

Tunisia: Freedom of Expression under Siege

*Report of the
IFEX Tunisia Monitoring Group*

*on the conditions for participation in
the World Summit on the Information
Society, to be held in Tunis, November
2005*

February 2005

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CONTENTS:

Executive Summary	p. 3
A. Background and Context	p. 6
B. Facts on the Ground	
1. Prisoners of opinion	p. 17
2. Internet blocking	p. 21
3. Censorship of books	p. 25
4. Independent organisations	p. 30
5. Activists and dissidents	p. 37
6. Broadcast pluralism	p. 41
7. Press content	p. 43
8. Torture	p. 46
C. Conclusions and Recommendations	p. 49
Annex 1 – Open Letter to Kofi Annan	p. 52
Annex 2 – List of blocked websites	p. 54
Annex 3 – List of banned books	p. 56

EXECUTIVE SUMMARY

The International Freedom of Expression Exchange (IFEX) is a global network of 64 national, regional and international freedom of expression organisations.

This report is based on a fact-finding mission to Tunisia undertaken from 14 to 19 January 2005 by members of the IFEX Tunisia Monitoring Group (IFEX-TMG) together with additional background research and Internet testing.

The mission was composed of the Egyptian Organization of Human Rights, International PEN Writers in Prison Committee, International Publishers Association, Norwegian PEN, World Association of Community Radio Broadcasters (AMARC) and World Press Freedom Committee.

Other members of IFEX-TMG are: ARTICLE 19, Canadian Journalists for Free Expression (CJFE), the Centre for Human Rights and Democratic Studies (CEHURDES), Index on Censorship, Journalistes en Danger (JED), Media Institute of Southern Africa (MISA), and World Association of Newspapers (WAN).

The principle findings of the mission were:

- Imprisonment of individuals related to expression of their opinions or media activities.
- Blocking of websites, including news and information websites, and police surveillance of e-mails and Internet cafes.
- Blocking of the distribution of books and publications.
- Restrictions on the freedom of association, including the right of organizations to be legally established and to hold meetings.
- Restrictions on the freedom of movement of human rights defenders and political dissidents together with police surveillance, harassment, intimidation and interception of communications.
- Lack of pluralism in broadcast ownership, with only one private radio and one private TV broadcaster, both believed to be loyal supporters of President Ben Ali.
- Press censorship and lack of diversity of content in newspapers.
- Use of torture by the security services with impunity.

The IFEX Tunisia Monitoring Group (TMG) believes that Tunisia must greatly improve its implementation of internationally agreed freedom of expression

and other human rights standards if it is to hold the World Summit on the Information Society in Tunis in November 2005.

In particular we urge the Tunisian authorities to:

1. Release Hamadi Jebali, editor of the weekly Al Fajr and hundreds of prisoners like him held for their religious and political beliefs and who never advocated or used violence.
2. End arbitrary administrative sanctions compelling journalist Abdellah Zouari to live nearly 500 km away from his wife and children and guarantee his basic right to freedom of movement and expression.
3. Release the seven cyber dissidents known as the Youth of Zarzis who, following unfair trials, have been sentenced to heavy prison terms allegedly for using the Internet to commit terror attacks. During the trials, no evidence of wrongdoing was offered, according to their lawyers and local and international human rights groups.
4. End harassment and assaults on human rights and political activists and their relatives and bring to justice those responsible for ordering these attacks and perpetrating them.
5. Stop blocking websites and putting Internet cafes and Internet users under police surveillance.
6. Release banned books, end censorship, and conform to international standards for freedom of expression.
7. Take action against interference by government employees in the privacy of human rights and political activists and end the withholding of their mail and email.
8. Lift the arbitrary travel ban on human rights defenders and political activists, including Mokhtar Yahyaoui and Mohammed Nouri.
9. Take serious steps toward lifting all restrictions on independent journalism and encouraging diversity of content and ownership of the press.
10. Promote genuine pluralism in broadcast content and ownership including fair and transparent procedures for the award of radio and TV broadcast licences.
11. Allow independent investigation into cases of torture allegedly perpetrated by security forces.
12. Conform to international standards on freedom of association and freedom of assembly and grant legal recognition to independent civil

society groups such as the CNLT, the Tunis Center for the Independence of the Judiciary, the League of Free Writers, OLPEC, the International Association to Support Political Prisoners, the Association for the Struggle against Torture, and RAID-ATTAC-Tunisia.

A. BACKGROUND AND CONTEXT

Background to the mission

This report is based on a fact-finding mission to Tunisia undertaken from 14 to 19 January 2005 by members of the International Freedom of Expression Exchange (IFEX) together with additional background research and Internet testing. IFEX is an umbrella organization of 64 national, regional, and international groups committed to protecting freedom of expression worldwide.

The mission was composed of the Egyptian Organization of Human Rights, International PEN Writers in Prison Committee, International Publishers Association, Norwegian PEN, World Association of Community Radio Broadcasters (AMARC) and World Press Freedom Committee.

The organizations are part of a group of IFEX members which came together in 2004 to form the Tunisian Monitoring Group (IFEX-TMG). The other members of IFEX-TMG are ARTICLE 19, Canadian Journalists for Free Expression (CJFE) which manages the Toronto-based IFEX, the Centre for Human Rights and Democratic Studies (CEHURDES), Index on Censorship, Journalistes en Danger (JED), the Media Institute of Southern Africa (MISA), and the World Association of Newspapers (WAN). The goal of the IFEX-TMG is to campaign for significant improvements in conditions for freedom of expression in Tunisia as the country prepares itself to host the second phase of the World Summit of the Information Society (WSIS) to be held in Tunis, in November 2005.

Members of IFEX have taken a close interest in the World Summit on the Information Society since its inception. At their annual meeting, held in Baku, Azerbaijan in June 2004, 31 members of IFEX signed an open letter to United Nations Secretary General Kofi Annan expressing serious concerns for the second Summit in Tunis and setting out a series of freedom of expression benchmarks (Annex 1).

These concerns were reinforced by experiences at the Tunis Summit Preparatory Committee meeting held in Hammamet, Tunisia in June 2004 when Tunisian government officials and Tunisian government sponsored “NGOs” sought to suppress any discussion of human rights in Tunisia.

In consequence a number of IFEX members involved in the WSIS process took the decision to establish the IFEX Tunisia Monitoring Group to observe and report on freedom of expression in Tunisia in the run up to and the period following the Tunis Summit of the WSIS.

This report, the first of the IFEX-TMG, assesses the current state of freedom of expression in Tunisia and makes a series of recommendations for improvement.

Unprecedented since Tunisia’s independence from France in 1956, the IFEX-TMG mission of multiple groups advocating freedom of expression came nearly five years after the fact-finding mission to Tunisia conducted by the UN

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain.

In February 2000, the UN Special Rapporteur characterised the Tunisian media as showing “uniformity of tone” and lack of criticism of government policies. Not only has this situation not improved, but the legislation traditionally used to exert “different kinds of inducements and pressure” on journalists and editors has been amended in the past two years to drastically further restrict freedom of expression.

Tunisians of different political trends, including former ministers, acknowledged that the WSIS could offer invaluable opportunities to inform the international community of the unrelenting attacks on freedom of expression and to campaign for the protection of this basic right before and after the Tunis Summit of the WSIS.

However, many expressed the fear that the Tunisian government, which heavily invests in public relations campaigns and in establishing groups it falsely calls NGOs, would use the WSIS to improve its image while continuing to conceal its poor human rights record.

Official figures place the number of civil society groups at more than eight thousands, but reliable sources maintain that there are less than a dozen truly independent groups. Most of them are not recognized by the authorities and their leading figures are under continuous police surveillance and harassment.

During the six-day mission, members of the IFEX-TMG met with Tunisian writers, publishers, editors, journalists, rights defenders, and academics, as well as government officials and government sponsored organisations.

Throughout the mission members of the delegation were observed by and witnessed in action the ubiquitous plain-clothes police whose job is to monitor and control the freedom of movement of human rights defenders and political dissidents, to harass them, and to closely follow international researchers or reporters looking into these issues.

One member of the mission told Tunisian officials that he had travelled nearly 200 times in recent years in different parts of the world, but had never experienced so much police surveillance!

The majority of the meetings took place in or around the capital, Tunis, however four members of the delegation also flew to southeast Tunisia, near the Libyan border, on 18 January to meet with Abdallah Zouari, a journalist and former political prisoner who has been ordered to live, under constant police surveillance following his release, in a remote small town nearly 500 km away from his wife and children.

These mission members later managed to meet, under the watchful eye of plain-clothed policemen in the Mediterranean city of Zarzis, with most of the

parents and relatives of seven young people currently serving heavy prison sentences for simply surfing the Internet, according to local rights groups.

The Tunisian authorities sought repeatedly to obtain the postponement of the mission under different pretexts before arranging meetings for members of the delegation with government officials and offering to arrange others with state agencies and state-sponsored organisations.

Political context

Tunisia was the first country in the Middle East and North Africa to adopt a constitution nearly 145 years ago, in 1860. Its relatively vibrant civil society played a key role in ending the French Protectorate in 1956 and paving the way for the promulgation, a few months later, of the Personal Status Code which granted Tunisian women unparalleled rights in the Arab world.

These unequalled rights for women in the region coupled with huge efforts to promote education and health care and to combat poverty under the country's first president Habib Bourguiba made Tunisia look, more than forty years ago, as one of the most qualified Arab countries to turn into a democracy.

Although implemented more than forty eight years ago, these achievements, particularly in the field of women's rights, are often used today by the Tunisian government whenever its poor human rights record comes under international scrutiny.

The establishment of the Tunisian Human Rights League in 1977, the first of its kind in Africa and the Arab world, and the blossoming of an independent press in the last decade of Bourguiba's lengthy and autocratic rule prompted hope among democracy advocates in Tunisia and the rest of the Arab world.

Many Tunisians thought there was more room for hope when Gen. Zine El Abidine Ben Ali ousted Bourguiba in a bloodless coup on 7 November 1987, promising to lead the country toward democracy.

The release at that time of hundreds of political prisoners and the ratification of international human rights treaties, including the Convention against Torture, and a brief tolerance for political and media pluralism were welcomed by political and rights activists.

Unfortunately, the days of hope were numbered when President Ben Ali started using the civil war in neighbouring Algeria which erupted following the cancellation in January 1992 of the results of the legislative elections, as an excuse to stifle basic rights, mainly freedom of expression.

Opposition and independent papers were closed down and journalists and hundreds of political activists, most of them Islamists, were imprisoned following unfair trials, particularly in the early 1990s. Many of them, including Hamadi Jebali, editor of the Islamist weekly Al-Fajr (the Dawn), are still serving lengthy prison sentences.

Amnesty International adopted most of them as prisoners of conscience and repeatedly maintained that they were imprisoned “solely for the peaceful exercise of their religious or political beliefs.”

The leading figures and members of the banned Islamist movement were not the only victims of repression and injustice. Leaders of the banned Tunisian Workers’ Communist Party (Parti Communiste des Ouvriers Tunisiens, PCOT), the Movement of Democratic Socialists (Mouvement des Democratés Socialistes, MDS), as well as trade union activists of the Tunisian Workers’ General Union (Union Generale Tunisienne du Travail, UGTT) have also been arbitrarily imprisoned during the past decade.

Later, the Tunisian government used the attacks in the USA on 11 September 2001, to further restrict freedom of association, movement, and expression, and to trumpet its support for President George Bush’s “global war on terror.” A new law criminalizing freedom of expression was passed at the end of 2003 allegedly to support “the international efforts in matters of the fight against terrorism and money laundering.” The Tunisian Human Rights League (LTDH) said after the promulgation of this law, “the year 2003 has been marked by the promulgation of laws of an unprecedented serious character in terms of their violation of the right to information.”

The 1959 Constitution was revised in 2002 following a Soviet-style referendum permitting President Ben Ali to run in October 2004 for a fourth term in office. The revisions to the Constitution removed restrictions which prevented the head of state from serving more than three terms in office, and granted him immunity from prosecution for life and were legislatively hidden behind scores of amendments regarding human rights protection.

During the three previous presidential elections (1989, 1994, and 1999), President Ben Ali was declared winner of the elections by the Ministry of the Interior with more than 99 percent of the vote. In October 2004, he got nearly 95 percent of the vote in an election deemed unfair and boycotted by the most credible opposition groups. Only leading figures in minor political parties sharing 20 per cent of the seats in the Chamber of Deputies, largely dominated by the ruling Constitutional Democratic Rally (Rassemblement Constitutionnel Democratique, RCD) are allowed to run for presidential elections.

There are seven minor political parties acknowledged by the authorities. Only the parties most loyal to President Ben Ali have been admitted to the Chamber of Deputies since 1994 and are less subject to harassment.

Elections are routinely characterized by gross irregularities, including voter intimidation and drastic restrictions on the right to freedom of assembly and expression.

International and Regional Obligations

The Tunisian government prides itself on adhering to international obligations in the field of human rights, mainly those contained in the

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; and the International Covenant on Economic, Social and Cultural Rights.

Tunisia is also a party to the International Covenant on Civil and Political Rights, but has not ratified the two optional protocols to the Covenant. The first acknowledges the right of individuals to submit complaints to the UN Human Rights Committee and the second deals with the abolition of the death penalty.

In 1982, Tunisia ratified the African Charter on Human and Peoples' Rights. Article 9 of this Charter, the respect of which has recently gained more ground in Sub-Saharan Africa than in Tunisia or other North-African countries, guarantees that "every person has the right to freedom of information."

Under article 32 of the Tunisian Constitution, international conventions that have been duly ratified are granted legal primacy over domestic legislation.

Furthermore, the Association Agreement between Tunisia and the European Union, signed on 17 July 1995 and which entered into force on 1 March 1998, includes a clause concerning human rights.

Article 2 of the Association Agreement clearly states that the relations among the parties, as well as the overall provisions of the Agreement itself, rest on the respect for human rights and democratic principles. The preamble of the Agreement further underlines that both parties value and respect human rights and political freedoms. By virtue of Article 74 of the Agreement on Cooperation on Cultural Matters, both parties agree to put a particular emphasis on written means of communications and expression, including books.

Domestic Legislation

A. The Constitution

Article 8 of the Constitution of 1 June 1959 stipulates that "the freedom of opinion, expression, the press, publication, assembly, and association are guaranteed and exercised under the conditions laid down by the law."

The Constitution thus clearly permits legislative restriction of basic rights, including the right to freedom of expression.

The Constitution provides for an independent judiciary, and prohibits arbitrary arrest, detention and arbitrary interference with privacy and correspondence. However, the executive branch which appoints, assigns, promotes and transfers judges also heavily influences their decisions, particularly in political cases.

Furthermore, the President heads the Supreme Council of Judges and controls the Constitutional Council which is a simple consultative body accountable only to him and with no effective prerogatives to strike down legislation. Most of the members of the Constitutional Council are appointed by the President and Tunisian citizens have no way of challenging unconstitutional laws.

B. The Press Code

Since its amendment in 1993, Article 1 of the Press Code of 28 April 1975 guarantees, “the freedom of the press, publishing, printing, distributing and sale of books and publications.” The broad provisions of this piece of legislation prohibiting “subversion” and “defamation” have often been used to prosecute critics of the government and the head of state and has led to the spread of self-censorship among Tunisians.

Article 8 provides for the legal deposit of “all pieces produced or reproduced in Tunisia”. As soon as the production or the printing is over, it is the producer’s or printer’s duty to proceed with the legal deposit. As far as books or “non-periodical printed pieces” are concerned, the printer proceeds with the legal deposit of one copy with the territorially relevant Public Prosecutor’s Office, and seven copies with the Ministry of Culture. Of the seven copies, one is for the Chamber of Deputies, one for the Ministry of the Interior and four for the National Library.

Article 12 indicates that fines ranging from 200 to 800 Tunisian Dinars (\$1 U.S. equals nearly 1.2 Tunisian Dinars) will punish those who would do not abide by these rules. Furthermore, “anything that is published or imported to Tunisia in breach of the preceding provisions may be seized by order of the Ministry of the Interior”.

A 1977 decree lays down the general conditions implementing the 1975 Press Code. As far as the legal deposit is concerned, the decree stipulates that the applicant (the printer, the publisher, the distributor or the producer) sends three copies of a stamped and signed deposit form to the legal deposit office. It further provides that the administration returns to the demanding party (“déposant”) one of the three copies of the deposit form, which had accompanied the deposit itself. This copy acknowledges receipt of the deposit.

In violation of this legal framework, the authorities require printing houses to await approval by the Ministry of the Interior before proceeding with the distribution of the book (or newspaper) concerned. This approval takes the form of a receipt (“récépissé”), which the authorities sometimes never send or take their time in sending.

According to Article 13, a declaration must be lodged with the Ministry of the Interior before the publication of any periodical. In exchange, the Ministry of the Interior must hand out a “récépissé” (receipt). The declaration must include: The title of the periodical, the details of the publisher, the details of the printer, the language(s) in which it is drafted. By virtue of Article 14, before the printing of any periodical, the printer requires the receipt delivered

by the Ministry of the Interior. In practice the receipt is almost never issued, thus preventing the creation of a certain number of periodicals in Tunisia.

The status of the foreign press is also regulated by the Press Code, in articles 24 and 25. Thus, “the publication, introduction and circulation in Tunisia of foreign works, whether or not they are periodicals, may be prohibited by decision of the Ministry of the Interior, on advice of the Secretary of State for Information who is responsible to the Prime Minister.”

In its 2003 Report entitled “Press in Distress” the Tunisian Human Right League explained how the Press Code “has preserved its overriding repressive character” even after the transfer of some of its articles to the Penal Code. Such transfer was aimed at creating the illusion of “liberalizing the situation of the press,” said the LTDH. Its 2004 report “Media under Watch” sheds light on the section added to the Press Code in 2001 providing for greater penalties for offences relating to inciting murder and looting, “even in the absence of concrete acts following such incitement.”

The Press Code has been amended on three occasions since 1988. These amendments mainly concerned the provisions on registration of copyright.

Prominent Tunisian jurists maintain that the current media legislation stifles freedom of expression more than legislation passed in 1936 under the French Protectorate and upon the independence of the country in 1956.

C. The High-Level Communication Council

President Ben Ali replaced the consultative Superior Information Council which, during his predecessor’s rule, offered Tunisian journalists a forum to discuss with officials and editors issues of interest and even to campaign for independent journalism, by an advisory body with a narrower mandate. The High-Level Communication Council, set up on 30 January 1989, is a 15-member advisory body. It is responsible for “studying and proposing measures to help develop general communications policy. However, it is not open to referrals from professionals or the general public.

D. Other Laws that Have a Direct Impact on Freedom of Expression:

a. The Law on Associations of 7 November 1959 has been subjected to two amendments, one of which permits judicial appeals against decisions of the Ministry of the Interior with respect to the establishment and dissolution of an association. Under this law, a request for approval, for which a receipt is given, must be submitted to the Governor’s Office before setting up an association. In principle, the Ministry of the Interior has three months during which it can decide to turn down the application to establish the association.

b. The Labour Code of 1966 regulates the establishment and functioning of trade unions, which does not require any prior authorization.

c. The Electoral Code of 8 April 1969 was amended in 2003 to ban the use of privately owned or foreign television channels and radio stations to call on

electors “to vote for, or abstain from voting for, a candidate or a list of candidates.” Any violation of this amendment is punishable by a fine of 25,000 Tunisian Dinars (nearly US\$20,800). Since this ban does not extend to reporting on speeches of the incumbent President and his top aides, it puts opposition candidates at a disadvantage in the election campaign.

d. The Law on Political Parties of 3 May 1988: Political parties are not allowed to pursue their activities, including holding meetings and issuing press releases, until they have been granted authorization from the Ministry of the Interior.

e. The Telecommunications Decree of 14 March 1997 regulates access to the Internet in Tunisia. This decree, together with the “Internet Decree” published eight days later, provides that the Press Code applies to the production, provision, distribution and storing of information through telecommunication means, including the Internet.

The Internet decree holds each ISP responsible for content, Web pages and sites hosted on its servers. Internet users and those who maintain websites and servers are also held responsible for any infraction of the law (Article 9).

f. The Law on the Funding of Political Parties, passed on 21 July 1997, stipulates that only political parties represented in the Chamber of Deputies are entitled to receive subsidies from the state.

g. The “Anti-terrorism” Law of 10 December 2003 aimed at supporting “international efforts to combat terrorism and money laundering” has a very vague and broad definition of terrorism.

Promulgated, ironically, on the anniversary of the Universal Declaration of Human Rights in 2003, this law prompted widespread concern amid local and international human rights groups that acts of freedom of expression criticizing President Ben Ali’s policies would be considered as “acts of terrorism.” Long before the promulgation of this law, the Tunisian government had its own definition of “acts of terrorism.” Hundreds of Tunisian prisoners of conscience and political activists in exile who have never advocated or used violence are labelled by the authorities and the state-run media as “terrorists.”

h. The Telecommunications Code of 15 January 2004 controls the use of radio frequencies and private communication networks. A government agency responsible for assigning radio and TV broadcast frequencies, the National Agency for Frequencies operating under the supervision of the Ministry of Communication Technologies was established.

Any unauthorized use of these frequencies is punishable by a prison sentence varying from six months to five years and a fine that could reach up to 20,000 Tunisian Dinars (approx. \$17,000 U.S.).

i. The Law on Personal Data passed by the Chamber of Deputies on 20 July 2004: Presented as proof of “the Head of State’s avant-garde policy in the

area of human rights”, this law severely penalizes transfer or publication of state documents of public interest by individuals. It also gives “public authorities, local authorities and public companies” full liberty to access an individual’s personal data.

This law “strips citizens of all protection, reinforces opacity, and criminalizes transparency. It denies information professionals the right to investigate and denies citizens the right to information,” said the National Council for Liberties in Tunisia (Conseil National des Libertés en Tunisie, CNLT).

“What is particularly interesting about this law is that it contravenes the provisions laid down in the United Nations Convention against Corruption, which was passed in December 2003 and signed by Tunisia as recently as March 2004,” added CNLT.

The Convention against Corruption stipulates that “the prevention and eradication of corruption is a responsibility of all States” and that “they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be successful.”

B. FACTS ON THE GROUND

1. Imprisonment of individuals related to expression of their opinions or media activities.

- **Hamadi Jebali**, editor of the banned Islamist weekly Al Fajr; imprisoned.

Jebali was first arrested in January 1991 and sentenced by a military court in Tunis to one year in prison for “defamation” after running a piece in Al-Fajr by lawyer Mohamed Nouri on the unconstitutionality of military courts in Tunisia. He remained in prison until August 1992 when he was sentenced to 16 years in prison by another military court in Tunis for “belonging to an illegal organization” and “plotting to change the nature of the State.” International human rights groups and Western diplomats deemed the trial of Jebali and 170 other members of the Banned Islamist An-Nahda Movement unfair.

Amnesty International adopted Jebali and scores of other imprisoned Islamists as prisoners of conscience and repeatedly said they have not advocated or used violence and have been imprisoned solely for their “religious and political beliefs.”

Jebali’s long prison sentence is due to end in 2007.

– **The Youth of Zarzis:** Abderrazak Bourguiba, Hamza Mahroug, Abdel Ghafar Guiza, Ridha Belhaj Ibrahim, Omar Chelendi and Aymen Mcharek; imprisoned.

Mahroug, Giza, Belhaj Ibrahim and Mcharek were each sentenced to 19 years and 3 months in prison and to 5 years of administrative control on 6 April 2004 by the Court of First Instance of Tunis. Most of them are aged 21. On appeal, the sentence was brought down to 13 years. It was later confirmed by the Cassation Court, the highest judicial body.

Bourguiba, now 20, was sentenced on 16 April 2004 by a Court for Minors to 25 months of prison. At the time of his arrest, he was aged 17.

Tahar Gmir and Ayoub Sfaxi, also involved in this case, were sentenced in absentia; the former to 19 years and 3 months, the latter to 26 years and 3 months.

The charges are: Constitution of a gang for purposes of preparing and committing attempts on persons and goods; preparation, transport and possession of explosives, devices and materials intended for the making of such explosives; theft; attempted theft; and holding unauthorized meetings.

The "evidence" alleged to have been seized has never been exhibited to the defendants whose files their lawyers have never been able to consult.

Falsification of arrest dates: The defendants were arrested in Tunis on 26 February 2003, according to the official version. However, news of their

arrest had already transpired on 18 February 2003. On 19 February 2003, their lawyers had already notified the Public Prosecutor ("Procureur de la République") in the Court of First Instance in Médenine, about violation by the police of custody time-limits of their clients and their incommunicado detention.

While actually arrested on 5 and 8 February 2003 in Zarzis, southern Tunisia, no official report accounts for the three weeks they spent in isolation, prior to confirmation of their arrests.

Territorial non-qualification of the court: During a first hearing on 3 February 2004 (one full-year after arrest), the case was deferred to 2 March 2004. The defense lawyers protested the territorial non-jurisdiction of the Tunis court, since the defendants' arrest had taken place in Zarzis. They requested the temporary release of the defendants in light of their age and the absence of a criminal record, in addition to the fact that the files were devoid of evidence. These pleas were all dismissed.

In March 2004, the lawyers for the defense withdrew from a hearing, protesting the examining magistrate's refusal to allow them to see the detainees or to get copies of the indictment documents. They deemed such a refusal a violation of the rights of the defense and of the right to a fair trial. The detainees abstained from answering the examining magistrate's questions in the absence of their lawyers.

The detainees' families were unable to visit them until May 2003. To protest this injustice, the families of the Youth of Zarzis have together gone through two hunger strikes in 2003. Their letters to the authorities and particularly to President Ben Ali, to protect their children from injustice remain unanswered.

While they were hoping that President Ben Ali would respond to their petitions, the police were sent to harass them particularly during their hunger strikes. The police prevented their neighbours and others from expressing solidarity and showing support for the families.

For nearly two years the defendant's parents and their lawyers have been asking in vain for concrete proof of wrongdoing. A brother of one of these prisoners warned that "flagrant injustice might one day tempt some peaceful and naturally tolerant Tunisians to resort to violence to resist tyranny."

The Youth of Zarzis were jailed in the same prison in Tunis. This allowed the families to visit their children together once a week and to split the transportation costs. But their children are no longer held in the same prison and the families cannot afford the weekly visit separately. They feel that they are being punished collectively.

In the meantime, parents and relatives are hoping that the day will come soon when their "innocent children will return home and the real culprits will be brought to justice."

Independent Tunisian civil society groups consider the release of the Youth of Zarzis from prison and the end of the cycle of harassment and injustice inflicted on their families as one of their main goals in their campaign for the protection of basic rights prior to the WSIS in Tunis (November 2005).

The emerging Committee to Support the Internautes of Zarzis (CSIZ) met on January 18 at the Tunisian Human Rights League in Tunis to discuss “the alarming health conditions” of the imprisoned young internautes. They decided to seize the opportunity of the 2nd “Prepcom” in Geneva in mid-February to “widely inform (participants) about the plight of the seven imprisoned internautes.”

They also reiterated their conviction that “it is unacceptable on all counts to hold the second phase of the WSIS in Tunis while the seven internautes continue to stagnate in the prisons of the Tunisian regime.”

The CSIZ said the seven internautes are not receiving the medical care they urgently need and are subject to ill-treatment and harassment at the hands of prison guards. Abdel Ghafar Guiza has been “systematically tortured, in an odiously racist manner due to the color of his skin,” said the CSIZ.

- **The Youth of Ariana:** Hichem Saadi, Kamel Ben Rejeb, Mahmoud Ayari, Anis Hdhili, Bilel Beldi, Riadh Louati, Kabil Nacéri, Ali Kalai, Ahmed Kasri, Hassen Mraidi, Sabri Ounais, Sami Bouras; imprisoned.

These twelve students were arrested in February 2003 and sentenced by a court in Tunis in June 2004 to prison terms varying from 4 to 16 years for “establishing an association in order to commit aggressions and spread fear and terror.”

Mohamed Walid Ennaifer was sentenced in absentia on the same charges.

According to human rights lawyers, the young students were arrested near the border with neighbouring Algeria, allegedly planning to flee the country and travel to Palestine.

Mokhtar Yahyaoui, one of Tunisia’s most respected judges since independence, said the case is “as groundless and as fabricated as the case of the Youth of Zarzis.” He added that “the tragedy of this country is the absence of an independent judicial system.”

On 5 January 2005 and again on 9 February, the Court of Appeal of Tunis postponed the proceedings of this case. At the time of publication a new hearing was scheduled to take place on 23 February.

Local human rights groups consider the Youth of Ariana as prisoners of conscience and maintain that their case is a freedom of expression issue because some of the charges are based on documents allegedly downloaded by one of the defendants from the Internet.

The defendants told the court that all of the confessions were made under torture.

- **Jalel and Nejib Zoghlami**; imprisoned.

These two brothers were sentenced on 29 December 2004 to eight months in prison for politically-motivated charges of “theft, aggression and damage to other people’s personal property.” According to human rights groups this case is aimed at silencing Jalel Zoghlami, a political activist and editor of a bulletin called Kaws Al-Karama (the arch of dignity) and the rest of the members of his family known for their opposition to President Ben Ali’s autocratic rule.

Jalel and Nejib Zoghlami are the brothers of journalist Taoufik Ben Brik who five years ago went on a long hunger strike to defend his right to freedom of movement and expression.

Jalel’s wife, Ahlem Belhaj is the chair of the Tunisian Association for Democratic Women (ATFD). Tunisian human rights groups reported that she has been harassed and denied the right to pay visits to her imprisoned husband with her son since September 2004.

2. Blocking of websites, including news and information websites, and police surveillance of e-mails and Internet cafes.

President Ben Ali has expressed time and again his commitment to the development of the Internet while websites are being blocked and young people exploring the Web harassed, arrested, tortured and sentenced to heavy prison terms following unfair trials.

The government and state-run media constantly trumpet that access to the Internet is “free and a fact of life” without any mention of the high price internautes like Zouhaier Yahyaoui or others have paid, and continue to pay for trying to access forbidden sites or to criticize President Ben Ali and his regime on the Internet.

More Tunisians have been arrested for expressing themselves on the Internet during the past three years than for views carried by the print media since the country’s independence, 48 years ago. The most symbolic case that gives a clear idea about the lack of tolerance of freedom of expression on the Internet on the part of the Tunisian government is the case of Zouhaier Yahyaoui.

Zouhaier Yahyaoui established his online magazine TuneZine (www.TuneZine.com), in mid-2001, after learning how “to get through blocked sites” to quench his thirst for information and communication. His problems started after he posted on TuneZine an open letter sent in July 2001 to President Ben Ali by his uncle Judge Mokhtar Yahyaoui. In this letter, which the post office returned to the sender under the pretext that the address was unknown, and to which the state-controlled media turned a blind eye, Judge Yahyaoui denounced the lack of independence of the judiciary in the country.

Zouhaier Yahyaoui was arrested on 4 June 2002 in an Internet café in Tunis. He was tortured and falsely accused of robbing his “employer,” the owner of the Internet café, at a time when he was in fact jobless. He was also charged with “spreading false news” and sentenced to 28 months in prison. He said he was tortured and denied visits by his family and lawyer while in police detention. “I was handcuffed and ill-treated and no one knew where I was for five days,” he said.

Internet cafés, known in Tunisia as Publinets, are under tight control by both the Ministry of Telecommunications and the Ministry of the Interior. Access to these public Cybercafes may be denied by the owner who is also entitled to check anything that is saved on a disk by a customer. It is the owner’s duty to call the police in case the content of what is saved is deemed to be a problem. Very often, computers available in Internet cafés are not equipped with disc drives or USB plugs. Internet users are quite often asked to show their ID to the owner or manager of the Internet café. The owners of public phones, faxes, and photocopiers are also required by the police to keep a watchful eye on their customers and not to hesitate to ask for their IDs.

Yahyaoui was released on parole at the end of 2003 after serving most of his prison sentence. His courage and local and international campaigns of solidarity helped end his ordeal. But it is unlikely that this young and intelligent university graduate will find a job in a country where the job market, including the private sector, often awaits the green light from the police to offer employment to young job seekers.

Yahyaoui said some of his friends who used to contribute to his online magazine have taken refuge in western countries because they felt Tunisia was no longer a safe place to live in. He added that, “Anyone who says anything against Ben Ali is considered a terrorist or a traitor.” President Ben Ali and the state-controlled media often accuse rights defenders and political activists of “treason” and of “serving foreign interests.”

During the IFEX-TMG mission to Tunisia in January 2005, direct testing was carried out of Internet blocking. The tests carried out through Internet Service Provider 3S GlobalNet indicated at least 20 news and information websites were blocked by Internet filtering systems.

A list of these sites is provided at Annex 2. These sites are all available outside Tunisia and none appear to carry material which could justify blocking on the basis of internationally agreed freedom of expression standards. What they have in common is that they provide information and points of view which are independent and which are sometimes critical of the Tunisian government.

We found similar patterns of website blocking through other Internet Service Providers when tested through proxy servers and this suggests that website blocking is specific, is systematic and is centrally controlled.

A possible exception may apply to Internet Service Providers whose Internet access is not only through the Tunisian Internet Agency but also through satellite.

The Internet blocking appears to be performed by the software application SmartFilter Version 3. Smartfilter is an application developed and marketed by a US company, Secure Computing. This application provides a series of website categories which may be switched on or off. In addition it allows for unique blocking of specified URLs.

The Tunisian use of Smartfilter appears to have the categories of nudity, pornography and anonymisers switched on. In addition a number of unique URLs are switched on to ensure website blocking. These include the news and information websites listed at Annex 2.

The technology provides flexibility for specific URLs to be switched on or off at short notice and we gathered anecdotal evidence that accessibility of some websites does vary from time to time. For years, for instance, the sites of international human rights groups, such as Amnesty International, Human Rights Watch, Human Rights First, and the Committee to Protect Journalists have been systematically blocked. So have been the sites of foreign newspapers such as French dailies Le Monde and Liberation and the satirical weekly Le Canard Enchaîné and the monthly Le Monde Diplomatique. These sites were available in January 2005 while others, mainly those giving alternative Tunisia perspectives on Tunisia, remained blocked.

Amnesty International-Tunisia reported that the websites of the London-based international human rights group and of some of its sections in countries including France and Canada were no longer blocked at the end of January. Its own site, AI-Tunisia, was reported by members of the board of AI-Tunisia to be briefly accessible during the visit paid to Tunisia by the IFEX delegation. Members of the Board deemed this “not purely coincidental.”

On 30 January Fathi Chamkhi, spokesperson for the Tunisian section of the Rally for an International Alternative of Development (le Rassemblement pour une alternative internationale de développement, RAID-Tunisie), also known as the Tunisian section of ATTAC, reported that the site of his group can now be viewed in Tunisia for the first time in 5 years.

Chamkhi said in a press released carried by the daily online magazine Tunisnews, “the recent visit to Tunisia of the IFEX Tunisia Monitoring Group “obviously contributed to this development.” He added that the former campaigns to free Zouhaier Yahyaoui from prison and the current ones to release the Youth of Zarzis and Ariana also contributed to the decision to stop blocking the website of RAID-ATTAC Tunisia. So did the struggle of Tunisian independent NGOs and journalists that “helped lift part of the veil which hides the Tunisian regime’s practices which stifle liberties.”

Such pressure was reported to have led the government to temporarily lift blocking of local and international rights groups and newspapers and magazines particularly when Tunisia hosted international meetings and visitors.

Different independent editors whose websites are posted outside the country said the reasons why the internet is so tightly controlled by ISPs close to the regime, including President Ben Ali's daughter and the state-run Tunisian Internet Agency, are purely political.

Editors of online magazines resorted to the Internet because of the absence of independent journalism and because the government has failed so far to stifle freedom of expression completely on the Internet thanks to proxies and pressure from the international community.

Sihem Ben Sedrine, Naziha Rejiba, co-editors of Kalima and Nadia Omrane, editor of Alternatives Citoyenne (Citizens' Alternatives), used to contribute to independent papers like Ar Rai (The Opinion), Le Phare (The Lighthouse), and Le Maghreb, which were forced by the government to close down several years ago.

According to the Tunisian Human Rights League, the tight police surveillance of the Internet and the harassment and imprisonment of Zouhair Yahyaoui and Abdallah Zouari has had a negative impact on the rate of Internet use.

"In Latin America the rate is 1,000 Internet users per 10,000 inhabitants and in South and East Asia it is 2,000 per 10,000 inhabitants. In Tunisia, this rate is 750 per 10,000 inhabitants," said the LTDH adding that most Internet users in Tunisia work for the government and personal accounts amount to only 7.5% of Internet users. The LTDH also reported that there are 0.3 Internet cafes per 10,000 inhabitants in Tunisia, while in neighboring Algeria there are 4 times as many, i.e.: 1.3 Internet cafes per 10,000 inhabitants.

The Tunisian government has its own statistics: "900,000 Internet users; 12 ISPs, including 5 belonging to the private sector; 310 Internet cafes at the end of 2004."

3. Blocking of the distribution of books and publications.

The Tunisian book market is relatively small. It is divided between French and Arabic language texts. There are over 40 publishers in Tunisia, both private and public. Most of them are small publishers. The largest ones are: Cérès Editions (private), Sud Editions (private), Maison Arabe du Livre (public).

Small publishers often faced fiscal controls as a form of intimidation and pressure and scores of their books were blocked at the "legal depot." So was recently a book on sexuality by a female writer.

As required by the Press Code, the printer deposits a certain number of books but never gets the "récépissé" (receipt) from the authorities. Thus, the book in question is withheld from distribution even after completing the formal procedure of the legal depot. Another book by the son of Mohieddine Klibi, one of the figures of the national struggle for independence has never been authorized.

Mohamed Talbi's books on Islam are continuously blocked in the "legal depot." Talbi, a former Dean of the Faculty of arts in Tunis and one of the most prominent scholars and advocates of dialogue between religions and of freedom of expression has also seen all of his books, released years ago by the Tunisian censors, disappear from book stores. His latest book "Penseur Libre en Islam" (Free Thinker in Islam) published in France in 2003 by Albin Michel is still denied access to the Tunisian market.

His French publisher sent him 25 copies, but the Ministry of the Interior confiscated them, without giving him a receipt.

"Nearly two years ago, I asked at the Ministry of the Interior humbly and politely for a document explaining that my book is banned. They refused, claiming that the book might be allowed to be on sale one day," said this elderly scholar.

There is no such thing as a free flow of books and publications among Arab States, or from, say, France to Tunisia. The Tunisian authorities carefully censor foreign books that come into the country.

Talbi said: "One day the customs seized a book I bought in Rome called 'le catechisme de l'Eglise catholique' and later asked me what's the meaning of catechism?"

Talbi, who chairs an unauthorized freedom of expression group called OLPEC (Observatoire de la liberte de presse, d'edition et de creation), questioned the use of international freedom of expression groups' presence at the WSIS, if Tunisians like him are denied free access to the local media.

Moncef Marzouki, former head of the LTDH and spokesperson of CNLT and currently head of an unauthorized political group, the Congress for the Republic (Congres pour la Republique) has seen his books vanish from Tunisian book stores. Even those dealing with human rights and health education and some of his latest books on the struggle for democracy and human rights in the Arab world have been published outside Tunisia, including Morocco.

Several books criticizing the Tunisian government's poor human rights record, including a recent book by Sihem Ben Sedrine and Omar Mestiri titled "L'Europe et ses despotes" (Europe and its Despots), have been published in France. At Tunis Carthage Airport books brought by Tunisians, particularly rights activists and dissidents are often confiscated by the customs agents. Ben Sedrine has seen more than once recently copies of her book confiscated.

There are no clear guidelines in terms of censorship and preventing distribution of books and publications. Such arbitrary behaviour has undoubtedly dealt an unprecedented blow to creativity and artistic life as self-censorship seems to have become second nature among Tunisians.

There is no rational explanation, for instance, of the confiscation in late November 2004 at Tunis Carthage Airport of ten books brought from Cairo by

Neji Merzouk, member of the board of the LTDH and head of a small publishing group called “Samed” based in Sfax, Tunisia’s second largest city. Aside from the Annual Report of the Cairo-based Arab Human Rights Organization, the remainder of the nine confiscated books had nothing to do with Tunisia. Some were very critical of radical Islam, which the Tunisian government claims to be combating. Among the confiscated books was also “Emarat Yacoubian” (The Yacoubian Building), a best-seller by Egyptian novelist Alaa Al Aswany!

Two books in Arabic published by Merzouk’s group, “Samed”, have, since 2003, been awaiting authorization to make it to the book stores. The first one is a novel by Nejib Saadaoui titled “Mesbah El-Jarboue: a Hero from the Land of Fig and Olive Trees”; the second one is a collection of poems written by Kamel Ghali titled “Beautiful Doubt.”

In 1996, the police stormed Samed publishing house in Sfax and later the same day his home in Chebba and seized 12,869 copies of 13 books which had been authorized for sale years ago by the government. His petition dated 23 May 1996 to the Minister of the Interior, protesting this abuse of power remains unanswered.

According to the banned League of Free Writers, “Samed” is the last Tunisian “combat publishing house” which may play a role similar to the role of Sihem Ben Sedrine’s defunct Aloès publishing house, “although to a much lesser extent.” Aloès publishing house was broken into twice in December 1999 by individuals thought to be members of the political police, and all its computer equipment was taken.

Hafidha Chekir, a law professor and human rights defender, saw in 2000 her book “Les Droits des femmes entre les textes et les resistances” (Women’s Rights between the Legislative Texts and Resistance to Change) put on sale in Tunis by Chama Publishing House. Nearly six months later, the book was suddenly withdrawn from book stores by the authorities under the pretext that it needed the “Depot legal”! Ironically this book has not been recently withdrawn from the shelves of the library of the Faculty of Law and Political Science where Chekir has been teaching for more than 25 years.

Chekir’s book is based on the research and findings of her doctoral thesis for which, in 1998, she was awarded the Human Rights Prize by the French Society for International Law.

In 2004 the Tunis-based Arab Institute for Human Rights sent to the printer a manuscript in Arabic written by Hafidha Chekir entitled “Guide about the participation of Arab women in Political Life.” The book is still awaiting authorisation following the customary “Depot legal.”

This arbitrary behaviour in the field of publishing and distribution of books and publications often in line with the official discourse on human rights, modernity and radical Islam has been gaining ground since President Ben Ali’s coup, which Tunisian journalists are instructed to refer to as “the change.”

The Tunisian section of Amnesty International waited nearly five years after completing the formalities related to the “depot legal” before being allowed to use a guide book on human rights education. This guide, prepared at the end of the 1990s in cooperation with the Norwegian section of Amnesty International, would not have been released without an international campaign backed by some influential sections of the movement.

For years AI-Tunisia has seen thousands of documents, including Amnesty International’s Annual Report, blocked at customs, its phone and fax lines frequently cut off and its mail regularly stolen from its letter box. “International pressure can bear fruit and help loosen the grip of this autocratic and perverse state which stifles basic liberties,” said a former chair of AI-Tunisia.

The Tunisian Association of Democratic Women has been waiting since 1994 for the authorities to allow the release of a book titled “Violence against Women.” The book is a compilation of papers and remarks presented at an international seminar held in Tunis in November 1993. A poster designed by this independent and beleaguered association to raise women’s rights awareness and protect them from violence has also been withheld since 1993 at a printing house following instructions from the authorities.

Despite all the obstacles and harassment facing independent publishers, the government has, for years, been discussing a draft convention with the Tunisian Publishers Union (L’Union des Editeurs Tunisiens, UET) aimed apparently at further controlling the publishing sector. The UET which was established in 1972 but remained rather dormant for more than a decade, began to demonstrate interest in the promotion of reading and books through an increased participation in various book fairs (Paris, Arab world). Its current membership is nearly 40 publishers representing 70% of the Tunisian publishing industry.

The draft convention defines guidelines on ways of establishing a publishing house and distributing “cultural books” and describes sanctions which might be inflicted on publishers. Sanctions could go as far as closing down the publishing house in cases where the minister came to the conclusion that the publisher “committed a professional mistake or ethical violation.”

The circle of freedom of expression is narrowing, not only among publishers, but also amid prominent historians committed to scientific research, such as **Abdel Jelil Temimi** founder and head of the **Temimi Foundation for Scientific Research and Information** (www.refer.org/fondationtemimi). This foundation has earned a reputation during the past years for crossing “red lines” by shedding light on the recent history of Tunisia and issues such as censorship in the Arab world. The papers and conclusions of its first conference on censorship in Arab countries held in 2000 are still awaiting the green light from the Tunisian authorities to be made public. This negative attitude on the part of the Tunisian government did not dissuade the Temimi Foundation from organizing, at the end of November 2004, its second conference on Censorship in the Arab world.

The Temimi Foundation, which is enjoying a margin of freedom of expression unparalleled in the state-run research centers and universities, has been waiting for nearly ten months for the government's decision to allow the release of a book containing testimonies on the confrontation between the ruling party and the Tunisian General Workers Union (UGTT) in 1978, known as the "Black Thursday", which led to scores of dead and wounded among the population. Apparently the censors did not appreciate the testimony of one of the main protagonists during that crisis, Taieb Baccouche, former Secretary General of the UGTT and currently president of the Arab Institute for Human Rights.

Furthermore, several books by Tunisians forced into exile, including Ahmed Manai, Sadri Khiari, Taher Labidi, Olfa Lamloom, Taoufik Medini, Mohamed Mzali and Rached Ghannouchi, have not been allowed to make it to the Tunisian state-controlled book market. Neither have books on Tunisia recently written by French journalists Nicolas Beau and Jean-Pierre Tuquoi and French Academics Michel Camau and Vincent Geisser... or Canadian academic Lise Garon.

4. Restrictions on the freedom of association, including the right of organizations to be legally established and to hold meetings.

Despite 8,000 officially-acknowledged associations in Tunisia, only a dozen associations are really independent, such as the Tunisian League for Human Rights, The Tunisian Association for Democratic Women, the Tunisian Section of Amnesty International and the unacknowledged National Council for Liberties in Tunisia, the League of Free Writers and the Tunis Centre for the Independence of the Judiciary. The remaining thousands of associations which the government and the state-run media ironically call NGOs are tightly controlled by the Ministry of the Interior and the ruling party. Even members of the board of sports and cultural clubs have to be approved by the authorities.

Most of the associations the authorities send to international gatherings as "NGOs" are government sponsored organisations which can not be considered independent of the ruling powers.

Truly independent associations must work clandestinely. Their communications (mail, email, fax) are controlled and it is not uncommon for them and their leading figures and members to receive viruses or groups of 200 or 300 identical e-mails from unknown users, which blocks their e-mail servers. Their mails and parcels are very often opened or do not reach the final recipients. Phone conversations are tapped and freedom of movement is very often infringed whether internally or externally.

All the independent NGOs the IFEX delegation met seek legal recognition from the Tunisian government. Legal status would allow them to act with greater freedom. In other words, the situation of freedom of expression in Tunisia, including freedom to publish, will not improve as long as independent NGOs are not officially acknowledged by the authorities.

Effective acknowledgement is a step – albeit a necessary one- on the road to better freedom of expression in Tunisia.

The increasing legislative and administrative restrictions on the right to freedom of association have led many civil society activists, particularly since 1998, which coincided with the 50th anniversary of the Universal Declaration of Human Rights, to establish groups and exercise their right to freedom of association and assembly without prior authorization from the government.

The National Council for Liberties in Tunisia

The CNLT was established in December 1998 by a group of human rights defenders following unprecedented attacks on the LTDH, which was forced into hibernation in 1992. The CNLT's monitoring of human rights violations prompted continuous violent reactions against its leading members including arrests, physical assault, and harassment.

Nearly 150 plain-clothed policemen blocked the entry to a CNLT meeting on 11 December 2004 in Tunis. "Many of our members were assaulted on that day by the police. Three of them were injured, including one who had his ribs broken," said Sihem Ben Sedrine. Another meeting of the CNLT coincided with the visit of IFEX members to Tunisia in January. CNLT militants were denied access to their office on Abu Dhabi Street in the center of Tunis on 16 January 2005 by scores of plain-clothed policemen.

IFEX members noted the presence of some of these policemen when they later visited the CNLT office.

Unauthorized NGOs generally hold their meetings at the homes of their leading figures, but militants are often prevented from taking part in what the authorities consider "illegal meetings."

The Association for the Struggle against Torture.

Another unauthorized group is the Association for the Struggle Against Torture in Tunisia. "When we talk to each other over the phone, the police quickly turn up. Our phones are obviously tapped. Nearly one year ago almost 40 plain-clothed policemen circled my office. It's a way to discourage us and deny us the right to operate within the framework of the law," said Radhia Nasraoui.

On 8 June 2004 Nasraoui and other founding members of the Association for the Struggle Against Torture in Tunisia were assaulted by nearly 17 plain-clothed policemen and were prevented from turning in the application for legal status for their group to the authorities in Tunis. Ridha Barkati, treasurer of the group and brother of a political activist who died under torture several years ago was thrown into a taxi and ordered to leave.

The International Association for the Support of Political Prisoners (L'association internationale de soutien aux prisonniers politiques).

This group, which is very active as far as shedding light on the plight of nearly five hundred political prisoners and former political prisoners, was established nearly three years ago. Members of the board were assaulted and harassed by the police when they first tried in 2002 to deposit their application for legal status. They were told by the police there was no such office which would deal with their application! Later they sent their application through the registered mail to the competent authorities, but the envelope containing the application was opened and returned to them with no comment or the long-awaited receipt.

The head of the group, Mohamed Nouri, and other members of the board, including Saida Akremi and Samir Ben Amor are constantly harassed and followed by the police. Plain-clothed policemen are regularly posted in front of their offices and to intimidate their clients. Their homes are often under police surveillance too.

Nouri, Akremi and Ben Amor are lawyers. Nouri's problems started nearly 15 years ago when the government sued him in a military court because of an opinion piece run by the weekly El Fajr in which he argued that the military courts are unconstitutional. He was sentenced to six months' imprisonment, but was released after more than eight months.

The Centre for the Independence of the Judiciary (Le centre de Tunis pour l'indépendance de justice).

Attempts by this group, established by scores of lawyers and law professors nearly two years ago, to secure legal recognition from the authorities has so far failed.

The group is headed by one of the country's bravest and most respected judges, Mokhtar Yahyaoui. His open letter to President Ben Ali urging him in 2001 to put an end to the lack of independence of the judiciary, was highly appreciated by human rights defenders and democracy advocates. But he had soon to pay a very high price for his courage. He was fired from his job and physically assaulted by thugs in the streets of Tunis and saw his nephew thrown in prison only for posting his open letter on his website.

The daily harassment by plain-clothed policemen of the workers who were painting and refurbishing his office which he planned to turn into a law practice led him in September 2004 to change his mind regarding the possibility of practicing law in such dire conditions.

The League of Free Writers

The league of free writers is not officially approved by the authorities. LFW has two requests: 1. Implementation of the Press Code ("Hand out the receipt!"), 2. Non-application of the Press Code to books, or abrogation of the Press Code.

The history of the League of Free Writers (LFW) is a good example of how the Tunisian authorities do not respect the right to assemble. The LFW deposited

its statutes on 13 July 2001. This, in itself, had not been easy. Sometimes, the authorities, which are aware of when the statutes will be deposited by a would be association, simply block the official building's entrance (physically) or simply do not hand out the receipt which they should be handing out when statutes are deposited. This is for instance the case of Raid - ATTAC Tunisia. The authorities never handed out the receipt to them, thus preventing them from going to court for a non-existing decision.

Within two months, the authorities informed LFW that it would not be approved. FLW filed a complaint with the administrative tribunal in February 2004. The tribunal sent a questionnaire to LFW and to the Ministry of Culture. The latter one gave 3 reasons for refusing to approve the LFW:

- There is already a union of Tunisian writers.
- The adjective "free" is a problem. It seems the association would exclude writers who are not free.
- One of the articles of the statutes stipulates that the LFW would defend writers' interests, thus being more of a trade union than an association.

The administrative tribunal, whose decisions are not compulsory, has not reached a final decision yet. It is not expected to do so before 2007.

Interestingly, the OLPEC was given the same reasons for not being officially approved.

Observatory of the Freedom of the Press, Publishing and Creativity (OLPEC).

OLPEC was founded in 2001. The authorities refused to acknowledge receipt of OLPEC's official request for approval in 2001. OLPEC was finally given a receipt on 3 May 2001. Within three months, the authorities, as they are required by law, informed OLPEC that it would not be approved. The goals of OLPEC are as follows:

- Investigate censorship of books, the press and artistic activities;
- Publish regular reports on the situation of freedom of expression;
- Issue alerts on particular cases of infringement of freedom of expression;
- Propose reforms to improve the situation of freedom of expression in Tunisia.

OLPEC filed a complaint with the administrative tribunal in 2001. The case is still pending. It should be noted that very often it is not even possible to file an official complaint because the authorities did not acknowledge receipt of the official request for approval. As in the LFW case, the reasons put forward by the Ministry of Culture in the OLPEC case are:

- Name not appropriate.
- Goals of the association broad enough for it to be a political organisation.

The Tunisian section of the Rally for an International Alternative of Development (le Rassemblement pour une alternative internationale de développement, RAID-Tunisie).

This group was established in 1999. Out of nearly 40 local sections of this international movement, only the Tunisian section is not granted legal status. Its spokesperson, Fathi Chamki is one of the most harassed civil society activists. He has been tortured, ill-treated and arbitrarily jailed for nearly one month during the past years. The members of the association are harassed. They are under tight police surveillance. Their freedom of movement is severely curtailed and their phone and mail communications are intercepted.

The Ministry of the Interior warned in June 2004 the Tunisian League for Human Rights and the Progressive Democratic Party against hosting the second Congress of the Tunisian section of the Rally for an International Alternative of Development. In October 2004, militants of this group were prevented by the police from accessing the headquarters of the Democratic Forum for Labor and Liberties to hold their second congress. "International solidarity can decisively help in forcing the dictatorial regime to back down and let us hold our second congress," said Chamkhi.

Political parties critical of President Ben Ali's policies are also subject to attacks and assaults on their leading members, even though their parties have been already granted recognition. For instance, the Progressive Democratic Party (le Parti démocratique progressiste, PDP) and the Democratic Forum for Labor and Liberties in Tunisia (le Forum démocratique pour le travail et les libertés, FDTL) are not treated by the authorities on an equal footing, even with less important political groups. They are kept under constant police surveillance and denied facilities granted to other minor political groups mainly because they boycotted the 2004 elections.

Led by **Moustafa Ben Jaafar**, former member of the board of the LTDH, the Democratic Forum for Labor and Liberties, which waited 8 years before being granted legal status in 2002, is currently being harassed and taken to court by individuals believed to be close to the Ministry of the Interior. The problems of Ben Jaafar increased suddenly after the decision of his political group in January 2004 to boycott what they called the "mock presidential and legislative elections."

Most of the unauthorized human rights and political groups have called repeatedly, in vain, on the authorities to abide by the Constitution, the International Covenant for Civil and Political Rights and the Declaration of the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the U.N. General Assembly on 9 December 1998.

In its "Remarks regarding the preliminary conclusions of the IFEX delegation to Tunisia" the Tunisian External Communication Agency said, "Each Tunisian is free to join, or not to join, any association," and "Tunisian civil society is remarkably dynamic."

It singled out the Tunisian Association of Journalists as an example of an association which publishes "each year its own report on the state of the press in Tunisia."

In fact, the Tunisian Association of Journalists used to be one of the most independent journalists' groups in the Arab world until it was forced in 1993 by the authorities to support the candidacy of President Ben Ali.

The Tunisian Association of Journalists, an example of independence or a tool of propaganda?

The Tunisian Association of Journalists repeatedly turned a blind eye to mounting attacks on the media and harassment and imprisonment of journalists. Its decision to award its "Golden Quill" to President Ben Ali in December 2003 led to its suspension in March 2004 by the International Federation of Journalists and prompted independent Tunisian journalists to establish in May 2004 a new trade union (Le syndicat des journalistes tunisiens).

Its latest report on the state of the press in Tunisia was largely distributed outside the country and among the Western diplomatic community based in Tunis. The report appeared to be part of a strategy backed by the government to influence the International Federation of Journalists to lift the suspension of Tunisian Association of journalists during the IFJ Congress in Athens in May 2004.

The Tunisian authorities usually advise international visitors to meet with the chairs of the Tunisian Association of Journalists and the Tunisian Association of Newspaper Editors expelled by the World Association of Newspapers in 1997 for its lack of defense of press freedom in Tunisia. Both associations have been led during the past 15 years by members of President Ben Ali's ruling party, the Constitutional Democratic Rally (RCD). So have been other groups established by the authorities to spread the illusion of a dynamic and pluralistic civil society.

Such state-run groups are subsidised by the authorities and encouraged to take part in international conferences, including the WSIS. Tunisian rights and political activists find it ironic that these state-run groups are considered as NGOs and granted accreditation to the WSIS while their groups are denied accreditation simply because they have no legal status under their autocratic regime.

5. Restrictions of the freedom of movement of human rights defenders and political dissidents.

Civil society activists are sometimes put under house arrest for very short periods of time, in violation of their right to freedom of movement and expression. They are denied the right to leave their home to take part in meetings, even when the meeting is held at the headquarters of authorized political or human rights groups. No written explanation is provided, only oral warning of the consequences of not abiding by such an arbitrary decision.

Abdallah Zouari; harassed

Zouari used to write for the Islamist weekly Al-Fajr until the government banned it in 1991. One year later he was sentenced by a military court to 11 years in prison and five years of “administrative control” for belonging to “an illegal organization” and planning “to change the nature of the state.”

Since his release from prison in June 2002, he has been kept under virtual house arrest in the suburbs of the small town of Zarzis, nearly 500 km. south-east of Tunis. Nine policemen closely watch him 24/7 at his parents-in-law house where the Ministry of the Interior has ordered him to remain.

Zouari’s freedom of movement and expression are tightly restricted. In July 2003 a cantonal court sentenced him to four months in prison for “defamation.” The case followed an argument he had with the owner of an Internet café who denied him access, on instructions from the police. One month later, he was arrested and convicted of violating his “administrative control” and sentenced to nine months in prison. This second case followed a visit with three human rights lawyers to a local market, nearly 40 km. from Zarzis.

A contributor to blocked web magazines, NahdhaNet (www.nahdha.net), Kalima (www.Kalima.tunisie.com) and Tunisnews (www.tunisnews.com), Zouari is not welcome to use Internet cafés which are under regular police surveillance.

For the second time in less than one year, Zouari went on hunger strike on 23 January 2005 to bring attention to his plight, to defend his right to express himself and to work freely, and to live under the same roof with his wife and children. They live in the residential city of El-Mourouj, in the southern suburbs of Tunis.

– **Sihem Ben Sedrine and Neziha Rejiba**; harassed.

Respectively, editors of the French and Arabic sections of the online magazine Kalima (www.Kalima.tunisie.com) and human rights defenders, Ben Sedrine and Rejiba are often harassed and are under continuous police surveillance. Scores of plain-clothed policemen are sometimes in front of their respective homes.

Both Ben Sedrine and Rejiba, also known as Um Zyed, became among the favorite targets of the Tunisian political police, for shedding light on human rights violations and crossing “red lines”, such as criticizing President Ben Ali’s autocratic rule and the involvement of members of his family in shady business deals. Ben Sedrine was arbitrarily detained for weeks in 2001 after tackling the issue of corruption in Tunisia during a program aired by a London-based satellite channel.

Rejiba was given a suspended sentence of eight months and a fine of 1,200 Dinars (nearly \$1,000 U.S.) for allegedly violating foreign currency laws. Human rights lawyers said the charges “are fabricated and aimed at tarnishing her image because of her political activities and courageous articles.” This

suspended sentence and fine came after Rejiba criticised the overwhelming presence of President Ben Ali's portraits in the public sphere

Other human rights defenders and political activists are also popular targets for the plain-clothed political police. The long list of the frequently harassed human rights defenders and dissidents of different political trends include:

Radhia Nasraoui, Moncef Marzouki and his brother Mohamed Ali Bedoui (now living in Western Europe, after being arbitrarily imprisoned and fired from their respective positions as medical professor and teacher), Hama Hammami, Nejib Hosni, Mokhtar Yahyaoui, Raouf Ayadi, Zouhaier Yahyaoui, Mohamed Nouri, Lassad Jouhri, Taoufik Ben Brik, Sadri Khiari, Saida Akremi, Mohamed Jemour, Bechir Essid, Slah Jouchi, Souhaier Belhassen, Ahlam Belhaj, Khedija Cherif, Alya and Khemais Chamari, Hedhili Abderrahmane, Samir Ben Amor, Mokhtar Trifi, Anouar Kousri, Ali Ben Salem, Salah Hamzaoui, Mustapha Ben Jaafar, Hachemi Jegham, Omar Mestirti, Abdel Kader Ben Khemis, Abdel Wahab Maatar, Nouredine Bhiri, Ridha Barkati, Chokri Latif, Fathi Chamkhi, Mongi Ben Salah, Ayachi Hammami, Moncef Ben Salem.

Many Tunisian dissidents living abroad, particularly in France, such as Ahmed Manai, Mondher Sfar and Taher Labidi, have been harassed and physically assaulted during the past years by "unidentified" thugs.

Relatives and children of political or rights activists living in Tunisia or in exile and former prisoners of conscience, mainly Islamists, are among the favorite targets of the Tunisian police. Many Tunisians have also paid a heavy price, varying from losing their job to imprisonment for simply assisting some of the needy families of imprisoned Islamist activists.

– **Slim Boukhdhir**; assaulted and harassed

Boukhdhir was assaulted during a news conference on 7 August 2004 by thugs allegedly close to one of President Ben Ali's brothers-in-law. Subsequently he lost his job as contributor to "Akhbar Al-Joumhurya" (News of the Republic) and was harassed and received threats over the phone warning him against going public with his case.

- **Lotfi Hajji and Mahmoud Dhaouadi**; harassed

Hajji and Dhaouadi are respectively the chair and the secretary general of the Tunisian Syndicate of Journalists established in May 2004. They were summoned on 16 August by the Director of the Political Affairs at the Ministry of the Interior who questioned the legal grounds of the new syndicate and its issuing of press releases.

Hajji and Dhaouadi told the government official that under the Labor Code, no authorization is needed to establish a syndicate.

On the other hand, Hajji, who is a former sub-editor of the weekly Realites and known for his independent views was in 2004 denied accreditation as

correspondent of the Qatar-based satellite channel Al-Jazeera. The Tunisian External Communication Agency informed Al-Jazeera of the decision to deny Hajji accreditation.

Tunisia is one of the few countries in the world to have refused to allow Al-Jazeera to have an office in Tunis.]

- Fatih Chamki, spokesperson of the Tunisian section of the Rally for an International Alternative of Development (le Rassemblement pour une alternative internationale de développement, RAID-Tunisie), also known as the Tunisian section of ATTAC, was prevented from attending a meeting of the Tunisian League of Human Rights on 16 January. Early in the morning, Chamkhi informed the representatives of the six organizations of IFEX visiting Tunisia that he had unexpectedly found himself under house arrest.

He explained over the phone that as he was about to start his car's engine, three police cars circled his vehicle to prevent him from going anywhere. He was about to depart to attend a meeting of the Kairouan section of the Tunisian League for Human Rights. The city of Kairouan is nearly 140 kilometers south of Tunis. One of the policemen made it clear to Chamkhi that he had better not go anywhere this day.

Chamkhi, concerned that should he ignore this instruction, he would risk facing police brutality, decided to stay home that day. Sarah Carr, representative of the Egyptian Organization for Human Rights (EOHR) and Alexis Krikorian (IPA) volunteered to pay a visit to Chamkhi's home in the southern suburbs of Tunis to have a clear idea how civil society activists' freedom of movement is violated in Tunisia.

Hundreds of former political prisoners are like journalist Abdallah Zouari under constant police surveillance and unable to leave the area where they are residing without prior authorization from the police. Zouari was closely followed by a Toyota car with two plain-clothed policemen when he came to meet with us at the entrance of his village on a motor bike on 18 January. The police car followed him when he led us first to his home and later to meet with the parents and relatives of the Youth of Zarzis.

Many of the political and human rights activists who came to meet with the delegates representing IFEX members at a hotel in Tunis were followed by plain-clothed policemen. Plain-clothed police were closely watching the hotel and our visitors day and night during our stay. The whereabouts of the IFEX delegation were constantly monitored by police officers.

Human rights defenders and political activists and former political prisoners and their close relatives are often denied the right to travel, even though they have a passport. Many of them resorted to hunger strikes during the past years before the Tunisian authorities accepted often under international pressure to hand them their passports or allow them to leave the country. The longest hunger strike was launched in 2000 by journalist Taoufik Ben Brik after he was prevented from travelling to France.

Among Tunisian rights defenders currently denied the right to leave the country are Mokhtar Yahyaoui and Mohamed Nouri. The authorities fabricated legal cases to prevent them from travelling. Human rights groups believe that the legal cases are politically motivated and in violation of the right to freedom of expression and movement.

The persons in charge of truly independent associations and political groups whether acknowledged or not by the authorities seem to be regularly followed by the Police.

6. Lack of pluralism in broadcast ownership, with only one private radio broadcaster and one private TV broadcaster.

The decision made public by President Ben Ali on 7 November 2003 to open the audiovisual sector to private initiative, for the first time since the independence of the country, left many Tunisians indifferent.

Even the state-controlled Tunisian Association of Journalists (AJT) noted, in its report on the state of the press in 2003, the lack of transparency which characterized the decision to single out Radio Mosaique as the first private radio station.

“It has been privileged to go on the air in the absence of general guidelines for all candidates willing to establish a private radio station,” said AJT in its report which was distributed mainly outside the country.

The Tunisian Human rights League (LTDH) said the Tunisian authorities ignored Article 20 of the Communications Code which stipulates that invitations to tender should be brought to the public attention via the press.

LTDH whose report “Media under Watch” has been prepared by a group of independent journalists and a media expert, described Nour Eddine Boutar, owner of Radio Mosaique, as “a former journalist for the daily Eshourouq who has distinguished himself by his absolute and zealous allegiance to the power in place.”

Radio Mosaique broadcasts four brief news bulletins per day and airs President Ben Ali’s full speeches after consulting with the official news agency TAP. During the electoral campaign in October 2004, the station favored President Ben Ali over his challengers. Only information promoting Ben Ali and his party was on air.

The announcement in February 2004 that the first private TV channel, Hannibal TV, has started trial broadcasts raised more concerns about the absence of transparency regarding the gradual privatization of the broadcasting media. As in the case of Radio Mosaique, Tunisians were once again kept in the dark about the guidelines and the criteria adopted by the government in favour of Larbi Nasra, the apparent owner of Hannibal TV, over other potential candidates.

Unlike Boutar, Nasra is not known among journalists and civil society activists. In an interview dated 20 April 2004 with the privately-owned weekly Al Hadath (the event), believed to be close to the Ministry of the Interior), he said about 30 per cent of Hannibal TV's programs "will be dedicated to social topics and women's issues." He added that "the rest of the programming will initially include entertainment, sports and culture."

At least six Tunisians, including Zyed El Heni of the state-owned "As-Sahafa" (the press) and Rachid Khechana correspondent of Al-Hayat in Tunis and editor of the opposition weekly El Maoukif, have submitted requests for the launch of private radio stations. Khechana also applied in March for the authorization to launch a private TV channel. None of these have been provided with a decision on their requests, nor any reason for not providing a decision.

Although Tunisian citizens are required by the law to pay a licence fee to the Tunisian Radio and Television Broadcasting Corporation (Etablissement de la Radio et television Tunisiennes) through the electricity and gas bill, they have no influence on the government controlled-media. Tunisians tend to watch Arab satellite channels more than Channel 7 and Channel 21, respectively targeting adults and young people. The national radio, with its international program in foreign languages and five regional stations lacks quality and credibility.

Opposition and civil society groups took to the streets in February and March 2004 to protest the firm control imposed by the authorities on the public radio and TV stations and to assert their right to freedom of expression.

7. Press censorship and lack of diversity of content in newspapers.

President Ben Ali has publicly criticized Tunisian journalists for practicing self-censorship while his aides were tightening the screws on the media and silencing by various means independent journalists and harassing foreign correspondents. In May 2000, nearly three weeks after calling on journalists to take their courage with both hands and free themselves from the shackles of self-censorship, Riadh Ben Fadhel, a businessman and former editor of the Arabic edition of the French monthly Le Monde Diplomatique was shot and seriously wounded by unknown gunmen. The attack, which took place in front of Ben Fadhel's home near the Presidential Palace in Carthage, "bore the hallmark of an attempted extrajudicial execution," said international human rights groups. It occurred following the publication by Le Monde of an opinion piece in which Ben Fadhel criticized the government. To date, no light has been shed on this attempted murder which had a chilling effect on independent journalists and rights and democracy advocates.

Throughout Tunisia's recent history many journalists working for the state-owned media have often resisted pressure from the government to turn them into mere tools of propaganda and denounced excessive censorship. In the 1980s they played a key role in turning the Tunisian Association of Journalists into one of the most independent associations of its kind in the region.

On 9 March 2004, a group of journalists working for the state-owned dailies La Presse an Essahafa took everybody by surprise. In a letter to government officials, including Prime Minister Mohamed Ghannouchi, and also to civil society groups, they noted “a return in force of the policy of censorship and of pressure on their writings.”

They explained in their letter, a copy of which was sent to the Tunisian Human Rights League and quoted in its report “Media under Watch”, how certain common censorship practices such as the “distortion of articles and the misrepresentation of their content” were committed by their editors. The latter acknowledged that they were acting upon instructions from a high-ranking official, but they declined to identify the source of these instructions.

They added that “things have come to such a state that certain articles of political analysis and commentary are censored, with the general director of La Presse declaring time and again that a journalist has no longer any relationship whatsoever with his/her article once he/she has submitted it to the newspaper officials”.

Censorship has gained so much ground in “recent months”, according to the authors of the letter, that it affects all issues and events, even dictating which they are asked to cover. In 2004, editors received instructions to print only the official versions of events, including disasters such as the devastating flood which severely hit the country, the outbreak of a disease transmitted by mosquitoes, and President Ben Ali’s controversial decision to postpone the Arab League Summit in Tunis.

Instructions to editors of state-owned or privately-owned papers to continue to turn a blind eye to cases of torture in police custody and hunger strikes of political prisoners and activists are incessant. Two privately-owned dailies refused in December to run a paid advertisement by the Tunisian section of Amnesty International paying tribute to the memory of Ahmed Othmani, a former Tunisian political prisoner and the first Arab to play a leading role in the London-based human rights movement. Coverage of local human rights groups, whether granted legal status or not, and their activities are still considered as “red lines.”

According to the Tunisian External Communication Agency, “90 per cent of newspapers are privately-owned and editorially independent.” However, over the past 15 years both state-owned and privately owned papers have been competing in praising President Ben Ali’s policies and attacking his critics.

All papers and particularly privately-owned papers are kept on a leash through the Tunisian External Communication Agency (ATCE) which controls placement of advertising in the public and semi-private sectors in the country. Minor opposition groups which support President Ben Ali’s policies were granted seats at the Chamber of Deputies and are entitled to receive allocations from the ATCE to cover their media expenses. The Progressive Democratic Party, which publishes the weekly Al-Maoukif (the position), is not treated as generously as the other five parties mainly because of its critical attitude vis-à-vis the government.

Reflecting the government's displeasure with them, Al-Maoukif and also Attariq El-Jedid must often wait for more than 24 hours at the printing house before getting authorization for distribution from the Ministry of the Interior.

According to the Tunisian Human Rights League, "censorship and disinformation have not spared high-ranking foreign officials." The American Information Centre in Tunis reacted, for instance, to the fabrication by local media of remarks attributed to Secretary of State Colin Powell during his December 2003 visit to Tunis by distributing the full version of his remarks. Mr. Powell never referred to "the remarkable progress made in the field of human rights," but only spoke of "achievements made in the field of women's rights and education."

The Tunisian government also continues to block the distribution of foreign papers and magazines. It also delays the distribution of some of them, sometimes for several days. To avoid such recurring obstacles and bans, the London-based Al-Hayat decided to boycott the thorny Tunisian market.

Tunisian papers are also instructed to rely heavily on the state-owned news agency, Tunis-Afrique-Presse (TAP), particularly with regard to local news and the activities of President Ben Ali, who gets front page coverage. Sycophantic pieces about President Ben Ali's "remarkable achievements in education, economic growth, liberties and women's progress" are regularly paid for by the Tunisian government in different papers, particularly in the Middle East, not as advertisements, but purporting to be news stories. These pieces are later run by Tunisian dailies and quoted extensively by the State-run radio and TV stations.

There was more diversity in the print media before President Ben Ali came to power in 1987. Three independent papers were silenced one after the other: Errai (the opinion) in 1987, the Phare (the lighthouse) and the Maghreb in the early 1990s. The editor of Le Maghreb, Omar S'habou was imprisoned for nearly one year following a politically motivated trial. He took refuge in France after his release. Two opposition papers, the Islamist weekly Al-Fajr (the Dawn) and the leftist weekly Al-Badil (the Alternative) were also silenced in 1991. Their respective editors, Hamadi Jebali and Hamma Hammami were imprisoned following politically motivated trials. Two political periodicals, "Outrouhat" (Thesis) and "15-21" also vanished from the newsstands at the end of the 1980s.

The unprecedented crackdown on opposition and human rights groups and independent journalism in the early 1990s led several journalists to leave the country. Many applications to publish newspapers or magazines continue to be ignored by the Ministry of the Interior. But not all of them are documented by local rights groups. The list of applicants includes, according to the LTDH, the following:

<u>Name of the Paper/Magazine</u>	<u>Applicant</u>
"Maqassed" (aims)	Mohamed Talbi

“Kalima” (word)	Sihem Ben Sedrine
“Alternatives Citoyennes”	Nadia Omrane
“La Maghrebine”	Nora Borsali
“El Adib” (the literary man)	Abdellatif Fourati

Research on Monitoring the Coverage of the October 2004 Elections in Tunisia conducted by three Tunisian Human rights groups in cooperation with the Copenhagen-based International Media Support confirmed that there is still very little room for pluralism in the media. The Tunisian groups involved in this research were the Tunisian League for Human Rights, the Tunisian Association for Democratic women and the National Council for Freedom in Tunisia.

“The media largely served the ruling party at the expense of democracy and the public interest. Ultimately, the failure of the media is a failure of the Tunisian political system to comply with international standards in this field,” concluded the Tunisian and international researchers.

8. Use of torture by the security services with impunity.

Although the Tunisian government repeatedly trumpets that “torture is forbidden” and Tunisia “has freely ratified all international conventions banning torture,” local and international human rights groups have been documenting hundreds of cases of torture, particularly in police custody during the past years.

Under the Penal Code, torture is a crime punishable by up to eight years’ imprisonment. Yet, Tunisian detainees, including civil society activists, continue to be tortured and subjected to degrading treatment at the hands of security forces.

Only few cases of torture out of hundreds have been investigated over the past decade. The Committee against Torture, which monitors adherence to the international Convention against Torture expressed concern over “the pressure and intimidation used by officials to prevent the victims from lodging complaints.”

Scores of political activists have died under torture or lack of medical care while in police custody or in prison during the past fifteen years. Many former political prisoners of different trends, including Islamists and leftists tortured before and after President Ben Ali seized power, have said torture sessions have become far crueller after President Bourguiba’s eviction in 1987.

The Tunisian Human Rights League reported on 14 January 2005 that Lotfi Idoudi, a former leading figure of the Tunisian General Union of Students

(Islamist) and political prison died mainly because of “lack of medical attention.”

Members of the IFEX delegation met with several victims of torture in police custody and while in prison, including Zouhair Yahyaoui, Abdallah Zouari, Fathi Chamkhi, and Sahnoun Jouhri, as well as with lawyers whose clients, including civil society activists, have been tortured. They also met with the parents of the Youth of Zarzis and their lawyers who said their children have been tortured and forced under duress to sign affidavits. They added that they were in poor health and imprisoned in horrendous conditions.

Zouhaier Yahyaoui explained how he was beaten while suspended from the ceiling by his hands, ill-treated and denied medical care. The judge who convicted him on charges of “spreading false news” and “misuse of telecommunication lines” rejected his lawyers’ call to investigate the allegations of torture.

Radhia Nasraoui, one of the country’s most prominent human rights lawyers and head of the banned Association for the Struggle against Torture in Tunisia (Association de lutte contre la torture en Tunisie) said one of the members of her group was tied to the ceiling by a cord and his feet were up and his head down and regularly plunged by his torturers into a basin full of stinking water. “They did not stop torturing him until he started vomiting blood,” she said.

According to Nasraoui, “torture is a daily practice in every police station. Thousands of political prisoners have been tortured during the past years, but also others who have nothing to do with politics.” This opinion is shared by many other human rights lawyers as well as international human rights organizations.

Nasraoui has gone on hunger strike often to protest attacks on her right to freedom of movement and expression and to protest police harassment of her clients, children, political activist husband Hamma Hammami. She has often been denied the right to visit her clients in prison because of her unwavering determination to keep public opinion informed about gross human rights violations.

Nasraoui wondered “why the WSIS is going to take place in a country where people can die for expressing an opinion and where independent newspapers and magazines are not allowed, or if some are allowed they have to be very careful about what they say?”

She said activists like she who are denied the right to freedom of expression and association “can only take the opportunity of the WSIS to put this question to those who are going to participate in the summit.”

C. CONCLUSIONS AND RECOMMENDATIONS

Nearly 49 years ago, Tunisia granted unparalleled rights to women in the Arab world and made significant steps toward combating illiteracy, poverty, and prejudices.

The Tunisian press played a key role in paving the way for the independence of the country from France in 1956. Despite President Bourguiba's autocratic rule, Tunisian civil society was one of the most vibrant civil societies in North Africa and the Middle East until President Ben Ali seized power in 1987. The Tunisian Human Rights League, the first of its kind in Africa and the Arab world, was established in 1977.

President Ben Ali promised to lead the country toward democracy after evicting his autocratic and charismatic predecessor. Nearly 18 years later, Tunisians of different trends, including human rights defenders, Islamists, leftists and former ministers, maintain that civil society has never been so stifled and journalists so muzzled since the country's independence.

Ben Ali's government used the outbreak of violence in Algeria in 1992 and later the terror attacks on the United States on 11 September 2001, as an excuse to crackdown on political dissent and independent journalism. The number of political activists who died under torture or due to lack of medical attention and the number of books banned and independent papers silenced is unprecedented in the country's recent history.

To date the Tunisian media, the Internet, and the publishing sector are governed by laws that violate Article 19 and often the Constitution of the country and are controlled by the Ministry of the Interior which decides what Tunisians can safely watch, read, and say.

The economic and social development made possible mainly by the political decisions, taken nearly 50 years ago, to grant women unequalled rights and to pave the way for the emergence of the largest middle-class in the region, are used by the government to shield itself from criticism regarding its poor human rights record.

The huge investment of the Tunisian government in its public relations campaign led many for years, particularly in Western capitals, to take for granted the Tunisian government's rhetoric on democracy. But the decision to hold the second phase of the WSIS in Tunis puts the international spotlight on the serious deficit in freedom of expression and human rights in Tunisia.

Cosmetic changes will not be an acceptable solution.

The IFEX Tunisia Monitoring Group (TMG) believes that Tunisia must greatly improve its implementation of internationally agreed freedom of expression and other human rights standards if it is to hold the World Summit on the Information Society in Tunis in November 2005.

The IFEX Tunisia Monitoring Group urges the Tunisian authorities to implement the following recommendations:

1. Release Hamadi Jebali, editor of the weekly Al Fajr and hundreds of prisoners like him held for their religious and political beliefs and who never advocated or used violence.
2. End arbitrary administrative sanctions compelling journalist Abdellah Zouari to live nearly 500 km away from his wife and children and guarantee his basic right to freedom of movement and expression.
3. Release the seven cyber dissidents known as the Youth of Zarzis who have been sentenced following unfair trials to heavy prison terms allegedly for using the Internet to commit terror attacks. During the trials, no evidence of wrongdoing was offered, according to their lawyers and local and international human rights groups.
4. End harassment and assaults on human rights and political activists and their relatives and bring to justice those responsible for ordering these attacks and perpetrating them.
5. Stop blocking websites and putting Internet cafes and Internet users under police surveillance.
6. Release banned books, end censorship, and conform to international standards for freedom of expression.
7. Take action against interference by government employees in the privacy of human rights and political activists and end the withholding of their mail and email.
8. Lift the arbitrary travel ban on human rights defenders and political activists, including Mokhtar Yahyaoui and Mohammed Nouri.
9. Take serious steps towards lifting all restrictions on independent journalism and encouraging diversity of content and ownership of the press.
10. Promote genuine pluralism in broadcast content and ownership including fair and transparent procedures for the award of radio and TV broadcast licences.
11. Allow independent investigation into cases of torture allegedly perpetrated by security forces.
12. Conform to international standards on freedom of association and freedom of assembly and grant legal recognition to independent civil society groups such as the CNLT, the Tunis Center for the Independence of the Judiciary, the League of Free Writers, OLPEC, the International Association to Support Political Prisoners, the

Association for the Struggle Against Torture, and RAID-ATTAC-Tunisia.

ANNEX 1

Open Letter

His Excellency Mr. Kofi Annan
Secretary General of the United Nations
United Nations Organisation
New York, NY10017 – USA

cc. Mr Yoshio Utsumi, Secretary General, ITU
Mr Koichiro Matsuura, Director General, UNESCO

Baku, 18 June 2004

Dear Sir

We, freedom of expression organisations assembled at the General Meeting of the International Freedom of Expression Exchange (IFEX) in Baku, Azerbaijan on 18 June 2004, write to express our deep and continuing concerns about plans to hold the UN World Summit on the Information Society in Tunis in 2005.

At the conclusion of the first phase of the WSIS, the Intergovernmental Summit in Geneva adopted a Declaration of Principles affirming the centrality of human rights and freedom of expression as fundamental principles for the information society.

Despite this, the Tunisian government continues to violate its commitments under the United Nations Charter, the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights. The broadcast media remain dominated by the state, websites and newspapers critical of the government have been blocked or are prevented from publishing, censorship of the Internet is routine practice and Tunisia continues to imprison its citizens for exercising their freedom of expression.

We urge the United Nations and Member States to change the venue of the World Summit on the Information Society unless the government of Tunisia makes substantial progress on respect for human rights and freedom of expression. The following are basic and essential benchmarks for progress before holding the Summit in Tunisia:

1. The recognition of and respect for the unfettered right of human rights and other civil society groups including freedom of expression organisations to operate freely in Tunisia.
2. The dropping of charges against and the release of individuals jailed for exercising their right to freedom of expression consistently with international human rights law.
3. Reform of the media and communications environment including the right to establish independent media outlets and uncensored access to the Internet.

In addition we require clear guarantees concerning the Summit itself:

4. That all local and international human rights and other civil society organisations are free to participate in the Summit and to publish, broadcast or otherwise distribute and to receive material at and from the conference site without threat or practice of any form of censorship.
5. That local and international media will be able to report freely and without interference from the Summit including directly from the conference site.

We call on the United Nations and Member States to insist that the Tunisian government make these guarantees concerning the Summit itself and that it commit to substantial and measurable progress with respect to the benchmarks that we have set out above.

In the event that the Tunisian government is unwilling to make such commitments we urge the Secretary General of the United Nations to recommend the General Assembly reconsider its decision to hold the World Summit on the Information Society in Tunisia.

Yours,

Africa Free Media Foundation (AFMF)

ARTICLE 19

Canadian Journalists for Free Expression (CJFE)

Cartoonists Rights Network, International (CRN)

Center for Human Rights and Democratic Studies (CEHURDES)

Central Asian and Southern Caucasus Freedom of Expression Network (CASCFEN)

Centre for Journalism in Extreme Situations (CJES)

Centro de Reportes Informativos sobre Guatemala (CERIGUA)

Committee to Protect Journalists (CPJ)

Egyptian Organization for Human Rights (EOHR)

Fundación para la Libertad de Prensa (Foundation for Press Freedom)

Freedom House

Free Media Movement (FMM)

Freedom of Expression Institute (FXI)

Greek Helsinki Monitor (GHM)

Independent Journalism Centre (IJC), Moldova

Index on Censorship

International Federation of Journalists (IFJ)

International Press Institute (IPI)

Journaliste en danger (Journalist in Danger, JED)

Media Foundation for West Africa (MFWA)

Media Institute of Southern Africa (MISA)

Media Rights Agenda

Norwegian PEN

PERIODISTAS, la Asociación para la Defensa del Periodismo Independiente

Reporters sans frontières (RSF)

Southeast Asian Press Alliance (SEAPA)

Thai Journalists Association (TJA)

World Association of Community Radio Broadcasters (AMARC)

World Association of Newspapers (WAN)

World Press Freedom Committee (WPFC)

ANNEX 2

List of blocked websites providing news, politics and information on Tunisia as at 16 January 2005.¹

<http://www.rezoweb.com/forum/politique/nokta.shtml>

- Tunisia alternative political discussion board

<http://www.rsf.fr/>

<http://www.rsf.org/>

- website of international press freedom defenders, Reporters Sans Frontieres

<http://www.tunezine.com/>

- Tunisian news and comment, editor was imprisoned

<http://www.nahdha.net/>

- website of banned Tunisian Islamist An-Nahdha movement

<http://www.tunisnews.net/>

- Tunisian oppositional news and politics

<http://www.maghreb-ddh.org/>

- Tunisian oppositional news and politics

<http://www.albadil.org/>

- online newspaper of the banned Tunisian Communist Workers Party

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

- Tunisian independent/alternative news and information

<http://www.tunisie2004.net/>

- Tunisian oppositional politics, news, linked to the CPR (unrecognized political party)

<http://www.cprtunisie.com/>

- "official" website of the Tunisian CPR (Congress for the Republic, unrecognized)

¹ Testing was carried out through direct testing of the Tunisian Internet Service Provider 3S GlobalNet. Similar results were produced through proxy tests of four other Internet Service Providers in Tunisia (CIMSP, ATI Dial-up, ATI, ATI Network VI). Technical support was provided by the OpenNet Initiative, a partnership between the Citizen Lab at the Munk Centre for International Studies, University of Toronto, the Berkman Center for Internet & Society at Harvard Law School, and the Advanced Network Research Group at the Cambridge Security Programme at Cambridge University.

<http://tounes.naros.info/>

- Tunisian oppositional politics, linked to the independent Democratic Initiative

<http://www.globalprevention.com/marzouki.htm>

- website of exiled Tunisian human rights defender, Moncef Marzouki

<http://www.nawaat.org/>

- Tunisian oppositional news and politics

<http://www.perspectivestunisiennes.net/>

- Tunisian oppositional news and politics

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

- website of Swiss NGO campaigning for human rights in Tunisia

<http://www.maghreb-ddh.sgdg.org/www/>

- Tunisian oppositional news and politics

<http://www.multimania.com/solidarite26>

- solidarity with Tunisian political prisoners

<http://www.reveiltunisien.org/>

- Tunisian oppositional politics, news, satire

<http://www.kalimatunisie.com/>

- "the Word", independent Tunisian news and politics

<http://www.rsf.org/>

- website of international press freedom defenders, Reporters Sans Frontieres

ANNEX 3²

List of censored books in Tunisia³ as of January 2005. Established by the League of Free Writers (Ligue des écrivains libres).

Abdel Rahmane Abid, “De l’orientation démocratique et de la réconciliation nationale”, Political study, Tunis, 1989 (in Arabic);

Ibrahim Darghouthi, “Le pain amer”, novels in Arabic, Dar Samed, 1990;

Abdel Jabbar Al Ich, “Poèmes pour l’Irak”, coedition Dar Samed (Tunisia) and Dar al Hikme (Algeria), 1991;

Fadhel Sassi (Martyr of the “bread events”, January 1984), “Mon destin est de partir”, poems and stories chosen by Sabah Sassi and Jelloul Azzouna, Edition journal Al-Cha’ab, 1994;

Tawkik al Bachrouch, “Notre femme à travers nos fetwas”, (cent fetwas sur mille ans),

Mohamed el Hédi Ben Sabach, “Le retour de Azza, l’émigrée”, 235 page novel, Edition Bouzid, 1994;

Mohamed Al Chabbi, “Un témoin a dit”, poems, Edition Al Akhilla, 1999;

Sadok Charaf, “La grand catastrophe, ô ma patrie”, poem, Al Akhilla, 1990;

Mohamed Falbi, “Les enfants d’Allah”⁴;

“Le musulman à travers l’histoire”, collective research work, Faculté des Lettes, La Manouba;

Afif Al Bouni, “De la stabilité politique en Tunisie”, 1997;

Tawfik Ben Brik, “Maintenant, écoute-moi”, poems, Exils et Aloès Editions, 2000;

² Not exhaustive, but accurate list

³ During the Bourguiba period (1956-1987), the authorities have seized around 10 books. These books have been either distributed or reprinted after 7 November 1987.

⁴ Authorized first, then seized and finally authorized again.

Tawfik Ben Brik⁵, “Ben Brik au Palais”, Maison Al Kaws – Al Nahar (Tunis-Beirut coedition), 2000;

Mohamed Ammar Khawaldya, “Le discours utile sur le nouveau régime”, Edition à compte d’auteur, 2001;

Ali Azizi “Les ailes du silence”, novel, 2001;

Moncef Marzouki. His books, published in Tunis, are withdrawn from bookshops. He had to publish his novel (“Le voyage”) in France and Syria in 2002. 3 volumes. (Eurabe – Al Ahali, 206 pages x 3);

Hamma Hammami. At least 10 books of his, printed and distributed in Tunis, were withdrawn from bookshops and public libraries dependent upon the Ministry of Culture. He had to publish his latest book in France.

Jelloul Azzouna, “Liberté et littérature, même identité” (studies and articles), Dar Sahar, 232 pages, 2002;

Abdelwahab al Mansouri, “Rien ne me plait”, Poems, 2003;

Samir Ta’mallah, “Dits en marge de l’interrogatoire”, poems;

Jalel al Touibi, “Militant malgré lui”, novel, 123 pages, 1995 (2nd edition, 2004, 176 pages)⁶.

⁵ All of Ben Brik’s books are prohibited in Tunisia; “Une si douce dictature”, Aloès - La découverte coedition, 287 pages, 2000; “Le rire de la baleine”, (récit), Le seuil (188 pages), 2001; Le fou de Tunis, le seuil; Chronique du mouchard, la découverte, 2001 (124 pages); Ben Brik President, Exils, 2003; The plagieur, Exils, 2004 (117 pages)

⁶ The last two books are published and distributed clandestinely. They do not go through the “legal depot” process