

Tunisia
Crushing the person, crushing a movement:
The solitary confinement of political prisoners

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I. Summary

Interviews with three recently released prisoners provide new details of the cruel and inhumane policy of isolation practiced by Tunisian authorities. These interviews, with men who had served up to eleven years in solitary confinement almost without interruption, confirm earlier findings¹ that the placement in prolonged isolation of some forty political prisoners, most of them leaders of Tunisia's banned Islamist party, an-Nahdha (Renaissance), is:

- a clear violation of both Tunisia's domestic laws and international standards governing the treatment of prisoners;
- practiced with a consistency across Tunisia's prison system that shows it to be a policy set and administered at the national level; and
- driven not by legitimate penological concerns but rather by a desire to punish and demoralize jailed Nahdha leaders, as part of the continuing repression of any manifestation of their movement, inside or outside the prison walls.

Despite some improvements in recent years in the treatment of prisoners in isolation, authorities continue to seal them off from any contact with the general prison population. Those in solitary confinement spend at least twenty-two hours daily locked in their cells. They eat all meals in their cells. Their daily outings to the courtyard and their weekly 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 families of other prisoners, but only the guards who are stationed nearby, often taking notes as they speak to their relatives.

While most of the affected prisoners live in solitary confinement, others are assigned to what can be called small-group isolation, sharing a cell or wing with up to three other inmates but otherwise cut off from the general prison population. In both situations, prisoners are denied vocational and cultural activities and face excessive restrictions on reading materials and correspondence. Their cells are often inadequately lit and ventilated.

Tunisian authorities continue to refuse even to acknowledge that they have confined inmates in prolonged and strict isolation from other inmates, or to specify what

¹ Human Rights Watch, "Tunisia: Long-Term Solitary Confinement of Political Prisoners," *A Human Rights Watch Report*, vol. 16, no. 3(e), July 2004, online at <http://hrw.org/reports/2004/tunisia0704/> (retrieved March 31, 2005).

domestic law would permit such a practice. The new interviews also contradict recent government claims that it placed some prisoners in isolation at their own request. Authorities placed these inmates in isolation against their will and without presenting them with an official explanation, or telling them how long the isolation is to last, or how they may appeal it. The arbitrariness and open-ended nature of the isolation compounds the suffering felt by the prisoners and their families. Many prisoners have actively protested and staged hunger strikes to demand that they be placed together with other prisoners.

Human Rights Watch's July 2004 report found "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." Our interviews with recently released prisoners reaffirm this conclusion.

Government officials reacted to the issuance of Human Rights Watch's report in July 2004 on prisoners in long-term isolation by saying it was full of "errors" and "inaccuracies." Since then, authorities have produced no information demonstrating the inaccuracy of any of the allegations made by the report, despite oral and written requests by Human Rights Watch.

In addition, the apparent rape of a male political prisoner in solitary confinement in July 2004 illustrates the extreme vulnerability experienced by prisoners who are placed in isolation. In this case, which is described below, prison staff facilitated the assault on Nabil Ouaer (pronounced "wa'ir") by taking the highly unusual step of introducing into his cell four common-law prisoners, one of whom raped Ouaer while the others assisted. Ouaer, at the time, was not one of the long-term isolation prisoners; rather, he had just been assigned to solitary confinement as a short-term disciplinary measure. The facilitation by authorities of the sexual violence by fellow prisoners was apparently a measure of retaliation: it followed a shouting match between Ouaer and prison authorities that turned into a physical struggle.

Ouaer's ordeal, notably the attempt to cover it up, illustrates the overall lack of accountability for abuse by prison staff, a problem for which prisoners in isolation are particularly at risk. This is true even if reports of rape are very uncommon in Tunisian prisons.

On April 20, 2004, as part of continuing efforts of Tunisian authorities to show their prison policies in a good light, Minister of Justice and Human Rights Béchir Tekkari declared in a press conference, “We have no objections to having organizations known for their independence and impartiality visit any prison in the country.”² Tekkari cited the International Committee of the Red Cross (ICRC) as an example. Nearly one year later, the ongoing negotiations between Tunisian authorities and the ICRC about a program of prison visits have yet to produce an agreement. Meanwhile, no independent organization has been allowed to visit Tunisian prisons since 1991. Following repeated requests by Human Rights Watch to visit prisons, authorities in February 2005 gave only the indirect response that a program of visits was under discussion with another organization, namely the ICRC.³

II. Recommendations

Human Rights Watch reaffirms its call for the release of all prisoners in Tunisia who were convicted for the nonviolent exercise of their freedom of expression, association, and assembly. All other prisoners who were convicted of politically motivated acts in proceedings that did not conform to international standards for a fair trial should either be freed or granted promptly new and fair trials.

Human Rights Watch urges Tunisian authorities to end immediately the prolonged isolation of selected political prisoners, as it is currently practiced. Until the policy is abolished, Tunisian authorities should publicly acknowledge the existence of the policy and make public the criteria governing when and to whom it is applied, and all regulations pertaining to its practice. Even short-term isolation should be considered an extreme measure, and its use should be kept to a minimum. Authorities should provide inmates placed in isolation, whether for punitive or preventive reasons, a detailed and individualized explanation in writing of the reasons and give them 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.

² 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 facettes,” *La Presse* (Tunis), April 21, 2004, and « Pomme de discorde entre le ministère et le Bâtonnat, » *Le Temps* (Tunis), April 21, 2004, online at www.letemps.com.tn (retrieved June 9, 2004).

³ Human Rights Watch telephone conversation with Tawfik Chebbi, counselor, Embassy of Tunisia, Washington, D.C., February 28, 2005.

In accordance with international norms, solitary confinement should be used only as a last resort and for relatively short periods of time. It should be imposed and, where necessary, renewed, on a case-by-case basis, 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 to be so chronically violent or dangerous as to pose a demonstrable and serious threat to prison safety and security. When it is deemed warranted to isolate a prisoner from the general prison population, there should be a presumption in favor of placing affected prisoners in cells or wings with one another, rather than in solitary confinement.

When confining prisoners in isolation for any reason, Tunisian authorities should ensure that their treatment and conditions comply with all relevant international norms, including those spelled out in the U.N. Standard Minimum Rules for the Treatment of Prisoners (hereafter the U.N. Standard Minimum Rules).⁴ Current practices should be reformed so that, among other things, all prisoners:

- reside in cells that have windows providing natural light and fresh air;
- have access to meaningful activities and a broad variety of reading materials; and
- may send and receive mail without arbitrary interference and delays.

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 that the added restrictions on movement and on human contacts inflict on him.

Human Rights Watch also recommends that Tunisian authorities open 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 Tekkari in April 2004, as noted above. Authorities should allow such visits to be unimpeded, unannounced, and repeated at reasonable intervals.

⁴ 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. 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.

Tunisia, a signatory to the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, should become a party to the Optional Protocol to that Convention. 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.

On the alleged rape of prisoner Nabil Ouaer, now released:

Tunisian authorities should allow a thorough, independent investigation of the alleged rape of Ouaer, and ensure that the investigators have access to prison staff and prisoners who allegedly participated in or who witnessed the incident. Ouaer himself should have the opportunity to testify fully, and, if he requests, in the company of a lawyer of his choosing. The investigation should seek to determine the facts of the case and whether, in the weeks following the incident, Ouaer's complaint was properly handled by the various authorities who were in a position to address it. Anyone suspected of participation or complicity in a criminal assault on Ouaer should be brought to justice. If it is found that officials failed to respond appropriately to his complaints of rape, or actively sought to cover up what happened, they should be disciplined or brought to justice.

III. Background on Political Prisoners in Tunisia

Government officials have stated repeatedly over the years, and in response to the release of Human Rights Watch's report, *Tunisia: Long-Term Solitary Confinement of Political Prisoners*, 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 basic grounds: first, that very few of the individuals in

question were convicted of involvement in acts of violence; and, second, that they were convicted in trials where their rights to a fair hearing were violated massively.

The vast majority of inmates who are commonly labeled as political prisoners were convicted for alleged connections to the opposition Nahdha party. An-Nahdha was established in 1988 as the successor to Tunisia's Islamic Tendency Movement (*Mouvement de la Tendence Islamique*), which was founded in 1981 but never obtained legal recognition. An-Nahdha also was denied legal recognition, although the government of President Ben Ali tolerated it until 1991, despite a law prohibiting political parties based on religion. In the 1989 legislative elections, an-Nahdha established itself as the leading opposition movement when its members, prevented by authorities from running on a party ticket, ran as independents and captured fourteen percent of the vote.

The years 1990 and 1991 were marked by scattered violence linked to Islamists, and the start of an arrest campaign against Nahdha members. Party supporters were involved in numerous demonstrations on university campuses that turned violent. In 1991, party supporters were implicated in a fatal arson attack on a branch office of the ruling party in Tunis, an incident that authorities presented as proof of the party's violent intentions. The Nahdha leadership denied authorizing the operation, although they termed it an understandable response to state repression.⁵ Three men were sentenced to death for their role in the attack and executed.

After more than a year of arrests among the Nahdha ranks, the government announced in September 1991 the discovery of a plot by the party to assassinate the president by firing a Stinger missile at his plane and overthrow the government. They charged 279 Nahdha leaders and backers, many of whom had already been in jail for months, of plotting the coup. At least 8,000 suspected members of an-Nahdha were arrested since the round-ups began in September 1990, Amnesty International reported in March 1992.⁶ Torture of these suspects during interrogation was pervasive, according to both Amnesty International and the Tunisian League for Human Rights.

⁵ On July 21, for example, during the trial at Bouchoucha military court, one party leader, Ajmi Lourimi, is quoted as having said, "We regretted the incident at Bab Souiqa. It was desperation that pushed young members of the Islamist movement to commit such acts of violence." *Le Temps*, July 22, 1992. Lourimi is currently serving in solitary confinement in Sfax prison.

⁶ Amnesty International, *Tunisia: Prolonged Incommunicado Detention and Torture* (London: Amnesty International, March 1992), p. 8.

In the summer of 1992, the 279 alleged coup-plotters were judged in mass trials before two military courts in Tunis. The defendants retracted their confessions, saying they had been tortured. Two hundred sixty-five were convicted and fourteen acquitted in proceedings that human rights monitors denounced as unfair.⁷ Forty-six of the defendants received life terms, although many of these were later commuted to thirty years in prison. The verdicts were not subject to appeal and were all confirmed by the Court of Cassation. These defendants comprise between sixty and seventy of the estimated 500 political prisoners being held today in Tunisia.

The government claimed then, and continues to claim, that an-Nahdha is an extremist group, willing to use violence to install a repressive theocracy. An-Nahdha's leadership-in-exile says it routinely condemns violence and is committed to using only democratic and nonviolent means to achieving a democratic and tolerant Islamic state. It categorically denies the existence of the coup plot for which its leaders were convicted in 1992.

Since 1991, Tunisia has been largely free of political violence. The only fatal attack attributed to Islamists was the April 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 Nahdha party, along with other Tunisian political parties, condemned it; and no evidence has been disclosed linking the attack to an-Nahdha.

Nahdha leaders say the absence of political violence in Tunisia reflects their movement's commitment to nonviolence despite the harsh repression it has suffered. Tunisian authorities credit their own vigilance for the years of quiet. In the years since they imprisoned or drove into exile nearly the entire Nahdha leadership, authorities have jailed hundreds of suspected members of the party and of other lesser-known Islamist groups. Their trials generally did not meet international norms for a fair trial. The charges often related not to specific acts of violence but rather to activities such as membership in an "illegal" organization, or collecting funds, attending meetings, or performing unspecified activities on behalf of an "illegal" organization. Others were convicted of graver charges, such as participation in a "criminal gang...established to

⁷ 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 at <http://hrw.org/reports/pdfs/t/tunisia/tunisia.920/tunisia920full.pdf>; 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.

prepare or carry out attacks on persons or property.”⁸ Still others, notably those who had returned after living abroad, were tried in military courts, even though they were civilians, as permitted by the code of military justice, for the offense of serving "a terrorist organization that operates abroad" (Article 123). Convictions by military courts are not subject to appeal.

IV. Prolonged Isolation of Prisoners

The men in long-term isolation are mostly political leaders of the Nahdha movement who were tried and convicted in the 1992 mass trial mentioned above, on a charge of plotting the overthrow of the government. While this 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 that, in the view of many observers, their trial was unfair and the charges against them were not proven, these individuals were never convicted of actually committing acts of violence. Even if they had been convicted in a fair trial of grave offenses, including violence, this would not be sufficient justification to place them in solitary confinement for preventive or punitive reasons.

Long-term solitary confinement of prisoners is not a lawful form of punishment in Tunisia, neither as a sentence imposed by a court nor as a disciplinary measure imposed by a prison administration. As a court-imposed punishment, isolation, as well as forced labor, was abolished by Law 23 of 1989. All of the prisoners held in long-term isolation during recent years were sentenced *after* 1989; thus, none is in isolation due to a court-imposed sentence of isolation. Nor is long-term solitary confinement legitimate under Law 2001-52 regulating prisons. That law specifies that solitary confinement as a form of punishment shall not exceed ten days' duration; it also forbids prison administrators from using any disciplinary measure not listed in the law.⁹ The prison law in effect prior to Law 2001-52, Decree 88-1876 of 1988, also imposed a ten-day limit on isolation as a form of punishment.

Prison practice worldwide recognizes legitimate preventive reasons for segregating inmates; for example, for the prisoners' own protection from imminent harm, or if they have a history of attempted escapes, or for violent or disruptive behavior directed toward other inmates or prison staff. To our knowledge, the Tunisian authorities have

⁸ Penal Code, Article 131. The texts in French of the penal code and many other Tunisian codes, laws, and decrees, are online at www.jurisetunisie.com (retrieved March 31, 2005).

⁹ Law 2001-52 of May 14, 2001 (published in the *Journal officiel de la République Tunisienne* of May 18, 2001), Article 22(7). The text of the law in French is posted on the site of *Tunezine*, an opposition web-magazine, at www.tunezine.com/article.php3?id_article=430 (retrieved March 29, 2004).

never presented these sorts of preventive arguments to justify their long-term isolation of political prisoners. Prison administrations may also place inmates in isolation to address a public health threat. Again, the Tunisian government has never invoked such a threat to justify the isolation of political prisoners.

Moreover, international norms require that stricter forms of isolation be imposed only after establishing that less drastic means are unavailable to meet the danger. Some prison experts suggest that one alternative is to place inmates in a small-group setting and for a limited period. But they have in mind inmates with a history of violence in the prison, not political prisoners with no such record.¹⁰

International norms require that isolation be subject to regular and transparent reviews, and that prisoners confined preventively rather than punitively should be accorded conditions or privileges designed to compensate for the hardship of isolation. 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 stated:

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.¹¹

¹⁰ For example, 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 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.

Andrew Coyle, *A Human Rights Approach to Prison Management: Handbook for Prison Staff* (London: International Centre for Prison Studies, 2002), p. 73, online at www.kcl.ac.uk/depsta/rel/icps/human_rights_prison_management.pdf (retrieved March 31, 2005).

¹¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *The CPT standards: "Substantive" sections of the CPT's General Reports*, CPT/Inf/E (2002) 1 – Rev. 2004, p. 28, online at www.cpt.coe.int/en/docsstandards.htm (retrieved March 31, 2005).

There is no evidence that Tunisian authorities have met the conditions just enumerated. Nor, according to the prisoners we interviewed, do they place long-term isolated prisoners under any special medical supervision. The U.N.'s Standard Minimum Rules for the Treatment of Prisoners 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 allows the placement of a prisoner in solitary confinement as punishment only "after consultation of the prison doctor and for a period not to exceed ten days, during which time the detainee shall remain under the supervision of the doctor, who can request revisions to this measure for health reasons."

The norms requiring medical oversight are well-founded, in light of the risks posed by prolonged isolation to the prisoner's mental and physical health. The European Commission for Human Rights, an organ of the Council of Europe later absorbed into the European Court of Human Rights, stated, "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."¹²

Criminologist Hans Toch observes, "unmitigated isolation is indisputably stressful, and it reliably overtaxes the resilience of many incarcerated offenders."¹³ 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

¹² Commission ruling on Applications 7572/76, 7586/76 and 7587/76 by Gudrun Ensslin, Andreas Baader, and Jan Raspe. For further information on the health effects of isolation, see Human Rights Watch, *Tunisia: Long-Term Confinement of Political Prisoners*.

¹³ Hans Toch, "Future of Supermax Confinement," *The Prison Journal*, vol. 81, no. 3 (September 2001), p. 378.

systematic research...conducted over a period of four decades, by researchers from several different continents...¹⁴

An American federal judge has ruled that prolonged solitary confinement “may press the outer bounds of what most humans can psychologically tolerate.”¹⁵ 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.¹⁶

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."¹⁷

V. New Information from Recently Released Prisoners

On October 24, 2004, President Ben Ali won re-election to a fourth five-year term with 94.5 percent of the vote, according to the official tally. One week later, the president granted the conditional release of between seventy and eighty political prisoners, most of whom were nearing the end of their terms. These included three high-ranking members of the banned Nahdha party who had spent most of their terms in isolation cells. Ali Laaridh had spent more than eleven of his fourteen years of prison in solitary confinement. Zied Douletli had been in solitary confinement or small-group isolation¹⁸ for eleven of his fourteen years. Moustapha Ben Hlima had been in isolation for the past six years. All three men had been convicted of plotting the violent overthrow of the state in the mass trials of 1992 (see above). Human Rights Watch traveled to Tunisia in

¹⁴ Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement," *Crime & Delinquency*, vol. 49, no. 1 (January 2003), p. 130.

¹⁵ *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. California, 1995).

¹⁶ 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.

¹⁷ *Madrid v. Gomez* 889 F. Supp. 1146.

¹⁸ Although less severe than solitary confinement, small-group isolation can also 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. On small group-isolation see also, Human Rights Watch, "Small Group Isolation in Turkish Prisons: An Avoidable Disaster," *A Human Rights Watch Report*, vol. 12., no. 8, May 2000.

December 2004 and interviewed Laaridh and Douletli. Ben Hlima responded to questions submitted to Human Rights Watch through an intermediary.

Prior to these releases, little first-hand testimony was available concerning the long-term isolation of Nahdha prisoners during the last five years. This was due to the fact that most were serving sentences of fifteen years or longer in prisons where no outsiders could visit them except family members. The information that Human Rights Watch collected came either from other prisoners who had been released, or from the relatives of the isolated prisoners, whose information was limited due to heavy censorship of their communication with prisoners and other reasons.

The direct testimony of the recently released prisoners who had served in isolation corroborates the information gathered earlier on key points.

First, the men we interviewed said that neither they nor any other isolated prisoners they knew had requested to be placed in isolation. They said they knew of no prisoner who had been presented with a formal explanation for being placed in prolonged isolation or told how long it would last.

Second, they said that they received no regular medical oversight related to their being in prolonged isolation. No doctor ever came to evaluate their mental and physical suitability for prolonged isolation, either before or during their placement in isolation, they said. Instead, they could, like any prisoner, request, via a guard, to be seen by a doctor if they had health concerns.

Third, the interviewees confirmed that the conditions for prisoners in isolation improved overall since 1998. The improvements include the physical state of the cells, the amenities and the available light, the duration of time outside the cell, and the conditions in which family visits take place.

Tunisian authorities have not even acknowledged the practice of long-term isolation of prisoners, let alone specified the laws that permit it. As practiced it corresponds neither to a form of punishment imposed by the courts – since that punishment was abolished in 1989 – nor to a punishment that prison administrations are empowered to impose, since that form of punishment is limited to ten-day periods and requires close medical supervision. Moreover, prison authorities have provided the individual inmates with no formal justification for their being placed in isolation, and have kept them in isolation for years at a time without periodically observing their behavior in a group setting. We

are left to conclude that the sole purpose of the isolation policy is not penological but rather to demoralize and impose an additional, extralegal punishment on an-Nahdha leaders as part of the continuing repression of their movement.

What follows are descriptions of life in isolation based on our interviews, conducted in December 2004, with three recently released prisoners. All three were senior members of the Nahdha party and were among the 265 party leaders and sympathizers convicted in the mass military court trials of 1992 for plotting to violently overthrow the government (on their trial, see above).

The prisoners we interviewed described various improvements in their treatment, some dating to the late 1990s, others more recent. These measures, however, do not alter the basic inhumane conditions of prolonged isolation. Tunisian authorities continue to bar the affected prisoners, whether in solitary confinement as in the April 9 prison of Tunis, or in small-group confinement in Borj ar-Roumi, from all contact with the general prison population. They have imposed this open-ended segregation without offering any explanation to the prisoners for their segregation, or any opportunity to appeal it. They continue to bar prisoners in isolation from prison programs such as vocational training or attending guest lectures that would involve their coming into contact with other prisoners. Other than allowing prisoners to request books from the library, they have made no accommodations to mitigate the deprivations caused by their segregation.

Ali Laaridh: Tunisia's Most Isolated Prisoner

Ali Laaridh was active in Tunisia's Islamist movement in the 1980s. He was sentenced to death in 1987 and spent several months on death row, in chains, before being pardoned and freed. At the time of his last arrest in December 1990, he was the spokesperson of an-Nahdha. He was released in early November 2004, about one year before the end of his fifteen-year sentence.

Human Rights Watch interviewed Laaridh at his home in Cité az-Zuhour IV in Tunis, on December 8, 2004. Although he recounted mostly his own experiences in prison, Laaridh also spoke of prison conditions more generally, basing his impressions on his short respites from isolation, on the scraps of news he was able to exchange surreptitiously with other prisoners while in isolation, and on the more extensive information he gathered after his release.

Born in 1955, Laaridh is a maritime transportation engineer by training with an additional degree in economics. He has been unable to find work in his field after

spending fourteen years in prison. He is presently unemployed and hoping to find a job in the private sector.

Laaridh served more than eleven of his fourteen years in prison in solitary confinement. The solitary confinement was maintained despite Laaridh's being transferred among seven prisons during his term.

Laaridh spent his entire pretrial detention period in solitary confinement, except for a few months when he occupied a group cell with common-law prisoners. After his trial, from September until December 1992, he was moved to a large group cell. In January 1993 authorities transferred him into small-group isolation with other Islamists, where he remained until September 1993. From that month until May 1994, he was again in a group cell. But starting in May 1994 and until his release ten-and-a-half years later, Laaridh was kept in isolation except for one four-month break.¹⁹

Over the past decade Laaridh submitted many demands and staged hunger strikes to end his isolation. Only once did his demands succeed. In 2002, the director of the April 9 prison in Tunis transferred Laaridh to a group cell in which he was the only political prisoner among common-law prisoners. This respite, Laaridh recalled, was the initiative of the well-intentioned director at the time, Slah Brahem. When a new director replaced Brahem, however, he transferred Laaridh back to isolation. The administration gave Laaridh no explanation for the re-imposition of solitary confinement, but Laaridh said he assumed it was because authorities feared he might be able to communicate with Islamist prisoners housed in other group cells.

Other than this respite in 2002, Laaridh's demands to leave isolation were either ignored or rejected. "When I did get an answer," Laaridh recalled, "either the head of the cellblock or from the prison director, it was that the decision was out of their hands." At no time was Laaridh told who made the decision or on what basis. "All I got was an occasional remark from the head of my cellblock, along the lines of, 'You are dangerous,' or, 'You are a leader, you can cause us problems, you can incite the other prisoners,'" Laaridh said. Yet, he pointed out, these remarks were based on Laaridh's profile as a leader of an-Nahdha, not on anything he had done while serving in prison. "[Sadok] Chorou, [Hamadi] Jebali, and I faced the strictest isolation, even though we had

¹⁹ This chronology of time spent in isolation, the first to come directly from Laaridh, is more precise than the account one that appeared in Human Rights Watch's report of July 2004, which stated that he had spent nearly fourteen years in solitary confinement.

never had any problems inside the prison,” he said, referring to two other Nahdha leaders who remain in isolation. “We were always very correct in our behavior.”

Laaridh described how much harsher conditions were in the early and mid-1990s, during the first several years of his incarceration:

The isolation cells [in Tunis’s April 9 prison] are 2.4 meters by 3 meters. In the early years they had no windows, just a hole that opened onto a hallway, and another hole in the door, that the guards could open from the outside in order to speak to me or to hand me my meals. The cell had a mattress on the floor, which was moist. There was a lot of humidity, which was rough on asthmatics like myself.

Laaridh said that the isolation cells were smaller in other facilities than in the April 9 prison. In Houareb, where he served in 1993-1994, the cells were 1.6 meters by 2 meters, he said, with very high ceilings. “When there was no electricity they were like tombs,” he said. In Monastir, where Laaridh served in 1994-1995, they were about 2 meters by 2 meters.

Except for fifteen months in Houareb prison, Laaridh spent the last nine years of his term in the April 9 prison in Tunis. Since 1998 he and two other Nahdha prisoners were assigned to three isolation cells located above the prison infirmary.

Throughout Laaridh’s transfers, the prison administration enforced his isolation strictly. He ate all of his meals alone in his cell. When he was escorted to his weekly shower or to have his family visits, the guards ensured that he would not come into contact with any other prisoners. “They even restricted the number of guards who could see me. And when I went to see the doctor, they emptied the infirmary to ensure no one would be there,” he recalled. “The only exception was at Houareb, where the administration more or less tolerated it when the isolated prisoners talked to each other under the doors of their cells.”

At times, prison staff aggravated the effects of isolation by giving inmates the silent treatment. “That was the worst,” recalled Laaridh:

In isolation, the only person you can speak to is the guard. But from time to time, the prison staff would decide not to address a single word to you, sometimes for a few hours, sometimes for an entire week. You might ask for a medication, or to see a doctor, and they wouldn’t even say ‘Yes’ or ‘No’, or, ‘We are looking at your request.’ It makes you

despondent, ready to do something desperate, toward the guard, or toward yourself, just to prove you exist.

More generally, Laaridh said, prolonged isolation undermined his sense of connection with other human beings:

Sitting in solitary, I always fretted about how I might minimize the damage. Will I ever be able to catch up with my life if I am released? Will I be able to support my family materially and morally? These questions always put me in turmoil.

Laaridh, who was spokesperson of the Nahdha party at the time of his arrest, observed, “Since my release, my main feeling is that of uncertainty. Whenever I form an opinion, I feel fragile, unsure of myself.”

Prison authorities, Laaridh said, never offered him an opportunity to participate in any of the vocational, educational, or “rehabilitative” programs much touted in the official literature about Tunisian prisons. But for him the biggest problem during the first half of his term was the lack of reading and writing materials:

Before 1998, I was permitted to take out one book per month, choosing from a list I was handed of books in the library. Most of the books were out-of-date. The guards could ease or they could complicate your access to books, just as they could do with your healthcare needs and your food. My family was not allowed to bring me books from outside. This changed only in 2002, when they were allowed to bring me dictionaries and in May 2004 when they were finally allowed to bring other books.

Before 1996, I was not allowed to keep a pen or pencil. I was not allowed to have a notebook until 1997. When I purchased a carton of milk at the canteen, they removed the label so that I could not write on it. When I wanted to compose a letter they would give me a pen and a sheet of paper, and then take the pen back when I had finished.

Poor lighting made reading more difficult. In the early years, the main source of light was a bulb high above the door that was left on twenty-four hours a day but was not sufficiently bright for reading.

When in isolation Laaridh was confined to his cell around the clock, except for weekly trips to the shower, family visits, and twice-daily outdoor exercise periods. His weekly

family visits in the early years lasted no more than fifteen minutes, he said. Outdoor time in those years was limited to ten to twenty minutes in the morning and the same amount in the evening, he said. International norms and Tunisian law dictate that prisoners get a minimum of one hour daily outdoor exercise time.²⁰ The courtyard where he spent his outdoor time in the April 9 prison was twelve by four meters in size, under the sky but surrounded by high walls. It was spacious enough for him to exercise, he said, because, as an isolation prisoner, he always had the entire space to himself.

Laaridh spoke of the health risks attached to being confined alone with little supervision throughout the day:

Whether a prisoner is sick or in good health, he can have a heart attack, faint, or choke, and no one is there to notice. For an asthmatic it is even more serious. In the infirmary rooms [in Tunis' April 9 prison, where Laaridh spent the last few years before his release] there are buttons you can press to call for help. But they are going off all the time, so no one comes quickly. I twice had asthma attacks and had to work like mad to get medical attention.

Beginning in 1996, said Laaridh, his conditions of confinement improved. He had access to more books, as well as to pro-government newspapers. Since 1998, the lighting in the cell was brighter, even though authorities boarded up the cell's window except for a four-centimeter gap. (Most of the boards were removed in 2002.) For the first time, Laaridh could turn the light on and off himself. The quality of food improved, and restrictions eased on the food packages that relatives could bring inmates when they visited. Political prisoners were sent less frequently to prisons located far from their families' homes, he said. During the last seven years of his term, the duration of family visits increased to twenty-five minutes. His outdoor exercise periods increased to forty-five minutes in the morning and thirty to forty minutes in the afternoon. While radios were not allowed, Laaridh was permitted to have a television in his cell beginning in May 2004. The only previous times he had had a television was for several months in Mahdia prison and during the brief period when he was held in a cell with non-political prisoners in 1992.

According to Laaridh, physical violence against inmates by prison guards declined in recent years. One factor in this trend, he said, was the prison sentences imposed on four guards at the April 9 prison who were convicted in 2001 of abusing common-law

²⁰ The U.N. Standard Minimum Rules on the Treatment of Prisoners state, in Article 21(1), "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).

suspect Ali Mansouri, by putting leg restraints on him so tightly that his legs had to be amputated. “This case had a big impact on other guards,” Laaridh said. “They were afraid for their families. Everyone got the message.”

Like many political prisoners, Laaridh was sentenced to a five-year term of “administrative control” that commenced upon his release from prison. Under the terms established by the Interior Ministry for his administrative control, Laaridh must sign in daily at a police station near his home, and cannot leave greater Tunis without prior authorization from the police.

A few days after his release from prison, police picked up Laaridh from his home in Cité az-Zuhour in Tunis for having given a phone interview to a journalist calling from abroad. The police drove him to the downtown headquarters of the Ministry of Interior, where an official warned him that he did not have the right to give interviews, and that the ministry could revoke his conditional release and require him to serve out the remainder of his sentence. Laaridh told Human Rights Watch he has since refrained from giving media interviews because he must catch up with developments before giving his views. Authorities have not bothered him again since, he said.²¹

Laaridh, the spokesman and one of the leading thinkers of the Nahdha party before his arrest, spoke of the toll that the years of isolation took on his mind:

I have lost the ability to concentrate. It now takes a great effort for me to look at a problem in all its dimensions, to get beyond the surface. In prison I tried to limit the damage by reading as much as I could. But that was no substitute for living the events yourself.

Zied Douletli: Thirteen Prisons in Fourteen Years

Zied Douletli holds a doctorate in pharmacology from the University of Reims, in France. A member of the executive committee of the Nahdha party, he was conditionally released on November 2, 2004, with seven months remaining in his fifteen-year sentence.

Human Rights Watch interviewed Douletli at his home in Boum’al, twenty kilometers southeast of Tunis, on December 7, 2004.

²¹ Human Rights Watch telephone interview, March 30, 2005.

Arrested on December 23, 1990, Douletli was transferred among prisons thirteen times during his fourteen years in prison. He spent more than half of his time in solitary confinement, and four-and-a-half years in small-group confinement, that is, in a cell with two or three other political prisoners but sealed off from the rest of the prison population. The remaining two and-a-half years he spent in ordinary group cells. In light of these different experiences in prison, Douletli could speak not only about his own treatment but also about the treatment of other inmates.

Throughout his incarceration, Douletli said, authorities never presented him with any official information about his placement in isolation: the motives, duration, or the ways he could appeal or end it. He wrote to the interior minister and the director of the prison administration to demand an end to isolation and never got a response. Like Laaridh, the only hints of an explanation came from guards. “‘You are a provocateur,’ they told me. ‘You can incite other prisoners to mobilize against the administration.’”

Douletli went on hunger strike several times to demand an end to his isolation. For this he was sometimes disciplined by being moved to a punishment cell (*siloun*, in Tunisian Arabic), another, even harsher form of solitary confinement. While in punishment cells, prisoners were deprived of family visits. They slept on a mattress on the floor and wore prison-issue clothing instead of the street clothes they were ordinarily permitted.

Douletli was sent to punishment cells, for periods lasting up to ten days, for other reasons: in 1991, for violating the prohibition on his talking to other prisoners, in 1992 for being caught with a radio (which is forbidden), and at a later date on the grounds that he had insulted a guard. He was never beaten by prison staff during his term, Douletli added.

According to Douletli, prison food was thin and un-nourishing, but not spoiled. There was no policy of withholding food or weekly showers from prisoners in isolation as a form of punishment or pressure. His outdoor exercise periods were also generally respected, ranging between sixty and ninety minutes twice daily.

But during the years Douletli spent in solitary confinement, regardless of the prison he was in, authorities ensured that he ate all his meals in his cell, used the communal showers when no other prisoners were present, and did his outdoor exercise in a courtyard that he had all to himself. Douletli recalled:

The rules for prisoners in isolation were basically the same everywhere. Your only contact is with the guards. You can't communicate with other prisoners, even if you happen to pass someone in the corridor.

Sometimes we tried to talk to one another through the walls, but it was difficult. If the guards heard us they would come right away.

Douletli, like Laaridh and the other isolation prisoners, were forbidden to participate in any social, vocational, educational, or “rehabilitative” activities:

There were instructors who gave courses to inmates, lectures, sports activities, and chess. I asked to attend these but was always refused. I had no right to go to the prison library either. I had to request books from the library, and the guards would bring them.

The prison administration did not prevent family visits to prisoners in isolation, except when prisoners were placed in punishment cells. However, until 1996, prison staff mistreated prisoners’ relatives when they came to visit, Douletli said, echoing the testimony of many other ex-prisoners and relatives. Prison guards insulted and roughly handled the visitors. They sometimes confiscated or delayed the delivery of food packages brought by relatives for Douletli and other prisoners. Authorities refused to allow Douletli’s brother to visit unless he shaved his beard, and his wife unless she removed her headscarf. His family would arrive at 8:30 a.m. and sometimes have to wait until 1 p.m. for their brief session with him.

During Douletli’s first five years in prison, the weekly family visits lasted fifteen minutes. In 1996, they increased to twenty minutes. Sometimes, guards allowed the visit to last longer, up to forty minutes. But the guards were always listening, and if he started to talk about conditions inside the prison they would stop the conversation. Prisoners’ letters were subject to similar censorship: Letters that discussed prison conditions would not go through. Incoming mail would arrive after lengthy delays or not at all.

Douletli said that throughout his years in isolation he was never visited by a mental health specialist, suggesting that the prison administration did not treat long-term isolation as a stressful regime necessitating medical supervision. As noted above, Tunisia’s prison law requires medical oversight when authorities place inmates in punishment isolation lasting no more than ten days. When Douletli himself asked to see a doctor, months often passed before his request was granted, he said.

Douletli said that the insufficiency of lighting was a constant problem that authorities addressed only near the end of his term. “In isolation cells, the lighting is weak. For prisoners with vision problems, it’s impossible to read. At the April 9 prison in Tunis [the last prison where Douletli served], the prison doctor requested that they give me better light, and they did.”

Douletli's cell in the April 9 prison in Tunis was 2.3 meters by 1.2 meters in size. It had a window facing outside, but the view was blocked by a high wall. Douletli said each of the isolation cells he stayed in was equipped with a faucet with cold running water.

In the spring of 2004, Douletli, Laaridh, and Sadok Chorou, all three prisoners in isolation in the April 9 prison, received television sets in their cells after staging a hunger strike to demand improvements in their conditions. But they were able to receive only official stations. Radios continued to be forbidden. Newspapers, while available, were limited to pro-government dailies.

Since his release from prison, as part of his "administrative control" sentence, Douletli must sign in at the police station daily four kilometers from his home. He must get police permission whenever he wishes to leave the governorate of Ben 'Arous. He applied once, to travel north to the city of Tabarqa, and received permission.

Moustapha Ben Hlima: From Solitary to Small-group Confinement

A forty-eight-year-old high school teacher living in Bardo, near Tunis, Moustapha Ben Hlima was freed in November 2004 after serving fourteen years in prison. Toward the start of his term, Ben Hlima served a period in small-group isolation with other Nahdha prisoners. Then after a number of years in group cells, he was transferred on February 14, 1998, to the isolation unit in Borj ar-Roumi prison near Bizerte, where he remained for six and-a-half years.

Due to logistical problems, Human Rights Watch had to cancel a scheduled face-to-face interview with Ben Hlima in December 2004 and arranged instead for an intermediary to conduct the interview later the same month.

Ben Hlima stated categorically that he never asked to be placed in isolation and in fact demanded several times to be removed from it, in vain.

The Borj ar-Roumi isolation wing that received Ben Hlima in 1998 was composed of twelve cells, four for prisoners serving long-term isolation, six for use as punishment cells, one that housed a prisoner informant, and one containing a toilet for inmates of

the wing, according to ex-prisoner Abdallah Zouari, who lived in the wing between August 1998 and June 1999.²²

At Borj ar-Roumi, authorities eased the conditions of isolation around late May 2000, according to Hlima. Before that time, they forbade the four political prisoners in isolation cells from speaking to one another, exchanging newspapers, food, or anything else. The inmates took their daily outdoor time and their weekly showers individually. Sometimes, Zouari recalled, prisoners would pass other prisoners on their way to the place where family visits were held. But communication was impossible “since the guards were watching your every gesture and facial expression,” he said.

The relaxation of isolation in May 2000 meant that Hlima could spend his twice-daily periods in the courtyard with two other prisoners in solitary confinement, Ali Zouaghi and Habib Ellouz, and go to the communal showers at the same time as they did. They were now permitted to exchange reading materials and food, and converse with one another.

In August and September 2001, the three men went on a long hunger strike to demand an improvement of conditions. Shortly after they ended the strike a television set was installed in the corridor outside their cells. The administration built a partition between the four cells for long-term isolation prisoners and the other cells used as punishment cells. (Ex-prisoner Nabil Ouaer, who spent time in the punishment cells in Borj ar-Roumi, recalled that he never saw the prisoners in the long-term isolation cells nearby, but could shout to them. See below, on Ouaer.) The administration opened the walls of the isolation cells to create windows 35 by 70 centimeters in size. In 2004 the authorities made additional improvements. They equipped each isolation cell with a light fixture, toilet and faucet, and a wall separating the living quarters from the sanitary facilities. They permitted inmates to remain in the corridor together and watch television until midnight.

VI. Abdelkarim Harouni: Still in Solitary Confinement

Recent conversations with a relative of a prisoner held in isolation in Sfax prison indicate certain minor improvements in the conditions of his family visits. After more than twelve years in prison, Abdelkarim Harouni was allowed on December 20, 2003, to have his first “direct” family visit, that is, with no divider separating him and his relatives.

²² E-mail message from Abdallah Zouari to Human Rights Watch, December 25, 2004.

Another direct visit took place on December 25, 2004, between Harouni and his parents, who must travel 270 kilometers from their home near Tunis to see him.

But the bottom line for Harouni remains unchanged: he remains in strict isolation, and is permitted to communicate only with the prison guards and his family.

Harouni, a civil engineer and former secretary-general of the Islamist-leaning General Union of Tunisian Students (*l'Union Générale Tunisienne des Etudiants*), was arrested on October 30, 1991 and received a life sentence in the mass military court trials of 1992. In 2002 this was reduced to a thirty-year sentence.

According to his sister, Hend, Harouni never asked for isolation and has protested its imposition many times. She added that he was never given an explanation for being placed in isolation. The closest he ever got was when an official in Houareb prison in Kairouan told him, “The decision [on isolation] is not in my hands.”

Ms. Harouni added that on January 24, her brother wrote to prison authorities asking authorization for a visit by human rights lawyer Mohamed Nouri. According to her, Harouni sought legal counsel in order to challenge the conditions of his detention, notably his continuing isolation. Informed of this request by Harouni’s father, Nouri formally applied as a lawyer for access to Harouni. As of March 24 – two months after Harouni made this request – neither he nor Nouri had received a response. According to Tunisian law, convicted prisoners who have exhausted their appeals “have the right...to a visit by a lawyer, in the presence of a member of the prison staff...upon the granting of permission by the administration responsible for prisons and re-education.”²³

Ms. Harouni said that her brother has read every book of interest in the prison library and eagerly awaits books that his family brings him. But prison authorities frequently refuse or delay delivery of the books they provide, even if they are novels or books of nonfiction that cannot be considered politically controversial. For example, on February 12, after the family had finished their visit, a guard returned to them a book they had brought on their previous visit for Harouni, at his request, explaining that authorities had refused it. The book was *For a Modern Islam*, by the eminent Tunisian historian Mohamed Talbi

²³ Law 2001-52, Article 17(6).

In 2004, Harouni and the other two Nahdha prisoners held in isolation in Sfax prison, Hamadi Jebali, and Ajmi Lourimi, held a hunger strike to demand they be allowed to see one another. Prison authorities refused this demand, but in the end installed television sets in their cells.

VII. Official Statements on the Isolation of Prisoners

Responding to the release of Human Rights Watch's report in July 2004 on the long-term isolation of political prisoners, Tunisian officials provided general denials but did not provide any facts to refute the information contained in the report. In a statement released to the media, government officials said the report contained "inaccuracies" and "errors of interpretation."²⁴

Prison conditions are governed, the statement said, by Law 2001-52, "and are in every respect consistent with applicable international norms.... This law guarantees the physical and mental integrity of the detainee, preserves his dignity throughout his term in prison and prepares him for post-prison life and his re-integration into society."

With respect to solitary confinement, the statement said the law allowed it as a form of punishment, but was "an exceptional measure that was strictly regulated."

The statement reiterated the government's position that there were no political prisoners or prisoners of opinion in Tunisia, only persons who had been convicted after a fair trial for violations of the law.

The BBC reported that Habib Cherif, the human rights coordinator at the Ministry of Justice and Human Rights, said there was no truth to allegations that up to forty political prisoners have spent years in solitary confinement. He said the maximum period of isolation allowed by Tunisian law was ten days at a time.²⁵

In response to these statements to the media, Human Rights Watch sent a letter dated July 15, 2004, inviting the ambassador of Tunisia to the United States to specify the errors and inaccuracies alleged in the report. Human Rights Watch sent a follow-up

²⁴ « Prisonniers politiques: Tunis répond aux accusations de Human Rights Watch », Associated Press, July 8, 2004.

²⁵ "Tunisia denies prison abuse claim," BBC Radio, July 7, 2004.

letter to the ambassador on November 21, 2004. No reply or acknowledgement was ever received.

Administration of the prisons falls under the jurisdiction of the Ministry of Justice and Human Rights. Ministry official Habib Cherif received a Human Rights Watch researcher in his office on December 9, 2004. Invited to identify the errors in Human Rights Watch's report, Cherif again denied that there is any practice of placing prisoners in solitary confinement beyond the ten-day sanction provided by the law. He claimed that some of the prisoners cited by Human Rights Watch were in fact in segregated at their own request. Asked for examples, he said that Hamadi Jebali had asked to be transferred to a single cell from a communal cell where the cigarette smoke had bothered him. Cherif then said that if his ministry ever learned of a case where a prisoner has been placed in isolation neither as a punishment limited to ten days nor at the prisoner's own request, "We will take the necessary measures, even discipline the director of the prison concerned."

Following this meeting, Human Rights Watch addressed a letter to Minister of Justice and Human Rights Tekkari, alleging that none of the Islamist prisoners thought to be in solitary or small-group confinement met the criteria cited by Cherif that would justify such isolation. (The letter is reprinted as Appendix A to this report.) Human Rights Watch asked the ministry to look into thirty-eight cases of prisoners in isolation that were listed in an annex to the letter, and to report back on the confinement status of each. No reply was ever received to this letter.

Human Rights Watch also telephoned Wahida Trabelsi, the wife of Hamadi Jebali, in Sousse, to verify whether her husband had, as Cherif claimed, asked to be in an isolation cell to escape the smoky communal cell he shared with common-law prisoners. She replied that her husband had asked to be removed from the communal cell because he was bothered by the smoke and other conditions, but that he never asked or wished to be placed in isolation. "He wanted to be with the other political prisoners," she said. "No one wants to be in isolation."²⁶

Jebali, like Abdelkarim Harouni, continues to be kept in strict isolation in Sfax prison. His wife said letters from him recently took two months to reach her. The delay in mail delivery in both directions continues to be a common complaint among families of prisoners in isolation. Like the Harouni family, Jebali's wife complained that the Sfax prison administration often rejects requests by the prisoner to receive seemingly

²⁶ Telephone conversation with Human Rights Watch, February 15, 2005.

harmless books from their family. About two months ago, she said in February 2005, they would not allow her to give husband a book on learning the English language.

VIII. Nabil Ouaer: The Extreme Vulnerability of Being in Isolation

Only twenty-one when arrested in 1990, Nabil Ouaer says he was a sympathizer but not a leader of the Nahdha party. He was nevertheless convicted along with the leaders in the mass trials of 1992 and sentenced to sixteen years and eight months in prison. He was freed in November 2004 after serving fourteen years of his sentence. He lives in el-Ouardia, a Tunis suburb, and is unemployed.

Ouaer is not among the prisoners who were placed in long-term isolation, but he did spend several periods in a solitary confinement punishment cell (*siloun*). Ouaer was, by his own admission, a feisty inmate who stood up for his rights and had frequent run-ins with the authorities. After the last incident before his release, Nabil charged, the administration at Borj ar-Roumi prison placed him in a punishment cell, ordinarily reserved for a single prisoner, into which they introduced for a single night common-law prisoners who raped him.

While Ouaer was not in long-term isolation, the fact that this incident occurred while he was being held in solitary confinement as a punishment suggests the heightened vulnerability to abuse that is characteristic of an isolation regime. That vulnerability is exacerbated when authorities refuse to conduct a serious investigation into complaints of abuse, as happened in this case.

In Tunisian culture, great shame is attached to reports of rape and sexual violence. Such reports from Tunisian prisons are exceedingly rare and, among Islamist prisoners, Ouaer's account is the only one of its kind known to Human Rights Watch. (It is not known whether such reports are uncommon because rapes occur rarely or because the stigma makes victims reluctant to step forward.)

On December 9, 2004, a Human Rights Watch researcher interviewed Ouaer in a lawyer's office in Tunis and found his testimony credible.

In June 2004, Ouaer was one of four political prisoners in a communal cell housing some 110 inmates at Borj ar-Roumi prison. The cell had eighty-four beds; the remaining inmates slept on the floor.

One day early in that month, Ouaer met at his own request with the prison director and his deputies, outside the cell, to complain about what he called efforts by the guards to stir up problems between himself and other inmates. The discussion turned into a shouting match and then into a physical struggle. Ouaer states that he was set upon by Jamel Trabelsi, the deputy prison director, and Nabil Jelassi, who is responsible for the isolation wing. Several guards came to the aid of their directors, and joined in beating Ouaer, he said. They forced Ouaer down a set of stairs, across a courtyard, and into the isolation wing, where he was placed in one of the punishment cells.

Ouaer stated that two of his fingers were broken in the incident and did not get treated until his transfer three weeks later to Bizerte prison.

Ouaer was no stranger to the punishment cells in Borj ar-Roumi. He said that the light is left on at all times in these cells. However, on this occasion, the light was turned off. The door was opened, four common-law prisoners entered the cell, and the door was closed again. He did not know them. Ouaer, in relating to Human Rights Watch what happened next, indicated he was uncomfortable providing details but let it be understood that during the night one of these individuals raped him with the assistance of the others. In the morning, the guards allowed the four men to leave the cell, leaving Ouaer behind. He said the administration had not put these individuals in the isolation cell to punish them, but rather, for the purpose of assaulting him.

After the men left Ouaer started hollering from his cell, warning that he would never shut up about what had happened. He remained in the punishment cell six days, during which time no one came to see him, he said. After six days, he found his bags outside the door to his cell. Authorities transferred him to Borj el-Amri prison, 30 kilometers west of Tunis, where he remained eighteen days. At Borj el-Amri he immediately staged a hunger strike to protest the assault and his transfer from Borj ar-Roumi. He told Human Rights Watch he wished to remain at Borj el-Amri to see that justice was done to those responsible for the attack. During a family visit, he told his mother that he had been assaulted and that he wished to end his life. He said he did not detail to her what had happened, but that she had understood and contacted human rights attorney Saïda Akremi. Akremi is secretary-general of the International Association to Support Political Prisoners (*Association Internationale de soutien aux prisonniers politiques*, AISPP). On the basis of the information provided by the family, Akremi filed a criminal complaint, mentioning the sexual assault, at the court of Bizerte. She then filed requests, three times, with the court for permission to visit with Ouaer, as his legal counsel. The requests went unanswered and, she said, her complaint was never assigned a case

number. The AISPP publicized the assault on Ouaer²⁷, and his family complained to Tunisia's High Committee for Human Rights and Fundamental Liberties (*Comité Supérieur des Droits de l'Homme et des Libertés Fondamentales*), a state-appointed body that handles human rights complaints from the public and reports to President Ben Ali.

Eighteen days after arriving at Borj el-Amri, Ouaer was transferred to Bizerte prison. The director of the prison immediately received him and told him he would be well-treated. Ouaer said he was assigned to a good cell and was treated respectfully by the guards. When he was brought to a hospital for treatment of the hand injuries he had sustained during the incident at Borj ar-Roumi prison, he requested also a medical examination for the sexual attack. This request was ignored, he said.

Government officials responded to protests about the case by dismissing the rape allegations as "slanderous." "The prisoner denied himself that he had been the victim of any sexual assault" when he was questioned during a visit on June 28 by the president of the High Committee for Human Rights and Fundamental Liberties, an official told the Agence France-Presse. "Nevertheless, an investigation was begun and the preliminary evidence shows that the person concerned was not raped."

Ouaer describes differently his meeting in prison with Zakaria Ben Moustapha, president of the High Committee:

Mr. Ben Moustapha visited me in Bizerte prison. He brought a man who said he was from the office of the President of the Republic. Mr. Ben Moustapha told me to tell this man what had happened. But the man did not seem to believe me. When I told my story, he replied, "Perhaps you were beaten but nothing more."

Ouaer also said he encountered resistance when he tried to testify about the rape, in late July, before the investigating judge assigned to his complaint, Mokhtar Ben Hassine, of the court of first instance of Bizerte. Ouaer said he was able to describe the beating and the rape, but judge Ben Hassine refused to enter into the record the allegations regarding the latter. The judge summoned Ouaer two more times.

²⁷ AISPP, « Scandale à la prison de Borj ar-Roumi: Un prisonnier politique est violé sur ordre du directeur, » June 28, 2004. The AISPP is a Tunis-based rights group that has been refused legal recognition by the government.

At none of these three hearings did Ouaer have a lawyer assisting him. Since Ouaer was the complainant rather than the defendant in the case, Tunisian law does not require the investigating judge to inform him of his right to have an attorney present during the questioning. However, it appears authorities intentionally blocked Ouaer's access to legal counsel, since the lawyer who had been engaged by his family, Saïda Akremi, had applied unsuccessfully to see him in prison upon learning of the assault. Akremi said she learned only after Ouaer had been released from prison that he had testified three times before the investigating judge.

At one of the hearings, the investigating judge questioned prison deputy director Jamal Trabelsi and other prison staff members who were accused of beating Ouaer or who witnessed the incident. All of them denied that Ouaer had been beaten. Ouaer said he repeated his version of events, but when he got to the sexual assault, the judge cut him off, saying that such things do not happen in Tunisia.

Since that session, both Ouaer and attorney Akremi say they have heard nothing further from the court about the disposition of the case. Nor, they say, did they ever see any report on the case prepared by the High Committee for Human Rights and Fundamental Liberties.

On November 2, Ouaer was freed from prison, nineteen months before the end of his term. Ouaer is not under administrative control and has not been bothered or harassed since his release.

Habib Cherif of the Ministry of Justice and Human Rights told Human Rights Watch that he had looked into the case on an unofficial basis and learned the following: During a routine family visit, Ouaer had told his mother that his "honor" had been "insulted." She had understood this to mean he had been raped and spread the word. But Ouaer himself denied the rape before the judge, Cherif said. Despite this, the Nahdha party publicized the rape allegation to further its political agenda, he added.²⁸

Human Rights Watch wrote on January 3, 2005 to Zakaria Ben Moustapha of the High Committee to request the findings of the inquiry that he had apparently mounted into the case (see Appendix B). A copy of the letter was sent also to Cherif at the Ministry of Justice and Human Rights. No reply or acknowledgment has been received.

²⁸ Human Rights Watch interview, Tunis, December 9, 2004.

Tunisian authorities have failed to show that any credible inquiry into the reported sexual assault on Ouaer was conducted, either by the investigative judge assigned to the case or by the High Committee on Human Rights. Authorities claim that Ouaer himself disavowed the rape allegation, but Ouaer reaffirmed it in his December 9, 2004 interview with Human Rights Watch and described how authorities had thwarted him when he had tried to describe to relevant officials what had happened.

Tunisian authorities should allow a thorough, independent investigation of the incident, and ensure that the investigators have access to prison staff and prisoners who allegedly participated in or who witnessed the incident. Ouaer himself should have the opportunity to testify fully, and, if he requests, in the company of a lawyer of his choosing. The investigation should seek to determine the facts of the case and whether, in the weeks following the incident, Ouaer's complaint was properly addressed by the various authorities who were in a position to address it. Anyone suspected of participation or complicity in a criminal assault on Ouaer should be brought to justice. If it is found that officials failed to respond appropriately to his complaints of rape, or actively sought to cover up what happened, they should be disciplined or brought to justice.

Acknowledgments

Human Rights Watch wishes to thank those who assisted us in the preparation of this report, including Habib Cherif, human rights coordinator at Tunisia's Ministry of Justice, who received us on December 9, 2004. We are grateful also for the assistance of the International Association to Support Political Prisoners, a Tunis-based nongovernmental human rights organization, Abdullah Zouari, a former political prisoner under town arrest in the south of Tunisia, and Luiza Toscano, an independent human rights activist based in Paris.

This report was edited by Sarah Leah Whitson, executive director of the Middle East and North Africa division of Human Rights Watch, Wilder Taylor, legal director of Human Rights Watch, and Widney Brown, deputy program director of Human Rights Watch. Tarek Radwan, associate with the Middle East and North Africa division, prepared the report for publication.

APPENDIX A

New York, le 23 décembre 2004.

M. Béchir Tekkari
Ministre de la Justice
Ministère de la Justice
31 blvd. Bab Benat
1006 Tunis, Tunisie

Envoi par fax, courrier et courriel

Monsieur le Ministre,

Par la présente, j'aimerais vous remercier ainsi que votre ministère pour avoir accordé à Eric Goldstein de Human Rights Watch un entretien avec M. Mohamed Habib Cherif, Coordinateur Général des Droits de l'Homme, le 9 décembre dernier au ministère. MM. Cherif et Goldstein ont ainsi eu l'opportunité d'échanger leurs points de vue à propos des conditions carcérales et des droits humains. Au terme de cette rencontre, M. Cherif a invité Human Rights Watch à soumettre toute nouvelle question à son attention afin que les positions de votre ministère puissent être reflétées dans les futurs rapports que nous rédigerons à ce sujet.

Notre organisation vous remercie de cette occasion de poursuivre notre dialogue.

Lors de l'entretien du 9 décembre, Human Rights Watch a demandé à M. Cherif d'apporter des précisions concernant les déclarations attribuées à des responsables tunisiens selon lesquelles le rapport publié par notre organisation en juillet 2004, *Tunisie: l'isolement cellulaire prolongé des prisonniers politiques*, comportait “de nombreuses inexactitudes” et de “graves lacunes” [dépêche de l'AFP, daté du 8 juillet 2004].

La réaction de M. Cherif a été de nier que la Tunisie avait des prisonniers placés en isolement cellulaire prolongé et forcé. Il a déclaré que tous les prisonniers se trouvant

actuellement en régime d'isolement y avaient été placés pour l'une des deux raisons suivantes: soit ils en avaient émis la demande eux-mêmes — par exemple pour être retirés d'une cellule de plusieurs personnes où la fumée de cigarette les dérangeait —, soit ils avaient été punis d'une période d'isolement ne dépassant pas dix jours suite à une décision prise par le conseil de discipline de la prison, conformément à l'Article 22 de la loi portant organisation des prisons (loi 2001-52).

M. Goldstein a alors mis cette affirmation en doute, soulignant que certains détenus qui sont des membres notoires du parti Nahdha interdit se trouvaient contre leur gré en isolement continu depuis des mois, et dans certains cas depuis des années. Bien que quelques-uns aient effectivement sollicité leur transfert hors de cellules de plusieurs personnes abritant des fumeurs, aucun d'entre eux n'a, à notre connaissance, demandé d'être placé dans le régime strict d'isolement individuel ou collectif dans lequel ces détenus se trouvent actuellement. Les prisonniers en isolement prolongé ne sont pas simplement logés dans des cellules d'une ou plusieurs personnes; on les empêche aussi systématiquement de voir et de communiquer avec le reste de la population carcérale. Enfermés dans leur cachot vingt-deux heures par jour, ils n'ont droit à aucune activité hors de cette cellule à l'exception des douches, des visites de leur famille et de deux promenades quotidiennes dans une cour de la prison.

M. Cherif a déclaré que si l'on découvrait que des prisonniers se trouvaient en isolement sans en avoir émis la demande ou sans avoir fait l'objet de sanctions disciplinaires prévues par la loi tunisienne, alors “nous prendrons les mesures nécessaires et nous irons jusqu'à sanctionner le directeur de prison concerné.”

Vous trouverez ci-joint une liste des prisonniers qui, selon nous, pourraient se trouver en isolement prolongé actuellement. Il s'agit d'une liste préparée en mars 2004 par une organisation tunisienne de défense des droits humains, avec quelques modifications qui ont été ajoutées depuis. Nous savons que trois de ces prisonniers ont été libérés depuis lors. Nous présumons que l'isolement de certains autres détenus repris sur la liste a entre-temps été levé mais par contre, de nouveaux prisonniers ont pu être placés en isolement sans que cela ait été porté à notre connaissance. Nous serions heureux de recevoir vos remarques à propos de la liste ci-jointe.

Nous voudrions par ailleurs faire remarquer que, pour nous, le terme isolement ne signifie pas simplement loger un détenu dans une cellule individuelle mais il se réfère à un régime global où le prisonnier est confiné dans sa cellule environ 22 heures par jour et ne peut à aucun moment voir ou communiquer avec d'autres détenus.

Nous n'ignorons pas que certains prisonniers partagent une cellule avec une ou deux autres personnes mais en dehors de cela, ils ne peuvent à aucun moment voir ou communiquer avec d'autres détenus; nous considérons qu'il s'agit également d'une forme d'isolement, même si c'est un "isolement en petit groupe." Comme nous l'avons souligné dans notre rapport, l'isolement collectif, à l'instar de l'isolement cellulaire, "peut être assimilé à des mauvais traitements susceptibles de nuire à la santé mentale du détenu si, comme c'est le cas en Tunisie, il ne lui permet pas ou quasiment pas d'accéder à des activités éducatives ou récréatives ou à d'autres sources de stimulation mentale et s'il le confine dans un environnement monotone, non diversifié où ses relations sociales se limitent à un groupe strictement restreint de compagnons de cellule."

Notre association serait heureuse de recevoir des informations de votre ministère nous permettant de savoir si chacun des détenus mentionnés dans la liste en annexe se trouve réellement en isolement cellulaire ou collectif forcé et si tel est le cas, pour quelles raisons. Par ailleurs, nous souhaiterions savoir si et quand chaque prisonnier a été informé des raisons de son isolement, de la durée prévue de celui-ci ainsi que des options dont il dispose pour interjeter appel.

Si vos recherches ont révélé un ou plusieurs cas d'isolement imposé en dehors de toute demande émanant du prisonnier ou de toute sanction légale de dix jours maximum, nous aimerions savoir si la mise en isolement a depuis lors été levée et si des fonctionnaires seront amenés à rendre compte de leurs actes pour avoir placé un prisonnier en isolement d'une façon qui s'avère incompatible avec la loi et les règlements tunisiens.

Nous vous remercions pour l'attention que vous portez à ces questions. Toute information pertinente que vous nous fournirez avant le 21 janvier se verra reflétée dans nos prochains rapports sur les conditions carcérales dans votre pays.

Pour votre information, je joins également à la présente deux lettres que nous avons envoyées aux responsables tunisiens en date du 13 avril et du 21 novembre 2004, dans lesquelles nous sollicitons des informations sur les politiques et pratiques carcérales. Nous n'avons reçu aucune réponse à ce jour.

Pour conclure, nous souhaiterions réaffirmer l'intérêt, déjà exprimé dans les lettres en annexe et réitéré lors de notre entretien avec M. Cherif, que porte Human Rights Watch à la visite de prisons en Tunisie afin d'évaluer les conditions de première main. Nous serions heureux de vous rencontrer, vous ou d'autres responsables, pour discuter de cette possibilité.

Je me tiens à votre entière disposition pour répondre à toute question que vous pourriez avoir et vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les plus respectueux.

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a long, horizontal, slightly wavy line.

Sarah Leah Whitson

cc: M. Mohamed Habib Cherif

Annexes.

APPENDIX B

New York, le 3 janvier 2005

Mr. Zakaria Ben Moustapha, Président
Comité Supérieur des Droits de l'Homme
et des Libertés Fondamentales
85, ave. de la Liberté
1002 Tunis, Belvedere, Tunisia

Envoi par fax, courrier et courriel

M. le Président,

Je vous présente mes meilleurs voeux à l'occasion de la nouvelle année.

Je vous écris en rapport avec une enquête que votre instance, le Comité supérieur des Droits de l'Homme et des Libertés Fondamentales, aurait menée concernant un prisonnier, libéré depuis, qui s'appelle Nabil Ouaer.

Selon une information qui circulait, M. Ouaer aurait été victime d'une agression sexuelle dans la prison de Borj ar-Roumi, pendant le mois de juin 2004. Toujours selon cette information, l'agression aurait été commise par d'autres prisonniers avec la complicité de certains responsables de l'administration pénitentiaire. Il paraît que la famille de M. Ouaer a saisi votre comité concernant l'affaire.

Une dépêche de l'Agence France Presse datée du 9 juillet 2004 rapporte que « une source officielle a déclaré que "le détenu a lui-même démenti avoir été victime d'une quelconque agression sexuelle" au président du Comité supérieur tunisien des droits de l'homme et des libertés fondamentales, qui l'interrogeait le 28 juin dernier. »

Je salue l'effort que le Comité supérieur a investi afin d'établir ce qui s'est passé dans cet incident. Comme il s'agit d'un cas qui préoccupe Human Rights Watch, nous vous

serions reconnaissants de bien vouloir nous informer de toute conclusion émanant de votre enquête.

Je me tiens à votre entière disposition pour répondre à toute question que vous pourriez avoir et vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les plus respectueux.

A handwritten signature in black ink, appearing to be 'Sarah Leah Whitson', with a long horizontal flourish extending to the right.

Sarah Leah Whitson

Cc: Mr. Mohamed Habib Cherif, Ministère de la Justice
Mr. Tarek Azouz, Embassy of Tunisia, Washington, DC