hold public events without interference from police or state security agents.
- Amend all relevant Tunisian laws and regulations, including the Labor Code, to bring them into conformity with the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and International Labour Organization requirements. In particular, amend article 376 of the code that predicates the right to strike on the approval of the centralized union, meaning the General Tunisian Labor Union.
- Investigate promptly and impartially all allegations of torture or ill-treatment by security or law enforcement officials of members of unions. Prosecute to the fullest extent of the law, in a court that meets international fair trial standards, any official whom evidence indicates ordered, carried out, or acquiesced to torture or ill-treatment.

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[4] See FIDH, Amnesty International, Human Rights Watch, OMCT, ACAT, EMHRN, "OPEN LETTER: Strong concern regarding the adoption of an amendment criminalizing contacts between Tunisian human rights defenders and EU institutions," July 22, 2010, http://www.fidh.org/Open-letter-Strong-concern-regarding-the-adoption.

- Ensure that all trials, including those of union members, meet international fair trial standards, including open access to courts, full disclosure of charges to defendants, the right to legal representation, and the right to defense.
- Invite ILO officials to investigate and discuss protection and promotion of worker's rights to unionize and accept ILO recommendations.

To the International Labour Organization (ILO)

- Dispatch a senior-level mission from Geneva to engage with the Tunisian government on worker's rights to unionize.
- Seek a time-bound reform program for amending the Labor Code to bring it into compliance with ILO Convention 87 (regarding the right to freedom of association and protection of the right to organize).

To the European Union

- Within the framework of EU-Tunisian negotiations on granting Tunisia advanced status in the EU, press the Tunisian government to commit to improving its human rights record and respecting the rights of union members and journalists.

To the Washington Media Group and Other Public Relations Firms hired by the Tunisian Government

- Ensure work for the Tunisian government does not aid the government in glossing over its abuses to the international community.

Methodology

This report is based on interviews conducted by a Human Rights Watch researcher between April and May 2010 in Tunis, the capital of Tunisia, and in Gafsa and Redeyef in west-central Tunisia.

The researcher interviewed 26 unionists, journalists, and activists, all of whom are, or were, active in the Tunisian General Labor Union (UGTT), the National Syndicate for Tunisian Journalists (NSTJ), and the General Union for Tunisian Students (UGET), as well as human rights lawyers active on issues of freedom of association, among other things. Additional research was conducted by telephone.

Human Rights Watch also relied on statements and campaign material produced by NSTJ and UGET for background information.

Researchers were unable to contact the leadership of the UGTT for interviews, and relied instead on testimony of members active in the union.

On September 7, 2010 Human Rights Watch sent a letter to the Tunisian government summarizing its findings and conclusions, and asking for comments and clarifications to which the government responded, denying all allegations. Human Rights Watch's letter, the government response, and our counter-arguments can be found annexed in this report. Human Rights Watch also requested a meeting to discuss the report's finding with the Minister of Justice and Human Rights, Lazhar Bououni, and the Minister of Interior and Local Development, Rafik Belhaj Kacemto. Their response is included as an appendix to this report.

Plain-clothes police followed Human Rights Watch's researcher in Tunis closely and constantly throughout the research. Police also subjected most interviewees to close surveillance following their interviews. On two separate occasions, the Human Rights Watch researcher had to accompany UGET members Mohammad Soudani and Amani Rizgallah to their homes because they feared police retaliation for meeting with an international organization. Both had been previously subjected to arbitrary detention several times, as documented in this report.

I. Labor Unions

> Freedoms and democratic principles can only be entrenched if you embrace pluralism. This is the main problem with Tunisian unions today.
>
> —Habib Guiza, a founder of the Tunisian General Labor Confederation (CGTT), July 23, 2010.

Denial of the Right to Form Unions

The Tunisian General Labor Union (UGTT) is the largest and only legally recognized confederation of labor unions in the country, comprising 600,000 members and 15,000 unions nationwide. Its stated aims are to protect the material interests of workers in Tunisia, defend general and personal freedoms and human rights, and work through the International Trade Union Confederation and other international trade federations to protect the interests of workers.

The UGTT is a member of the executive bureau of the African Trade Union Organization within the International Trade Union Confederation. During the UGTT's general congress, held every five years, union members elect leaders for the union's 13 different divisions, including the executive office. Although the UGTT has no official ties to the government, UGTT members have at various times complained that its leadership was too close to the ruling party.[5]

According to Tunisian law, founders of a new union need only notify the government of their intentions in order for such a body to be legally recognized.[6] However, unionists attempting to set up independent unions outside of the UGTT report that Tunisian authorities have withheld legal recognition by not providing receipts for submitted applications, which they later deny ever receiving. The government then claims the new union is unauthorized and disrupts its operations.

For example, in May 2004, around 120 journalists applied to form a body called the Tunisian Journalist's Union. However, according to Lotfi Hajji, one of the union's founding members, the Ministry of Interior claimed it never got the application.[7] As a result, he says, the union

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[5] Human Rights Watch phone interview with Habib Guiza, founder of the CGTT, July 23, 2010.

[6] Tunisian Labor Code, article 250.

[7] Human Rights Watch phone interview with Lofti Hajji, founder of Tunisian Journalist Union, May 7, 2010.

could not operate legally and was often harassed by police.[8] It continued to operate nonetheless, and issued several reports on media freedoms in the country.[9]

In another case, some senior UGTT members at odds with the union's leadership filed an application on February 13, 2007, to form the Tunisian General Labor Confederation (CGTT).[10] Some 500 trade unionists had signed the CGTT's founding document, which declared the CGTT to be a "platform for a radical reform of the Tunisian trade union movement."[11] Founding members of the new union maintained that current UGTT practices were outdated, rigid, and overly hierarchical, and that its monopolization of union activity rendered it incapable of truly representing all Tunisian workers.[12]

Habib Guiza, one of the founders of the new union, said that he and fellow unionist Mohammad Chakroun initially tried to deliver the union's application to the Tunis Governorate, but that an employee there had refused to accept the documents and informed him that "the person responsible was not available."[13] Guiza then sent the material by registered mail and received a delivery receipt. The Ministry of Interior continues to claim it has no knowledge of the union, despite this incontrovertible proof that the government did in fact receive the application.[14]

On February 1, 2007, police prevented union members from holding a press conference announcing the foundation of their new union at the offices of the Mohammad Ali Cultural Foundation, a legally registered nongovernmental organization (NGO) of which Guiza is also a founding member and president.[15] According to Guiza, Ministry of Interior officials had informed him a few days earlier that they would not let the conference proceed, and police had surrounded the venue and refused to let anyone inside.[16]

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[8] Ibid.

[9] Tunisian Journalists Union, "Tunisian Journalists: Violated Rights," May 2005, on file with Human Rights Watch.

Tunisian Journalists Union, "Tunisian Journalism: Violations against the Profession and Legal Abuses," May 2006, on file with Human Rights Watch.

[10] Human Rights Watch phone interview with Habib Guiza.July 23, 2010

[11] Letter of complaint from CGTT, Tunisia, to Karen Curtis, Deputy Director, ILO International Labor Standards Department, June 4, 2008. [See Appendix 1]

[12] Ibid.

[13] Ibid.

14 ILO International Labor Office Governing Body, 354th Report of the Committee on Freedom of Association, Case no. 2672, June 2009, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_108490.pdf (accessed August 24, 2010)

[15] Ibid.

[16] Ibid.

The newly-formed union, with approximately 500 members, continued to operate despite its lack of official authorization, although its sphere of activity has been severely limited and its members harassed by police.[17] On December 7, 2007, police once again prevented the union from holding a planned conference to announce its foundation.[18]

On June 4, 2008, Guiza filed a complaint with the ILO Committee on Freedom of Association (CFA) about the government's conduct (case no. 2672), listing several violations of the right to freedom of association and trade union rights (see Appendix 1). These included an incident on May 13, 2008, when two police officers in downtown Tunis interrogated him for two hours about the CGTT's legality, and demanded he cease all union activity on the grounds it was an illegal body. Guiza refused, arguing that the CGTT was founded in accordance with Tunisian law and ILO conventions. The complaint also said that police had prevented anyone from accessing the offices of the Mohammed Ali Foundation since May 14.[19]

But restrictions continued. On November 30, 2008, the CGTT tried to hold a commemorative meeting in Tunis for the 84th anniversary of the founding of the first Tunisian trade organization.[20] In another communication to the CFA on December 4, 2008, Guiza claimed that police completely surrounded the venue and told attendees that the meeting had been cancelled.[21]

The Tunisian government responded to the CFA's queries on the matter on November 26, 2008, and January 28, 2009, stating that the CGTT "did not complete the legal formalities required for the establishment of a trade union."[22] The authorities also denied that the police summoned and interrogated Guiza in May 2008, or prohibited any press conferences from taking place.[23]

In its response to the Tunisian government's observations on the CFA's recommendations, the CFA expressed concern that the CGTT had been trying unsuccessfully to attain legal

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[17] Ibid.

[18] Ibid.

[19] Letter of complaint from CGTT, June 4, 2008.

[20] The General Confederation of Tunisian Workers

[21] Complaint against the Government of Tunisia presented by the Liaison Committee of the Tunisian General Confederation of Labour (CGTT) Report No. 354, Case(s) No(s). 2672, http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=4933&chapter=3&query=(Tunisia)+%40ref&highlight=&querytype=bool&context=0 (accessed August 24, 2010).

[22] ILO International Labor Office Governing Body, 354th Report of the Committee on Freedom of Association, Case no. 2672, June 2009, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_108490.pdf (accessed August 24, 2010).

[23] Ibid.

status for three years, noting that not only did authorities infringe article 2 of Convention No. 87 when they delayed registering a trade union, but:

> ...a long registration procedure constitutes a serious obstacle to the establishment of organizations and amounts to a denial of the right of workers to establish organizations without previous authorization.[24]

The CFA urged the Tunisian government to respect the right to freedom of association and to freely form trade unions, as per the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), which Tunisia has ratified.[25] However the government still does not recognize the CGTT as a legitimate and legal union.

Despite these difficulties, the union has over the past five years continued to hold meetings to discuss pressing labor problems, issued press releases on labor rights violations, and supported various actions, such as protests in 2008 over high unemployment in the Gafsa mining region. According to Guiza:

> We are fighting for the principle of pluralism. It is extremely important to continue to stand firm in the face of government harassment and dismissal. I've been a union activist for over 30 years; that's what I will continue to do.[26]

In 2005, a number of broadcast journalists attempted to found the General Union of Free Radio Stations. Zied El-Heni, one of the founding members of the union, claims that on November 10, 2005, he and journalist Salah Fourti went to the Tunis Governorate to hand in the required founding documents.[27] There, an employee refused to accept their application, informing them that they were only allowed to submit it by registered mail, in contravention to article 242 of the Tunisian labor code.[28] The next day, they sent the application by registered mail and received a delivery receipt, but the government still refuses to acknowledge them as a legal union.[29]

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[24] ILO International Labor Office Governing Body, 356th Report of the Committee on Freedom of Association, Case no. 2672, March 2010. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_124972.pdf (accessed August 24, 2010).

[25] Ibid.

[26] Human Rights Watch phone interview with Habib Guiza, July 23, 2010

[27] Human Rights Watch phone interview with Zied El-Heni, August 15, 2010

[28] Ibid.

[29] Ibid.

Restrictions on the Right to Strike

While the Tunisian constitution guarantees the right to strike,[30] the UGGT must still approve all such actions according to article 376 of the Tunisian labor code. Unions must also announce the duration of the strike at least ten days in advance. Workers participating in an unauthorized strike face prison sentences of between three and eight months.[31]

However, the UN Committee on Economic, Social, and Cultural Rights has noted that that subjecting the right to strike to approval by the main trade union confederation in Tunisia amounts to unlawful restriction on the right of unions to organize their activities and freely defend their members' interests.[32]The UN committee has also stated that the penalty applied to anyone who takes part in an illegal strike in Tunisia is disproportionate to the seriousness of the offense.[33]

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[30] Tunisian Constitution, Article 8.

[31] Tunisian Labor Law, article 376, http://www.snjt.org/images/snjt/travail.pdf (accessed August 18, 2010).

[32]UN Committee on Economic, Social and Cultural Rights (CESCR), UN Committee on Economic, Social and Cultural Rights: Concluding Observations, Tunisia, 14 May 1999, E/C.12/1/Add.36, http://www.unhcr.org/refworld/docid/3ae6ae608.html (accessed August 24, 2010)

[33] Ibid.

II. Journalists' Union

On January 13, 2008, the National Syndicate of Tunisian Journalists (NSTJ) became the country's first legally recognized journalists' union when it obtained legal status.

The union replaced the Association of Tunisian Journalists (ATJ), which many journalists believed was too close to the Tunisian government despite its NGO status.[34] This view was shared by the International Federation of Journalists (IFJ), the largest international organization of journalists. It suspended ATJ's membership in the federation between 2003 and 2007 after it decided to give a press freedom award, known as a golden quill, to President Zine El Abidine Ben Ali, despite his government's open hostility towards independent media and journalists, whom it regularly harassed, intimated, and jailed.[35] According to the Human Rights Watch 2010 World Report—an annual summary of human rights conditions in more than 90 countries and territories worldwide: "none of the domestic print and broadcast media [in Tunisia] offer critical coverage of government policies, apart from a few low-circulation magazines. The government blocks access to some domestic and international political or human rights websites featuring critical coverage of Tunisia."[36]

Journalists Attempt to Unionize

The National Syndicate of Tunisian Journalists was not the first attempt to form an independent journalist's union.

In 2004, journalists fed up with what they saw as AJT's cronyism, applied to form the Tunisian Journalists Union (TJU). Lotfi Hajji, one of the union's founders, said that the founders had delivered the application to the Tunis Governorate headquarters according to the procedure listed in article 250 of the Tunisian labor law.[37] According to Hajji, the governorate employee refused to accept the file:

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[34] Human Rights Watch phone interview with Lotfi Hajji, May 7, 2010; Interview with Neji Bghouri, former president of the National Syndicate of Tunisian Journalists, Tunis, April 1, 2010; interview with Rachid Khechana, Editor of Al-Mawkef newspaper, Tunis, March 28, 2010.

[35] For reporting on Tunisia's treatment of journalists and censorship of the media, see http://cpj.org/mideast/tunisia/; International Federation of Journalists, "IFJ Urges Tunisian Journalists to Challenge Political Controls of Media", September 27, 2004, http://www.ifj.org/en/articles/ifj-urges-tunisian-journalists-to-challenge-political-controls-of-media-.print (accessed September 21, 2010).

[36] Human Rights Watch, World Report 2010 (New York: Human Rights Watch 2010), Tunisia, http://www.hrw.org/en/node/87734

[37] Tunisian Labor Law, http://www.snjt.org/images/snjt/travail.pdf

> He didn't give us a proper reason for not accepting the file. All he said was that it was not his job to accept files, although by law, it is. We are used to this sort of treatment though. The ambiguity is purposeful and strategic, so we can't hold them accountable for anything.[38]

The journalists then sent their application by registered mail, as prescribed by law. It was returned to them few days later with a generic "recipient not found" stamp.[39]

The Ministry of Interior considers the union illegal because it is technically unregistered, despite thwarting its two attempts to file an application. On August 24, 2005, Tunis police summoned Hajji, president of the TJU, and told him that they would not allow him to hold his union's founding congress.[40] Hajji said that he did not receive official written notification of this decision. On August 30, the hotel where the union was due to hold its congress said that the conference venue needed to be repaired and was no longer available.[41]Several activists and journalists told Human Rights Watch that police often pressure hotel managers to cancel conferences if the government disapproves of them.[42]

In fact, Human Rights Watch recently experienced just this when it tried to hold a press conference on March 24, 2010, for a report on the repression of former political prisoners. Officials informed Human Rights Watch on March 22 that it could not hold the event. On March 23, the suite booked for the conference mysteriously flooded. The hotel said it could not provide another venue.[43]

Rachid Khechana, editor of the daily *Al-Mawkef* newspaper published by the opposition Progressive Democratic Party (PDP), told Human Rights Watch that plainclothes police physically prevented members of the union's board from entering the offices of their lawyer, Chwaki Tabib, on September 7, 2010.[44] Police did not provide any legal justification for their actions, he said.

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[38] Human Rights Watch phone interview with Lotfi Hajji, May 7, 2010.

[39] Ibid.

[40] Ibid.

[41] Ibid.

[42] Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010; Human Rights Watch phone interview with Bassam Bounenni, member of NSTJ, July 20, 2010; Human Rights Watch interview with Hatem Chaabouni, Tunis, March 29, 2010.

[43] "Tunisia Tries to Silence Human Rights Watch," Human Rights Watch news release, March 24, 2010, http://www.hrw.org/en/news/2010/03/24/tunisia-tries-silence-human-rights-watch.

[44] Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010.

Since then, the TJU has operated unofficially, issuing two reports critical of the state of media freedoms in the country. However, several founding members of the union have come under pressure for their membership, including Hajji who has been denied a journalist's license, despite the fact he is a member of the IFJ and is employed by Al-Jazeera.[45]

The National Syndicate of Tunisian Journalists (NSTJ)

After tensions peaked in 2008, members of the Tunisian Journalists Union complained to the UGTT about the illegality of the government's actions towards them.[46] The government eventually granted legal status to another union, the National Syndicate of Tunisian Journalists (NSTJ), through an application that journalists had filed in the 1980s, but which the government did not acknowledge at the time, according to Khechana.[47]

Neji Bghouri, former president of the National Syndicate of Tunisian Journalists and assistant editor of the government-owned *Assahafa* daily newspaper, believes the government agreed to the NSTJ's establishment because it mistakenly assumed the new union would be more pliable than the TJU, which dissolved a year later and merged with the NSTJ.[48]

The NSTJ held its founding congress on January 13, 2008, as the first and only legally recognized Tunisian journalist's union. Its membership includes approximately 1000 print, radio, and television journalists from across the political spectrum who work for both state-run and private media. To the surprise of many who thought the NSTJ would become government-controlled, six independent journalists were elected to the nine-member board, far outnumbering the three pro-government members, and laying the groundwork for a truly autonomous union.[49] According to Bghouri:

> Many journalists had grown tired of the government's outright repression of media freedoms throughout the country. No one really expected independents to get elected, especially not the government. We were all surprised by it, but

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[45] Human Rights Watch phone interview with Lotfi Hajji, May 7, 2010.

[46] Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010.

[47] Ibid.

[48] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[49] Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010. This balance in favor of independent journalists had not been seen in elections of the ATJ, the NSTJ's predecessor, since 1992, after which it became much closer to the government.

> we were given this opportunity, and so we were determined to make our voices heard, as journalists, through this syndicate.[50]

In March 2008, Bghouri—NSTJ's newly-elected president, began discussing proposals for legislative reform with the Ministry of Communication, including reforms guaranteeing freedom of the press and protection of journalists. Bghouri says the government's response was lukewarm: the ministry rejected his suggestions for improving media freedoms through legislative reform on source confidentiality and media independence, although the government did grant press licenses to journalists who had been working for many years in the field without one.[51]

On May 3, 2008, the NSTJ released its first report on Tunisian press freedoms.[52] Bghouri claims the Ministry of Communication summoned him for questioning shortly afterwards:

> The Minister of Communication was in his office when I came in, as were some of his aides. In no uncertain terms, he told me that the government was displeased with the report, and that it was extremely hostile. I explained the NSTJ's position, that we were committed to exposing the truth about violations against journalists and media censorship in an effort to improve the situation, but of course there was no point. Right after we released the report, all communication and negotiations between the NSTJ and the government stopped for three months.[53]

Soon afterwards, approximately 100 journalists from the union staged a symbolic two-hour protest inside the NSTJ's headquarters, demanding improved working conditions for broadcast journalists, many of whom worked without contracts, social security, or health insurance,[54] after which negotiations resumed between the Ministry of Communication and Bghouri."[55] Bghouri told Human Rights Watch that the ministry eventually promised to implement an interim solution for the journalists that granted them temporary contracts,

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[50] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[51] Ibid.

[52] The NSTJ's reports were available online at their website, http://www.snjt.org, but removed following the election of the new pro-government board.

[53] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[54] Ibid.

[55] Ibid.

social security, and health coverage until a final deal could be reached at the end of the year.[56] Bghouri claims that none of these promises were realized.[57]

Nor did the renewed communication between the NSTJ and government last long. In June 2008, pictures surfaced on the internet of Bghouri with Nejib Chebbi, the president of the opposition Progressive Democratic Party, who was running for office against Ben Ali in the coming presidential election.[58] Although the pictures were taken at an old event and unrelated to the election, pro-government journalists seized the opportunity to accuse NSTJ's leadership of politicizing union work by openly supporting an opposition political candidate.[59]

On October 28, Bghouri openly requested that Chebbi remove the pictures from his website, explaining that he did not want the NSTJ to be used for political ends.[60] The NSTJ also released a statement outlining its position vis-à-vis the upcoming presidential and legislative elections: the NSTJ was neutral and officially did not support any candidate—a far cry from the ATJ's official endorsements of Ben Ali during elections.[61]

Subsequently, simmering internal divisions within the NSTJ between independent and pro-government journalists intensified. Bghouri claims the latter demanded that the union retract its election neutrality statement, and accused union leadership of politicizing its work and worsening relations with the government.[62]

As a legally recognized NGO, the NSTJ is eligible for government funding according to article nine of the 1959 Tunisian Law of Association.[63] According to the union's treasurer, Nejiba Hamrouni, the ATJ used to receive public funding which the government then stopped for the

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[56] Ibid.

[57] Ibid.

[58] On opposition parties and elections in Tunisia, see Human Rights Watch news release, "Tunisia: Elections in an Atmosphere of Repression" October 23, 2009,http://www.hrw.org/en/news/2009/10/23/tunisia-elections-atmosphere-repression.

[59] Samira Sadafy, "A union with two heads", September 28, 2009,Dar Alhayat,, http://www.daralhayat.com/portalarticlendah/60473 (accessed September 23, 2010).

[60] Neji Bghouri, Statement of Clarification from the President of the NSTJ, October 28, 2008, http://2.bp.blogspot.com/_2fB8idr_F2U/SQcaI22ZTyI/AAAAAAAAB3w/JImswdBVmhY/s1600-h/2.jpg (accessed September 23, 2010).

[61] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010; Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010.

[62] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010; Jamal Arfawy, "Fourth resignations widens rift in National Syndicate of Tunisian Journalists," *Magharibiya*, June 29, 2009. http://www.magharebia.com/cocoon/awi/xhtml1/ar/features/awi/features/2009/06/29/feature-03 (accessed September 20, 2010).

[63] Tunisian Law of Association,http://www.cnudst.rnrt.tn/jortsrc/1959/1959a/ja06359.pdf

NSTJ due to the NSTJ's critical stances. The union then relied solely on membership fees to support its three staff members and operational costs.[64] After the NSTJ released its election neutrality statement in October 2008, Bghouri claimed that the government retaliated by demanding the union pay 26,000 DT (approximately $17,600 USD) in outstanding membership social security fees from the ATJ—reneging on an earlier promise to not hold the ATJ liable for the money.[65] The about-face angered union members, especially since they had not been receiving public funding, and the government subsequently dropped the issue following a letter sent by the NSTJ's board expressing surprise at the request to hold the NSTJ responsible for the ATJ's finances.[66] "This was just another way for the government to exert pressure on the union," Bghouri said. "If everybody just gave in whenever the government tried to do anything, we wouldn't have any resistance left."[67]

Mohammad El-Gheryani, secretary-general of the ruling Constitutional Democratic Rally party, spearheaded the effort to undermine the union's leadership after it issued the neutrality statement, according to Zied el-Heni, an independent board member of the NSTJ. "They were able to harness government institutions for this aim, including the police, internal security, and the judiciary," el-Heni said.[68]

Ousting the Board

In 2009, a presidential election year in Tunisia, the NSTJ further angered Ben Ali's government, prompting the government to take a series of steps that undermined the union, and led to the ousting of its democratically-elected board.

On May 4, 2009, the NSTJ published its second report on press freedom in Tunisia, which criticized the government for censoring media, harassing and persecuting journalists, and constricting their work.[69] Bghouri had previously rejected a draft report, drafted by the NSTJ's freedoms committee headed by Jamal Al-Karmawy, media advisor to Ben Ali's secretary-general, on the grounds it was filled with gratuitous praise for the government and lacked

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[64] Human Rights Watch phone interview with Nejiba Hamrouni, July 25, 2010.

[65] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[66] Human Rights Watch phone interview with Nejiba Hamrouni, NSTJ treasurer July 25, 2010.

[67] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[68] Email communication from Zied el-Heni to Human Rights Watch, August 16, 2010.

[69] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

objective and critical analysis.[70]Al-Karmawy, for his part, claimed that Bghouri's report pandered to opposition political parties and aimed to provoke the government.[71]

The press conference on May 4 was a debacle, according to Bghouri and other journalists present at the event, who claim that a pro-government journalist barraged him with insults as he tried to present the report's findings.[72] Sofian Chourabi, a journalist at the press conference, recalled:

> The editor of *Assabah* daily newspaper, Kamal Ben Younes, attempted to assault the president of the syndicate in plain view of journalists who had come to cover the event. This led to the intervention of other journalists to prevent the situation from deteriorating further.[73]

In a May 12, 2009 statement, Ben Younes accused Bghouri of partisanship, and blamed him for the breakdown in negotiations with the government because of his criticism of Ben Ali's administration.[74]

Amid heightening tensions, pro-government union members undertook a series of steps to undermine the board and replace it with one more friendly to the government. NSTJ bylaws outline two legal ways to replace its board: either by two thirds of the union's members withdrawing their confidence, or at least four board members resigning.[75]

Withdrawal of Confidence

In June 2009, pro-government journalists in the union launched an 80-page petition for withdrawal of confidence that accused the board of anti-government sentiment and politicizing the union's activities.[76] Bghouri and Khechana claim the government and its loyalists launched a campaign of intimidation, bribery, and extortion to secure the required

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[70] Ibid.

[71] Al-Monjy Al-S'eedani, "Clashes During Press Conference on Media Freedoms in Tunis,"Al-Sharq Al-Awsat, May 5, 2009,http://www.aawsat.com/details.asp?section=4&article=517904&issueno=11116 (accessed September 23, 2010).

[72] Ibid.

[73] Sofian Chourabi,, "Pro-government journalists attempt to disrupt NSTJ press conference", Menassat, June 5, 2009, http://www.menassat.com/?q=ar/news-articles/6490- (accessed September 24, 2010).

[74] Jamal Arfawy, "The NSTJ crisis threatens national journalism", Magharebia, May 15, 2009, http://www.magharebia.com/cocoon/awi/xhtml1/ar/features/awi/features/2009/05/15/feature-01 (accessed September 20, 2010).

[75] NSTJ internal by-laws,http://www.snjt.org/images/snjt/reg.pdf (accessed September 21, 2010).

[76] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

number of signatures,[77] which they claim included Minister of Communication Rafie Dakheel threatening to cancel high paying government advertising—bankrupting media outlets in the process—unless their employees signed the petition. In turn, journalists claim that editors and managers threatened employees with termination unless they signed.[78]

Hanan Bel'ifa, a broadcaster at Shabab radio station, refused to sign the petition, and resigned from her job in October 2009, under intense pressure from employers and pro-government elements within the NSTJ to support their efforts to undermine the largely independent executive board.[79]

According to Bel'ifa, broadcast journalists—many of whom had worked without contracts or insurance for years—were in a particularly precarious situation. Indeed, this was one of the primary issues on the table during negotiations between the NSTJ's board and Tunisian government in 2008 and 2009.[80] After years of government inaction, around 170 journalists, including Bel'ifa, occupied the national TV station in Tunis for around 10 days in January 2009, demanding their concerns be addressed. According to Bel'ifa, police tried unsuccessfully to eject the protestors by cutting off water and threatening violence, and that she was physically attacked by plainclothes policemen and threatened with dismissal by her manager unless she pulled out of the protest.[81]

The government finally relented, and Ben Ali issued a presidential decree during the time of the demonstration stating that all broadcast journalists employed before 2001 would receive licenses and work contracts according to the Tunisian labor law, while those employed after 2001 would have their license and contract issues solved on a case by case basis.[82] In May 2009, when the petition to withdraw confidence from the NSTJ's board began circulating, Bel'ifa was again threatened by her manager.

> In no uncertain terms, she told me I would suffer dire consequences if I didn't sign, including possible dismissal. Our managers tried to ply all of us with promises of improved working conditions and guarantees of contracts and licenses if we signed. Most of us knew this was a lie…. I refused to be a part of this illegitimate conspiracy.[83]

[77] Ibid.; Human Rights Watch interview with Rachid Khechana, Tunis, March 28, 2010.

[78] Ibid.; Human Rights Watch phone interview with Hanan Bel'ifa, May 10, 2010.

[79] Ibid.

[80] Ibid.; Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[81] Human Rights Watch phone interview with Hanan Bel'ifa, May 10, 2010.

[82] Ibid.; Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[83] Human Rights Watch phone interview with Hanan Bel'ifa, May 10, 2010.

After this, Bel'ifa claims that her manager barred her from doing her radio show, and that petitions to have her file resolved automatically during the Ministry of Communication's first round of looking into individual cases of journalists' working conditions in June 2009 were ignored.[84]

> I was denied my right completely arbitrarily because they wanted to punish me, pressure me into giving into their demands that I support the pro-government journalists.

She was ignored again during a second round of investigations into journalists' working conditions in October.

> It got to a point where my manager actually confiscated my work ID, so I couldn't even get into the building and had to wait four hours for clearance. In the end it became clear that I could not continue like this, so I took the first job offer I got in Qatar and left. In effect, I was forced to leave.[85]

Mounir Swissi, an employee of the official Tunis Afrique Press Agency, told Human Rights Watch that he and other colleagues were intimidated and accused of treachery when they refused to sign the petition. "Some of our more opportunistic colleagues at the Press Agency (who I will not name) began questioning my patriotism and accusing me of 'opposing the government' because I refused to sign the petition," Swissi said.[86]

On July 13, 2009, the executive board of the union—the majority of which was still identified as independent from the government—issued a statement claiming the petition was invalid and did not meet the two-thirds petition requirement for a vote of no confidence because many signatures had been forged, repeated, or belonged to journalists who were not union members.[87] A judicial handwriting expert confirmed that signatures on the petition did not match signatures on NSTJ membership forms.[88]

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[84] Ibid.

[85] Ibid.

[86] Human Rights Watch phone interview with Mounir Swissi, August 19, 2010.

[87] National Syndicate of Tunisian Journalists Press Statement, Tunis, July 13, 2009, http://www.assyassyia-tn.com/index.php?option=com_content&view=article&id=395:2009-07-14-00-43-19&catid=217:2008-12-13-20-05-25&Itemid=663 (accessed September 22, 2010).

[88] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

Members of the board then filed a complaint to a Tunis court, which ruled against them.[89] In June 2009, a group of Tunisian journalists working outside the country launched a counter-petition supporting their colleagues on the board. It urged them to "continue your jobs as the legitimate representatives of the Syndicate," and denounced the "administrative and political pressures our colleagues … pressure that is undermining confidence in the Syndicate's leadership – the original executive board."[90]

Board Resignations

The pro-government camp then resorted to the second legal means of replacing the NTSJ board: achieving at least four resignations on the board.

Three pro-government board members, Adel el-Samaali, Samira Ghannouchy, and Soufiane Rejeb, promptly resigned. On June 20, Habib El-Chebbi also handed in an unsigned resignation, considered invalid according to article 19 of the union's bylaws. He then sent another signed resignation on June 26, thus prompting an extraordinary congress as per the union bylaws following the resignation of at least four board members.[91] El-Heni told Human Rights Watch that the five remaining members of the legitimate executive board who resisted the attempted overthrow (Neji Bghouri, Zied el-Heni, Najiba Hamrouni, Soukainah Abdelsamad, Mounji Khadraoui) were threatened, and that he and Neji subject to "physical aggression," prompting the International Federation of Journalists and the Union of African Journalists to condemn the violence and harassment.[92]

According to article 48 of the bylaws, a resignation is only considered valid 15 days after its submission to allow time for withdrawal, and must be written and signed. In addition, article 19 of the internal laws stipulates that only the president can call for a meeting of the expanded executive board to confirm resignations and announce the extraordinary congress. Pro-government members of the expanded executive board contravened these laws when they met on July 6, less than 15 days after Chebbi's June26 resignation and without informing Bghouri, the president. The members, who claim that they invited Bghouri to the meeting (an assertion he denies), erroneously claimed that Bghouri had refused to accept the resignations and hold the extraordinary congress, and so were acting within their capacity as

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[89] Ibid.

[90] Ibid.

[91] Ibid.

[92] Email communication from Zied el-Heni to Human Rights Watch, August 16, 2010.

members of the expanded board.[93] They also announced that the extraordinary congress would take place on August 15, 2009—even though Bghouri had already announced the congress for new elections would take place on September 12.[94]

Despite the discord, Minister of Communication Dakheel endorsed the congress, which took place as scheduled on August 15.[95] Unsurprisingly, all nine members of the newly elected board were pro-government, with Jamal Al-Karmawy, media advisor to the secretary-general of Ben Ali's ruling party, elected as the new NSTJ president.[96] In a statement, the new executive expressed its "heartfelt appreciation" to President Ben Ali "for the achievements and accomplishments benefiting the information sector in general and journalists in particular." It added that his "principles and values" had "created an atmosphere of democracy that helped entrench civil awareness and boost participation in public affairs, through voluntary, responsible and active organizations and national associations.[97]

On August 24, Neji Bghouri released a statement on behalf of the previous executive board proclaiming the congress to be illegal, and denouncing electoral violations.[98] He also filed a case at the Court of First Instance in Tunis with other members of the board contesting the election as illegal. They still planned to hold what they saw as the legitimate congress on September 12.[99] They also filed an interim appeal to postpone the congress until the court ruled on its legality.[100] The court refused to accept the interim appeal, claiming that it could not open another case on the same issue while another one is still pending until the hearing on October 26. However, according to article 201 of the code of civil and commercial procedures, judges rule on interim cases only on a temporary, non-binding basis and that ruling does not affect the outcome of the original case.

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[93] Expanded Executive Board of NSTJ press release, July 6, 2009. http://www.assyassyia-tn.com/index.php?option=com_content&view=article&id=377:2009-07-05-15-59-14 (accessed September 23, 2010).

[94] NSTJ bylaws, available at http://www.snjt.org/images/snjt/reg.pdf.

[95] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

[96] Ibid.

[97] "Les journalists se felicitent du soutien constant du Chef de l'Etat," *La Presse,* August 16, 2009.

[98] The statement said: "In a press conference held in one of the largest palaces in the capital, the president of the 'congress', Sami Akremi, said that 471 members participated in the meeting without specifying how many of them were 'active members,' and said they corresponded to the 2008 list of members adopted for the congress. However, this list includes 766 members. According to article 39 of the NSTJ bylaws, a legal quorum must consist of two thirds of registered members, in this case 511. Since the quorum was not attained, this 'congress' is therefore illegal, Executive Board of National Syndicate of Tunisian Journalists press release, August 24, 2009, http://sjtunisiens.blogvie.com/2009/08/25/le-snjt-denonce-le-putsch-du-15-aout (accessed September 29, 2010).

[99] The Courts of First Instance serve as the appellate courts for the District Courts. There is a Court of First Instance located in every region of Tunisia.

[100] Human Rights Watch interview with Neji Bghouri, Tunis, April 1, 2010.

The same court later contradicted itself when it accepted to rule on another expedited case on September 1, filed by the NSTJ's new board, to evict the previous board from the headquarters of the NSTJ, while the original case on the legality of the congress was still pending. The court ruled in favor of the eviction on September 8 at 2 p.m., on the grounds that the previous board was no longer entitled to occupy the headquarters, thus precipitating the outcome of the original case. In a statement released on the same day, lawyer and activist Mohammad Ayyadi said that police surrounded the NSTJ's office and prevented any of the former board members from accessing the premises at approximately 11 a.m., before the session was over and the ruling announced.[101] Lotfi Hajji, who was already at the NSTJ office when the police arrived, said:

> The police had completely surrounded the offices and didn't let anyone in, even board members and members of the union. They got violent when people tried. They physically kicked me and four others out of the office, even though we had a legitimate right to be there. They took over the union illegally and harnessed all the power of the state and the judiciary to overthrow the executive board because they saw it as threatening and too critical of the government. First they tried through a petition, then they tried through a bogus congress, and now even the court has taken their side. The decision is so clearly a mockery of the justice system. We refused to accept it, and still continue to refuse it, even though they succeeded in turning the NSTJ into a satellite for the government.[102]

According to Bghouri,

> At around 11 in the morning as I was going to the NSTJ office, tens of policemen surrounded the office and physically prevented me from even entering United States Street, which is where the office is located. They insulted me and aggressively pushed me, saying they would not let me enter. This happened before the court had even ruled on the eviction, so obviously it was a political decision cloaked with a pretense of legality. This goes far beyond just the legal violations that took place; this is an ominous indicator of the state of affairs and future of all independent nongovernmental organizations. This is not the first time the government has tried to sabotage

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[101] National Committee for Solidarity with the National Syndicate of Tunisian Journalists press release, September 8, 2009, http://marced.maktoobblog.com/284/3-بيان-من-اللجنة-الوطنية-لمساندة-النقاب/ (accessed September 15, 2010).

[102] Human Rights Watch phone interview with Lotfi Hajji, May 7, 2010.

> independent organizations; it did this before with the Association of Judges and the Tunisian League for Human Rights.[103]

Bghouri says that he has since been under more or less constant police surveillance and received anonymous phone calls threatening his family. In May 2009, his employers stripped him of all responsibility as assistant editor at the government-owned *Assahafa* newspaper. He said:

> The harassment is always there; it's part of daily life for me now. The government even cut off international calls from my phone. I couldn't call or receive calls from abroad for months. It seems they were afraid that I would talk to international organizations and the international media about the NSTJ's case.[104]

On March 1, 2010, eight months after it had already ordered the evacuation of the NSTJ offices, the Court of First Instance ruled against Bghouri and his colleagues, deeming the August 15 congress legal and binding despite clear violations of the union's bylaws. The former NSTJ board was therefore unable to hold its planned congress on September 12.

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[103] Human Rights Watch interview with Neji Bghouri, April 1, 2010, Tunis.

[104] Ibid.

III. The General Union of Tunisian Students

The General Union of Tunisian Students (UGET) was founded in Paris in 1953, when Tunisia was still under French rule.[105] Supported by President Habib Bourguiba's Neo-Destour party and legally registered as a nongovernmental organization, the UGET collapsed in 1971 amid internal political quarrels. It resumed activities in 1988.[106]

The UGET comprises members from universities all over Tunisia. Based in the University of Tunis, and with branch offices in many other universities, the UGET describes itself as "independent, democratic, and representative" and espouses left-wing politics, although its members may or may not be politically active or affiliated to any particular political party.[107]

While UGET essentially operates under the legal framework of an NGO, it operates very much like a union, organizing students and protecting their interests.

According to Wissem Sghaier, a UGET-affiliated activist and communications coordinator of the National Committee for the Defense of Expelled and Detained Student Activists, the UGET has been a force in the country's political landscape since its founding, with students forming a powerful bloc traditionally associated with the left.[108]Authorities have attempted to quell student activism using the same means used against other political opponents, including arrests, harassment, police surveillance , arbitrary detainment, and torture of student union leaders and activists.[109]

In 1993, for example, as the government's campaign against the banned Islamist *An-Nahdha* party came to a head, the UGET condemned authorities for restricting basic freedoms under

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[105] UNHCR: Tunisia: General Union of Tunisian Students, September 26, 2000, UNHCR: Tunisia: General Union of Tunisian Students, September 26, 2000, http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=3f7d4e2623 (accessed August 22, 2010).

[106] Ibid.

[107] General Union of Tunisian Students official website, http://tn.uget.comze.com/modules.php?name=Encyclopedia&op=content&tid=1 (accessed August 22, 2010); Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010.

[108] Ibid.

[109] Amnesty International, "Independent Voices Stifled in Tunisia," July 13, 2010, http://www.amnesty.org/en/library/asset/MDE30/008/2010/en/844cd767-a21e-4b3e-a643-9a8b1554da52/mde300082010en.pdf (accessed August 25, 2010).

the pretext of quashing Muslim fundamentalism.[110] In May of that year, Tunisian authorities arrested Naoufal Ziadi, then Secretary General of the UGET, following student strike activity to protest proposed reform of higher education.[111] In December 1995, Bachir Abid, then a member of the UGET's executive council, was among the students arrested in the wake of strikes at Tunisian universities.[112]And in March 1998, a dozen UGET members and sympathizers were arrested at the end of student demonstrations protesting the government and its university policies, and accused of "defamation, dissemination of false information, and association with the illegal Communist Workers Party," after the students reportedly criticized the Government and its university policies.[113]

UGET members claim that since 2006, the police have persecuted dozens of student union members for peaceful demonstrations calling for educational reforms, the right to adequate housing for female students, and to protest rising costs of university meals.[114] This pattern of repression continues until today.

The last congress the UGET has been able to hold dates back to 2003, and it has been unable to hold one since. This was due both to internal divisions within the union as well as to continuous government interference. According to Sghair, the authorities attempt to support pro-government students as the legitimate representatives of the UGET in order to maintain control over the union.[115]

Manouba Student Protests

In October 2009, the University of Manouba rejected the housing applications of approximately 180 female students, mainly from the south of the country.[116] UGET leaders attempted to obtain housing for these women via negotiations with university officials who

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[110] UNHCR: Tunisia: General Union of Tunisian Students, September 26, 2000, UNHCR: Tunisia: General Union of Tunisian Students, September 26, 2000, http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=3f7d4e2623 (accessed August 24, 2010).

[111] Ibid.

[112] Ibid.

[113] Amnesty International, "Tunisia: The Administration of Justice in Tunisia" AI Index: MDE 30/04/00, March 2000, http://www.amnesty.it/ailib/aipub/2000/MDE/53000400.htm (accessed 25 Sept. 2000); United States Department, of State, "Tunisia Country Report on Human Rights Practices for 1998," February 26, 2009, http://www.state.gov/www/global/human_rights/1998_hrp_report/tunisia.html (accessed August 15, 2010).

[114] Human Rights Watch interview with Mohammad Soudani, April 1, 2010; Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010.

[115]Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010.

[116] Zuhair Zubaidy, "Summary of Union Activists Court Hearing in Mannouba,"Albadil, February 12, 2010,http://www.albadil.org/spip.php?article2711 (accessed September 10, 2010).

refused to engage in any way, according to Amani Rizgallah, a student involved in the process.[117] She said:

> Many of the women who applied for housing were from the south and poor; their families couldn't afford to house them outside the dorms. Some of them were from Gafsa, which is a very disenfranchised region that had suffered devastating floods; this had delayed the applications of some of the women, but the university didn't take this into a consideration. It was completely unfair of them to be denied accommodation in the dormitory. It's a public university, so the Ministry of Higher Education should ensure that the neediest get this type of assistance. Instead, the housing was given to the daughters of wealthy families who had connections in government. It is our job as student union activists to stand up for them.[118]

In response, around 180 university students staged a peaceful sit-in at the Al-Bassatine dormitory in Manouba from October 3 to November 1.[119] Towards the end of the protest, only the union members remained. The university refused to negotiate with the students during the protest.[120] According to Rizgallah, police stormed the dormitory on November 1, 2009, throwing tear gas, beating demonstrators, and arresting 20.[121] She also claims that police subjected them to severe beatings during interrogation, and forced them to sign confessions saying they had engaged in violent acts.[122]

The government charged the protesters with obstructing the freedom to work, deliberate damage to the property of others, theft, and public disorder. During their trial in the Court of First Instance in Manouba on December 14, 2009, the students' lawyer, Monther Al-Charni, said that police assaulted three of the defendants in the courtroom and threw them out after they requested to speak.[123] Al-Charni also said that police forcibly removed Ayyashi Al-Hammami, one of the defendants' lawyers, after he angered the judge by asking her to

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[117] Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

[118] Ibid.

[119] Ibid.

[120] Ibid.

[121] Ibid.

[122] Ibid.

[123] Human Rights Watch phone interview with Monther Al-Charni, July 21, 2010.

respect courtroom procedures.[124] The situation in the courtroom grew tense, he said, leading to a postponement of the trial.

On December 21, the court sentenced 17 students to prison terms ranging from one to three years for exercising their right to freedom of assembly. Three were acquitted, and six received suspended sentences.

The sentenced students were:

- Zuhair Zuwaidy: three years and one month in prison.
- Abdelkader Al-Hashimi and Sobhi Ibrahim: two years and four months in prison.
- Dameer Ben Alia, Tarek Al-Zahzah and Abdelwahab Al-Arfawi: two years and two months in prison.
- Hamza Al-Arabi, Anees Ben Faraj, Rafeek Al-Zgheidy, Nabeel Al-Balati, Omar Ilahi, Mounthir Al-Toumi, Amal Al-Alawi, Hanen Dhahiri, Amani Rizgallah, and Asmaa Ardawi: one year in prison.
- Rhida Ben Mansour: six months in prison.

During their trial, the students claimed that the confessions upon which the sentences were based were false and extracted under torture, and asked for medical examinations to prove as much.[125] Al-Charni claimed the judge refused to investigate or permit an examination, and no other evidence was produced to corroborate the charges.[126]

The judge set the appeal hearing for April 10, which the students eventually lost at a second hearing on April 17. During the hearing, Al-Charni said that police prevented defendants' supporters and family members from entering the courtroom, and violently broke up a peaceful demonstration outside.[127] Media also reported that police followed the protesting students to the university's faculty of science on 9th of April Street, beating and injuring several.[128] According to news reports, Abdel Aziz Hashimi suffered severe bleeding from his nose and mouth, and Khaled Haddaji was taken to the emergency room of a nearby hospital.[129]

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[124] Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

[125] Human Rights Watch phone interview with Monther Al-Charni, July 21, 2010.

[126] Ibid.

[127] Ibid. ; Human Rights Watch phone interview with Monther Al-Charni, July 21, 2010; Human Rights Watch interview with Mohammad Soudani, April 1, 2010.

[128] "Appeal Court in the Capital Refuses to Released Jailed Mannouba Students," Kalima Tunisie, http://kalima-tunisie.info/kr/News-file-article-sid-1556.html (accessed September 5, 2010).

[129] Ibid.

Since the arrests, the student protestors have been under constant police surveillance and subject to harassment, intimidation, and arbitrary detention on numerous occasions. For example, on January 22, 2010, plainclothes police arbitrarily arrested Amani Rizgallah and Hanen Dhahiri as they tried to attend a conference in solidarity with the student protestors in Tunis, and took them to the police district in Bshousha. Rizgallah said:

> They held me in the police district for 24 hours, asking me random questions with no point: where was I going? What was I doing? There was no charge, and I hadn't done anything. They were very aggressive with me verbally, insulting me and making sexual references, but they didn't hit me. They only do that to the boys.[130]

According to Sghaeir, police barred anyone outside the association from accessing the office where the conference was taking place.[131] Sghaeir said that police beat him after he tried to enter.[132] On February 15, Rizgallah said that police followed her into a store in Manouba and took her again to the police district there, where they interrogated her for two hours.[133]

Mahdia Student Protestors

Another case that has received media attention is the ongoing repression of student unionists—in particular Mohamed Soudani, a UGET leader—at the University of Tunis Mahdia. Soudani claims that police have harassed him since his admission and election to the student council on behalf of the UGET in 2006, subjecting him and his co-unionists to measures such as constant surveillance, physical violence, and arbitrary detention due to his on-campus organizing.[134]

On May 2, 2007, UGET members planned an event for the launch of the union's federal office in Mahdia. According to Sghaier, university officials denied permission to hold the event, without giving any reason, prompting union members to organize sit-ins and protests to pressure the university to change its mind.[135] According to Soudani, collusion between university officials and state security was apparent, and harassment by both plainclothes

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[130] Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

[131] Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010.

[132] Ibid.

[133] Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

[134] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[135] Ibid.

and formally dressed policemen increased with every action or mobilization the unionists undertook on campus.[136] In the days leading up to the event, Soudani and fellow UGET organizer Ayman Jabiri allege that plainclothes police beat and verbally assaulted union members.[137] The activists also received anonymous phone threats against their families unless they stopped their (lawful) union activities.[138] Soudani recounts:

> I would get phone calls at all hours of the day, sometimes really late at night, threatening me. These 'unknown' people were clearly the police; who else would do such a thing? It wears you down after a while. It's a form of psychological torture. At that point I wasn't so worried about myself, but it was really scary hearing that your sister, your mother, are going to be hurt. But I couldn't give in; this was a matter of principle and we are in the right …This regime works on intimidation, and we will not be intimidated no matter what they do to us.[139]

Violence resurfaced whenever UGET members raised a student-related issue with the university.[140]

On June 29, 2007, Soudani said that four people in two cars followed him as he was heading back to his dorms from college.[141] He recognized two as police officers, and one as the head of the intelligence agency in Mahdia. He was cornered, dragged into one of the cars and taken to the police district in Mahdia. After two hours, he said, officers presented him with a pre-written police report claiming that he had physically and verbally assaulted a public employee.[142]

> I refused to sign it, and so they kept me overnight at the police station. So what happened was what usually happens during detention. I was beaten severely with sticks, fists, everything. They wouldn't allow me to call my lawyers or my family to just tell them where I was. There was also a lot of

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[136] Ibid.

[137] Ibid.; Human Rights Watch phone interview with Ayman Ja'biri, July 22, 2010.

[138] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.; Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010.; Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

[139] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[140] Ibid.

[141] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[142] Ibid.

> verbal abuse, insulting me and my family in the most heinous ways. They don't have a conscience.[143]

The next day, police took him to the Court of First Instance in Mahdia where Soudani says a public prosecutor repeatedly insulted him, and he learned the university had decided to refer him and four others to the university disciplinary committee for incitement to strike and verbal assaulting administrative officials in the college.[144] "All these charges are completely made up," said Soudani, who started a hunger strike to protest the charges while in detention awaiting trial.[145] He was given a suspended sentence of six months in jail, which he appealed and lost.[146]

In the meantime, the disciplinary committee hearing was held on July 7, while Soudani was still detained. He said that police informed him on September 10 that the university had expelled him and his four colleagues from all public universities in Tunisia—a procedure that violated university regulations because no lawyer was present during the hearing and none of the students were permitted to see written reports of the charges or the hearing.[147]

> This was the worst part of the whole ordeal; this is what we are all fighting hardest against. We suffered beatings, detention, jail, harassment, and insults because we are active as students, and that is ultimately what they took away from us. We are determined to go on fighting no matter what happens, and first and foremost amongst our demands is to be reinstated into university. They cannot silence us this way.[148]

On October 2, 2007, all five expelled students went to Mahdia University for a two-day sit-in to protest their expulsion. According to Soudani, many civil society organizations, including the UGTT, supported the action.[149] On October 3, plainclothes and uniformed police surrounded the university on foot, in cars, and on motorcycles.[150] Soudani said that around 12 college security guards caught and severely beat him in the middle of campus before

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[143] Ibid.

[144] The four other students wereAyman Ja'biri, Mohammad Bou 'Allaq, Toufic Al-Wati, and Qais Bou Zouziyeh.

[145] Ibid.

[146] Ibid.

[147] Ibid.

[148] Ibid.

[149] Ibid.

[150] Ibid.; Human Rights Watch phone interview with Ayman Ja'biri, July 22, 2010

handing him and Ayman Jabiri over to police.[151] Soudani once again ended up in the infamous police district in Mahdia, where he said that police tortured and interrogated him and Ja'biri for six days about their union activities.

> They came at us with sticks, their boots, their fists, everything. They even threatened to sexually assault us and our families[152]

On October 9, police charged Soudani, Ja'biri, Ramzi Sleimani, Jawaher Channa, and Hassan al-Sammary with obstructing freedom to work, severe aggression, and verbal assault, and detained the students based on their peaceful protest action. They released them on November 8 pending their trial, as required by Tunisian law, after civil society organizations began a media campaign to support the students.[153]A court date has still not been set, although the charges still stand.[154]

The students remained committed to resuming their studies, and for the next two years continued to mobilize peacefully through different channels to pressure the university to repeal their expulsions. In October 2007, for example, they filed a case at the administrative tribunal in Tunis to contest the expulsion, but the case dragged on, and the court never reached a decision. They also wrote letters and sent petitions to the Minister of Education, contacted human rights organizations, wrote statements and public letters about the expulsions, and founded the League for the Defense of Expelled Students. Not only were their efforts in vain, but police harassment, surveillance, and anonymous threatening phone calls became a routine occurrence for the students.[155]

Between 2000 and the beginning of 2009, approximately 50 students were expelled by public universities across the country, or indicted by courts for similar union activities.[156] On February 11, 2009, UGET's executive office agreed to support a protest hunger strike at its Tunis headquarters. Six students participated in the 59-day event—Soudani, Jabiri, Bou 'Allaq, Al-Wati, Ali Bou Zouziyeh, brother of the expelled Qais Bou Zouziyeh, and Shadi Kreimy. At certain points during the strike, plainclothes police stood outside the UGET's

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[151] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[152] Ibid.

[153] Human Rights Watch phone interview with Monther Al-Charni, July 21, 2010.

[154] Ibid.

[155] Ibid.

[156] Human Rights Watch interview with Amani Rizgallah, Tunis, April 2, 2010.

headquarters, preventing anyone from going in to see the hunger strikers.[157] Several of the hunger-strikers were hospitalized, and urged by the medical team monitoring their health to end their fast for the sake of their health.[158]

> We were getting sick, and people all over the country and even internationally were talking about it, but the Ministry of Education still refused to engage in any way or even acknowledge our requests. The police physically prevented people who supported us from coming into the headquarters. Some were even beaten when they tried.[159]

Soudani claims the media campaign against them intensified in *Al-Shourouq* and *Koul Annas* and other high circulation pro-government press and tabloids, which branded them violent fringe activists with an anti-state political agenda.[160] The hunger strike eventually ended on April 11 after the strikers' health had deteriorated so greatly that their lives were at risk.[161]

Targeting UGET Leaders

On October 22, 2009, Soudani was arrested again after he met two French journalists at the Africa Hotel in downtown Tunis who were covering the national elections. Soudani warned his lawyers of a heavy police presence outside the hotel, and told them that he expected to be detained.

> I was really scared to endure yet another beating and interrogation from the police; it was already too much. The journalists came with me to Barcelona train station to make sure I was ok, but when I got on the train they left, and five plainclothes policemen boarded with me. The beat me up in front of everyone and made a show of accusing me of being drunk and behaving lewdly, even though it was obvious that I was not. Then they handcuffed me and dragged me on the floor to the police station next to Barcelona [train station] kicking and hitting me the entire way there. Inside the [police]

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[157] A video uploaded to YouTube (blocked in Tunisia) by KalimaTunisie, an independent, banned Tunisian news outlet, shows police stationed outside, manhandling anyone who tries to enter the UGET headquareters, including human rights lawyer Radhia Nasraoui and human rights activist Hamma Hammami: http://www.youtube.com/watch?v=2lFG4YpHA6o&feature=player_embedded#!.

[158] Ibid; Human Rights Watch interview with Wissem Sghaier, Tunis, March 29, 2010. For the report of the medical team, see http://anisman.e-monsite.com/rubrique,rapport-medical,304067.html.

[159] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[160] Ibid.

[161] Ibid.

> station, they beat me up so badly I passed out; they used sticks, fists, batons, and kicked me with those boots with the steel toes. They focused mainly on my ribs and legs, but they also hit my face.[162]

Soudani said that the torture lasted for four hours, but that he was not interrogated or told why he was being detained.

Around midnight, says Soudani, police took him to Habib Thamer hospital, where he was x-rayed, treated, and told to return the next day to pick up his medical report.[163] However, he was never able to obtain the report, which he could have used to prove allegations of torture. Instead, he was detained again on October 23 at Boushousha detention facility. Placed in solitary confinement until October 25, he then appeared before the Court of First Instance in Tunis, charged with disorderly and immoral public conduct and public drunkenness without the presence of a lawyer. Soudani told Human Rights Watch:

> It was the fastest trial in history. I was in and out within the space of five minutes. They didn't even question me, they just handed down the sentence and took me straight to jail. No evidence was presented at all, the court only claimed that two passengers on board the train had called the police and complained about my supposed drunkenness. That's what the entire case was based on. We don't even know who these people are.[164]

Soudani was sentenced to four months in jail and taken directly Mornaguia prison.[165] He claims that neither the police nor the court informed him what the charges against him were. It was only during his appeal trial on December 14 that the judge told him what the charges were.

Radhia Nasraoui, Soudani's lawyer who had filed a complaint with the Tunis public prosecutor on October 23 after her client failed to return home, said authorities did not inform Soudani's family of his arrest, as required by law, nor did they provide information on his whereabouts.[166] Minister of Interior Bechir Tekkari told French journalists that he knew nothing about the case or Soudani's location.[167] Following a widely publicized media

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[162] Ibid.

[163] Ibid.

[164] Ibid.

[165] Ibid.

[166] Human Rights Watch Interview with Radhia Nasraoui, Tunis, April 2, 2010.

[167] Ibid.

campaign by civil rights groups in Tunisia, police finally told Soudani's family where he was—after he had already been sent to Mornaguia prison.[168]

Soudani appealed the decision on December 14. However, Tunis's Court of Appeal upheld the four-month sentence, even though Nasraoui says it failed to produce evidence against her client.[169] The court released Soudani on December 31, following a campaign by Tunisian activists, organizations, bloggers, and international human rights organizations.[170]

On February 3, 2010, the court summoned Soudani, Ja'biri, Sleimani, Al-Sammary, and Shanna after the authorities decided to reopen their stalled 2007 case. Soudani believes that this was done to intimidate and pressure the five activists to stay silent.[171]

Soudani received a suspended two-year prison sentence. The four other defendants each received sentences of one year and eight months. The court has yet to rule on their appeal, although the next hearing is set for October 21, 2010, in the court of appeals in Monastir. In the meantime, all report being subject to constant police surveillance and harassment.[172] Moreover, Soudani has yet to receive a new national ID card to replace the one he lost in 2008, despite four attempts to renew it. Relevant authorities finally agreed to accept his application on January 22, 2010, although he has yet to receive the ID, which usually takes 21 days. He currently has no other means of identification.[173]

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[168] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[169] Ibid.

[170] Student Activist Held in Tunisia at Risk of Torture. Amnesty International, November 3, 2009,http://www.amnesty.org/en/news-and-updates/news/student-activist-held-tunisia-risk-torture-20091103 (accessed September 25, 2010). Free Mohammad Soudani Blog: http://freemohamedsoudani.wordpress.com.

[171] Human Rights Watch interview with Mohammad Soudani, Tunis, April 1, 2010.

[172] Ibid.

[173] Ibid.

IV. Relevant Legal Standards

The Right to Organize into Unions

Article 23, section 4 of the Universal Declaration of Human Rights states that "everyone has the right to form and to join trade unions for the protection of his interests."[174]

Part two of the International Labour Organization's (ILO) Convention for Freedom of Association and Protection of the Right to Organize states that "each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize." Tunisia ratified this convention on June 18, 1957.

Governments must not only refrain from punishing workers for trying to organize unions, but must also enforce mechanisms that deter employers from taking action against union organizers.

Article 242 of the Tunisian Labor Code states that "trade unions or associations of persons exercising the same occupation, similar trades or related occupations contributing to the establishment of specific products, or the same profession, may be freely constituted."[175]

According to article 250 of the Labor code, unions do not need authorization from authorities to operate legally. The only requirement is that the founding members notify the public authorities that the trade union has been formed and deposit the union's statute and a list of its officials or administrative staff at the headquarters of the governorate where the union has its head office.

Article 8 of the Tunisian Constitution also explicitly guarantees the right to form unions.[176]

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[174] Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

[175] Tunisian Labor Law, http://www.snjt.org/images/snjt/travail.pdf.

[176] Constitution of The Republic of Tunisia, http://confinder.richmond.edu/admin/docs/Tunisiaconstitution.pdf.

Freedom of Expression, Association, and Assembly

Tunisia's repression of union activists violates a number of basic tenets of international law: the right to freedom of expression and association, and the associated right to freedom of assembly. Tunisia has obligations under the International Covenant on Civil and Political Rights (ICCPR), which it ratified on March 18, 1969, and the African Charter for Human and People's Rights (ACHPR).[177]

The ICCPR and the ACHPR both guarantee the right to freedom of association and assembly. While the government may restrict the right to freedom of association, it can only do so on certain prescribed grounds, and only when particular circumstances apply. According to article 22 of the ICCPR:

> (1) Everyone shall have the right to freedom of association with others.
> (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

According to article 10 of the AHCPR:

> (1) Every individual shall have the right to free association provided that he abides by the law.
> (2) Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

Article 11 of the AHCPR also states:

> Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

[177] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52.U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976; African Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986.

Detention and Trial Standards

Article 9 of the ICCPR and article 10 of the ACHPR prohibit arbitrary arrest and detention. An arrest or detention is arbitrary when it is not carried out in accordance with the law, or if the law allows for people to be arrested and detained for peacefully exercising basic rights, such as freedom of expression, association, and assembly.[178]

The UN Standard Minimum Rules for the Treatment of Prisoners provides, "An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution."[179]

The practice of holding detainees incommunicado, as alleged by Mohammad Soudani, violates Tunisia's obligations under human rights law and the Minimum Rules referenced above.

The prohibition on the torture and other mistreatment of all persons in detention is enshrined in international treaty law and is considered a fundamental principle of customary law. Article 7 of the ICCPR states that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 10 states that "all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person." Article 14 protects the right of every person "[n]ot to be compelled to testify against himself or to confess guilt."

International law, set out most clearly in the Convention against Torture, requires a prompt and impartial investigation when it is reasonable to believe torture has been committed in a state's territory, as well as requiring that every victim of torture should obtain redress, including compensation and that no evidence obtained by torture be used in legal proceedings.[180] Tunisian authorities are alleged to have violated these standards when police have tortured individuals in pre-trial detention and during interrogation, and

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[178] According to the UN Working Group on Arbitrary Detention, the deprivation of liberty is arbitrary when a case falls into three categories: when there is no legal basis to justify the deprivation of liberty, when the deprivation of liberty violates certain articles of the Universal Declaration of Human Rights or the ICCPR, and when international norms relating to the right to fair trial are ignored or only partially observed. UN Commission on Human Rights, Working Group on Arbitrary Detention, http://193.194.138.190/html/menu2/7/b/arb_det/ardintro.htm (accessed October 2, 2010).

[179] United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, rule 92.

[180] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, arts 12 and 14.

attempted to extract confessions under duress of torture. In this report, Human Rights Watch has documented several cases of torture among student activists who were detained between 2007 and 2009, and courts have refused to investigate allegations of torture brought forth by defendants.

V. Acknowledgements

This report was researched and written by Rasha Moumneh, researcher in the Middle East and North Africa division of Human Rights Watch. The report was edited by Sarah Leah Whitson, director of the Middle East and North Africa division. Legal review was done by Clive Baldwin, senior legal advisor. Program review was done by Iain Levine, program director, and Danielle Haas, program editor.

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Annex I: Complaint filed by the Tunisian General Labor Confederation to ILO (June 4, 2008)

الجامعة العامة التونسية للشغل

CONFEDERATION GENERALE TUNISIENNE DU TRAVAIL – CGTT
http://cgtt.worldpress.com

Tunis le 4 Juin 2008

A l'attention de Madame Karen Curtis,
Directrice Adjointe du Département des Normes internationales
du Travail, Responsable de la Liberté Syndicale

Objet : Dépôt d'une plainte auprès du Comité de la liberté syndicale du BIT pour violation par le gouvernement tunisien des conventions 87 et 98 ratifiées par la Tunisie

Chère Madame,

Plus d'une année est passée, depuis que des militants et militantes, appartenant à diverses branches professionnelles, régions et générations , ont pris l'initiative de constituer une nouvelle organisation syndicale en Tunisie dénommée la Confédération Générale Tunisienne du Travail - CGTT.

Cette initiative a été prise en Décembre 2006, par 500 syndicalistes signataires d'une « *Plateforme pour une refondation du mouvement syndical tunisien*».

1. Présentation de la nouvelle organisation syndicale : CGTT

La Plateforme comporte deux parties : une évaluation de la situation du syndicalisme tunisien puis une proposition alternative pour l'avenir.

La première partie du document fait le bilan du mouvement syndical tunisien, notamment le constat de la situation de blocage qui caractérise l'UGTT, tant au niveau de ses conceptions qu'au niveau de ses pratiques. Celle-ci n'est pas étrangère à l'intériorisation par ses dirigeants successifs et par bon nombre de ses cadres tout au long des dernières décennies, du modèle et de la culture du « parti unique », auquel ont correspondu le modèle et la culture du « syndicat unique ». Tout le monde sait que ces deux cultures, identiques et complémentaires, relèvent d'un même modèle de gouvernance et de fonctionnement : un centralisme excessif, une bureaucratie tentaculaire, une concentration de l'autorité, une personnalisation du pouvoir, une crainte maladive de la diversité d'opinions et de la pluralité des positions et des pratiques.

En effet, les conceptions, méthodes d'action et d'organisation sont restées durant ces longues années, traditionnelles, prisonnières d'une culture nationaliste qui n'a pas rompu avec les conceptions ayant eu cours durant la période coloniale. C'est ce facteur qui a été en grande partie à l'origine de l'incapacité de l'UGTT, dès lors qu'elle agit dans le cadre d'un Etat indépendant, de se transformer en organisation sociale de la classe ouvrière, et de dépasser l'unanimisme national anti-colonial qui n'avait plus de raison d'être. Du fait de ces obstacles, l'UGTT n'a pu connaître l'évolution pourtant exigée par la nouvelle situation politique, sociale et économique issue de l'indépendance. L'attachement à l'unanimisme " pré indépendance" n'a pas, non plus, favorisé le développement d'une vie démocratique à l'intérieur de l'organisation syndicale et n'a pas mis l 'UGTT en position d'influer sur le

الجامعة العامة التونسية للشغل - البريد الالكتروني : cgtt2007 @yahoo.fr 1

cours de l'évolution politique dans le pays dans le sens d'une démocratisation de la société civile et de la société politique.

La seconde partie développe le choix d'une dynamique alternative consacrant le pluralisme syndical dans notre pays. Ce qui, dans les conditions actuelles, constitue la solution adéquate au blocage et aux dérives dans lesquels s'est enlisé le mouvement syndical tunisien. Il n'est donc pas surprenant que la constitution de la « Confédération Générale Tunisienne du Travail –CGTT » ait suscité un intérêt certain chez les syndicalistes, ainsi que dans les médias.

Le Syndicat que nous venons de créer est un syndicat démocratique, progressiste et autonome. Il n'est l'émanation d'aucun parti ou groupement politique. Il n'est l'instrument d'aucune partie, ni au pouvoir, ni dans l'opposition. Notre devise c'est celle que plusieurs d'entre nous ont constamment défendue : la CGTT n'est ni l'alliée du pouvoir ni son adversaire politique.

Le syndicalisme que nous voulons instaurer s'appuie sur trois piliers essentiels :

- la défense des droits sociaux et économiques fondamentaux des travailleurs,
- l'implication énergique du syndicalisme en tant qu'acteur efficient dans la transformation sociale ,
- la sauvegarde de l'autonomie syndicale par rapport aux différentes entités étatiques, politiques, idéologiques ou économiques.

La CGTT a pour ambition majeure de contribuer à la refondation du mouvement syndical tunisien et ce par le renouvellement de ses conceptions, de ses méthodes de travail et de fonctionnement.

Le programme proposé, outre sa dimension sociétale, implique la modernisation des mécanismes de l'action syndicale (structures, fonctionnement administratif et financier), et une stratégie revendicative combinant la lutte contre l'exploitation et celle contre l'exclusion et la précarité de l'emploi, tout en donnant toute son importance aux activités sociales, et aux études et la formation, pour faire de la nouvelle organisation syndicale, avec des dirigeants possédant une formation de qualité, une force à la fois de revendication et de proposition.

La CGTT fonde son action sur le principe de volontariat dans l'engagement et le professionalisme dans ses propres activités.

Nous voulons un modèle de syndicat différent et notre credo est qu' « une organisation syndicale autre en Tunisie est possible ! »

Notre organisation syndicale entend tirer les meilleurs enseignements de l'expérience syndicale tunisienne ainsi que des expériences du pluralisme syndical dans le monde, particulièrement les expériences belge, espagnole, scandinaves, exemples de réussite.

2. L'organe de direction provisoire : le Comité de liaison

Un Comité de liaison a été constitué par les fondateurs.

Il a pour tâches d'assurer le suivi de la constitution des syndicats d'entreprise, de fédérations, d'unions locales et régionales et la préparation du congrès national constitutif de la CGTT et d''informer les syndicalistes, l'opinion publique et les médias en Tunisie et à l'échelle internationale.

Le programme de création des structures syndicales devait aboutir à l'organisation du congrès confédéral les 2, 3 et 4 décembre 2007, mais ceci s'est révélé impossible compte tenu des interdictions qui ont jalonné nos multiples activités préparatoires.

3. Constitutions des syndicats

En conformité avec les dispositions de l'article 8 de la Constitution tunisienne et celles des articles 242, 250 et 252 du code du travail tunisien, quinze syndicats de base ont été créés dans la région de Tunis.

La Constitution tunisienne garantit, en son article 8, la liberté syndicale et le régime juridique des syndicats en Tunisie, tel que défini par le code du travail ,reconnaît le principe de la liberté syndicale ainsi que la liberté de constituer des syndicats sans autorisation ou accord préalable des autorités administratives.

Les fondateurs des premiers syndicats de la CGTT dans la région minière de Gafsa ont adressé le 26 juillet 2007, en conformité avec les articles 242, 250 et 252 du code du travail tunisien, par pli recommandé avec accusé de réception, en cinq exemplaires, à Monsieur le Gouverneur de Gafsa, les statuts et la liste complète des personnes chargées de sa direction. Cette liste indique les nom, prénom, nationalité, filiation, date et lieu de naissance, profession et domicile des intéressés. (voir document en attachement en arabe).

Notre organisation a lancé un appel aux autorités, aux chefs d'entreprise, à l'organisation patronale afin qu'ils ne fassent pas obstacle au droit de la CGTT et de ses syndicats, constitués légalement selon la législation tunisienne et les conventions de l'OIT, d'exercer leurs activités syndicales en toute liberté.

Une requête a été également adressée au Président de la République en date du 14 décembre 2007 demandant la reconnaissance des syndicats de la CGTT.

4. Les obstacles et les violations du droit syndical

Dès l'annonce de sa constitution, la CGTT a été empêchée d'exercer son droit à l'existence et de fonctionner normalement.

Une conférence de presse pour annoncer la constitution de la nouvelle confédération syndicale a été prévue le jeudi 1 février 2007 à 11 heures du matin, mais elle a été interdite par les autorités tunisiennes.

Le 13 février 2007 à 10 heures du matin, nos camarades Habib Guiza et Mohamed Chakroun, membres du Comité de liaison de la CGTT ont, comme la loi l'exige (article 250 du code du travail tunisien), voulu déposer les statuts des syndicats nouvellement constitués de la nouvelle organisation au siège du Gouvernorat de Tunis. On leur a opposé une fin de non recevoir.

Une seconde conférence de presse en vue d'informer les médias et l'opinion publique de la constitution de la nouvelle confédération syndicale,en date du vendredi 7 décembre à 11heures du matin a été de nouveau interdite par les autorités tunisiennes d'une façon tout aussi arbitraire.

Nos camarades de la région minière de Gafsa ont adressé une correspondance au PDG de la Compagnie de Phosphates de Gafsa (CPG) en date du 4 septembre 2007 l'informant de la constitution de nos syndicats dans les différentes villes minières. Cette correspondance est restée sans réponse. Ils ont aussi adressé une correspondance au Directeur Régional des Affaires Sociales et de la Solidarité Nationale en date du 5 mai 2008 portant plainte contre la CPG pour non respect par celle-ci des articles 242, 250 et 252 du code du travail tunisien et de la convention N° 87 de l'OIT.

Devant l'indifférence des autorités concernées, nos syndicats de la région minière de Gafsa affiliés à la Confédération Générale Tunisienne du Travail – CGTT- ont décidé d'organiser un rassemblement au siège de la CPG de Gafsa et à la Direction Régionale des Affaires Sociales à Gafsa le 15 mai 2008 pour exiger leur reconnaissance et le démarrage de négociations sérieuses en vue de trouver des solutions aux problèmes que rencontrent les salariés de l'entreprise et les citoyens du bassin minier.

Le 13 mai 2008, suite à la mobilisation de nos syndicats de la région minière de Gafsa, le camarade Habib GUIZA, Coordinateur du Comité de Liaison de la Confédération Générale Tunisienne du Travail (CGTT), a été convoqué au commissariat de police de Tunis Centre où il a subi un interrogatoire de deux heures par deux inspecteurs de police sur la légalité de la CGTT, notamment la décision des syndicats de la région minière de Gafsa d'organiser un rassemblement de soutien à la CGTT. Il a été exigé du camarade Habib GUIZA de s'engager à cesser toute activité syndicale au nom de la CGTT au prétexte qu'elle est illégale.
Le camarade Habib GUIZA a refusé tout engagement de ce genre, faisant valoir que les syndicats de la CGTT ont été constitués conformément à la législation tunisienne en vigueur et aux conventions internationales de l'Organisation Internationale du Travail (voir communiqué en attachement)

La police a interdit, depuis le mercredi 14 mai 2008, l'accès à toute personne au local du Centre de formation à Tunis de l'Association Mohamed Ali que préside le camarade Habib GUIZ, Coordinateur de la CGTT

Devant ces violations flagrantes des droits syndicaux , la CGTT a décidé de déposer une plainte auprès du Comité de la liberté syndicale du BIT pour violation des conventions 87 et 98.

Nous sollicitons du BIT qu'il rappelle au gouvernement tunisien ses engagements en matière de liberté syndicale et lui recommande, sur cette base, de reconnaître le nouveau syndicat (la CGTT) et ne rien entreprendre pour faire obstacle à ses activités ménées dans le cadre de la légalité.

Veuillez agréer, chère Madame, l'expression de notre considération distinguée.

Pour le Comité de Liaison de la CGTT :
Zouhour KOURDA, militante syndicaliste du secteur de l'enseignement supérieur,
- **Souad KADDACHI**, militante syndicaliste du secteur de l'agriculture, Ingénieur agricole,
-**Tarak MEHRI**, militant syndicaliste du secteur minier de Gafsa,
- **Mohamed CHAKROUN**, militant syndicaliste du secteur de la métallurgie, ancien secrétaire général de l'Union régionale du travail (UGTT) de Tunis,
- **Habib GUIZA**, militant syndicaliste du secteur de la pétrochimie, ancien secrétaire général de l'Union régionale du travail (UGTT) de Gabès (Coordinateur)

P.J. : Documents et communiqués de la CGTT

الجامعة العامة التونسية للشغل - البريد الالكتروني : cgtt2007 @yahoo.fr

Annex II: Human Rights Watch Letter to Tunisian Government (September 7, 2010)

September 7, 2010

Minister of Justice and Human Rights Mr. Lazhar Bououni
Ministry of Justice and Human Rights
31, Av. Bab Bnat 1030
Tunis, Tunisia

Minister of Interior and Local Development Mr. Rafik Belhaj Kacem
Ministry of Interior and Local Development
Av. Habib Bourguiba, 1000
Tunis, Tunisia

Dear Ministers Bououni and Kacem:

Human Rights Watch is currently preparing a report on the right of Tunisians to organize unions and conduct union activities, focusing on labor, journalist, and student unions.

During a visit to Tunisia in March and April 2010, a Human Rights Watch researcher spoke to over 20 union organizers in Tunis, Redhayef, and Gafsa who made allegations about the government's prosecution of unionists, arbitrary measures taken to prevent unions from forming, intervention in, and sabotage of, union activities, and the torture by police of union activists in their custody.

We would like to ensure that our report on the issue is both accurate and reflects official information and perspectives. We have outlined below some of our interim findings on the matter. We look forward to your comments and explanations. All pertinent information received by September 30 will be reflected in our report. We also confirm our readiness to come to Tunis to discuss these matters with you, prior to the finalization of our report, to ensure that we are able to represent fully and accurately the views of, and information from, the government, at a date that is convenient for you.

Monopoly on Labor Union Activity

The largest labor union in the country is the Tunisian General Labor Union (UGTT), which is an umbrella body comprised of labor unions from across the country. Tunisia's law

governing labor unions is liberal, requiring founders of a union simply to inform the government of their intention to form a union for it to be legally recognized. However, unionists have reported that the Tunisian authorities have withheld legal recognition from them by not giving the applicants a receipt for their submitted application, and then denying that they had ever received the application, even when the organizers submitted it by registered mail. After refusing to issue a receipt, the government has then claimed a new union is unauthorized and has interfered with its operations.

For example, in 2004, independent journalists applied to form a union called the Tunisian Journalist's Union, but the Ministry of Interior claimed that it never received the application; as a result, the union could not operate legally and faced police harassment, members of the union said. On August 24, 2005, Tunis police summoned Hajji, President of the Tunisian Journalists Union, and told him that they would not allow him to hold his union's founding congress.

In another case, members of the UGTT filed an application to form the General League for Labor (CGTT) in December 2006, explaining that in their view the UGTT leadership was too close to the government. The Ministry of Interior did not give them a receipt for their submitted application. The newly-formed union continued to operate despite its lack of official authorization, but police harassed union members, surrounded their offices, and threatened workers who wanted to join it. When union members filed a complaint with the International Labor Organization on June 4, 2008 about this treatment, the response of the government was to deny any knowledge of the union.

With regard to the foregoing, we would be grateful for answers to the following questions:

- From 2002-2010, how many applications for unions has the government received? How many has it approved?
- With respect to the Tunisian Journalist's Union, which said that it filed its application in 2004, did the Ministry of Interior receive this application? Does the government recognize it as a legally registered union? If not, why not?
- With respect to the CGTT, which says that it filed its application in 2006, did the Ministry of Interior receive this application? Does the government recognize it as a legally registered union? If not, why not?
- Since the CGTT filed the complaint to the ILO on June 4, 2008, what steps has the government taken to allow the union to operate legally?

The National Union of Tunisian Journalists

In May 2009, the National Union of Tunisian Journalists (NSTJ) released a report critical of the government's censorship of the media and treatment of journalists. At that point, independent journalists comprised the majority of the executive board of the NSTJ.

In August 2009, that board, along with its president, were ousted through a petition drive and by elections that members of the ousted board and its president claim was fraudulent.

Neji Bghouri, the ousted president of the NSTJ, told Human Rights Watch that police and pro-government journalists threatened and blackmailed them and their colleagues, who were all members of the NSTJ, into signing the petition calling for the ousting of the leadership. The minister of communications at the time threatened newspaper editors with cancellation of paid government advertising unless their employees signed the petition, according to Bghouri.

Bghouri also claimed that pro-government journalists added to the petition names of journalists who were not members of the union, a claim later confirmed by a judicial handwriting expert. When the petition failed to reach the quorum required to force new elections, three pro-government board members resigned, and the fourth, according to Bghouri, was bribed and pressured into resigning, thus forcing new elections.

Bghouri, along with other members of the NSTJ executive board, contested elections announced by pro-government members of the union to be held on August 15 at the court of first instance in Tunis. Bghouri and the others argued that the pro-government board members' call for elections violated legal procedures because according to the bylaws of the union, only the president of the union can call for extraordinary elections and the call happened before the 15 day grace period after the fourth board member's resignation required by the union's bylaws. The date of the elections also coincided with the peak of the summer vacation period, which according to Bghouri indicated a desire on the part of pro-government journalists to exclude the many members of the union who would be on vacation then.

On August 15, 2009, the NSTJ held emergency elections in which a new board loyal to the government defeated the sitting board. According to Bghouri, approximately half of the journalists who were present and voted in the election were not members of the union, and were thus ineligible to vote.

After the August 15 congress was announced, Bghouri and other members of the board filed a case at the court of first instance in Tunis to contest it, deeming it illegal, and planned to hold what they saw as the legitimate congress on September 12. They also filed an interim

appeal to postpone the congress until the court ruled on its legality. The court refused to accept the second case, claiming that it could not open another case on the same issue while another one is still pending until the hearing on October 26. However, according to article 201 of the code of civil and commercial procedures, judges rule on interim cases only on a temporary, non-binding basis and that ruling does not affect the outcome of the original case. The same court later contradicted itself when it accepted to rule on another expedited case on September 1, filed by the NSTJ's new board, to evict the previous board from the headquarters of the NSTJ, while the original case on the legality of the congress was still pending. On March 1, 2010, eight months after it had already ordered the evacuation of the NSTJ offices, the court of first instance in Tunis ruled against Bghouri and his colleagues, deeming the August 15 congress legal and binding.

After the replacement of the old syndicate leadership, Bghouri claimed that police assaulted and harassed him and other ousted NSTJ board members and prevented them from entering the NSTJ offices on September 8, 2009, without showing them the court order that had been issued that same day allowing for the eviction of the board.

With regard to the foregoing, we would be grateful for answers to the following questions:

- On what basis did the court of first instance in Tunis reject the interim appeal to postpone the elections?
- On what basis did the court rule to evict former members of the board of the NSTJ while there was still a case pending on the legality of the elections?
- Is there truth to the allegation that the former minister of communication exerted pressure on newspaper editors to get their employees to sign the anti-NSTJ board petition?

Student Union

Members of the General Union of Tunisian Students (UGET) have claimed that since 2006, the police have been persecuting UGET members because of their peaceful demonstrations in favor of educational reforms, the right to adequate housing for female students, and against the rising costs of university meals.

For example, in October 2009, after the University of Manouba reporetedly rejected the applications of approximately 180 female students mainly from the south of the country for student housing, members of the UGET staged a peaceful sit-in at Al-Bassatine dormitory in Manouba that lasted approximately 3 weeks. According to student protestors, police stormed the dormitory on November 1, 2009, throwing tear gas cannisters, beating

demonstrators and arresting 17 of them. Those arrested were subsequently charged with theft, disturbing public order, and assaulting public employees.

During their trial in the Court of First Instance in Manouba in December 2009, the students claimed that the incriminating confessions had been extracted under torture and were false, and asked that they receive medical examinations to ascertain whether they had been subjected to torture. The judge refused to investigate or allow for the examination. They were sentenced to prison terms ranging from one to three years on December 21.

During the trial, police allegedly assaulted the defendants in the courtroom on December 14 prevented supporters and family members of the defendants from entering the courtroom, and violently broke up a peaceful demonstration outside of the courtroom, which resulted in two students needing hospital treatment for their injuries, according to Amani Rizgallah, one of the defendants.

Student unionists interviewed by Human Rights Watch claim that plainclothes police have subjected them to constant harassment and surveillance, and arbitrary detention and arrests on trumped-up criminal charges. On January 22, 2010, plainclothes police arbitrarily arrested Amani Rizgallah and Hanen Dhahiri as they were attempting the attend a conference in solidarity with the student protestors organized by the Tunisian Association of Democratic Women (ATFD) in Tunis and took them to the police district in Bshousha, where they were interrogated for 24 hours about their activities and whereabouts in an effort to intimidate them, according to Rizgallah.

Mohamed Soudani, a UGET leader, said that police have harassed him since 2006, subjecting him to surveillance, physical violence, and arbitrary detention due to his on-campus organizing.

On October 22, 2009, authorities in Tunis arrested Soudani after he met with two French journalists covering the national elections. On the evening of his arrest, Soudani informed his lawyers of a heavy police presence outside the hotel where he met the journalists, and told his lawyers he expected the police to detain him. When Soudani did not return home due to the police arresting him on his way home, his lawyer filed a complaint with the Tunis public prosecutor the next day. His lawyer said that the authorities did not inform Soudani's family of his arrest as required by law, nor did they provide information on his whereabouts. On October 24, a Mahdia court sentenced Soudani to four months in jail on charges of drunkenness and disorderly and immoral conduct; he alleges that the prosecutor provided no evidence for the allegations against him.

Soudani was also one of five students sentenced in February 2010 in the First Instance Court of Mahdia, along with Jawaher Channa, Aymen Jaabiri , Ramzi Slimani , and Hassene Smari, to between one year and 8 months and two years in prison on charges of violently assaulting an officer and impeding the freedom of public-sector employees, charges they all deny.

All of the students charged were members of the General Union of Tunisian Students. Prior to their arrest, they were trying to organize a general assembly as a prelude to the next student union congress.

With regard to the foregoing, we would be grateful for answers to the following questions:

- Have authorities investigated the brutality allegedly practiced by the police who arrested Mohamed Soudani on October 22, 2009, and if so, what were the findings and was anyone held accountable?
- Can you kindly explain why the judge trying the case of the Manouba University student protesters declined to order an investigation into the claims that confessions were extracted through torture or allow for medical examinations to take place to search for evidence of the alleged torture?
- Was there any evidence in that case besides the confessions that was used to convict the defendants?
- On what basis as the defendants being constantly followed, harassed, and interrogated by police?

We look forward to reading your comments on the above issues, as well as any additional comments you wish to provide on the issues of unions and union activists in Tunisia.

As noted above, we will reflect in our forthcoming report all pertinent information you provide to us by September 30, 2010. We also reiterate our interest in meeting you or other officials knowledgeable about these matters in person, to discuss these issues, before our report has been finalized and when your comments can be fully incorporated.

Thank you for your consideration.

Sincerely yours,

Sarah Leah Whitson

Annex III: Tunisian Government Response to Human Rights Watch Letter (October 6, 2010)

Human Rights Watch thanks the government of Tunisia for its replies to the questions submitted to them while preparing this report. We received their replies on October 6, as the report was going to print. They are reprinted in full below, together with our answers.

Answers by Tunisian authorities to "Human Rights Watch" queries regarding trade union rights in Tunisia

The following are the answers of the Tunisian authorities to the questions contained in the correspondence of "Human Rights Watch", dated September 7, 2010, about trade union rights in Tunisia:

1. Queries relating to the alleged monopoly over trade union activity:

a. Query:

In the period 2002-2010, how many applications for establishment of trade unions have been brought to the knowledge of the Government? How many applications has it approved?

Answer:

The Tunisian law governing trade unions, as stated in the HRW memorandum, does not require the approval or authorization by the Government or the filing of applications for the creation of trade unions. It only requires a formal procedure which consists in depositing the statutes and the list of union members at the headquarters of the Governorate. Given the fact that the establishment of trade unions is not subject to the submission of applications to the Government, but is limited to deposit procedures, the Government does not have at present the exact number of unions founded over the requested period. As a rough guide, however, many unions in many activities have been created in recent years, e.g. Téléperformance (three trade unions), medical specialists unions and about 20 trade unions in new sectors (automotive components, cables, etc.)

b. Query:

Regarding the National Union of Tunisian Journalists (SNJT) which has said it presented its application in 2004; did the Ministry of the Interior receive that application? Does the Government recognize the SNJT as a legally-registered union? If not, why?

Answer:

The National Union of Tunisian Journalists was founded on January 13, 2008 after depositing, in accordance with prevailing legal procedures for the establishment of unions (article 250 of the Labor Code), 5 duplicate copies of its statute and member list at the Governorate headquarters.

The Ministry of the Interior and Local Development was advised accordingly by receiving a duplicate copy of the Statute of the Union from the Governor in accordance with the aforesaid article 250 of the Labor Code.

Moreover, recognizing the Union does not require presentation of any acknowledgement document as depositing the statute is sufficient to give legal existence to the Union. The Union conducts in its activities normally; and has, in 2010, – according to information emanating from it – more than a thousand members belonging to the different press activities (print, radio and television) and to both the private sector and the public sector (Tunisian Radio and Television Establishment, Tunisie-Afrique-Presse Agency).

c. Query:

Regarding the Tunisian General Labor Confederation, which says it, presented its application in 2006; did the Ministry of Interior receive that application? Does the Government recognize the Confederation as a legally-registered union? If not, why?

Answer:

The Tunisian legislation (article 242 of the Labor Code) confirms the freedom to form trade unions in accordance with the principles adopted in the International Labor Conventions: No.87 on the Freedom of Association and Protection of the Right to Organize, and No.98 on the trade union right to collective bargaining, both of which were ratified by our country as early as 1957. Therefore, the founding of a trade union is only subject to a formal

procedure which consists in depositing its statute and a list of its members with the Governorate (article 250 of the Labor Code).

With regard to the claim made by the Tunisian General Labor Confederation that, in 2006, it presented an application for establishing this union, it has become clear, after verification, that it did not carry out the necessary procedures for creating the union, which consist in depositing its statute and a list of its members at the headquarters of the Governorate.

d. Query:

Since the Tunisian General Labor Confederation lodged a complaint with the International Labor Organization on June 4, 2008, what steps has the Government taken to permit the union to work legally?

Answer:

Lodging a complaint with the International Labor Organization does not exempt the Confederation from carrying out the legal procedures for establishing a trade union. As it has not taken these legal steps since 2008, it has no legal existence.

It should be noted that the Committee on Freedom of Association, in its recommendations which were adopted by the Governing Body of the International Labor Organization in its 307th session (March 2010) in respect of the complaint filed by the Tunisian General Labor Confederation (case 2672), invited the complainant organization to provide the authorities with all the documents supporting the claims that it had carried out the required procedures. The authorities, however, have not received, to date, any evidence that the complainant organization has carried out those procedures.

2. Queries relating to the National Union of Tunisian Journalists:

a. Query:

On what grounds did the Tunis court of first instance reject the interim request for postponement of the elections?

Answer:

The judgment passed by the Tunis court of first instance on August 14, 2009, rejecting the suit filed by a minority of members of the former executive

bureau for postponement of the elective conference of the National Union of Tunisian Journalists to August 15, 2009, was based on the following reasons:

- *First:* Noting that the very parties that requested the postponement of the elective conference did not dispute the fact that four members of the former executive bureau had tendered their resignations.
- *Second:* Noting that the same parties did not dispute the fact that the resignation of four members of the former executive bureau entailed by necessity the dissolution of the executive bureau and the convening of a special elective general assembly.
- *Third:* On these grounds, the court considered that the duty to preserve the interests of the National Union of Tunisian Journalists required that its special elective general assembly should be held as soon as possible. In this regard, the court emphasized that guaranteeing the national Union of Tunisian Journalists' role to defend the interests and rights of journalists precludes any unjustified attempt to impede or postpone the convening of the Union's general assembly.
- *Fourth:* From these considerations, the court concluded that the suit aimed at the postponement, by the National Union of Tunisian Journalists, of its special elective general assembly, was a suit that did not meet the condition of legitimate interest, which constitutes a sine qua non condition for the court accepting to receive any legal suit. The court invoked, in this regard, article 19 of the Code of Civil and Commercial Procedures which requires that "the filer should have an interest in filing the suit", and considered that the request, by some members of the Union executive bureau, for leaving the elective assembly of their union in abeyance and postponing its proceedings, was a request contrary to the interests of the union to which they belong, which justified rejecting it.
- *Fifth:* The court also considered that the position of the plaintiffs according to which the president of the Union, alone, under article 19 of the Union statute, has the prerogative to call a special conference, is a position it cannot sustain for the simple reason that such an interpretation would necessarily lead to making the future of the Union dependent solely on the will of its president, which would open the door to all kinds of excesses and would threaten the future and continuity of the Union. To stave off such dangers, the court acknowledged the prerogative of an enlarged executive bureau to call an elective general meeting.

b. Query:

On what grounds did the court render a sentence of expulsion against the former members of the bureau of the National Union of Tunisian Journalists, while the lawsuit over the legitimacy of the elections was still pending?

Answer:

The provisions of the ruling passed by the Tunis court of first instance on September 8, 2009 did not involve expelling the former members of the bureau of the National Union of Tunisian Journalists, but compelling them to vacate the Union headquarters as they were no longer entitled to occupy it after the election of a new bureau which, alone, had become legally empowered to occupy the headquarters. The ruling was based on two fundamental considerations:

- *First:* The failure of the minority members of the former executive bureau who requested the postponement of the special elective conference to establish the validity of their claim, which was aimed at suspending the proceedings of the conference against the will of the majority members to hold that conference.
- *Second:* The convening of the elective conference on August 15, 2009 and the ensuing election of a new executive bureau in free, transparent and impartial elections marked by the massive presence of journalists estimated at 480 out of 748 members.

Proceeding from these two factors, the court considered that the logical and natural result of the election of a new executive bureau is to enable the members of the bureau to occupy the Union headquarters in compliance with the journalists' will as expressed in the elective conference of August 15, 2009. It is inconceivable that the Union headquarters should be kept by a dissolved executive bureau which has lost the confidence of the electoral base. Similarly, it is unacceptable that the new executive bureau, which has been elected and enjoys the journalists' confidence, should be banned from establishing itself at the headquarters of the Union it is in charge of. Thus, the court considered that handing over the Union headquarters to the new bureau is a logical and legal consequence of the loss, by the former bureau, of every entitlement to keep the headquarters of a union it is no longer in charge of. It should be noted that those against whom the judgment to vacate the headquarters was pronounced did not

challenge the decision but accepted it as well-founded in form and content, as shown by their non-appeal.

c. Query:

Is there any truth in the claim that the former Minister of Communication had pressured the newspapers' chief editors into forcing their employees to sign the petition against the bureau of the National Union of Tunisian Journalists?

Answer:

There is no justification whatsoever for claiming that the authorities had exerted any pressure on the journalists to sign a petition against the former executive bureau. In this connection, it may be noted that:

- *First:* The journalists who are signatories to the petition – and there are hundreds of them (600 journalists) – have not issued any challenge and none of them has made any complaint that would show directly or indirectly the existence of moral or material pressure or coercion.
- *Second:* All the members of the Union, signatories and non-signatories alike, were given the opportunity to exercise their free decision through the ballot box in complete transparency. A majority of them voted against the members of the former bureau.
- *Third:* The aforesaid petition had no impact on the legal position and did not change the legal status or the outcome of the dispute, considering that "ascertaining the vacancy" after the four resignations was in itself sufficient to settle the dispute in favor of the current bureau.

3. Queries relating to the Students' Union:

It should be noted - as a comment about the allegations made at the beginning of the report section relating to the students' exercise of their right to association - that the persons mentioned are not students, as they lost that status years ago. Mr. Mohamed Soudani left the university in 2007, as did Mr. Ayman Jaabiri.

There is no record of any students' demonstrations or moves that may relate to the subjects of the high cost of lodging and food considering that the State provides lodging for half the university students. The university lodging and food charges in Tunisia are among the lowest in the world. Indeed, the cost of university lodging does not exceed six dollars a month and the price of a meal does not exceed 0.2 dollar. More than one-third of the students enrolled receive university grants.

As to the events that occurred in the Manouba region, they had nothing to do with any form of peaceful protest or demonstration to meet demands in favor of the students. The fact is that, during the second half of October 2009, a group of individuals who did not belong to the university and had no connection with the institutions of university services, and some of whom were drunk, broke at night into one of the students' dormitories, drove out the workers, set fire to, and destroyed, parts of the dormitory property, bullied one of the girl students there addressing her in a foul language. Some members of the group attacked the passers-by with insults and abuse, blocked the way of a taxi driver who had brought a female student back to the dormitory, and robbed him of a sum of money, which caused panic among the students in particular and the local population in general. The judicial authorities looked into those acts and handed down their judgments against individuals they found guilty of assault against persons and property. Answers to the queries made in this regard are as follows:

a. Query:

Have the authorities carried out an investigation into the alleged brutality of the police who took Mohamed Soudani into custody on October 22, 2009? If so, what are the findings and has anyone been subjected to questioning?

Answer:

The allegations of police brutality toward Mohamed Soudani when he was arrested on October 22, 2009 are false and completely baseless as demonstrated by the fact that the person concerned did not make, before the court, any allegation of ill-treatment during his arrest. Nor did he file any independent complaint to that effect with the public prosecution. Consequently, the said allegations cannot at all be taken seriously.

It may be recalled that the arrest of the person concerned has absolutely nothing to do with his belonging to the General Union of Tunisian Students (UGET). The order for the arrest was given when he was found nearly naked and in an obvious state of intoxication on board a train about to leave Tunis for Sfax. He was using immoral and foul language in front of other passengers, which irritated them and disturbed their peace. When the police arrived on the spot to keep order, he insulted and abused them.

Upon interrogation the accused admitted the charges, attributing his conduct to the stress he was experiencing. The admission was corroborated by

the testimony of a number of passengers on the spot. Accordingly, the court found the accused guilty and sentenced him to a four-month prison term for assault on public morality and for drunkenness.

b. Query:

Is it possible to explain why the judge who decided the case of the student demonstrators at the Manouba University refused to order an investigation into allegations that the confessions had been extracted under torture, and to authorize medical examinations to look for proofs of the alleged torture?

Answer:

The court subjects all the allegations submitted to it to thorough examination, but acts only on allegations it considers serious.

The grounds for the judgment passed on the case clearly reveal that the court examined and looked carefully into the allegations presented about the confessions of the accused being extracted under torture. Yet it did not consider them serious and refused to act on the request for referral to medical examination services for the following reasons:

- *First:* Article 13bis of the Penal Code, as amended under the law of November 26, 1987, provides that every accused who has been detained shall be entitled to file a request to undergo medical examination with a view to ascertaining any ill-treatment that may have been inflicted on him/her. The detention report must indicate whether the detained was informed that he/she has the right to file a request to undergo medical examination, and must also state the position of the concerned in that respect. Going back to the reports on the detention of the suspects, the court noted that they included statements to the effect that the detained were informed, from the start of the procedure, of their right to undergo medical examination, but replied that they had no need for that and signed their declarations accordingly. Therefore, the court considered that, since the accused had refused to be referred to medical examination, their return at a late stage of the proceedings to make the request in the absence of any new development means that the request is not at all serious.
- *Second:* To consolidate the guarantees in favor of suspects, article 13bis of the Penal Code entitles the family of the detained to file an

independent request to refer him/her to medical examination so as to avoid any claim that the person concerned was in no position to make the request himself/herself. Having investigated this matter, the court also came to the conclusion that no member of family of the accused had made, on their behalf, any request to refer them to medical examination although the families were informed that the persons concerned were under arrest. This fact enhanced the court's belief that the requests submitted in this regard were not serious but aimed at extending the procedures.

c. Query:

Is there any proof apart from the confessions made by the accused, which were used to reach a verdict against the accused?

Answer:

The sentences issued in this case were not based exclusively on the confessions of the accused. The court also relied on the following objective evidence:

- Material examination of the breakage and extensive damage caused to public facilities in the students hostel.
- Statements by witnesses and victims, supported by medical certificates establishing the bodily injuries they suffered as a result of the violent assault made on them by some of the accused.

d. Query:

On what grounds are based the continued police persecution, harassment, and questioning of the accused?

Answer:

The allegations of constant police persecution, harassment and questioning of the accused are false and completely baseless, as demonstrated by the fact that no complaint to that effect has been filed by the persons concerned, with the public prosecution as the only judicial party legally authorized to receive complaints and investigate all allegations relating to the violation of individuals' rights and freedoms.

Annex IV: Human Rights Watch Reply to Government Response

Response to Answer 1.a:

The unions mentioned in the Tunisian government's response all fall under the umbrella of the UGTT, as do those mentioned in the body of the report. Our findings indicate that the government is likely to withhold legal recognition to unions that are independent of the UGTT, such as the Tunisian Journalist's Union, the General Confederation of Tunisian Labor, and the General Union of Free Radio Stations.

Response to Answer 1.b:

The government of Tunisia misunderstood our query: we were not asking about the status of the NSTJ, but rather of the Tunisian Journalist's Union, which continues to be unrecognized, despite the fact it submitted application papers to the government in May 2004.

Response to Answer 1.c :

The Tunisian General Labor Confederation claims that it submitted its application more than once, in person, and via registered mail. It also claims that it is able to produce the receipt it received that proves delivery of the application it mailed.

Response to Answer 1.d:

As noted above, the union has provided Human Rights Watch with detailed information documenting its repeated efforts to file its registration papers with the appropriate administration.

Response to Answer 2.a:

It is true that members of the former board of the NSTJ readily accepted both the resignations of four board members and the requirement to hold a special election. In fact, the board released a statement on July 21, 2009, announcing that the elections would be held on September 12 in accordance with the timeline required by the NSTJ's bylaws. However, several board members claim that some members of the extended board released a separate, unauthorized announcement that the elections would take place on August 15, 2009.

The former board argued that the August election date contravened the union's bylaws, which state that only the president of the union is authorized to call for elections, and that the announcement for elections must take place at least 15 days after board members submit their resignation in order to allow time for their withdrawal. The president of the board had announced an election date within the time frame consistent with the bylaws. The pro-government members rejected the announcement.

Response to Answer 2.b:

As documented in Chapter II of this report, the court order to vacate the offices of the NSTJ was carried out at 11 a.m., three hours before the court pronounced its ruling to vacate the NSTJ's headquarters. In addition, the court ruled on the matter while another case concerning the legitimacy of the NSTJ's congress was pending. Finally, the case brought to court by the former board contesting the elections of the NSTJ was concluded after the eviction took place.

Response to Answer 2.c:

Several journalists told Human Rights Watch that the government exerted pressure, both direct and indirect, on them to sign the petition calling for the board to be ousted.

Response to Answer 3.a:

While Mohammad Soudani and Ayman Jabiri are no longer students, our report documents how they were unjustly expelled from the university in 2007 in retaliation for their union activities. The government's denial that Tunisian university students have protested over housing and tuition issues is belied by coverage of these protests by Amnesty International and various media outlets.

Some examples include:
Amnesty International, Independent Voices Stifled in Tunisia:
http://www.amnesty.org/ar/library/asset/MDE30/008/2010/ar/844cd767-a21e-4b3e-a643-9a8b1554da52/mde300082010en.pdf
Tunisian Organization Against Torture: http://www.albadil.org/spip.php?article2836

Response to Answer 3.b:

Mohammad Soudani claims that police did not interrogate or question him at all about the incident, and that he did not confess to any of the allegations made against him. He says

that neither the police nor the court informed him what the charges against him were while he was in detention or in court. Soudani claims that no lawyer was present during the trial, and that the judge did not interrogate him and that no witnesses testified. In addition, the two French journalists who were with Soudani directly before he boarded the train sent their testimony to the court in writing that he had not had anything to drink while they were interviewing him, and that they had escorted him directly to the train station in order to guarantee his safety.

Response to Answer 3.c:

Lawyer Monther El-Charni stated to Human Rights Watch that he personally filed a request with the court to order a medical examination of Mohammad Soudani, a request that is available in the case file in the public prosecutor's office.

Response to Answer 3.d:

According to lawyer Monther El-Charni, no independent eyewitnesses corroborated the plaintiffs' allegations that the protesting students had assaulted them. El-Charni also claims that no material evidence was produced in court showing the alleged damage caused to the facilities.

Response to Answer 3.e:

Human Rights Watch researchers have themselves been subject to intense and conspicuous surveillance by agents in plainclothes, and have observed the surveillance to which activists with whom they speak are subjected. Activists say that the fact that they have not filed complaints about this is not evidence of lack of harassment, but rather lack of faith in the judicial system.