

# **TUNISIA: LONG-TERM SOLITARY CONFINEMENT OF POLITICAL PRISONERS**

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## Summary

Tunisia's policy of placing some of its more than 500 political prisoners in strict, long-term solitary confinement is one of the harshest holdovers from the prison regime of the 1990s, when conditions were worse overall. It threatens the mental health of the prisoners, denies them a means to challenge their being segregated, and violates international norms requiring that all persons in custody be treated with humanity and respect for their inherent dignity.

Today between thirty and forty prisoners, most of them leaders of Tunisia's Islamist Nahdha movement, are confined in small solitary cells at least twenty-three hours daily. Some of these prisoners have spent most of the past thirteen years in isolation. The rest have been in isolation for months and in many cases for more than a year. With rare exceptions, even their brief daily "outside" period and visits to the shower take place away from other inmates. Other than prison authorities, their only direct human contact occurs during brief family visits. Even then, they do not see other prisoners or the relatives of other prisoners, but only the guards who are stationed nearby, often taking notes as they speak.

According to their relatives, these prisoners have not been told formally why they are in isolation or how and when the prison administration reviews these decisions. The arbitrariness and open-ended nature of the isolation compounds the suffering felt by the prisoners and their families.

Other prisoners are held in small-group isolation. This practice involves confining prisoners to a cell with a small number of cell-mates, all of whom are prevented from seeing other inmates or accessing prison facilities and activities available to the general prison population.

In 1991, Tunisia's interior minister publicly ordered that all security service members comply fully with the U.N. Standard Minimum Rules for the Treatment of Prisoners. Yet Tunisia's isolated prisoners are subjected to conditions that clearly violate these principles. Many do not receive the minimum one-hour period daily outside their cells for exercise. Many live in cells that lack a window providing natural light and a flow of air. The Standard Minimum Rules emphasize that prisoners should have regular access to meaningful activities, yet inmates in solitary confinement cannot participate in the

vocational and educational programs offered by the prison, and have very limited access to reading materials.

Prison systems around the world have legitimate reasons to isolate certain persons in their custody. But Tunisia's prolonged isolation of selected inmates, most of them leaders of the banned Nahdha party, seems driven less by legitimate penological motives than by a political will to punish and demoralize these individuals, and to crush the Islamist trend they represent. Tunisia cannot claim to be respecting international human rights standards so long as it maintains such a regime of prolonged isolation of prisoners.

## **Recommendations**

Human Rights Watch reaffirms its call for the release of all prisoners in Tunisia who were convicted for acts of expression, association, and assembly that have no link to violence or recognizable criminal activity. For all other prisoners who were convicted of politically motivated acts in proceedings that did not confirm to international standards for a fair trial, we urge an amnesty or their release from prison pending new and fair trials.

Human Rights Watch urges Tunisian prison authorities to improve the living conditions and treatment of all persons in custody so as to comply with all relevant international norms, including those spelled out in the U.N. Standard Minimum Rules for the Treatment of Prisoners.<sup>1</sup>

In particular, we urge an immediate end to the prolonged isolation of political prisoners as it is currently practiced. No inmate should be placed in isolation except as a last resort. When isolation is deemed to be warranted, there should be a presumption in favor of placing affected prisoners in cells or wings with one another, rather than in solitary confinement.

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<sup>1</sup> Standard Minimum Rules for the Treatment of Prisoners, 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 31 July 1957 and 2076 (LXII) of 13 May 1977.

In accordance with international norms, solitary confinement should be imposed only for relatively short periods of time, in an individualized fashion, under strict supervision, including by a physician and only for legitimate penological reasons of discipline or preventive security. When used “preventively,” isolation should not be imposed to stop prisoners from exchanging political views and information, but only when an individual’s behavior has shown him or her to be so chronically violent or dangerous as to pose a demonstrable and serious threat to prison safety and security.

Tunisian authorities should make public the criteria governing the placement of inmates in isolation and all regulations pertaining to its practice. Inmates placed in isolation, whether for punitive or preventive reasons, should be given a detailed, individualized explanation of the specific reasons in writing and have a meaningful opportunity to challenge the order at regular intervals. Senior corrections officials should periodically review the justification for isolating each inmate, and their decisions should in turn be reviewed by an impartial, independent authority.

Tunisian authorities should ensure that conditions faced by prisoners placed in isolation preventively are no more restrictive than necessary for legitimate security considerations. Policies should permit and encourage prisoners to maintain constructive lives and should acknowledge their inherent dignity and value as human beings. When prison authorities isolate a prisoner for preventive reasons, they should find ways to enhance conditions for that prisoner in order to compensate for the hardship of the added restrictions on his movement and human contacts.

Tunisian authorities should honor their own pledge to abide by all parts of the U.N. Standard Minimum Rules, including by ensuring that all inmates:

- reside in cells that have a window providing natural light and fresh air;
- are allowed at least one hour daily outside their cell in a space that is large enough to allow for vigorous physical activity;
- have access to meaningful activities and a broad variety of reading materials; and
- may send and receive mail without arbitrary interference and delays.

Human Rights Watch also recommends that Tunisian authorities open its prisons, including isolation units, to independent and qualified domestic and international monitoring organizations, a step that was hinted at by Minister of Justice and Human Rights Béchir Tekkari on April 20. Authorities should allow such visits to be unimpeded, unannounced and occurring at frequent intervals.

Tunisia should become a party to the Optional Protocol to the Convention against Torture. The Protocol allows independent international experts to conduct regular visits to places of detention within the territory of states parties, to assess the conditions of detention and make recommendations for improvements.

We urge the European Union, the Arab League, United States, Canada, and all countries having bilateral relations with Tunisia to monitor prison conditions; to encourage access for independent monitoring procedures as noted above; and to press Tunisian authorities, through private and public channels, to bring their prisons into compliance with international norms, including by ending the arbitrary and unjustified use of solitary confinement for political prisoners.

We urge the U.N. Working Group on Arbitrary Detention to turn its attention to the plight of political prisoners in prolonged isolation in Tunisia, and to request from Tunisian authorities access to prisoners in isolation.

### **About this Report**

As of March 10, 2004, the International Association of Solidarity with Political Prisoners (Association Internationale pour le soutien des prisonniers politiques, AISPP) said it had confirmed forty cases of political prisoners currently in isolation, but cautioned that the number could be higher. Getting current accurate statistics is difficult because officials do not give out numbers and prisoners are moved in and out of isolation without their families necessarily being notified.

No independent human rights organization has received authorization to inspect prisons since 1991, when the Tunisian Human Rights League was able to conduct a perfunctory visit. When the issue of access has been raised, authorities pointed out that prisons are visited on an unannounced basis by the Higher Committee of Human Rights and Fundamental Liberties. But that committee, a state-appointed body established in 1991, reports its findings privately to the President and does not make them public.<sup>2</sup>

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<sup>2</sup> The Committee's president has claimed about its prison visits, "[D]etailed comments on each visit [to a prison] are documented with full honesty and brought before the President of the Republic. These reports have contributed to tangible improvements in the condition of prisoners and the prison system." Letter from the Higher Committee of Human Rights and Fundamental Liberties to Human Rights Watch, August 30, 2001.

On July 8, 2003, Human Rights Watch sent a letter to Minister of Justice and Human Rights Tekkari stating our intention to conduct research for a report on prison conditions and requesting permission to visit prisons. No reply or acknowledgement of that letter was received. Human Rights Watch sent another letter on April 13, 2004, via the Tunisian Embassy in Washington, DC, requesting information on policies on the solitary confinement of prisoners. As of June 10, 2004 no answer had been received

In August 2003, Human Rights Watch consultant Alain Werner traveled to Tunisia to interview former political prisoners about the conditions of their confinement. He collected information from ex-prisoners, lawyers, and the families of current prisoners. While the consultant was able to move about the country freely, a former political prisoner who assisted him, Abdullah Zouari, was arrested on August 17, 2003, one week after the consultant departed, on trumped-up charges and sentenced to nine months in prison.<sup>3</sup> Zouari is serving this and another four-month sentence on earlier charges and is due to be released in September 2004.

This report is based on that research mission and on phone interviews conducted in March and April 2004 with the relatives of ten prisoners who are currently being held in isolation. The isolated prisoners themselves could not realistically be contacted: they have few means to communicate with the outside world, and their family visits are short and monitored by prison guards. They are not permitted to have or use telephones. Letters are subject to censorship and often do not reach their destination. Prisoners who do talk about their conditions may refrain from telling the worst, in order to avoid retaliation by prison staff or to spare their relatives additional distress.

The accounts we collected from prisoners' families were consistent, despite some variations in the treatment of the prisoners depending on the period and the prison in which they were held. Family members knew in varying level of detail the conditions of their relatives. Not all of them knew, for example, the quality of lighting in the isolation cells or how frequently inmates were allowed to shower. The interviewees agreed to the publication of their names and of the information they provided.

Human Rights Watch gratefully acknowledges the research conducted by consultant Alain Werner and the additional research conducted by intern Marie Yared. We also thank the former prisoners and relatives of current prisoners who agreed to speak with

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<sup>3</sup> Human Rights Watch, "Tunisia: Government Steps up Harassment of Activists," September 6, 2003 [online], [www.hrw.org/press/2003/09/tunisia090603.htm](http://www.hrw.org/press/2003/09/tunisia090603.htm) (retrieved June 9, 2004).

us, as well as the AISPP in Tunis and independent human rights activist Luiza Toscani in Paris for information they shared.

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## Introduction

Tunisia is a middle-income country. It enjoys the highest gross national product per capita after Lebanon among non-oil-exporting Arab states. Despite Tunisia's relative prosperity, its prisons remain well below international norms, with persistent overcrowding, poor hygiene, frequent reports of medical neglect, and abusive use of solitary confinement. The treatment of political prisoners, virtually all of them actual or suspected members of the Nahdha party or other banned Islamist movements, has been especially – and deliberately – severe.

Faced with domestic and international criticism on prison conditions and repeated hunger strikes by prisoners,<sup>4</sup> the government of Tunisia has over the past five years pursued a number of initiatives, construction projects, and legal reforms that brought modest improvements in the treatment of inmates.

Most recently, Minister of Justice and Human Rights Béchir Tekkari declared in a press conference on April 20, “We have no objections to having organizations known for their independence and impartiality visit any prison in the country.” He named the International Committee of the Red Cross (ICRC) and the Red Crescent as organizations that met this criterion but ruled out Amnesty International and the Tunisian Human Rights League (*Ligue Tunisienne des droits de l'Homme*, LTDH).<sup>5</sup>

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<sup>4</sup> Punishment is often harsh for hunger strikers. Ex-prisoner Khemaïs Ksila describes the isolation, chaining, force-feeding, and beating of strikers in *Les prisons tunisiennes, vues de l'intérieur* [online], [www.euromedrights.net/francais/download\\_fr/ksila-rap\\_2000.doc](http://www.euromedrights.net/francais/download_fr/ksila-rap_2000.doc) (retrieved June 9, 2004). Ksila, a vice-president of the LTDH, was incarcerated in the 9<sup>th</sup> of April Prison from 1997 to 1999.

<sup>5</sup> Associated Press, « Les prisons tunisiennes peuvent être visitées par des organisations internationales, selon un ministre, » April 21, 2004 ; see also Mongi Gharbi, “Promouvoir les droits de l'Homme dans toutes ses



Allowing access to the ICRC would be a breakthrough, even though that organization does not ordinarily publicize its findings but rather reports them privately to the government concerned. No nongovernmental human rights or humanitarian organization, national or international, has been allowed to inspect Tunisian prisons since a perfunctory visit by the LTDH in 1991.<sup>6</sup> The ICRC, contacted by Human Rights Watch on June 14, said it presently had no agreement with Tunisian authorities to begin conducting such visits, although discussions between the two parties had taken place.

If Tunisian authorities do open prison doors to independent monitoring groups, the inmates in prolonged isolation should be among the visitors' highest priorities. Whatever the justification for isolating these prisoners may be – something Tunisian authorities have never explained publicly, to our knowledge – the actual conditions that the inmates experience in long-term solitary confinement – the absence of normal social interaction, of reasonable mental stimulus, and exposure to the natural world – is potentially harmful to their mental health. It is also a violation of the prohibition against cruel, inhuman and degrading treatment or punishment and, in some cases, may rise to the level of torture.

The physical isolation of these prisoners routinely co-exists with other restrictions on their links to the outside world: for example, letters are censored and sometimes arrive months late, if at all; and the prisoners are often refused permission to receive books and journals widely available in Tunisia. Access to writing materials is often restricted, and phone calls are not permitted. Prisoners have no access to vocational or educational programs available at the facility.

The prolonged and severe nature of solitary confinement for this group of inmates, most of them leaders of the banned Nahdha party, seems driven less by legitimate penological concerns than by a political will to punish and demoralize them, and crush the Islamist trend they represent.

Government officials have stated repeatedly over the years that the country holds no political prisoners or “prisoners of opinion,” only criminals tried and convicted for violating Tunisian law. Human Rights Watch disputes this characterization on two grounds. The Nahdha party has not been linked to acts of violence for over a decade.

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facettes,” *La Presse* (Tunis), April 21, 2004, and « Pomme de discorde entre le ministère et le Bâtonnat, » *Le Temps* (Tunis), April 21, 2004 [online], <http://www.letemps.com.tn> (retrieved June 9, 2004).

<sup>6</sup> “La L.T.D.H. témoigne,” *La Presse*, July 20, 1991. Covered also in *La Presse* of July 19, 1991.

Nearly all of those who are serving time for Nahdha-related activity were convicted of charges that lack any link to violence, such as membership in an “unrecognized” organization, or collecting funds, attending meetings, or performing unspecified activities on behalf of an “unrecognized” organization.<sup>7</sup> Second, most of these defendants and those convicted of graver charges did not benefit from the right to a fair trial. In the most prominent example, nearly one hundred of today’s prisoners were among the 265 Nahdha followers convicted in a mass military court trial of plotting to overthrow the government. The defendants denied the existence of such a plot, claiming their confessions were extracted through torture. Human rights organizations that monitored the trial denounced it as unfair.<sup>8</sup> The verdicts in that case were not subject to appeal and were all confirmed by the Court of Cassation. Forty-six of the defendants received life terms, although many of these were later commuted to thirty years in prison.

The mass arrests and trials of 1991–1992 effectively smashed the Nahdha movement. With virtually all of its senior cadres either in prison or in exile, the movement has had a low profile inside Tunisia since then. Nevertheless, suspected sympathizers of the Nahdha party and other smaller, lesser-known Islamist groups continue to be arrested and charged. Scores of suspected Islamists have been sentenced in unfair trials before criminal courts to long prison terms for belonging to a “band...founded in order to prepare or carry out attacks against persons or property” (Article 131 of the Penal Code). Others were tried in military courts, even though they were civilians, because they were charged with “terror” offenses found in the code of military justice.<sup>9</sup> They cannot appeal their convictions by the military courts.

The arrests and trials have continued despite the fact that Tunisia has been largely free of political violence. Since 1991, the only fatal attack attributed to Islamists was the April

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<sup>7</sup> The Law on Associations provides prison terms and fines for persons who help to maintain, or who attend or organize meetings of, an organization that lacks legal status.

<sup>8</sup> Middle East Watch (now Human Rights Watch) and the International Human Rights Law Group, “Tunisia: Military Courts That Sentenced Islamist Leaders Violated Basic Fair-Trial Norms,” *A Human Rights Watch Report*, vol. 4, no. 9, October 1992 [online], [www.hrw.org/reports/pdfs/T/TUNISIA/TUNISIA.92O/tunisia920full.pdf](http://www.hrw.org/reports/pdfs/T/TUNISIA/TUNISIA.92O/tunisia920full.pdf) (retrieved June 9, 2004); Amnesty International, “Tunisia: Heavy Sentences after Unfair Trials,” September 1992, MDE 30/23/92; International Federation of Human Rights, “Missions d’observation judiciaire devant le Tribunal militaire de Tunis,” No. 160, October 1992; Lawyers Committee for Human Rights, “The Mass Trial of Islamists before Military Courts in Tunisia,” August 21, 1992.

<sup>9</sup> Article 123 provides a ten-year prison term and other penalties for “Any Tunisian who, in peacetime, puts himself at the disposal of a foreign army or of a terrorist organization operating abroad.” See Amnesty International, “Tunisia: Military tribunal sentences civilians to heavy prison terms,” January 31, 2002, MDE 30/003/2002.

2002 truck bomb that targeted a synagogue in Djerba, killing twenty-one. The suicide bomber was Tunisian. Al-Qaida claimed responsibility for the attack.

The persons in long-term isolation are mostly political leaders of the Nahdha movement who were tried and convicted in the 1992 mass trial mentioned above. While plotting to overthrow the government is of course a grave charge, it does not by itself provide a penological justification for placing these prisoners in solitary confinement. Putting aside for a moment the evidence that their trial was grossly unfair and the charges against them were not proven, it is worth noting that these individuals were never convicted of committing acts of violence. And even if they had been convicted in a fair trial of grave offenses, this would not justify their placement in solitary confinement for preventive or punitive reasons.

In fact, long-term solitary confinement is not a legal punishment for prisoners in Tunisia, since the law regulating prisons limits solitary confinement *as a punishment* to a period of ten days, and forbids any forms of punishment not listed in the law.<sup>10</sup> Prison administrations may have preventive reasons for segregating inmates; for example, for their own protection, or if they have a history of attempted escapes, or for violent or disruptive behavior directed toward other inmates or prison staff. But these sorts of preventive arguments have to our knowledge never been made explicitly by Tunisian authorities to justify their long-term isolation of political prisoners. (Prison administrations may also place inmates in isolation to address a public health threat.)

Some ex-prisoners and family members said that those in isolation were told informally, or led to understand, that they were segregated to keep them from influencing or inciting the other prisoners. This objective is also reputed to be the motive behind the frequent transfer of political prisoners from prison to prison around the country, a practice that imposes hardship on families who must travel hundreds of kilometers in order to see their relative for fifteen- or twenty-minute sessions.

Prison authorities have a legitimate interest in stopping inmates from inciting disturbances. However, if that is the basis for isolating prisoners in Tunisia, authorities appear to be doing it on the basis of mere assumption rather than on the basis of a reviewable, case-by-case determination that an individual is engaged in committing or inciting disturbances while in prison.

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<sup>10</sup> Article 22 of the Law Governing the Organization of Prisons (Law 2001-52 of May 14, 2001), published in the *Journal officiel de la République Tunisienne* of May 18, 2001, No. 40, pp. 1312-1314. The same ten-day limit was found in the prison law that was in effect until the current law was promulgated. That law is Decree 88-1876 of November 4, 1988, Pertaining to the Functioning of Prisons, at Article 16.

Furthermore, if their motive is to prevent incitement, they must target only speech and planning that might contribute directly to disturbances at the prison facility, and not penalize or segregate prisoners for exchanging views or information of a political nature.

The families and ex-prisoners we interviewed said they knew of no prisoners currently in long-term isolation to whom authorities had provided a formal explanation for this treatment. Nor were they formally notified of a timetable or procedures for reviewing or terminating their term in isolation. The arbitrariness and open-ended nature of the isolation policy compounds the cruelty inflicted on inmates cut off from virtually all human contact.

### **Prison Conditions: Gradual Improvements**

Many former prisoners who served time in the early and mid-1990s — during and following the crackdown on the Nahdha party — described treatment that clearly amounted to torture, including routine beatings by prison guards and even by senior staff and prison wardens, and the shackling of some prisoners hand and foot much of the day. Prisoners with health problems were often denied medication or proper care, and infestations and skin diseases were rampant due to poor hygienic conditions. Inmates were subject to extremes of weather without adequate clothing and bedding. Hygiene was substandard and overcrowding so severe that cellmates had no choice but to sleep in shifts. On family-visit days, guards routinely humiliated and mistreated the inmates' relatives.

Isolation regimes were harsher than they are now. Whereas today, prison administrations generally respect the rights of prisoners in solitary confinement to take daily walks outside their cells and to receive family visits weekly, this was not always the case.

Abdullah Zouari wrote of his experience in 1995 when he was transferred to Rejim Ma'toug prison in the southern desert:

I was placed in isolation for five months, during which time I saw no one other than my guard. He let me out of my cell only five minutes in the morning and five minutes in the evening. It was barely enough to perform the necessities, wash my clothes and dishes, and provide myself

with water. When they escorted me to the showers, they would cover my eyes...to prevent me from seeing anything....

In 1998, at Houareb Prison...I was placed in a solitary confinement cell below the guards' sleeping quarters. Dirty water dripped steadily from above. I stayed there for three months without once going out on a daily walk.<sup>11</sup>

Another prisoner, Ridha Boukadi, wrote:

In 1996, I was in the 9th of April Prison in Tunis, in the isolation wing, located above the infirmary. Our outside walk never lasted more than seven minutes. The total isolation of prisoners was one of the many arbitrary measures they used. Once the prisoner was placed in his cell, he was completely cut off from his surroundings. He had no relation with anyone other than the guard assigned to watching him. Even other guards didn't have the right to interact with him.<sup>12</sup>

Abdelwahab Sdiri, the pseudonym of a still-incarcerated prisoner who managed to smuggle out an account of his experiences, described a particularly harsh form of small group isolation practiced in the mid-1990s and known to prisoners as the *siloun* (apparently a slang term derived from *cellule*, the French word for "cell"):

[In] the *siloun*, which is a dark, tiny cell with no ventilation or facilities, the prisoner, even if he is young, gets sick, because the *siloun* is suffocating in summer and freezing in winter. There is no toilet. Plastic or glass bottles serve as urinals. The *siloun* is equipped with medieval chains. If the prisoner is punished by being handcuffed, he must satisfy his needs in a plastic pot and his cellmates must cover it. The prisoner is held naked or given a prisoner's uniform made of thick cotton, dirty, and full of lice, which gives you scabies or allergies. The blankets are dirty, foul, and full of lice and bugs. The administration can send a prisoner to the *siloun* as punishment for as long as a month, and can

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<sup>11</sup> Solidarité Tunisienne et le Comité de défense des prisonniers politiques en Tunisie (CDPPT), *Prisonniers à caractère spécial, ou la tragédie des prisonniers politiques en Tunisie* (Paris : Solidarité Tunisienne and le Comité de défense des prisonniers politiques en Tunisie, 2003), pp. 43-44. From Zouari's conviction in August 1992 until his release in June 2002, he was transferred fifteen times among nine prisons.

<sup>12</sup> *Ibid.*, p. 42.

extend the period as it pleases. When a prisoner is put in the individual or group *siloun*, he is always also forbidden to receive visits by his family or food packages from them, and forbidden to make purchases at the prison canteen.<sup>13</sup>

The mistreatment of prisoners generally began to ease in late 1996, according to numerous people who were incarcerated at the time. Taoufik Kabaoui, who served from December 1990 until July 2003, said that in 1996-1997 political prisoners begin to be permitted to eat and pray in groups, to have copies of the Quran, and had more opportunities to communicate with other prisoners.<sup>14</sup> Samir Dilou, who was released in 2001 after serving ten years, said that in October 1997 political prisoners in the 9<sup>th</sup> of April Prison in Tunis won permission to pray in the courtyard of the prison, a victory that was perceived by inmates as “a fundamental change.”<sup>15</sup> Human rights lawyer Nejib Hosni, who was imprisoned from 1994 to 1996 and again in 2000-2001, noted a change between the first and second periods. During his earlier term there was pressure on the guards to abuse the political prisoners physically, whereas such abuse was no longer systematic in the later term. The conditions of family visits also improved, he said.<sup>16</sup>

Despite a reduction in some abuses, still-harsh prison conditions continued to attract criticism internationally, fueled by credible first-hand accounts provided by imprisoned human rights activists Nejib Hosni, Khemaïs Chammari (imprisoned in 1996), and Khemaïs Ksila (imprisoned 1997–1999).<sup>17</sup>

The government responded with a series of legal reforms. A 2000 law amended the Penal Procedure Code (Code de procédure penale, CPP) to make the judges with competence over implementation of prison sentences (*juges d'exécution des peines*) responsible for ensuring that prison conditions complied with the law. These judges, who are attached to the trial courts, must visit the prison or prisons under their jurisdiction at least once every two months to study the conditions of detention of convicted prisoners. The prison administration and doctor report to the judge, who

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<sup>13</sup> Abdelwahab Sdiri, *Dans cinq ans il n'y aura plus de Coran : Un prisonnier tunisien témoigne* (Paris: Paris Méditerranée, 2003), p. 68.

<sup>14</sup> Human Rights Watch interview, Sers, Tunisia, August 6, 2003.

<sup>15</sup> Human Rights Watch interview, Raf-Raf, Tunisia, August 7, 2003

<sup>16</sup> Human Rights Watch interview, le Kef, Tunisia, August 6, 2003.

<sup>17</sup> See, especially, Khemaïs Ksila, *Les prisons tunisiennes, vues de l'intérieur*.

submits annual reports to the Ministry of Justice containing observations, conclusions, and recommendations.<sup>18</sup>

In January 2001, administration of prisons was transferred from the Ministry of Interior to the Ministry of Justice and Human Rights. In April of that year, parliament adopted the prison reform law mentioned above that, among other things, required the separation of pre-trial and convicted prisoners and restricted the use of force by guards.

In December 2002, President Zine al-Abidine Ben Ali ordered an inquiry into prison conditions, to be headed by the president of the governmental Higher Committee of Human Rights and Fundamental Liberties, Zakaria Ben Moustafa. (Ben Moustafa, a former minister and ex-mayor of Tunis, had been commissioned in 1995 by President Ben Ali to conduct a prison inquiry. At that time, when conditions were arguably close to their worst, Ben Moustafa announced that they met international norms and that abuses were “very rare and isolated.”<sup>19</sup>) The findings of the Higher Committee’s inquiry were never made public, but press reports in February 2003 indicated that after receiving them, President Ben Ali ordered a number of reforms. These measures included physical improvements and new equipment to ease overcrowding and improve hygiene and healthcare.<sup>20</sup> In March 2003, Minister of Justice and Human Rights Tekkari announced the creation of an office in his ministry to monitor the conditions of detainees and prisoners, the daily *As-Sabah* reported on March 9 of that year.

## **Pressures on Organizations and Journalists Reporting on Prison Conditions**

While the government granted the Higher Committee access to prisons and prisoners in order to conduct its inquiries, it denied access to independent human rights organizations access to prisons and also subjected these groups and their leaders to various restrictions and forms of harassment. Until very recently, it had refused to accept the application for legal recognition of the Tunis-based International Association of Solidarity with Political Prisoners (*Association Internationale pour le soutien des prisonniers politiques*, AISPP), first submitted in November 2002. Finally, on March 29, 2004,

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<sup>18</sup> Law 2000/77 of July 31, 2000.

<sup>19</sup> Agence France-Presse, « La situation dans les prisons répond aux ‘normes’ internationales, selon une commission d’enquête, » August 15, 1995.

<sup>20</sup> “Prisons: des mesures immédiates,» *Haqa’iq/Réalités*, February 20, 2003 [online], <http://www.realites.com.tn> (retrieved June 9 2004).

authorities accepted the AISPP's application for legal recognition, seventeen months after it was first submitted. According to the Law on Associations, the minister of interior has ninety days from the date of accepting the application to reject it, in which case he must state his reasons. In the absence of such a rejection, the AISPP can begin to operate legally as soon as the *Journal Officiel de la République Tunisienne* publishes a notice of its formation.

The government continued to refuse legal recognition to another organization active on prisoner rights, the National Council on Liberties in Tunisia (Conseil National pour les Libertés en Tunisie, CNLT).<sup>21</sup>

The AISPP and CNLT continued their work even without legal status, despite the risks and obstacles this posed. The Law on Associations provides for prison terms and a fine for persons who organize or conduct activities on behalf of an "unrecognized" organization. On several occasions, members of the AISPP and the CNLT have been assaulted in public places by men in plainclothes believed to be police.<sup>22</sup> On Saturday, January 3, 2004, police in Tunis blocked efforts by the AISPP to hold a congress. AISPP president and ex-political prisoner Mohamed Nouri continues to be prevented from traveling abroad on the grounds that he is subject to a criminal investigation for disseminating false information. Nouri was turned back at Tunis-Carthage airport on December 9, 2003, and February 10, 2004, when attempting to participate in human rights meetings in Europe. Human rights defenders often find that they have been placed under judicial investigation on dubious charges; the case is neither tried nor dismissed but becomes the pretext for banning their foreign travel.

The Tunisian League for Human Rights, which monitors prison conditions along with other issues, continues to face legal pressures. In 2001, a Tunisian court nullified the recent internal elections that had given the LTDH an independent and outspoken leadership. The court's ruling against the LTDH came in response to a state-encouraged lawsuit filed by four dissident members. An appeals court upheld the decision but said the current leadership could remain in office solely for the purpose of organizing new

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<sup>21</sup> The CNLT issued a report on prison conditions, *Rapport sur la situation dans les prisons en Tunisie*, October 20, 1999 [online], <http://welcome.to/cnlt/> (retrieved June 9, 2004).

<sup>22</sup> See Human Rights Watch, "Human Rights Lawyers and Associations under Siege in Tunisia," March 17, 2003 [online], <http://www.hrw.org/backgrounder/mena/tunisia031703.htm> (retrieved June 9, 2004).



elections. The LTDH's leadership rejected the ruling as political in nature and has continued its activism despite the court order limiting its scope of operations.<sup>23</sup>

That court order hangs over the League as it defiantly pursues its work. The order was also invoked by Minister Tekkari at his April 20 press conference to justify excluding the LTDH from possible prison visits. An organization must first of all be functioning legally before applying for access, he said.<sup>24</sup>

An earlier attempt at forming an independent organization focused on political prisoners, the National Committee for the Defense of Prisoners of Conscience, resulted in the arrest of co-founder Salah Hamzaoui on charges of defamation, disseminating false information liable to disturb the public order, and forming an organization without following the procedures laid out by the Law on Associations. Hamzaoui spent ten days in detention in February 1993 for his role in forming the committee.

In another clampdown on efforts to expose prison conditions, Hédi Yahmed, the author of a 2002 investigative article, was summoned for questioning by state prosecutors and pressured to quit the journal he worked for. The exposé of conditions in the 9<sup>th</sup> of April Prison in Tunis, published in *Haqa'iq/Réalités* weekly, was uncharacteristically critical for a Tunisian publication.<sup>25</sup> For example, it pointed out that while the 2001 prison law guaranteed each inmate an individual bed (Article 15), a hierarchy prevailed among prisoners in group cells by which the new arrivals first slept on the floor, then under a bed where they were jostled less, then in a shared bed, before eventually getting a bed of their own.

Yahmed's article appeared in the issue dated December 12, 2002. On December 14, the prosecutor's office summoned Yahmed and *Haqa'iq/Réalités*'s general manager for questioning on the article. According to Yahmed, the editors then informed him that he could no longer work for the magazine.<sup>26</sup> *Haqa'iq/Réalités* disputed Yahmed's version,

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<sup>23</sup> See Human Rights Watch, "A Lawsuit against the League : An Assault on All Human Rights Activists," A *Human Rights Watch Short Report*, vol. 13, no. 3, April 2001 [online], [www.hrw.org/reports/2001/tunisia/index.htm](http://www.hrw.org/reports/2001/tunisia/index.htm) (retrieved June 9, 2004).

<sup>24</sup> « Pomme de discorde entre le ministère et le Bâtonnat, » *Le Temps*, April 21, 2004.

<sup>25</sup> Hedi Yahmed "Hal yejib islah es-sujoun fi Tunis?" ["Do Tunisia's Prisons Need to Be Reformed?"] *Haqa'iq/Réalités*, December 12, 2002, No. 885, pp. 10-13.

<sup>26</sup> "The Article That Forced Hedi Yahmed To Flee His Country," *RAP21 Newsletter*, no. 16, January 5, 2003 [online], [http://www.rap21.org/article1153.html?var\\_recherche=Hedi+Yahmed](http://www.rap21.org/article1153.html?var_recherche=Hedi+Yahmed) (retrieved June 9, 2004).

claiming he quit voluntarily, ignoring pleas from his colleagues to remain.<sup>27</sup> Curiously, the editor's note providing the magazine's version of the affair is on its website but Yahmed's investigative article, which triggered the controversy, is not.

## Prisoners in Isolation: Ten Cases

The following section describes the plight of ten inmates in four prisons, nine of whom are in solitary confinement and one in small-group isolation. Their treatment is sufficiently standardized to suggest that overall policy on prolonged isolation is set at a level higher than that of individual prison directors.

Among those facing the strictest and most relentless isolation regimes are leaders of the Nahdha movement. Some of them have known at best only brief respites from solitary confinement since their arrests in 1990 and 1991.

**Ali Laaridh** is a former Nahdha spokesperson and a father of three. He has been in solitary confinement for fourteen years, except for two brief respites, according to his brother, Amer, who lives in Paris and is in regular communication with Ali's family in Tunisia.<sup>28</sup> These respites occurred when he spent about ten days in a group cell in 1992, around the time of his trial, and once again for a little over two months in the summer of 2002.

Now in the 9<sup>th</sup> of April Prison in Tunis, Ali lives in a small cell that has no window, only an opening in the door. According to his brother, Ali has no human contact except for his weekly family visit on Fridays. He eats in his cell and has no access to the prison library or gymnasium. The guards do not speak with him. When he is taken for a shower or for his daily exercise, the prison staff empties these areas so that Ali encounters no other prisoners. The same is true for his weekly walk to the hall where family visits take place.

At the family visit, two grills, about one meter apart, separate Ali from his relatives. There are always at least four guards present, two on the family side and two on the prison side, or in the space between the two sides. The visits never last more than ten or

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<sup>27</sup> "L'affaire Hédi Yahmed' Les points sur les 'i',» *Haqa'iq/Réalités* January 9, 2003, No. 888 [online], <http://www.realites.com.tn> (retrieved June 9, 2004).

<sup>28</sup> Human Rights Watch telephone interview, France, March 31, 2004.

fifteen minutes, Amer said. Ali is generally permitted to receive food from his relatives during these visits, with certain restrictions.

According to his brother, Ali has no access to television or newspapers. His family informed him of the U.S.-led war on Iraq two weeks after it had begun, Amer said. Two or three times a year he is permitted to borrow a book from the prison library, but the volumes are old and the choices limited. Even his access to pens, paper, and notebooks is restricted. The administration gives him a single sheet of paper each week. Ali can receive mail, but not consistently. When Amer tried to mail him money orders, he said, they were returned to him, as if his brother did not exist. Amer kept the postal receipts as documentation.

**Hamadi Jebali** edited the Nahdha newspaper *al-Fajr* at the time of his arrest in 1990. He initially was given a one-year sentence for “defaming a judicial institution” by publishing an article by lawyer Mohamed Nouri entitled, “When Will Military Courts, Serving as Special Courts, Be Abolished?” While behind bars for this “offense,” Hamadi was charged in the mass trial of Nahdha leaders accused of plotting to overthrow the state. He was given a fifteen-year sentence in that case.<sup>29</sup>

Jebali’s wife Wahida Trabelsi cannot visit him weekly because of the 120-kilometer distance between her home in the city of Sousse and Sfax prison, where he is currently held. Wahida told Human Rights Watch that Hamadi shared a cell with other prisoners for the first three years of his sentence but has been in isolation for ten years since then.<sup>30</sup> His cell has a sink and a toilet; she is not sure if there is a window. Hamadi has a television that receives the official Canal Tunis, but not the other channels widely available in Tunisia. He can receive newspapers, but only those that are pro-government. He is allowed to have a copy of the Quran but cannot visit the library.

Hamadi could send and receive mail regularly before he went on a hunger strike in early 2003. Since then, correspondence takes two to three months to arrive, Wahida said. The prison administration opens and reads correspondence to and from Hamadi, she added.

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<sup>29</sup> Nouri, who also served six months in prison as the author of the “defamatory” article, and an additional seven months while under investigation on other charges, now heads the AISPP and continues to face legal harassment from authorities. See above.

<sup>30</sup> Human Rights Watch telephone interview, Tunisia, April 1, 2004.

Like Ali Laaridh and the other prisoners in isolation, Hamadi eats all meals in his cell. Whereas showers are a communal affair for ordinary prisoners, Hamadi and the other prisoners in solitary confinement use the shower facilities alone. His daily walk “doesn’t last longer than fifteen minutes and takes place in a tiny courtyard open to the sky, with no other prisoners present,” said Wahida. When Wahida visits her husband,

Everything stops. All the doors are closed and neither my husband nor I see any other prisoners. There are always at least four guards present, one at least behind me and three behind Hamadi. There is a grill between us and we are more than one meter apart. In principle, the visit is supposed to last fifteen minutes but the guards can cut it short if they do not approve of our conversation. So what we talk about is limited to “I’m fine,” “Everything’s OK,” that sort of thing.

**Karim Harouni** was, like Hamadi Jebali and Ali Laaridh, convicted in the mass trials of Islamists in 1992 and has spent the last thirteen years being moved from prison to prison. He has served time at the prisons of Bizerte, Mehdiya, Messadine, Sidi Bouzid, Monastir, Houareb, and is now at the prison of Sfax, located some 270 kilometers from his family’s home near Tunis.

Former secretary general of the Islamist-leaning General Union of Tunisian Students (*l’Union Générale Tunisienne des Etudiants*, U.G.T.E.), Harouni received a life sentence from the military court. In 2002 this was reduced to a thirty-year sentence.

Since arriving at Sfax prison on April 18, 2003, Harouni has been kept in strict solitary confinement, his sister, Hend Harouni, told Human Rights Watch.<sup>31</sup> He is locked in his room more than twenty-three hours a day and is kept from seeing his fellow inmates on his daily walk and during his family visits. His room has a small window that does not open.

Harouni’s family now comes only once a month, owing to the time and expense of the journey. Visitors to Sfax prison are separated from their relatives by a plate of glass and must speak through telephones. Letters, says Karim’s father Amor Harouni, take an average of two weeks en route – when they arrive at all.<sup>32</sup>

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<sup>31</sup> Human Rights Watch telephone interview, Tunisia, March 26, 2004.

<sup>32</sup> Written account of Karim’s prison conditions, prepared and provided by his family to Human Rights Watch.

Hend estimates that her brother has spent four-fifths of the last thirteen years in isolation, including five years in “small-group isolation” at Houareb Prison, in the city of Kairouan, where he shared a cell with two other inmates but was not allowed to mix with the rest of the prison population.

When he was transferred from Houareb to Sfax prison in April 2003, his family was not informed and traveled to Houareb for their regular visit only to learn he had been moved. Then, when his family learned that Karim’s belongings had been left behind at Houareb, they had to make follow-up calls to the prison administration of Houareb to get them forwarded. At one point they were advised to pick up his belongings themselves at Houareb and deliver them to Sfax. (Kairouan and Sfax are more than 100 kilometers apart.) Eventually the prison authority forwarded his belongings.

According to Hend, Karim’s simple requests to the prison authorities are either refused or require protracted follow-ups before they are granted. Karim had lobbied for years to obtain a copy of *Liberation and Enlightenment: Interpretations of the Quran (Tafsir at-Tabrir wa-t-Tanwir)*, by the renowned theologian Tahar Ben Achour (1879-1973), which is widely available at bookstores in Tunisia. His father sent numerous registered letters to officials to relay his son’s request for the book. Finally, according to his father, the director of Houareb prison authorized entry of the book, which his family had purchased for him, but only one section of it at a time, subject to Karim returning the earlier part. But before he could finish reading the first part of the book, the administration took it back. Karim was then transferred to Sfax prison, where the volume sat with the administration until, after more lobbying by him and his family, Karim was once again allowed to have it. He is allowed also to have the Quran, which is not the case for some of the other prisoners in isolation, Hend said.

Karim went on hunger strike on November 18, 2003, to demand an end to solitary confinement and to demand other improvements. His demands went largely unmet before he halted his strike on January 8, 2004. However, Harouni and some other co-strikers got televisions put into their cells. According to Hend, it receives only one channel, state television’s Canal 7, but not the widely available Canal 21 or the Italian Rai Uno. Harouni is also allowed to receive the daily pro-government newspaper, *Le Temps*.

Harouni and other Nahdha leaders at Sfax prison asked to be allowed to pray together during the Muslim holidays. This request was refused.

Hend said it was hard for Karim to tell the family in detail about the conditions in his cell or his day-to-day life because guards listen in on their brief visits with him. She said

that to the best of her knowledge, her brother was never told why he must remain in solitary confinement or why he has been transferred from prison to prison.

Bourouai Makhoul joined the hunger strike at Borj al-'Amri prison on December 15, 2003. He had arrived in that prison, located about 30 kilometers west of Tunis, only one month before. Prior to that, Bourouai had served time in Houareb, Monastir, Mehdiya, Tunis, Bizerte, and Grombalia prisons. He was sentenced in the mass trials of 1992 to a life term, later reduced to thirty years.

Bourouai's wife, Souheila Ben Moustapha, says that since his transfer she can visit him only every other week because the journey from her home in Sousse is too long and expensive to make weekly.<sup>33</sup>

According to Souheila, her husband's solitary cell in Borj al-'Amri has no window. The only opening is in the door and is covered by iron bars. The cell has a bed, table, and toilet. Bourouai spent forty-seven days on hunger strike to demand an end to solitary confinement, more time outside the cell, and a television set. Authorities agreed to install a television in his cell.

Souheila said that her husband's daily walk outside his cell lasts only fifteen minutes, during which he sees and talks to no one. He told her that the longest walk he gets occurs when he is escorted to the room where he receives his visitors – again, with guards listening in but no other prisoners or their families in sight.

Prior to arriving at Borj al-'Amri and being placed in solitary confinement, Bourouai spent several years in small-group isolation, in a small cell with two or three other prisoners but cut off from the rest of the prison population. Before that, said his wife, he was in a larger cell with other prisoners.

**Sahbi Attig**, another Nahdha leader incarcerated in Borj al-'Amri, lives in conditions similar to those of Bourouai Makhoul. His wife, Zeinab Mraih, said his solitary cell is two meters by two and-a-half meters in size.<sup>34</sup> There is no window but the door has a grill-covered opening 30 centimeters by 30 centimeters. Sahbi gets forty-five minutes daily outside his cell, in a corridor that Zeinab described as two meters wide by ten meters long. She said he tries during that time to exercise since his cell is not large

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<sup>33</sup> Human Rights Watch telephone interview, Tunisia, March 26, 2004.

<sup>34</sup> Human Rights Watch telephone interview, Tunisia, March 26, 2004.

enough for vigorous activity. Sahbi participated in the hunger strike launched on December 15. At its conclusion, a television set was installed in his cell.

Zeinab said her husband was in isolation in Bizerte prison for a period before his transfer to Borj al-‘Amri. She said he lived in group cells prior to the transfer. Because the smoking of other prisoners bothered him he asked to be transferred to a cell housing political prisoners. The administration placed him in solitary confinement instead.

Zeinab, who lives in Tunis forty kilometers from the prison, said the family visits occur “correctly,” except that two grills separate her from her husband, and guards are always present to listen in. The packages of food she brings for her husband every other week are delivered to him.

Sahbi is a college instructor. He had written the thesis for his doctorate when his studies were interrupted by his arrest. The life sentence he received in 1992 was later reduced to thirty years.

**Abdelhamid Jelassi**, an engineer and Nahdha leader, is currently in solitary confinement in Borj al-‘Amri, kept in conditions similar to those of Sahbi Atig and Bouraoui Makhoulouf. His cell has a bed, chair, table, toilet, and – since the recent hunger strike – a television. Abdelhamid sees no other prisoners during his daily promenade or on his trips to the shower or to the room for family visits.

Since Abdelhamid’s arrest in April 1991 he has spent a number of periods in solitary confinement – in the 9<sup>th</sup> of April Prison in Tunis and Gafsa Prison – as well as periods in group cells. His wife, Mounia Brahim, said that mail delivery stopped during the hunger strike; when the inmates ended their strike, the accumulated letters were delivered.<sup>35</sup>

Abdelhamid is serving a thirty-year sentence, reduced from a life term. His wife said he is permitted to receive reading materials and the food she brings him.

**Lotfi Snoussi** is also a Nahdha leader serving a thirty-year sentence, reduced from a life term. Currently in Borj al-‘Amri prison, he was placed in solitary confinement on October 25, 2003. He joined the hunger strike soon after his arrival to protest the conditions of his detention. On May 1, 2004, he went on hunger strike again, along with

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<sup>35</sup> Human Rights Watch telephone interview, Tunisia, March 26, 2004.

Ridha Saïdi (see below) and three other prisoners at Borj el-‘Amri, to demand an end to their isolation.

Faouzia, his sister, says Lotfi was never given any justification for being put in isolation. She said the family submitted written complaints about it, via registered mail, to Director of Prisons Ridha Boubaker, but got no response.

Lotfi served time since 1991 in the 9<sup>th</sup> of April Prison in Tunis, Mehdiya Prison and Borj er-Roumi. He was not held in isolation most of the time. But in the earlier years, Snoussi was among the political prisoners who spent periods with their feet shackled during the day, except when being taken out for exercise or to shower. Faouzia said the physical mistreatment of Lotfi has ceased, and family visits take place correctly – although guards told Lotfi not to dwell on prison conditions when he talks to his visiting relatives.<sup>36</sup> Mail is delivered now, although it was interrupted for long periods in the past. At one point, Faouzia said, it was halted because one of Lotfi’s daughters had written to him in English.

Today, Lotfi’s isolation seems slightly less severe than most. According to Faouzia, he is able to converse with a friend in a neighboring cell, and during his forty-five minute daily period outside the cell he sees other inmates and can hold brief conversations with them.

Lotfi is able to buy pro-government newspapers regularly. But, says Faouzia, because his room is poorly lit, he must stand next to the opening in the door in order to get light that is sufficient to read them.

**Ziad Douletli** has been in isolation in the 9<sup>th</sup> of April Prison in Tunis for three or four months, according to his daughter, Asma Douletli.<sup>37</sup> Arrested in 1990, Ziad is nearing the end of the fifteen-year sentence he received in the mass trial of Nahdha members convicted of trying to overthrow the state. He has served time in Sfax, Sousse, Monastir, and El-Kasserine prisons and has not always been in isolation.

Ziad sees no one when he goes out on his daily walk or to have his family visit. He has no access to television or newspapers, says Asma. He is allowed books, but not the ones that interest him, she said.

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<sup>36</sup> Human Rights Watch telephone interview, Tunisia, April 16, 2004.

<sup>37</sup> Human Rights Watch telephone interview, Tunisia, April 14, 2004.



When he receives his relatives, they are separated by two metal grills, with three or four guards always present. One is stationed in the space between the two grills, one on the side of the family and one or two next to Ziad. The visit lasts about fifteen minutes. Letters between Ziad and his family pass normally, Asma said.

**Mounir Ghaïth** is in solitary confinement in Borj er-Roumi prison, near Bizerte. He arrived there in 2003 after spending two years in other prisons.

Mounir, a father of three, was arrested in 2001 while on a visit home from Italy, where he had been living for a decade. He is one of the few prisoners in isolation who is not affiliated with the Nahdha party. A military court sentenced Mounir to eight years in prison in January 2002 on charges of co-founding an al-Qaida-linked terrorist group operating abroad, Adherents of the Islamic Community and the Traditions of the Prophet (*Ahl al-Jama'a w'as-Sunnah*).

The lawyers representing Mounir and his co-defendants at trial claimed that the military court ignored allegations that testimonies had been obtained under duress, that his arrest date had been falsified in the records, and that the prosecution had produced no convincing evidence. The Court of Cassation nevertheless confirmed the sentences against Mounir and his co-defendants in April 2002. At least one of the co-defendants, Jaber Trabelsi, is also reportedly in solitary confinement, serving an eight-year sentence.

Mounir's wife, Essia Mejidiri, lives in Kairouan, 225 kilometers from the prison. She said Mounir told her that prison staff explained he was isolated to keep him from influencing other prisoners. She added that he does not talk much about conditions during the family visits because they last only "five minutes, ten minutes maximum," and are monitored by guards.<sup>38</sup> Letters do not arrive reliably, she said. Mounir has no television in his cell, she added.

**Ridha Saïdi** is in small-group isolation in Borj al-'Amri prison. He shares a cell with two other political prisoners that is 3.5 by 2.5 meters in size, with 4 square meters of unencumbered space in which to move about, his mother, Aziza Melki, said.<sup>39</sup>

Ridha, a Nahdha leader, received a life term in the 1992 military court mass trial, later reduced to thirty years. Prior to being transferred to Borj al-'Amri last year, he served

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<sup>38</sup> Human Rights Watch telephone interview, Tunisia, March 30, 2004.

<sup>39</sup> Human Rights Watch telephone interviews, Tunisia, April 15 and May 3, 2004.

time in Mehdiya Prison and the 9<sup>th</sup> of April Prison in Tunis, mostly either in solitary confinement or small-group isolation. Ridha was never given a formal explanation why he was kept in isolation, Aziza said.

According to Aziza, Ridha's group cell contains two bunkbeds, a small window, a sink, toilet and a light that does not always work. He went on a hunger strike May 1, along with Lotfi Snoussi (see above) and three other prisoners at Borj el-'Amri, to demand improved conditions. Ridha received a television set in his room—one of his demands—but the five continued their hunger strike to demand an end to their isolation.

Ridha and his two cellmates have longer periods outside than do inmates in solitary confinement, although they too are prevented from mixing with other prisoners. According to his mother, they get outdoor time daily from 10 a.m. to noon and again from 4 to 5 p.m. About once every two outdoor periods, they are able to engage in sports. The courtyard where they exercise is 5 meters by 10 meters, Aziza said. Ridha also has access to the prison library, but complains it has few books, and fewer still that are topical.

Ridha's family visits only once a month, owing to the distance from their home in Tinja, near Bizerte, to the prison. The visits at Borj al-'Amri are limited to twenty minutes. Except for the three or four guards who are always present, Ridha and his relatives see no one during the visit. At the 9<sup>th</sup> of April Prison, says Ridha's sister, the visits lasted only ten to fifteen minutes.

## **Solitary Confinement: International Norms and Health Consequences**

This section examines Tunisia's record in light of international human rights treaties and norms applicable to the placement of prisoners in isolation regimes.

By invoking these standards Human Rights Watch is not accepting that the political prisoners whom Tunisia has placed in isolation belong there – or even for that matter, that they belong in prison in the first place. As noted above, Human Rights Watch calls first and foremost for their release from prison and, pending that, for their release from isolation except where it can be shown that a particular individual poses a serious danger to the orderly functioning of the prison, and that less drastic means are unavailable to mitigate that danger.

Tunisian authorities claim that prisoners are well-treated in their country. For example, in response to a complaint filed by an ex-prisoner before the U.N. Committee on Torture, the government responded (according to the U.N.'s official summary of the arguments) that "prisoners' rights are scrupulously protected in Tunisia, without any discrimination, whatever the status of the prisoner, in a context of respect for human dignity, in accordance with international standards and Tunisian legislation." Authorities maintained that Tunisian regulations governing prison establishments "conform to relevant international standards."<sup>40</sup>

In a directive dated December 24, 1991, then-Minister of Interior Abdallah al-Kallel instructed security force members to comply wholly with all of the U.N. Standard Minimum Rules for the Treatment of Prisoners, "within the framework of Tunisia's New Era in the realm of democracy and human rights protection."<sup>41</sup> Though not a treaty itself, the Standard Minimum Rules are the most widely accepted set of standards governing the treatment of prisoners consistent with human rights principles.<sup>42</sup>

The placement of political prisoners in long-term solitary confinement, and the inhuman conditions of their confinement, violate Tunisia's obligations under the International Covenant on Civil and Political Rights (ICCPR). They also fall well short of international norms on the treatment of prisoners.

Article 10 of the ICCPR states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The conditions of solitary confinement in Tunisia, with its enforced, round-the-clock solitude, deprivation of vocational, educational, and meaningful activities that are often available to other prisoners, the arbitrary restrictions on reading and writing materials, the lockdown in small cells that often lack a window to the outside, and the failure to provide inmates at least one hour daily outside their cramped cells, all deny the inmate the ability to carry out a minimum range of social, intellectual, manual, and physical activities that are fundamental parts of human life.

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<sup>40</sup> Bouabdallah Ltaief v. Tunisia, 189/2001, U.N. Committee against Torture, decision of 14 November 2003 [online], [www1.umn.edu/humanrts/cat/decisions/tunisia189-2001.html](http://www1.umn.edu/humanrts/cat/decisions/tunisia189-2001.html) (retrieved June 9, 2004).

<sup>41</sup> Directive (*circulaire*) of the Minister of Interior No. 904, December 24, 1991.

<sup>42</sup> 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 31 July 1957 and 2076 (LXII) of 13 May 1977.

In the more extreme cases, where inmates have been in isolation almost without interruption for thirteen years and face such restrictions as a near-total ban on paper to write on, the treatment amounts to “cruel, inhuman or degrading treatment or punishment” as proscribed by Article 7 of the ICCPR. The Committee on Human Rights states in its General Comment 20 on that article (dated March 10, 1992), “prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7.”

The ICCPR was incorporated into Tunisian law by law no. 68-30 of December 29, 1968. According to Article 32 of the Tunisian Constitution, all duly ratified treaties “shall have authority over and above [domestic] laws.” Tunisia has also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture).

International norms governing the treatment of prisoners underscore that solitary confinement, whether imposed for punitive or preventive reasons, is by nature an extreme measure that requires close monitoring to minimize the risks of abuse and of harm to the physical and mental health of the prisoner.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) — the expert body associated with the Council of Europe — has noted, “It is generally acknowledged that all forms of solitary confinement without appropriate mental and physical stimulation are likely, in the long-term, to have damaging effects resulting in deterioration of mental faculties and social abilities.”<sup>43</sup> It has reminded European governments:

The principle of proportionality calls for a balance to be struck between the requirement of the case and the application of a solitary confinement-type regime, which is a step that can have very harmful consequences for the person concerned. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should last for as short a time as possible.<sup>44</sup>

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<sup>43</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Finnish Government on the Visit to Finland, conducted between 10 and 20 May 1992, Strasbourg, France, 1 April 1993, CPT/Inf (93) 8.

<sup>44</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2<sup>nd</sup> General Report, CPT/Inf(92)3, p.20.

The U.N. Basic Principles for the Treatment of Prisoners<sup>45</sup> states that “Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.”

Tunisian officials have not provided a justification for confining selected political prisoners in isolation for months and sometimes years. If it is being imposed as a form of punishment, it violates Tunisian law, which forbids solitary confinement as a punishment for more than ten-day periods. If it is justified as “preventive” rather than punitive in nature, it violates basic norms surrounding solitary confinement. Those norms require that decisions to impose solitary confinement be subject to regular and transparent reviews, and that prisoners confined preventively rather than punitively should actually be accorded conditions or privileges designed to compensate for the hardship of isolation.

The case for measures to mitigate the effects of segregation derives from the Standard Minimum Rules, which state, as a guiding principle:

Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. *Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.* [Article 57, italics added.]

Thus, according to the Standard Minimum Rules, disciplinary rules inside the prison are legitimate when they assist in the proper functioning of the prison, but not as an extrajudicial form of punishment. Article 27 states, “Discipline shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.”

The U.N. Basic Principles for the Treatment of Prisoners<sup>46</sup> reiterates this basic point in another way:

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<sup>45</sup> Adopted by the U.N. General Assembly, G.A. res. 45/111, annex, 45 U.N. GAOR Supp. (No. 49A) at 200, U.N. Doc. A/45/49 (1990).

<sup>46</sup> Adopted by the U.N. General Assembly, G.A. res. 45/111, annex, 45 U.N. GAOR Supp. (No. 49A) at 200, U.N. Doc. A/45/49 (1990).

Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.

Applying these principles to prisoners in isolation regimes, the CPT concludes that the hardship of isolation entitles them to compensatory amenities or opportunities:

Prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners....

The existence of a satisfactory programme of activities is just as important – if not more so – in a high security unit than on [sic] a normal location. It can do much to counter the deleterious effects upon a prisoner’s personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.).<sup>47</sup>

In Tunisia, prisoners placed in isolation benefit from no special conditions intended to alleviate the hardship of being isolated; on the contrary, the restrictions they confront while segregated seem often to be both arbitrary and designed to heighten their isolation from people and information.

The Standard Minimum Rules state, in Article 66, that to prepare the prisoner for his release, “all appropriate means shall be used, including ... education, vocational guidance and training... in accordance with the individual needs of each prisoner...” In this spirit, Tunisia’s 2001 Prison Law states, in Article 19, that the inmate is entitled to “access to

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<sup>47</sup> [www.cpt.coe.int/en/hudoc-cpt.htm](http://www.cpt.coe.int/en/hudoc-cpt.htm), section 10/66.

written documents that enable him to pursue, from within the prison, programs of study at educational institutions; instructional, cultural and awareness training provided by the prison administration...cultural and athletic activities supervised by a qualified trained civil servant,...according to the means that are available; leisure activities consistent with prison regulations; work that is remunerated, according to the means available.”

While Tunisia touts its programs to rehabilitate inmates and prepare them for their return to life outside, prisoners in isolation are unable to leave their cells to participate in programs such as these. (As political prisoners, they would of course reject the notion that they are in need of any rehabilitation.)

The Standard Minimum Rules state, in Article 40. “Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.” For prisoners in solitary confinement, access to the prison library is severely limited, and requests to obtain books and periodicals from outside are subject to arbitrary censorship.

The cells where they spend twenty-three or more hours daily do not comport with the Standard Minimum Rules. For example, Article 11 states, “In all places where prisoners are required to live or work, the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation.”

Nor do most prisoners in isolation enjoy the minimum outdoor time stipulated by the Standard Minimum Rules. Article 21(1) states, “Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.” This one-hour minimum is found also in Tunisia’s 2001 prison law, in article 19(4).

The CPT observed about outdoor exercise:

The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard (preferably it should form part of a broader programme of activities.) The CPT wishes to emphasize that **all prisoners without exception** (including those undergoing cellular confinement as a punishment) should be offered the possibility to take outdoor exercise daily. It is also axiomatic that outdoor exercise facilities should be reasonably spacious

and whenever possible offer shelter from inclement weather.<sup>48</sup> [boldface in the original]

Our interviews suggest that while prison administrations give each prisoner in isolation a daily period out of his cell, most consistently get less than sixty minutes.

The Standard Minimum Rules state, in Article 37, that inmates are to be permitted, “under necessary supervision” to correspond with their family at “regular” intervals. Yet in practice, mail delivery is often delayed for weeks or months, or does not arrive at all.

Decisions to place an inmate in solitary confinement should, in light of the gravity of such a decision, be transparent and subject to review and to appeals by the inmate in question. The CPT states:

It is axiomatic that prisoners should not be subject to a special security regime any longer than the risk they present makes necessary. This calls for regular reviews of placement decisions. Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment. Moreover, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will inter alia enable them to make effective use of avenues for challenging that measure.<sup>49</sup>

In Tunisia, none of the prisoners’ relatives we interviewed knew of any formal procedure for reviewing decisions on solitary confinement.

Many penal experts believe that a regime of extreme social isolation, idleness, and reduced mental stimulation endangers mental and physical health. According to these experts, all prisoners need stimulation to the brain and senses provided by a range of human contact and some variety of activity and environment. The potential risk to mental health depends on each prisoner’s prior psychological strengths and weaknesses, the extent of the social isolation imposed, the absence of activities and stimulation, and the duration of confinement.

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<sup>48</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2<sup>nd</sup> General Report, CPT/Inf(92)3, p.18.

<sup>49</sup> CPT/Inf/C (2002)1 [Rev.2003] at p. 28 [www.cpt.coe.int/en/hudoc-cpt.htm](http://www.cpt.coe.int/en/hudoc-cpt.htm).



The European Commission for Human Rights, an organ of the Council of Europe later absorbed into the European Court of Human Rights, stated that "the international literature on criminology and psychology indicate that isolation can be sufficient in itself gravely to impair physical and mental health. The following conditions may be diagnosed: chronic apathy, fatigue, emotional instability, difficulties of concentration, and diminution of mental faculties."<sup>50</sup>

Criminologist Hans Toch observes, "unmitigated isolation is indisputably stressful, and it reliably overtaxes the resilience of many incarcerated offenders."<sup>51</sup> Psychologist Craig Haney notes:

Empirical research on solitary...confinement has consistently and unequivocally documented the harmful consequences of living in these kinds of environments .... Evidence of these negative psychological effects comes from personal accounts, descriptive studies, and systematic research...conducted over a period of four decades, by researchers from several different continents....<sup>52</sup>

An American federal judge has ruled that prolonged solitary confinement "may press the outer bounds of what most humans can psychologically tolerate."<sup>53</sup> Even if they have no prior history of mental illness, prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and/or an impaired ability to think, concentrate, or remember.<sup>54</sup>

A statement by Dr. Stuart Grassian submitted to the court in a 1995 case brought by prisoners against officials at Pelican Bay Prison in California, the United States, asserted, "Solitary and small group confinement can cause severe psychiatric harm in the form of a specific syndrome that has been reported by many clinicians in a variety of settings."<sup>55</sup>

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<sup>50</sup> Commission ruling on Applications 7572/76, 7586/76 and 7587/76 by Gudrun Ensslin, Andreas Baader, and Jan Raspe.

<sup>51</sup> Hans Toch, "Future of Supermax Confinement," *The Prison Journal*, vol. 81, no. 3 (September 2001), p. 378.

<sup>52</sup> Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement," *Crime & Delinquency*, vol. 49, no. 1 (January 2003), p. 130.

<sup>53</sup> *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. California, 1995).

<sup>54</sup> Stuart Grassian and N. Friedman, "Effects of Sensory Deprivation in Psychiatric Seclusion and Solitary Confinement," *International Journal of Law and Psychiatry*, vol. 8 (1986), pp. 49-65; Grassian, "Psychopathological Effects of Solitary Confinement," *American Journal of Psychiatry*, vol. 140 (1983), pp. 1450-1454.

<sup>55</sup> *Madrid v Gomez* 889 F. Supp. 1146, N.D.Cal.1995.

Recognizing the health risks, the Standard Minimum Rules state, in Article 32:

Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it....The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Tunisia's prison law in Article 22 also requires that the prison physician pre-approve decisions to place inmates in solitary confinement as punishment, and to oversee their implementation. However, the political prisoners in prolonged solitary confinement are not placed there as an Article 22 punishment and are not, to our knowledge, visited regularly by prison physicians.

Both solitary confinement and small-group isolation are practiced in Tunisia. The latter involves confining prisoners to a cell with a small number of cell-mates, all of whom are prevented from seeing other inmates or accessing prison facilities. (See, e.g., the case of Ridha Saïdi, above.) Small-group isolation is, generally speaking, a regime less severe than solitary confinement. But it too can amount to ill-treatment that is potentially harmful to an inmate's mental health if, as in Tunisia, it allows him little or no access to educational or recreational activities, or other sources of mental stimulation, and confines him to a monotonous, unvaried environment and interaction with a strictly limited group of cell-mates.<sup>56</sup>

Prison expert Andrew Coyle writes:

[Placing] violent and disruptive prisoners...in isolated conditions, either on their own or with one or two other prisoners...is not good practice.... A much more positive model is that of housing problem prisoners in small units of up to ten prisoners, based on the premise that it is possible to provide a positive regime for disruptive prisoners by confining them to "group isolation" rather than individual segregation.... The intention is that, within a secure perimeter, prisoners

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<sup>56</sup> See Human Rights Watch, "Small Group Isolation in Turkish Prisons: An Avoidable Disaster," *A Human Rights Watch Report*, vol., no. 8, May 2000.

should be able to move relatively freely within the units and to have a normal prison routine. In such an environment, prisoners will only be placed in isolation when all else fails and then only for a short period of time.<sup>57</sup>

Tunisia's policy of targeting specific prisoners for long-term segregation from the rest of the prison population, whether in solitary or in small-group confinement, stands in stark contrast to the claim that its prisons comply with international standards.

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<sup>57</sup> Andrew Coyle, *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, (London: International Centre for Prison Studies, 2002), p. 73 (online), [http://www.kcl.ac.uk/depsta/rel/icps/human\\_rights\\_prison\\_management.pdf](http://www.kcl.ac.uk/depsta/rel/icps/human_rights_prison_management.pdf) (retrieved June 9, 2004).