

REPORT
International Investigative mission
Tunisia and the World Summit on Information Society

May 2005

I. Presentation of the mission

I.1. Background

At the first phase of the World Summit on the Information Society (WSIS), several independent Tunisian human rights NGOs, the Human Rights Caucus and international human rights NGOs expressed their concern about holding the second phase on the Summit in Tunisia, a country where freedom of information has been seriously violated.

Following the first phase of the Summit, three international NGOs, the International Centre for Human Rights and Democratic Development (ICHRDD) (Rights and Democracy), the International Federation for Human Rights (la Fédération internationale des ligues des droits de l'Homme - FIDH) and the World Organisation Against Torture (l'Organisation mondiale contre la torture - OMCT), with the support of the Human Rights Caucus composed of more than 60 NGOs participating in the WSIS, appointed a team of three experts in the new information technologies, the media and human rights, to undertake an investigation and dialogue mission, in preparation of this Summit.

I.2. Aim

The aim of the mission was to produce an assessment of the situation in Tunisia, with regard to the two issues below for all the participants in the WSIS (governments, private sector, civil society, international organisations).

- 1/ under what conditions the civil society can fully participate in the preliminary meetings to be held in Tunisia and at the Summit in November 2005;*
- 2/ the situation of human rights in the information society in Tunisia.*

In the process of their assessment, the team had to pay particular attention:

- on the one hand, to the independent and objective nature of this assessment, in accordance with the wishes of the mission's organisers. In particular, the team met as many representatives of official structures as civil society actors – without favouring either group; its conclusions are also based on the reports of internationally recognised organisations such as the UN, the World Bank, etc.;
- on the other hand, to a global concept of human rights which respects their universal and indivisible character, in the context of the rule of law which ensures full observance of these rights; in particular, the team endeavoured to consider both civil and political rights as well as social, economic and cultural rights as criteria relevant to their assessment.

I.3. Progress and composition

The mission, composed of the following three experts, took place in **Tunis, from 25 to 28 January 2005.**

- **Jean-Louis Roy**, President of Rights and Democracy (ICHRDD). A former director of the Montreal daily newspaper, *Le Devoir*, Mr Roy was, from 1990 to 1998, Secretary General of the intergovernmental agency for the francophone world (l'Agence intergouvernementale de la francophonie - AIF) in Paris.

- **Deborah Hurley**, former director of Harvard University's Information Infrastructure Project. From 1988 to 1996, she was responsible in OECD for legal, economic, social and technical matters linked with information and communications technologies, and, in particular, was responsible for research relating to the protection of personal data and privacy and to the security of information systems.
- **Younes M'jahed**, a journalist and Secretary General of the Moroccan Union of the press (Syndicat national de la presse marocaine), is a member of the executive committee of the International Federation of Journalists (IFJ) and Vice President of the Commission for Freedoms of the Arab Federation of Journalists.

Antoine Madelin, the FIDH permanent representative to the European Union, accompanied the mission as its rapporteur.

II. Operational conditions under which civil society can fully participate in the preliminary meetings and the Summit in November 2005 to be held in Tunisia

II.1. Accreditation of NGOs

The mission paid particular attention to studying the conditions under which civil society could participate in the November 2005 Summit in Tunis.

The authorities in charge of the Summit, stipulated that Tunisia would apply the rules of participation for civil society as defined by the UN. These rules have already been applied at the first preliminary conference of the second phase of the Summit, in June 2004, in Hammamet. On that occasion, official recognition was granted to dozens of Tunisian civil society organisations including three independent NGOs which had originally applied for recognition: the Tunisian Human Rights League (la Ligue tunisienne des droits de l'homme - LTDH), the Tunisian Association of Democratic Women (l'Association tunisienne des femmes démocrates - ATFD) and the Tunisian section of Amnesty International.

The recognition of a civil society organisation for a UN Summit, a condition of its participation, is subject to a basic rule: its legal existence must have been recognised by the authorities of the country where it is established. The mission was able to verify the difficulties encountered by some Tunisian NGOs in obtaining this legal recognition. In fact, more than a dozen organisations were refused their legitimate right to freedom of association, e.g. the National Council for Freedoms in Tunisia (le Conseil national pour les libertés en Tunisie - CNLT), the Assembly for a Development Alternative (le Rassemblement pour une Alternative de Développement - RAID, ATTAC-Tunisie), the International Association for the Support of Political Prisoners-Tunisia (l'Association internationale de soutien aux prisonniers politiques de Tunisie - AISPPT), the Association for the Fight Against Torture in Tunisia (l'Association de lutte contre la torture en Tunisie - ALTT), the Observatory of the Freedom of the Press, Publishing and Creativity (l'Observatoire pour la défense des libertés de la presse, de l'édition et de la création - OLPEC), and many others¹.

What used to be a legal obligation by an organisation to notify its existence to the authorities has been changed by the Tunisian authorities into a request to authorise its existence. In fact, each Tunisian NGO should normally send a government regulatory authority its documentation notifying its legal existence. In law this notification is automatic, but in practice it is subject to the delivery of a receipt of application. This "receipt" is only delivered on a case by case basis, which allows the authorities to curtail freedom of association.

¹ See the list in the Appendix

In some cases, the representatives of these NGOs were physically prevented by the police from lodging their documentation notifying their legal existence².

II.2. Working conditions

Terms of reference, specified by the International Telecommunications Union (ITU) and intended to facilitate the material conditions under which the NGOs will participate in the Summit have been agreed between the Executive Secretariat of the Summit and Tunisia, along the lines provided by the ITU.

Furthermore, the Tunisian President, Zine El Abidine Ben Ali, wished to support the participation of civil society organisations from the least developed countries, through the creation of an International LDC-support Fund, with an initial capital of 400,000 dinars (about 280,000 euros).

The representatives of the mission have noted these undertakings but await the Summit to confirm them. In particular they hope that even the most critical NGOs will have equal access to the media and the facilities at the meeting.

The representatives of the mission are aware of the conditions under which the first preliminary meeting of the second phase of the Summit was held in Hammamet. They have taken good note of the recognition of a considerable number of Tunisian organisations, including the three independent NGOs already mentioned, and the availability of meeting rooms and computers. They regretted, however, that the work sessions of the civil society organisations had been blocked by NGOs whose sole aim appeared to be to prevent any mention of Tunisia in the NGOs' reports to the Conference and to stop the representative of the LTDH (Tunisian Human Rights League) from speaking on behalf of the civil society organisations³.

Media coverage of the first preliminary Conference in the Tunisian press was biased, e.g. none of the Tunisian media mentioned a speech by the Vice President of the LTDH, Mrs Souhayr Belhassen, speaking on behalf of the civil society to the plenary governmental assembly. On the other hand, the same speech, read by a representative of an African Geneva-based NGO, was quoted at length and the speaker interviewed on the radio, television and in the press. Her speech, however, was word for word the same as that of Mrs Belhassen except that, in its conclusion, it did not call upon the Summit's "host country" to observe human rights.

Conditions were better at the second PrepCom, which took place in February 2005, mainly because it was held in Geneva. However, there were a number of oversights at this Conference; for example a report by IFEX (International Freedom of Expression Exchange) on human rights in Tunisia was poorly distributed.

The members of the mission intend to be even more vigilant at the third Summit Prepcom, to make sure that everyone gets a chance to be heard.

II.3. Tunisian Preparatory Committee

Tunisia has set up a National Summit Preparation Committee, which includes representatives from the authorities, the media, the business community and the civil society. The members of the mission were interested to note that such a committee had been set up and supports the inclusive approach of these "four components". However, they recommend that the authorities should also

² Mrs Radhia Nasraoui, a lawyer together with three other founding members of the Association de lutte contre la torture en Tunisie (ALTT) (Association for the Fight Against Torture in Tunisia) were manhandled in public on 26 June 2003, when attempting to lodge the documentation of their organisation with the *Gouvernorat de Tunis*. See Appeal by the Observatory for the Protection of Human Rights Defenders, TUN 001/0603/OBS 030.

³ See press release by the Human Rights Caucus following the PrepCom at Hammamet: <http://www.iris.sgdg.org/actions/smsi/hr-wsis/hris-pr-020704-fr.html>

include the organisations which are critical of them but which will nevertheless be present at the Summit.

II.4. Public gatherings / peaceful demonstrations

A few weeks after the mission, on 4 March 2005, a demonstration against President Ben Ali's invitation to Ariel Sharon, Prime Minister of Israel, to attend the Summit, was brutally quelled in Tunis. A unit of security forces was deployed in Tunis to prevent the demonstrators from gathering. Some of them were severely manhandled, amongst them, human rights defenders and members of their families. The lawyer, Radhia Nasraoui, was seriously injured (broken nose and numerous bruises). Her daughter was also beaten, and fainted. This demonstration in support of the opposition political parties and several associations and independent trade unions took place after some series of movements in the University of Tunis and in several towns in Tunisia⁴. A number of people were detained for questioning and then released. Some of them were tortured, mainly in the police station in the town of Sfax.

The members of the mission were particularly outraged by this repression and appealed to the Tunisian authorities to observe the international standards to which they are a party with regard to freedom of expression and peaceful demonstration.

III. Human rights and the information society in Tunisia

III.1. The media and the publishing sector

Opening up the audio-visual landscape

Since they are equipped with satellite dishes, over half of the Tunisian households can listen to an extremely broad selection of channels from Arab, European and African regions, etc. The Tunisian authorities have adopted a positive attitude to pluralism and during the last few years have authorised private investment in Tunisian broadcasting. This led to the creation of a private radio station for music, called "Radio mosaïque", and then the announcement on 14 February 2004 that a private TV channel was to be started called "TV Hannibal" a few days after the Mission's visit to Tunisia.

This new addition does not fulfil expectations for a pluralistic audiovisual scene in Tunisia. The decisions on allocating frequencies were made without public consultation on specifications, without any public consultation on the contents of a public bid. This lack of transparency violates Article 20 of the Tunisian Telecommunications Code which states the requirement for the transparency of the calls for proposals for the attribution of the frequency bands.

Several people have applied to the supervisory authority for broadcasting frequencies for a new radio station. They went through all the legal formalities and are still waiting for an answer.

This was the case of Zied El Héni (Radio Carthage) who lodged a complaint against the Conseil supérieur de la communication (ig the Administrative Court in March 2004 for "abuse of administrative power". No response. This was also the case of Rachid Khéchana who made a similar application to the Ministry for Telecommunications on March 17th 2004.

⁴ See Appendix III – Chronology of events since December 2003, and also the FIDH/OMCT Press Release of 7 March 2005, "Tunisia: Brutal repression of a protest movement", Amnesty International Appeal of 8 March 2005, "Tunisia: Preparing for the World Summit on Information Society starts with violence and arrests of human rights defenders and peaceful demonstrators" _MDE 30/002/2005

The Opposition Press

The opposition parties in Tunisia publish a certain number of journals. But only three of the seven opposition weeklies that were published in the early 1990s still exist. Some of them receive state subsidies since 60% of the cost of the newsprint used in publications edited by political parties represented in the Parliament are reimbursed. This subsidy is exclusively for parties that are represented in the Parliament.

The opposition press, but not the rest of the Tunisian press, is also subjected to unnecessary administrative hurdles.

The Press Code, for instance, requires all printers to deposit a certain number of copies of each impending publication with the Tunisian authorities, who delay distribution by waiting several days before issuing a distribution authorisation. Further, newspapers sent by mail to subscribers do not always reach the addressees, pressure is levied on newspaper stand vendors not to display certain newspapers, and some issues are confiscated or bought as a lot, etc.

Financing for most papers comes from public and private advertisement. According to the *Ligue tunisienne des droits de l'Homme*⁵, (Tunisian human rights league), it is ATCE *Agence tunisienne de communication extérieure* (Tunisian external communications agency), an agency that is accountable to the Presidency of the Republic, that decides on allocating space for classified and other advertising by state, parastatal and foreign institutions and enterprises. For opposition press, this source of funding is sporadic and selective, while it is systematic for the “official” and private press. The same report indicates that the private sector buys little advertising space in opposition papers for fear of reprecution measures from government authorities, e.g. through fiscal harassment.

Publication and distribution authorisation

According to the Tunisian Press Code, authorisations to distribute a publication can only be obtained from the Minister of the Interior. The Code stipulates that “*before being disseminated, all periodical publications must be deposited in advance with the Ministry of Interior, and a receipt must be obtained ...*”. In practice, authorities withhold the receipt, thus enabling the Ministry of the Interior to prevent the distribution of “undesirable” publications. Ezzedinne Ben Amor, a Tunisian lawyer and commission vice president at the International Bar Association, pointed out that “Article 14 [of the Code] adds confusion by stipulating that “*before a periodical may be printed, the printer must demand (to see) the receipt delivered by the Ministry of the Interior and the receipt must be less than one year old*”. In other words, if no receipt is produced, the printer must refuse the customer’s order or be liable to penal sanctions...⁶. This procedure, which is also applied to newspapers, was sharply criticised by the U.N. Special Reporter on Freedom of Opinion and Expression⁷.

According to unofficial statistics, the Ministry of the Interior has close to one hundred applications pending, some of which were submitted over ten years ago.

Besides the legal aspects, media professionals complain about the lack of objective criteria for

⁵ Ligue tunisienne des droits de l’homme. “Médias sous surveillance”. May 2004. Available on line: <http://www.iris.sgdg.org/actions/smsi/hr-wsis/ltdh04-media-fr.pdf>

⁶ Ezzedinne Ben Amor. “De la société de l’information et du droit”. Alternatives Citoyennes No. 14, 31 January 2005. Available on line: <http://www.alternatives-citoyennes.sgdg.org/num14/dos-benamor-w.html>.

⁷ United Nations Human Rights Commission, 56th session. “Report of Mr. Abid Hussain, Special rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report on mission to Tunisia” Report E/CN.4/2000/63/Add.4, 23 February 2000. Available on line: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/459d74f9740efd79802568b7005406db?Opendocument>.

granting “authorisations”. Some have been granted without consideration for professional quality deemed essential by the *Association des journalistes tunisiens* (AJT).

Critical analyses and public/private media

The opposition press is practically the only component of Tunisian media to express political pluralism and concerns for human rights in Tunisia. But the main leaders of the democratic opposition appear on television for a few minutes every five years, i.e. during electoral, presidential and legislative campaigns. The face and voice of the main representatives of the independent civil society are still denied time on radio and television.

A report commissioned by the NGO International Media Support and the Centre for Democracy on media coverage of the last presidential elections showed media favouritism of the President in the electoral campaign of autumn 2004. According to the report, he received 77% of the time on the air (radio & TV) and 92% of the space in the daily newspapers devoted to the candidates. Furthermore, the tone of the coverage was extremely positive for the President and stressed the development of Tunisia during his mandate. For the legislative elections, although far less extensively covered than the presidential elections, 70% of audiovisual broadcasting and 74% of the space in the written press were given to the President’s party (Constit

Bans and censorship

The authorities use all possible means, even police force and humiliation, to prevent media coverage of certain events. They have been censoring certain political and social events such as the trial of Hamma Hammami, a member of the Tunisian communist workers party (PCOT *Parti communiste ouvrier tunisien*), strikes by secondary school teachers, and also natural disasters (consequences of floods) and foreign political events, e.g. the media were not allowed to publish a photo of John Kerry, the candidate in the last U.S. presidential elections, or cover the U.N. resolution on the Israeli wall, or American losses in Iraq. Similarly, after the terrorist attack at Ghriba in Djerba on 11 April 2002, it was impossible to get the news reports, that had been written. The Tunisian press only started showing interest in the event after the German press had covered it (most of the victims were German).

Furthermore, preventing the distribution of foreign newspapers several times a week is common or, in some cases, their distribution is delayed by two or three days. This was the case for the French daily “Liberation” and, on certain days, “Le Monde”. As for “El Quods El Arabi” and “El Hayet” the publishers have temporarily stopped distribution in Tunisia because the papers have been seized so often.

III.2. Position of the journalists

The members of the mission met with several journalists and leaders of public and private press groups in an effort to understand the prevailing situation for the Tunisian press and journalists.

According to the Tunisian authorities, there are 973 professional journalists in Tunisia (34% women and 53% university graduates) which shows that the sector is alive and dynamic. A regional training institution, the *Centre africain de perfectionnement des journalistes et communicateurs* is based in Tunis and offers very sophisticated training in audiovisual media.

Through their discussions with the journalists, the members of the mission learned about the following violations to the free practice of professional journalism:

- Various types of **pressure and administrative harassment** prevent journalists in both public

and private institutions from carrying out their role according to the profession's moral codes, (work stoppages, searches and interrogations, confiscation of passports, deprivation of professional card for foreign correspondents, obstruction to dissemination of news reports, withholding authorisation to make films, etc.).

- Several press enterprises, often reacting to pressure or incentives from the public authorities, have journalists as punishment for expressing critical opinions or participating in human rights defence work.
- Police officers have **physically harassed or assaulted** journalists, e.g. vandalising their car, groundless arrests, insults, throwing people to the ground, even attempted assassination.
- Several **suits** have been filed and **judicial sentences** meted out to sanction newspapers and journalists whose only sin was to have expressed an opinion or written a faultfinding article⁸.

Last, working conditions for journalists are especially precarious. Over one-third are freelance without any official professional recognition. They are very badly underpaid; payment for some articles is a mere three dinars (two euros).

III. 3. The Internet Sector

According to the Tunisian authorities, there were some 800,000 Internet users in the country in 2004. The authorities have adopted a very favourable policy towards Internet and have encouraged its widespread use. Hence all higher and secondary education should have access to the web. Primary schools should be connected by the end of 2006. A large number of public centres and hubs with access to the Internet have been established and are known as "Publinets". The Tunisian authorities have also started a programme to help Tunisian households buy a "family computer"; this programme offers reduced prices and easy terms of payment, with, as a bonus, a series of reductions in the price of Internet connections and communications.

But progress in this sector has to be seen in the right perspective. The Internet user rate is still well under that of Latin America and Southeast Asia. And access in the universities needs to be improved. Considering the size of the student population, the number of computers is still very limited, and access to computer rooms is controlled.

On the one hand, the Tunisian authorities are adopting a particularly strong policy to develop the use of Internet but, on the other, they are exercising strict police control over the Net, limiting access to information far more strictly than is allowed by internationally recognized limitations of the freedom of expression.

A legislative and administrative control mechanism

The *Agence tunisienne de l'Internet* (ATI – Tunisian Internet Agency) grants authorisations to the public Internet centres (Publinets) which, in turn, must transmit a list of their subscribers, and obtain approval for their subscription. Publinet owners have also the responsibility to ensure their users do not access forbidden web sites.

Furthermore, increasingly **sophisticated means of censorship** are being introduced. Estimates show that there are several hundred technicians responsible for security i.e. establishing connections, intervening in email services and preventing access to certain sites.

Blocking access to Web sites

The State wields control over the contents and circulation of information on the Net by controlling

⁸ See esp. Annex III – Chronology of events since December 2003.

telephone lines, Internet accounts and sites. It does so by using very effective filtering software. The public authorities have acquired the technical capacity to block access to certain sites hosted by foreigners and systematically freeze access to the sites of CNLT, LTDH, RAID-Attac Tunisie, and also some of the the political parties, (even recognised opposition parties such as the *Parti démocrate progressiste*, PDP), as well as information sites (TunisNews, Reveil Tunisien, etc.), chat groups (Tunezine, Nawaat, etc.), Tunisian blogs (especially the ones hosted by young people) and independent Tunisian new services (Alternatives citoyennes, Kalima). The sites run by the foreign press and international NGOs such as FIDH, RSF, OMCT, Amnesty International, Human Rights Watch, are also interrupted regularly, depending on the event being posted.

Last, emails from political or human rights activities can be misdirected and their mailboxes can be closed by hacking the password.

Use of Internet as an offence

Several Internet users have been subjected to judicial harassment, proceedings and sentencing. In 2003, there were at least 17 young surfers who were arrested, taken to court and heavily sentenced e.g. the case of the Zarzis and Ariana surfers (*Affaires des internautes de Zarzis et de l'Ariana*). As this case, the members of the mission want to repeat the serious allegations of arbitrary that marred the various trials and subsequent condemnations⁹.

The mission met with **Zouhair Yahyaoui**, who created the *TUNeZINE* site that contained information on the fight for democracy and freedom in Tunisia. He was arrested in Tunis on 4 June 2002 in a Publinet. The authorities blocked access to his site (which is hosted in France) from the . He was sentenced to one year in prison for “*propagating false news aimed at giving the impression of assaults against persons and goods*” (Article 306ter of the Penal Code), and to another year and four months for “*stealing means of communication for fraudulent use*”, in other words, a connection to the Internet at the expense of the owner of the cybercafé where he was employed. He was incarcerated under harsh conditions and went on a hunger strike twice as a way of demanding release. On 18 November 2003 he was granted conditional release. The members of the mission were particularly moved to learn that he died on 13 March 2005. His site is still being censored.

Last, the members of the mission to Tunisia learned after their mission, that Mr. Abbou, a lawyer; was condemned, after a trial marred by arbitrary procedures, for publishing articles on the Internet.¹⁰

III. 4. Good governance and the rule of law

An information society that respects human rights due attention to the pillars of society, the rule of law and good governance. The mission considers these aspects to be of fundamental importance although it was not able to study them in detail.

Activities by human rights defenders

The members of the mission saw, firsthand, the deplorable conditions which independent human rights NGOs, their activists and their lawyers had to work, and even took note of attacks against their families¹¹:

- physical aggression against defenders increase;
- many organisations are still not officially recognised;
- subsidies granted to NGOs are blocked by the authorities;
- authorities subject independent NGOs to judicial harassment;

⁹ See esp. III – Chronology of events since December 2003.

¹⁰ *Ibid.*

¹¹ *Ibid.*

- meetings, telephone calls at home and at work, faxes, emails, and mail are kept under police surveillance or permanent phone tapping.

Many urgent appeals from the Observatory for the Protection of Human Rights Defenders (an FIDH/OMCT joint venture) and press releases from Amnesty International, Human Rights Watch, and other reputed human rights organisations confirm these practices.

Cooperation with the international NGOs and investigate mechanisms of the UN Commission on Human Rights

For international human rights NGOs, access to Tunisia is strictly controlled, although there have been some changes over the last few months. In 1999, the U.N. Special Freedom of Opinion was allowed to go to Tunisia but since then, three other special procedures of the U.N. Commission on Human Rights, i.e. the Special Rapporteurs on Torture, on the Independence of Judges and Lawyers, and the Special Representative of the Secretary General on Human Rights Defenders, applied for permission to go to Tunisia and did not receive an autorisation to visit according to their terms of reference.

Prisoners of Conscience

A large number of human rights organisations, including Amnesty International, have reported on the incarceration of several hundred prisoners for over ten years. Several of them are kept in complete isolation, even for as long as 14 years. This is a flagrant violation of the United Nations Convention Against Torture, to which Tunisia is a party. Prisoners who are released or have served their term are unable to or access to healthcare, etc.

Many of the prisoners were former members or close to *Ennahda*, an Islamist political party created in 1989. *Ennahda* applied for, but was refused legal recognition because of a campaign to repress Islamist movements. According to the authorities, this campaign was a response to disturbances by certain Islamist groups at the end of the 1980s and the beginning of the 1990s. Some Islamists indeed were responsible for acts of violence such as throwing acid at police officers, setting fire to police station one officer and seriously wound others, and acts of violence in the universities, etc.

In July 1992, 265 people were sentenced during the trials of the *Ennahda* activists. These were civil cases that were tried by two military courts. According to Amnesty International observers, many of the rules of law for a fair trial were not respected. Sentences were up to 20 years, even life. Most of the detainees, according to Amnesty, are prisoners of conscience, who are imprisoned and condemned without tangible proof of criminal action but merely for having given vent to their religious and political beliefs.

The members of the mission were greatly concerned these detentions and were pleased to observe that on 3 November 2004, after the presidential elections, several members of *Ennahda* were released. They insist that there should be no obstacles to the full enjoyment of the ex-prisoners' newly-founded freedom and encourage the authorities to release all prisoners of conscience and opinion. There are still over 500 political prisoners in Tunisian prisons.

Independence of the judiciary

There have been many trials involving human rights defenders, NGOs, web activists and net surfers. The right to freedom of speech and freedom of information is stated in the Tunisian Constitution. It ought to be recognized before the courts, and requires independence and impartiality of these courts.

In his 2004 report to the Commission for Human Rights, the U.N. Special on the Independence of Judges and Lawyers expressed concern about attacks against Judge Mokhtar Yahyaoui and his

family, and against several other lawyers¹². The mission had the opportunity to meet some of these lawyers, including Mr. Yahyaoui, who confirmed that the decisions of the judiciary are controlled by the executive. Actually the magistrates are obliged to apply decisions taken by the executive powers based on the results of investigations and trials. Mr. Yahyaoui specifically wrote to President Ben Ali stating his concern on this situation. Because of the publicity the letter generated he was suspended from his position in December 2001. Mr. Yahyaoui then became the president of the *Centre tunisien pour l'indépendance de la justice et des avocats* (CIJA), an NGO, that is still awaiting « official » recognition, in spite of having submitted all its constitutive documents to the *Gouvernorat de Tunis* in December 2001. Since that time, the members of this NGO have been harassed.

In discussions with the members of the mission, lawyers also confirmed that they were targeted for acts of harassment and even physical aggression and imprisonment merely for carrying out their professional duties.

In response to allegations of lack of independence, the U.N. Special Rapporteur on the Independence of Judges and Lawyers asked for authorisation to go to Tunisia but, as yet, has not received the invitation required for the mission. Yet in discussions with the mission, the Director of the *Agence tunisienne de Communication extérieure*, Mr. Oussama Romdhani, asserted that the Judiciary was independent in Tunisia. If this were true, there would be no reason to hesitate to invite the Rapporteur.

Access to information and the fight against corruption

In March 2004, Tunisia signed the U.N. Convention Against Corruption, which was adopted in December 2003. It assures access to government information for the public in order to increase transparency in the decision-making processes and create a concomitant number of safeguards against corruption. Yet several reputed Tunisian economists denounce “a highly unsatisfactory business climate”¹³, and, in a recent report¹⁴, the World Bank emphasised its concern about private investment in Tunisia and spoke severely about the climate of “uncertainty” and the “lack of transparency” in the regulations on these investments, stressing “the absence of a law on concessions which would clarify the ‘rules of the game’ for the participation of the private sector in providing services.

III.5. Lack of trust on the part of users; economics of the new technologies' sector

In accordance with their terms of reference, the delegates considered that economic, social and cultural rights were just as pertinent criteria for their assessment as civil and political rights. With that in mind, therefore, this section of the report analyses the impact of monitoring and censorship on the degree of trust the users place in the system, and the economics of the new technologies' sector in Tunisia.

Slackening of the rate of penetration of Internet use

In terms of indicators of Internet use by the population, Tunisia is fairly well placed. The figures however must be carefully scrutinised and put in the proper perspective.

With 6.4% Internet users in the total population in 2003, Tunisia is well above the North African

¹² E/CN.4/2004/60/Add.1, of 4 March 2004

¹³ See esp. article in Alternatives Citoyennes' lo. 13 of 22 December 2004. Available on line: <http://www.alternatives-citoyennes.sgdg.org/num13/dos-bm-w.html>

¹⁴ World Bank « République de Tunisie – Revue des politiques de développement. Tirer parti de l'intégration commerciale pour stimuler la croissance et l'emploi » (Report 29847-TN) October 2004. 137 pages.

average (2.8%), and in Africa the only countries to do better are South Africa (7.1%), Sao Tome and Principe (9.9%), Mauritius (12.3%), Seychelles (15.0%) and Reunion (23.1%) [Source : ITU 2003¹⁵].

Compared to other regions of the world and to groups of countries with the same level of income and development, Tunisia, with 5.2% Internet users in 2002, is above the average for developing countries (4.1%) and for Arab countries (2.8%). It remains however below the average for Eastern Asian and Pacific countries (6.1%), Latin America and the Caribbean (8.1%) and CEECs-CIS countries (7.2%). It is also below the average for intermediate income countries (5.9%) [Source UNDP¹⁶ 2004].

Nevertheless, despite a particularly determined policy on the part of the Tunisian authorities (in particular in terms of lowering the cost of access), the annual increase in the number of Internet users should not hide the fact that the yearly increase is slackening considerably. After increases of 150% from 1997 to 1998 and 140% from 1998 to 1999, the increase declines sharply in subsequent years: from 1999 to 2000 (66%), 2000 to 2001 (64%), 2001 to 2002 (23%), 2002 to 2003 (24%), and 2003 to 2004 (22%) [Source: ITU 1999-2003 and ATI¹⁷ October 2004].

Lack of trust on the part of users

Furthermore, according to the Tunisian authorities the policy of extending the use of the Internet applies particularly to the educational sector, where the rate of connection is said to be 100% for secondary and higher education establishments, and for research laboratories.

The statistics published in October 2004 by the Tunisian Internet Agency (ATI) do not however reflect these rates in terms of actual use. The distribution of electronic mail accounts with Tunisian ISPs estimates the education sector (primary and secondary) to be 20% of the total, and higher education and research to be 15%. And yet, still according to ATI, 53% of users are in education and 12% in higher education and research.

And finally, while ATI estimates the number of Tunisian Internet users to be 771,000, the Agency only lists 114,589 e-mail accounts subscribed with the totality of Tunisian service providers. [Source: ATI October 2004].

It would appear then that out of every 7 Tunisian Internet users, only 1 uses the electronic mail. In view of the fact that in all world studies of Internet use, electronic mail is by far the main activity, we are forced to the conclusion that in Tunisia 6 out of 7 Internet users have no faith in the Tunisian ISPs, be they private or public, for exchanging their e-mails: they prefer to open an account with foreign ISPs.

This total lack of trust can be accounted for by the incredibly small number of Tunisian ISPs (12, of which only 5 are in private hands) and especially by the fact that they are all connected to the world network via ATI, which is therefore in a position to monitor all data exchanged through the ISPs.

Such surveillance and censorship of the activities of Internet users not only has a very negative impact on their degree of trust in the system, but also on the economics of the information industry.

Negative impact on the economics of the industry

¹⁵ International Telecommunications Union. Internet indicators: hosts, users and number of PCs. Annual statistics. <http://www.itu.int/ITU-D/ict/statistics/>

¹⁶ United Nations Development Programme. *Report on human development 2004. Cultural freedom in a diversified world*. Economica, Paris, July 2004. 290 pages.

¹⁷ Tunisian Internet Agency. *Internet statistics in Tunisia*. October 2004. <http://www.ati.nat.tn/stats/>

By way of example, Tunisia, despite a relatively high number of Internet users compared to other countries of the region, or with the same level of income and development, has only 305 cybercafes. [Source: *ATI October 2004*], as opposed to 4,046 in Algeria [Source: *Algérie Télécom*¹⁸ 2004]. There are 0.3 cybercafes for 10,000 Tunisians as against 1.4 for 10,000 Algerians. In relation to the number of Internet users in both countries the comparison is even more striking: 0.05 cybercafes for 100 Internet users in Tunisia, 0.7 in Algeria.

Another important indicator is provided by the number of Internet hosts, i.e. the servers connected to the world network. This number reflects the number of websites hosted in the country. In 2003 there were only 271 Internet hosts in Tunisia, against 866 in Algeria, 3,561 in Morocco and 3,338 in Egypt [Sources: *ITU 2003*]. In October 2004 ATI gave a figure of 1,750 Tunisian websites. The rate of Internet users related to the total population was, for 2003: Tunisia 6.3% (630,000 users), Algeria 1.6% (500,000), Morocco 2.7% (800,000), Egypt 3.9% (2,700,000) [Source: *ITU 2003*].

These figures show, as indicated in the World Bank's October 2004 report on the Tunisian Development Policy Review¹⁹, that many Tunisian enterprises therefore decide to host their websites abroad. The World Bank notes in that respect that "Tunisia still lags behind in key ICT sector development indicators".

Arbitrariness and legal insecurity

The situation is therefore very disturbing in terms of the faith users and economic actors have in the system. Over and above the arbitrariness of the surveillance and censorship exercised in the field, the laws and regulations on ICT sector add to the legal insecurity. It is therefore not enough to register the fact that legislation has been passed to consider that they are satisfactory indicators of the development of the information society. The substance of the measures must be examined.

The recent Tunisian legislation on the protection of personal data²⁰ is an apt example of this. The law for instance lays down, in Articles 53 to 56, that all the measures protecting personal data detailed in this law become invalid if the data are processed by a public entity. This can be the public authorities, a local authority or a public administrative establishment, in connection with public security or national defence, or for instigating criminal proceedings, but also if the said processing "is found necessary for carrying out missions in accordance with the legislation in force at the time".

Many other legislative or regulatory measures would warrant a detailed impact study, both in terms of Human Rights and regarding the satisfactory economic and social development of the information sector in Tunisia.

III. Conclusions and recommendations

The Tunisian authorities are making numerous efforts to promote an information society. According to President Zine Al Abidine Ben Ali's campaign commitments, the development of Communication Technologies is a priority for the country. In practice, each day of the mission's stay in Tunisia, articles appeared in the public press about specific development policies related to the information society. The members of the mission were thus able to appreciate the importance of

¹⁸ Algérie Télécom. Internet Statistics Djaweb. <http://www.algeriatelecom.dz/apropos.php?page=78>

¹⁹ World Bank. *Tunisia - Development Policy Review - making deeper trade integration work for growth and jobs (Report 29847)*. October 2004. 137 pages.

²⁰ Organic Law n°2004-63 of 27 July 2004, JORT n°61 of 30 July 2004, p.1988-1997

the issue for Tunisia, but remain very worried about the negative impact of monitoring and censorship on the trust of the users and the economics of the services of the information society.

In going to Tunisia the members of the mission also had great hopes of finding that the government was respecting Human Rights in this important process. Unfortunately they found how much the freedoms of expression and association are systematically denied to a large number of citizens. The conclusions of the UN Special Rapporteur on the freedom of opinion and expression drawn up following his visit in 1999 are unfortunately still valid.

On the two questions addressed by the mission, i.e. the operational conditions for satisfactory participation of the civil society in the preparatory meetings and the November 2005 Summit, and the Human Rights situation in the information society in the Tunisian context, the members of the mission wish to convey their grave preoccupation about the present ability or the willingness of the Tunisian authorities to meet satisfactorily the international obligations to which Tunisia is party.

A number of representatives of the authorities that the members of the mission met with, told them that respect for Human Rights would be entire once the development of Tunisia had been accomplished. For the experts, Human Rights are not a consequence of development. Compliance with them is a prerequisite. Otherwise the citizens of Tunisia could well turn away from democracy and pin their faith on the extremists and enemies of social progress.

They therefore call upon the Tunisian authorities to take all necessary steps, between now and the Summit, to ensure that Human Rights are respected and protected, during and after the Summit, and in particular:

- To give legal recognition to all Human Rights NGOs that are not yet recognised, to drop all legal proceedings against them or against their members, and so to establish freedom of association in Tunisia on a lasting and permanent basis;
- To release the persons arbitrarily convicted in the "Zarzis" and "Ariana" Internet users cases;
- To allow free circulation of information, in particular accessibility to websites with a political or Human Rights content;
- To release the prisoners subjected to arbitrary judgement following the *Ennadha* trial;
- To issue a standing invitation to all the mechanisms of the United Nations Commission on Human Rights, and to allow an official visit of the Rapporteurs on torture, on the independence of judges and lawyers, and of the Special Representative of the Secretary General of the United Nations for Human Rights Defenders, in accordance with their own terms of reference;
- To implement the recommendations made by the United Nations Human Rights mechanisms, in particular the conclusions of the Special Rapporteur on freedom of opinion and expression, and those of the Treaty monitoring bodies; to set up for that purpose a national consultation platform of independent experts and representatives of independent Human Rights NGOs, charged with advising the authorities on the implementation of the said recommendations;
- To allow all Human Rights organisations wishing to visit Tunisia in order to carry out independent and impartial enquiries, to do so.
- To initiate a reform of the Press Code in order to suspend the "receipt" procedures concerning

the publication of periodicals, books or other printed or audiovisual material;

- To revise the calls for tenders for opening up the Tunisian audiovisual environment, in compliance with the Tunisian Telecommunications Code, in particular the provisions on the transparency of calls for tenders, and to allow the representation of media reflecting political diversity;
- To carry out a study on the impact of the legislation, regulations and ICT practices on respect for Human Rights;
- To assess the consequences of the monitoring and censorship of electronic exchanges of information in terms of the social appropriation of ICTs and the economic development of information services;
- To attach to all financial aid to ICT projects a section on respect for Human Rights and democracy. This applies particularly to the "Information and Communication Technologies (ICT) Sector Development Project", for which Tunisia has been awarded a 10.8 million euro loan from the World Bank²¹.

²¹ World Bank. *Tunisia: Information and Communication Technologies (ICT) Sector Development Project (Evaluation document 29292-TN)*. June 2004. 68 pages.

ANNEX I
Non-recognised Human Rights organisations

- International association for support for political prisoners of Tunisia (l'Association internationale de soutien aux prisonniers politiques de Tunisie) (AISPPT)
- Association for the fight against torture in Tunisia (l'Association de lutte contre la torture en Tunisie) (ALTT)
- National association of former resistance fighters (l'Amicale nationale des anciens résistants) (ANAR)
- Tunisian centre for the independence of justice and of lawyers (le Centre tunisien pour l'indépendance de la justice et des avocats) (CIJA),
- National council for freedoms in Tunisia (le Conseil National pour les libertés en Tunisie) (CNLT)
- League of free writers (la Ligue des écrivains libres) (LEL)
- Observatory for the freedom of the press, of publishing and of creation (l'Observatoire pour la liberté de la presse, de l'édition et de la création) (OLPEC)
- Grouping for an international development alternative (le Rassemblement pour une alternative internationale de développement – RAID-Attac)

ANNEX II
Websites censored in Tunisia
(source, Reporters sans Frontières, 3 March 2005)

Human Rights websites

www.maghreb-ddh.org

<http://www.tunisiadaily.com/tunisnews.html>

www.rsf.org , www.Internet.rsf.org , et www.radionongrata.org

<http://www.zarzis.org>

<http://www.dabbour.net>

<http://www.tunisia-info.org>

<http://www.nawaat.org>

<http://www.verite-action.org>

Information websites

www.tunezine.com

www.kalimatunisie.com

<http://www.quibla.net>

<http://www.elwatan.com>

<http://www.islamonline.net> (on Islam)

<http://www.oulala.net>

<http://www.africaintelligence.fr>

<http://www.tunisnews.net>

www.reveiltunisien.org

<http://www.alternatives-citoyennes.sgdg.org>

Political opposition websites

Democratic progressive party (Le Parti démocratique progressiste) : www.pdpinfo.org

Tunisian workers' communist party (Parti communiste ouvrier tunisien) : <http://www.albadil.org>

Tunisian perspectives (Perspectives tunisiennes) : <http://www.perspectivestunisiennes.net>

Congress for the Republic (Congrès pour la République) : <http://www.cprtunisie.com>

Ennahdha party (Parti Ennahdha) : <http://www.nahdha.net>

ANNEX III Chronology of events since the first phase of the Summit in December 2003²²

September 2003 – February 2004

Confirmation on appeal of the sentencing of Om Zied

On 25th September 2003, Mme Neziha Rejiba, alias Om Zied, editor of the Kalima newspaper (banned by the Tunisian authorities) and responsible for communicating with the liaison committee of the CNLT, was accused of ‘illegal possession of foreign currency’. She was charged with having delivered the sum of €170 to a relative of a Tunisian political refugee on the day following her return from a trip to France. On the 18th November 2003 the Tunis county court condemned Om Zied to an eight month suspended prison sentence and a fine of 1200 dinars (€760). On 28th February 2004 the Tunis court of appeal confirmed the sentence in absentia.

For several years Om Zied has been the subject of recurring acts of harassment aiming to impose sanctions on her writings and critical opinions of the Tunisian government. A team of plain-clothes policeman keeps her house constantly under surveillance and her telephone line is tapped. These acts of harassment also extend to her family. For instance, on 19th June 2004 when he was just about to go abroad, her son Amine was held for more than three hours by frontier police at Tunis airport. His luggage was searched without any explanation being given. A policeman simply told him that he had received ‘instructions from high up’.

(Source: Report from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT)

January 2004

A physical attack on Mme Sihem Ben Sedrine of the CNLT

On 5th January 2004 Mme Sihem Ben Sedrine, a writer and journalist and spokesperson for the National Council for Freedom in Tunisia (CNLT), was attacked in the middle of the street as she was going to her home which is also the head-quarters of the CNLT in Abou Dhabi Road, Tunis.

Mme Ben Sedrine had her lip split and suffered widespread bruising when she was attacked and knocked to the ground and repeatedly punched by a stranger with two accomplices.

As the CNLT building was under constant surveillance, everything would point to the fact that the Tunisian security services were behind this attack.

The harassment suffered by Sihem Ben Sedrine are just as frequent as those suffered by the journalist Om Zied.

(Source: Report from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT)

January 2004

²²This chronology is non-exhaustive. It relates the principal events, which intervened in Tunisia since the first phase of the WSIS was held, that are related to the enjoyment of Human rights in the information society.

Impediments to the participation of Tunisian militants in an international conference.

M. Mokhtar Trifi, president of the Tunisian Human Rights League (LTDH), Mme Khedija Cherif, vice president of the Tunisian Association of Women Democrats (ATFD) and Barrister Alya Cherif Chamhari, a member of the collective *95 Maghreb-Égalité* and of the Tunisian Centre for Independence of the Judiciary, all had great pressure put upon them to prevent their attending a regional conference organized at Sanaa (Yemen) on “*Democracy, Human Rights and the Role of the International Criminal Court*” This regional conference took place from 10th -12th January 2004 on the initiative of the authorities of the Republic of Yemen and the international association “No Peace Without Justice”, with the financial support of the European Commission.

Following the opposition of the Tunisian authorities to the participation of the three guests from Tunisian civil society, they were informed that their presence was not welcome in the Yemen. After many interventions trying to obtain visas for Mesdames Cherif and Cherif Chamhari (M Trifi having cancelled his departure on principle), the Yemeni Consul in Tunisia realized that the Tunisian authorities had exerted pressure to prevent visas being granted.

(Source: Urgent Appeal from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT, 10th -12th January 2004)

January 2004

Impediments to the Freedom of Assembly.

On 24th January 2004 the Tunisian Human Rights League (LTDH) organised a “national prisoner day”. To this end peaceful rallies were planned in front of different prison across the country to demand the possibility of visiting the places of detention, to inspect the prisoners’ conditions of detention and insure respect for their rights. Delegations from the LTDH were also supposed to be able to speak to the prison governors.

In Tunis, M. Mokhtar Trifi the LTDH president, members of the management committee and militants were closely surrounded by police as they made their way to the ‘prison of April ninth’. Moreover a large police presence deployed around the prison blocked access to the building and the policemen drove back all those suspected of being on their way to the rally.

At Bizerte, Jendouba, Kairouan, Sousse and Sfax members and delegations from the LTDH found their access blocked to the prisons by police cordons on the approach roads. Police also surrounded the departmental office. At Mednine and Monastir the delegations were allowed access to the prisons but were refused an interview with the director.

(Source: Urgent Appeal from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT, 24th January 2004)

February-March 2004

Violation of the right to education

In February and March 2004, Tunisian nationals Messrs. Jalel Ayyed and Abdellatif Makki went on hunger strike to protest against being deprived of their right to education by the authorities of this country, this being in violation of article 26 of the Universal Declaration of Human Rights which states that “all persons have a right to education”.

These two former students, who had been imprisoned for 8 and 10 years respectively for their political opinions and union activities in the Tunisian General Students’ Union (UGTE), found that their application to enrol in the Faculty of Medicine was being opposed with a view to putting an end to their studies

(Source: FIDH Press Release of 12th March 2004)

April 2004

Patrick Baudouin, honorary president of the FIDH turned back at Tunis airport.

Barrister Patrick Baudouin, a lawyer at the Paris Bar and honorary president of the FIDH, was

forcibly turned back by the Tunisian authorities when he had just arrived at the Tunis-Carthage airport to take part in a press conference when the 2003 annual report was published by the Observatory for the Protection of Human Rights Defenders in joint programme from FIDH and OMCT. He was given no reason. However, it was the third time that M. Patrick Baudouin had been refused access to Tunisian soil.

(Source: Joint press release of 14th April 2004 from the FIDH and OMCT)

July 2004

Impediments to the freedom of association

On 22nd June 2004 The International Association for the Support of Political Prisoners (AISSP) received notification, without explanation, that legal recognition by the Tunisian authorities had been turned down. This contradicts article 5 of the 1959 law 154 relating to associations which specifies that any refusal of constitution must be justified. In January 2004 the AISSP was refused permission to hold its Annual General meeting. The Assembly for International Alternative Development (Raid-Attac Tunisia) was prevented from holding its congress planned for the 26th and 27th June. When it was postponed until 24th and 25th October 2004, once again the congress was banned by the authorities.

On a previous occasion in July 2001 the Tunisian authorities had tried to prevent the holding of Raid-Attac's first congress. This situation had given rise to police violence against several members of Raid-Attac. Finally the congress was allowed to be held when foreign guests arrived particularly members of the European parliament. Raid-Attac never obtained legal recognition.

(Source: Urgent appeal from The Observatory for the Protection of Human Rights Defenders, FIDH-OMCT, 6th July 2004)

July 2004

Trial on appeal of the Zarzis internet surfers

Heavy sentences were handed down by the Tunis Court of Appeal following the trial of the "Zarzis net surfers". The sentence for the six accused present was reduced from 19 years 3 months prison to 13 years without remission for Hamza Mahrouk (21), Amor Farouk Chlendi (21), Amor Rached (21) Abdel-Ghaffar Guiza (21), Aymen Mecharek (22) and Ridha Hadj Brahim (38) The sentences were upheld for Ayoub Sfaxi and Tahar Guemir, sentenced in the county court to 26 and 19 years respectively in France and Sweden. Abdelrrek Bourguiba, a minor at the time of arrest, was sentenced on appeal to 24 months prison by the minors' chamber of the Tunis criminal county court.

The young people from Zarzis in South Tunisia were sentenced for "forming a gang to terrorise people", "attacking people in order to terrorise", "holding unauthorized meetings", "theft and attempted theft", "preparation of explosive material and possession of chemicals intended for the manufacture of explosive devices without authorization".

The legal observer appointed jointly by the FIDH, the Euro-Mediterranean Human Rights Network (REMDH) and Lawyers without Borders (ASF) who was present at the hearing of 6th July, raised numerous procedural irregularities which give rise to doubts regarding the veracity of the charges.

The following facts were noted: falsification in the statement of the places and dates of arrest, a 17 day secret detention of the accused and serious allegations of torture and ill-treatment suffered during this period including numerous obstacles to the right of the defense at the county court and on appeal (refusal by the examining magistrate to communicate the exhibits to the defense lawyers, unexplained absence of the defendants from the hearing of 22nd June, refusal to hear witnesses for the defense etc.) The non-observation of international norms relating to the right to a fair trial and the weakness of the elements of proof against them together are so grave that the detention of the "net surfers" is shown to be of an arbitrary nature.

(Source: Press release from FIDH of 7th July 2004, Press releases from Amnesty)

July 2004

Harassment of the League of Free Writers and its members.

En 2004 the League of Free Writers, set up in 2001, has still not been accorded legal recognition and its members and activities have continued to be severely suppressed.

On 27th June 2004 the police prevented a member, M.Hanbib Hamdouni from attending a conference on freedom of association organized by the Sfax section of the Tunisian Human Rights League (LTDH). Furthermore on 15th July 2004 a meeting organized at the home of the president of the League, M. Jalloul Azzouna, to mark the third anniversary of its inception, was banned by the police force who surrounded the building withholding access to participants, some of whom were manhandled.

(Source: Report from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT)

July 2004

Impediment to the freedom of association

On Saturday 10th July 2004 and for the second time in a week, M. Chokri Latif, the General Secretary of the Association for the Fight against Torture in Tunisia (ALTT) was summoned by the Tunisian police service and interrogated about his personal responsibility for publications judged “illegal” and also for his “belonging to an unrecognized association”. At the end of this interrogation he was issued with an official warning meaning that he can be prosecuted for these actions which are considered criminal by the Tunisian authorities.

M. Latif is a writer and a founding member of several Tunisian democratic associations, among them The Assembly for International Alternative Development (RAID) and ALTT. He is also a member of Amnesty International (Tunisia).

(Source: Urgent appeal from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT, 15th July 2004)

October 2004

Elections – attacks on political militants.

During the weeks leading up to the Tunisian elections of November 2004, acts of intimidation and harassment multiplied against political opponents and human rights defenders.

On Monday 11th October Hamma Hammami, leader of the Tunisian Workers’ Communist Party (PCOT), an unrecognized political opposition group which has called for an election boycott, was attacked by two men in the middle of the street in the Ben Arous region.

On Wednesday 13th October Moncef Marzouki, president of the Congress for the Republic (CPR) which is one of the political opposition parties, former president of the Tunisian Human Rights League (LTDH) and former spokesperson for the National Council for Freedom in Tunisia (CNLT) was arrested as he was just about to board the plane for Paris. He was released a few hours later after undergoing interrogation and is being prosecuted under the anti-terrorist law for dissemination of false information, belonging to an illegal association and defamation of the judicial institutions.

On 9th October 2004 on his return from Frankfurt, Nejib Marzouk, the director of the LTDH was confined at the Tunis-Carthage airport by the airport authorities who wanted to subject him to a body search which he refused. M. Marzouk was authorized to leave the airport two hours later.

Moreover, the legal hounding of which the two brothers Taoufik Ben Brick, Jalel and Néjib Zoghlami were victims was denounced by the LTDH and CNLT which expressed indignation against the systematic exploitation of the justice system to settle political scores.

(Source: Press release from the FIDH of 15th October 2004)

November 2004

Impediments to freedom of association and meeting

On 28th October 2004 when a conference-debate concerning the Tunisian electoral code had been organised by the Tunisian Human Rights League and to which numerous personalities, activists, civil society organizations and representatives of political parties had been invited, a large police presence was deployed around the headquarters of the Kairoouan section of the LTDH where the conference was due to be held, and also in the area surrounding the town. The police under the command of the Kairouan district chief blocked some participants at the entrance to the town, prevented the militants who had gathered around the headquarters from reaching the premises before dispersing them violently. Several people were manhandled.

The police had already prevented the holding of a meeting organized for 17th November 2004 on the support day for M. Najib and M Jalel Zoghlami, the brothers of M. Taoufik Ben Brick, at the home in Tunis of their lawyer Ms Nasraoui.

Barrister Nasraoui QC (like M Ben Brik, a founder member of the National Council for Freedom in Tunisia, an organization which is still not recognized by the authorities) as well as her family, suffer regular harassment.

(Source: An open letter of 28th November 2004, for the attention of M. Zine El Abidine Ben Ali jointly from FIDH and OMCT)

October-December 2004

The trial of M. Jalel and M. Néjib Zoghlami/Ben Brik

The day following the Tunisian presidential and legislative elections of 24th October 2004, the trial of M. Jalel and M. Néjib Zoghlami/Ben Brick, brothers of the famous journalist and dissident writer Taoufik Ben Brik, took place before the Tunis County Court (4th magistrates' court); the third defendant, M. Lumumba El Mohsni was issued with a summons (no3833) and consequently incurs sentencing by default.

The circumstances of the questioning, just like the course of the investigation and the trial, (the first political trial since the fourth consecutive re-election of a President of the Republic, who a further two years previously, was not constitutionally empowered to represent himself at his own succession) give rise to a very strong 'odour' of political score-settling.

These three common law matters, "weighed down" with eleven charges were tainted by numerous procedural irregularities (failure to respect the rights of the defense, ignorance of the presumption of innocence etc) as well as by humiliating and degrading conditions of detention. They paint a picture of an exploitative justice system, lacking in attributes of sovereignty, being used to inflict, not a legal punishment but a veritable castigation which reaches beyond the person who suffers it directly to his whole family and close circle.

On 4th November 2004 the two brothers were sentenced to a year in prison. On 29th December 2004 that sentence was reduced to eight months by the Tunis Court of Appeal. But the families of M. Najib and M. Jalel Zoghlami, imprisoned in Mornag (25km south of Tunis) and Borg el-Amri (25 km west of Tunis) are experiencing great difficulties in obtaining visiting rights.

(Source: Report from the Observatory for the Protection of Human Rights Defenders, FIDH-OMCT and report from the CRLDHT hearing)

August 2003- December 2004

Legal proceedings against the impediments to LTDH financing.

In April 2001 the LTDH had obtained financing, aiming for modernization and restructuring, from the European Union within the context of the European Initiative for Democracy and Human Rights (IEDDH). Whereas the first instalment of this financing was allocated, the second instalment has remained blocked since August 2003 by the Tunisian authorities on the grounds of the 1959 law 154

and the 1922 decree of 8th May on charitable associations “recognized to be in the national interest”, and the LTDH does not meet this statute.

In 2004 the BIAT bank which holds the LTDH’s account sent the second instalment of finance back to Brussels.

On 27th December 2004 a second financing contract including a schedule for access to justice was signed between the LTDH and the EU. However, shortly before the signing of this contract the Tunisian authorities informed the EU delegation in Tunis that the LTDH would not be able to receive this financing until the legal decision of June 2002 had been executed, limiting its activities to the preparation of a congress. It is noteworthy that the Tunisian authorities provided no legal basis for this decision. In the absence of this financing, the LTDH is prey to grave financial difficulties, which limits its activities.

(Source: Report from The Observatory for the Protection of Human Rights Defenders, FIDH-OMCT)

December 2004 –January 2005

Repression of Tunisian Human Rights NGO’s

Since 11th December 2004, the National Council for Freedom in Tunisia has been prevented by the police from holding their Annual General Meeting. Since that date the meeting has been rendered impossible by violent assaults by the police in the Council’s offices. The police informed members of the Council that they had received instructions to prevent the meeting from being held by all means necessary. Similarly on 28th January 2005 at a time when no meeting had been organized, members of the CNLT office were prevented from entering their premises by a deployment of police. The following day they found their premises wrecked.

Unfortunately numerous associations for the defense of Human Rights in Tunisia are regularly victims of these practices. On 3rd January 2004, The International Association for the Support of Political Prisoners (AISPP) also found that their Annual General meeting was banned by an impressive deployment of police.

(Source: joint press release from the FIDH and the OMCT, dated 16th February 2005)

March 2005

The right to demonstrate: strong-arm repression of a protest movement

At the beginning of March 2005 various peaceful gatherings and student demonstrations organized to protest against the visit to Tunisia of the Israeli Prime Minister, Ariel Sharon, on the occasion of the World Summit on the Information Society (SMSI), were suppressed in an extremely violent fashion by the Tunisian authorities. Numerous people were wounded, some seriously; even cases of torture were reported. There were also many people who were questioned and then released.

(Source: joint Press release of 9th March from FIDH and OMCT, Press release from Amnesty International)

March 2005

Freedom of expression – arbitrary detention and condemnation

Detention of Barrister Mohammed Abbou and attacks on defense lawyers.

On 1st March 2005 Barrister Abbou was arrested and incarcerated because, in an article appearing on the internet, he had criticized the conditions of detention in Tunisia, comparing them with the Abou Ghraïb detention centre in Iraq. On April 28th, he was sentenced to three years and six months' imprisonment. He is accused of publishing articles likely to give rise to public disorder, defamation of the judicial apparatus. He is also accused with aggression. His arrest, detention and condemnation are all tainted by numerous procedural irregularities which render them illegal. His detention can be qualified as arbitrary. His wife as well as the lawyers who came to take up his

defense were all physically attacked when they arrived to attend the hearing before the examining magistrate.

(Source: joint press release of 17th March 2005 from FIDH and OMCT, joint press release of FIDH and the International commission of Jurists of 29th April 2005, « ICJ and FIDH condemn the instrumentalisation of Justice in the trial of Barrister Abbou).