

OMCT
SOS-Torture Network

10
10^e anniversaire
de l'OMCT
en Tunisie.
2011-2021

THE SUPPORT

VOLUME 2

ساندو
SANADO
Centre de Conseil OMCT مركز توجيه





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RECONSTRUCTION



1. SANAD

HOLISTIC AND COMPREHENSIVE VICTIM ASSISTANCE

The OMCT's direct assistance program in Tunisia, known as «SANAD,» includes counseling centers located in Kef and Sfax with a coordination office in Tunis. When SANAD was established in 2013, no other equivalent support structure existed in Tunisia. SANAD staff had to be creative in taking into account a specific and steadily evolving context, in partnership with specialized associations and public administration. This approach reflects the originality of the program in dealing with victims of torture and ill-treatment in Tunisia. Each center is composed of a social coordinator and a legal coordinator.

While in previous years, the beneficiaries of the SANAD program came from disadvantaged socioeconomic backgrounds, geographic areas and neighborhoods, the social status of the victims is no longer necessarily related to their economic precariousness or origin. Police violence is not limited to a specific social category, and SANAD concludes that institutional violence can affect any person regardless of their status. Institutional violence can place beneficiaries in a precarious situation due to job loss or inability to work. This is particularly true for persons subject to administrative control measures. More than 90% of this group of SANAD beneficiaries are without a permanent job.

Beneficiaries contact SANAD through the following pathways: on the advice of other beneficiaries; through civil society partners; through the National Authority for the Prevention of Torture (INPT); or because the SANAD team finds out about them on social networks and reaches out to people in need of assistance.

OUR APPROACH



A kind welcome

When the SANAD team determines an individual to be within the OMCT's mandate, the team ensures to provide a professional welcome that takes into consideration the impact of trauma. Conscious of the state of distress and feelings of insecurity experienced by victims of torture and ill-treatment, the SANAD team presents SANAD's services and operating procedures. It explains the capabilities and limitations of the program, always displaying empathy. Program coordinators refer those, who cannot be supported by SANAD to other relevant organizations if necessary.



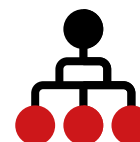
A specific intervention plan

Each beneficiary has their own individual plan. The plan focuses on the needs of the victim, taking into account their socio-economic situation and the impact of the traumatic effects on their family and inner circle. The plan is put in place in consultation with the professionals involved and can be reviewed and readjusted according to the progress or complications that may arise.



Individual support

According to the intervention plan established, the SANAD team accompanies the beneficiaries to the public administrations, specialized organizations, and/or professionals who will intervene. Long-term support may be necessary in some cases. Indeed, the effects of torture are serious, multiple and long-lasting. New needs may also arise during the process. The most vulnerable beneficiaries, such as disabled persons, women, minors and the elderly, may need to be followed closely.



Coordination with the various stakeholders

To ensure holistic and quality case management, SANAD works with committed professionals. SANAD has established a network of committed lawyers, who are available to review the legal files of beneficiaries and accompany them at court. SANAD also collaborates with health professionals such as doctors, psychiatrists, psychologists and social workers. Psychological support is provided by the association Psychologues du Monde-Tunisie (PDMT) in a confidential and kind manner. SANAD coordinates with public administrations, such as the Centres of Defence and Social Integration (CDIS) of the Ministry of Social Affairs, public hospitals, the General Committee of Prisons and Reeducation (CGPR) and the National Authority for the Prevention of Torture (INPT).

A close and fruitful working relationship has been developed with specialized associations, including Psychologues du Monde-Tunisie (PDMT), the Tunisian League for the Defense of Human Rights (LTDH), BEITY, AMAL, the Tunisian Union of Social Solidarity (UTSS), DAMJ-Tunisian Association for Justice and Equality and the International Legal Foundation (ILF).



Regular monitoring

SANAD ensures a regular dialogue with beneficiaries as well as with each stakeholder involved in case management to evaluate intervention strategies and improve the quality of the services provided. Quantitative and qualitative assessment tools are put in place to achieve concrete results that help victims and their families mitigate the impact of trauma and facilitate social reintegration.



1.1. SOCIAL ASSISTANCE

The Covid-19 pandemic in early 2020 and the resulting general lockdown has disrupted social and professional codes and standards. The SANAD team has adapted its modes of action by providing remote assistance to meet the needs of beneficiaries in collaboration with partners, whether professionals, public institutions or specialized civil society organizations.

The public health crisis has aggravated the social and economic inequalities that were already deeply rooted in Tunisian society. The deterioration of the living conditions of a growing part of the population has favored the formation of social protest movements that have paved the way to a change of political regime following the establishment of an indefinite state of exception on July 25, 2021.

It is in this deleterious context that SANAD's social coordinators had to work. They are the cornerstone of the program's comprehensive tailor-made assistance and ensure the coherence of interventions with different social structures at both the state and civil society level.

In 2020 and 2021, SANAD managed to obtain ten health care cards for beneficiaries in public hospitals as well as three permanent financial allowances for beneficiaries without any income. These interventions were conducted in coordination with different regional departments of the Ministry of Social Affairs, such as the regional departments of social affairs (DRAS) of Jendouba, Sousse, Sfax, Tunis 1 and Tunis 2. These state aids should help alleviate the precarity of many beneficiaries with various profiles, including single elderly persons, family fathers, wives of prisoners or family mothers of listed persons. These individuals have slipped into a precarious situation due to the impact of various forms of torture and violence they and their families have suffered.

In addition to facilitating access to permanent aid, SANAD's social coordinators also accompanied seven beneficiaries to obtain more circumstantial state aid and Covid-19 allowances provided by the Tunisian Union for Social Solidarity (UTSS) and the DRAS of their region. Obtaining state aid for beneficiaries is of crucial importance because it allows them to meet vital needs. It is sometimes necessary to wait for the social assistance to take effect so that the beneficiaries can finally consider rebuilding their lives or, rather, building a new one.

In order to simplify and facilitate reading, all designations of persons are referred to in both the male and female forms.

Mourad

*Mourad was still a teenager when he was arrested during the popular uprising in January 1984. Tortured and imprisoned for more than 13 years, he suffered from marginalization and indifference for a long time after his release. Upon the advice and with the support of SANAD's social coordinator, Mourad took administrative steps to obtain a free health care card and a permanent allowance from the DRAS. He finally obtained these allowances thanks to the long-standing cooperation between SANAD and DRAS. For Mourad, the impact of these allowances extended beyond their financial aspect. He said, **"for the first time, my citizenship was recognized"**. Today, Mourad is convinced that he will soon be able to find a stable income-generating activity thanks to the guidance and support of SANAD.*

Salem

*In late 2018, Salem, a 60-year-old restaurant owner, was violently assaulted by a police officer, who refused to pay for his meal. The father of three children, who were still minors at that time, had to stop work due to the serious physical and psychological consequences caused by the assault. Hence, Salem's entire family found themselves in an utterly precarious situation. In addition to providing medical and psychological care, SANAD's direct assistance team helped Salem obtain a free health care card and a permanent allowance from the DRAS. Thanks to this approach, Salem started to feel that he once again belonged to society, remarking, **«Now I have my dignity back in my country»**.*

Networking : Leverage for strengthening holistic victim assistance

As part of its participatory approach, SANAD conducted a mapping of active public institutions and associations throughout Tunisia in February 2021, with the objective of developing SANAD's network in order to provide beneficiaries with customized quality service in collaboration with local partners. This tool will also serve to pool resources, primarily in the interior regions of the country (particularly the South and the Center), by reaching out to all public and associative partners providing one or more of the services as well as medical care, legal assistance, psychosocial services, professional training and accommodation. We now have a complete mapping of available operational support services for victims of torture and ill-treatment.

1.2. SOCIO-PROFESSIONAL INTEGRATION



Obtaining public social assistance allowances is still limited to individuals who meet certain specific criteria set out by the Ministry of Social Affairs. This criteria does not include, for instance, beneficiaries who are young and able to work, and SANAD's social coordinators are particularly worried about them and their families. In 2020 and 2021, 68 new beneficiaries aged between 18 and 35 years old approached SANAD for assistance. Torture and ill-treatment have left these young persons in a state of extreme distress and helplessness. It is difficult for them to regain a sense of security and invest in their future. SANAD's tailor-made assistance program – through which psychological counseling, medical treatment and social care complement each other – helps beneficiaries to overcome their difficulties in finding or keeping a job. SANAD helps beneficiaries or their families acquire skills through professional training to meet their economic needs. SANAD places the beneficiary at the heart of the intervention in a participatory approach, working not just for them but also with them.

The SANAD team prioritizes the integration of beneficiaries into state channels by consolidating institutional cooperation to ensure the sustainability of the training and professional integration program. Before the public health crisis, SANAD was already collaborating with state training and learning centers in various fields such as mechanics, esthetics and pastry-making. SANAD also cooperated with micro-financing institutions such as the Solidarity Bank and ENDA to implement projects for two beneficiaries in 2019. Nevertheless, the effects of this collaboration remain limited due to the closure of the job market. This is in large part due to the pandemic as well as a discrepancy between

the training offers and the job expectations of beneficiaries. For example, state training centers do not offer training for the manufacturing of hygiene and cleaning products that have been popular with Tunisian consumers since the beginning of the pandemic. In short, the State does not prioritize the renewal and diversification of professional training cycles; as a result, the sectors corresponding to existing trainings are already saturated with workers and job-seekers. Nevertheless, in 2020, the SANAD team managed to integrate two women (a direct victim and an indirect victim, who is the wife of a beneficiary in detention) into a professional training program on the manufacturing of detergents and hygiene products in two private centers in Tunis and in Sidi Bouzid.

The collaborative and complementary relationship that SANAD has developed with its institutional and associative partners has helped the organization reduce the isolation of its beneficiaries. Many of them are rejected by their family and friends because they have spent time in detention or because they experience difficulty coping with their trauma. Women are particularly affected by the phenomenon of rejection by family. The collaboration with the association «Beity» and the association «Amal pour la mère et l'enfant» has enabled five SANAD beneficiaries to participate in professional training programs.

Elyes

Elyes was arrested in 2017, tortured in police custody and then abused in prison. His wife Nahla approached SANAD for help to improve her husband's conditions in prison. Nahla was in a complicated financial situation, as her husband could no longer afford to provide for her. SANAD offered her an integration plan to help her regain economic independence. Nahla has completed a professional training course in the manufacturing of hygiene products. SANAD is now helping her to set up her professional project. Nahla reports, «Today, I have a new vision of life and I can't wait to start my new project.»

Project financing remains a challenge. State microfinance agencies are demanding in their selection process for applications, particularly regarding the level of education for those requesting and receiving funds. SANAD beneficiaries generally do not have a university degree. State micro-financing often targets specific sectors such as young investors and farmers.

The SANAD team is aware of these challenges and continues to strengthen its collaboration with public training and learning institutions. SANAD also lobbies the Ministry of Social Affairs and the Ministry of Professional Training and Employment for a more efficient integration of victims of torture and ill-treatment into various professional fields. Revenue-generating livelihoods are essential for the successful (re)construction of beneficiaries' lives.

1.3. PSYCHOLOGICAL ASSISTANCE



When necessary, the SANAD team directs beneficiaries to the psychologists of our partner organization, "Psychologues du Monde – Tunisia" (PDM-T), who provide specialized and quality support through individual, group and family consultations. Twelve experienced psychologists located throughout the country accompany the victims in the rehabilitation process. Over the past two years, 59 SANAD beneficiaries have received clinical follow-up, in some cases on a long-term basis due to the violence endured, with 754 individual consultations, 10 group sessions and nine family therapy sessions.

Victims of torture suffer from trauma and psychological repercussions. Recently, many have experienced a sense of isolation due to the pandemic and the measures taken by the authorities to contain it, as in the case of Nawel:

Nawel

Nawel was tortured in 2016. She was at home with her husband and three-year-old daughter when 25 police officers, including members of the anti-terrorist squad, burst into their home. The officers turned the house upside down, insulted, threatened and physically assaulted Nawel and her husband and held a gun to their young daughter's face. They finally took the couple away, leaving their daughter alone with the neighbors. During the arrest, Nawel was stripped naked and beaten. The violence continued during the detention at the local police station. Nawel was accused of belonging to a terrorist group. She heard her husband screaming and moaning under torture in another room. She was terrified. An officer beat and kicked her until she passed out. When she regained consciousness, police officers interrogated her. She finally signed a

confession under pressure. Then she was transferred to the police station of Bouchoucha with other detainees. There, the male detainees were lined up in front of their almost naked wives to humiliate them. Nawel did not immediately recognize her husband, as he was disfigured by the torture inflicted on him. Shortly thereafter, Nawel was isolated in a room where a policewoman beat her, accusing her of killing police officers in Ben Guerdane. The policewoman called in colleagues, including a man who kicked Nawel, especially in the stomach and hips. The following day, the police officers transferred her to the hospital where she realized that the violence she had suffered caused her to miscarry. Nawel spent a month in pre-trial detention and was released when the case was dismissed. As soon as she was released, she was listed as «S» under administrative control measures and subjected to police harassment that still continues today. The psychological and social consequences of this harassment are profound. It is in this context that Nawel contacted SANAD.

« At SANAD, I was looking for a little light to see the end of the tunnel, said Nawel. I am on the verge of depression and I am worried that it will affect my daughter ». SANAD and PDMT helped Nawel benefit from multiple therapeutic approaches including individual supervision and focus group sessions for women in similar situations. Nawel has regained a sense of calm as a result of these therapies. Today, she feels stronger and able to face the police harassment that still weighs on her. This is a first step on a path of healing that may one day lead her to file a complaint against her perpetrators. With the support of SANAD's legal team, Nawel is already trying to challenge the administrative control measures. SANAD is also working to help Nawel recover from the physical damage caused by the attacks. She has received medical care (analysis, CT scan, MRI) and two months of physical therapy for her orthopedic health problem related to the violence. SANAD was also able to purchase a medical belt for Nawel, which allowed her to restart her usual daily activities.



1.4. MEDICAL ASSISTANCE

Since its creation, SANAD has provided medical care to 132 beneficiaries suffering from the physical consequences of torture or ill-treatment. SANAD has always favored orienting victims to public institutions to ensure access to care for all, with exceptional recourse to private health structures depending on medical needs. Since the beginning of 2020, SANAD has cooperated with a medical advisor, who has facilitated access to public hospital services for SANAD beneficiaries through his expertise and professional network.

Nevertheless, the appearance of Covid-19 forced the Tunisian public health system to enter an extended period of coping with the virus. Health departments were overwhelmed and hospital capacity was exceeded by the inflow of Covid-positive patients. This has had a direct impact on the continuity of medical care provided by SANAD in state hospitals, resulting in postponements of medical appointments. Consequently, SANAD's social coordinators turned to private health care facilities to ensure quality medical care for beneficiaries and their families in precarious situations during Covid-19.

In 2020, 19 victims were provided with surgery, dental operations, rehabilitation sessions, medications and various medical examinations. In 2021, 15 beneficiaries received similar medical assistance.

In April 2020, for instance, SANAD enabled a young pregnant woman to save her fetus in an emergency operation at a private clinic. In the past, numerous police raids on her home to search for her husband, who is listed as « S », as well as repeated physical assaults resulted in an abortion and health problems. This time she was able to keep her baby and received post-operative psychological support for a month.

SANAD makes every effort to support listed persons and beneficiaries who are subject to restrictions of freedom and constant police harassment. These individuals are typically in a tremendously precarious situation, especially as police control prevents them from finding or keeping a job. In April 2021, SANAD set up a self-support group for eight women who suffer from the horrific impact of restrictive measures. This group therapy based on the continuous exchange of life stories and experiences gives the women greater motivation to take back their lives.

Throughout its years of practice with victims of torture and ill-treatment, SANAD has noticed that the psychological damage and after-effects suffered by the majority of beneficiaries have a greater impact on their lives than the physical damage, which can diminish and even disappear over time. Psychological trauma is persistent and requires continuous care. Often, Tunisian courts give little importance to these psychological effects and the need to compensate victims for them. SANAD and PDM-T started preparing psychological evaluation reports for courts for the benefit of the beneficiaries and as part of the legal assistance provided by SANAD Elhaq.

Foued

This is the story of Foued who suffered terrible psychological consequences following his eight-month detention in a common law case in 2020. Upon his release from prison, his sister, distraught over the isolation of her brother, sought SANAD's help. During the first interviews, Foued found it difficult to recount the episodes of violence and daily harassment that he experienced in prison. He had to give up his job due to the partial loss of sight caused by the physical aggressions. In his attempt to rebuild his life, Foued has been intensively and consistently counseled by a psychologist from PDM-T. SANAD assumed management duties for his medical and legal files, which has alleviated Foued's anxiety about his fragile financial situation following his release. In early September 2021, SANAD offered Foued the opportunity to join the psychological assessment program in accordance with the Istanbul Protocol. Foued did not hesitate even though he knew that he would have to tell his painful story in further interviews with the psychologist in charge of the assessment.

Mourad

When Mourad approached SANAD, he was suffering from severe physical injuries, a testament to the torture he endured while in police custody in 1984 and during the 13 years of prison that followed. In 2020, thanks to the support of SANAD, Mourad was able to benefit from several medical

interventions by specialists in dental and orthopedic medicine, both in the hospital and in private clinics. Mourad has thus recovered his physical health, an essential step in his psychological rehabilitation.

Salem

At the beginning of 2020, almost two years after being beaten up by a police officer in his restaurant, Salem contacted SANAD. He was physically traumatized, psychologically exhausted and in a deeply unstable situation since he was not able to work. SANAD provided him with medical care, securing ophthalmic, orthopedic and dental treatment for Salem. Salem feels that having dental implants is as if he was born anew.

Finally, in order to ensure the continuity of the supply of medications despite the circulation restrictions during the lockdown, SANAD partnered with a pharmacy in central Tunis. Beneficiaries were able to go to the pharmacy with their prescription and receive their medication without having to pay directly.

1.5. ASSISTANCE TO BENEFICIARIES IN DETENTION



The right to access medical care in prison is an integral part of fundamental rights. A close collaboration has been consolidated over the years between SANAD and the CGPR to improve the conditions of detention. During regular and periodic exchanges, SANAD transmits to the CGPR's general inspection the concerns and claims of the families of SANAD beneficiaries in detention, addressing issues related to their mental and physical health or concerning violence that could be inflicted upon them in prison.

The CGPR follows up directly with the directors of the respective prisons in order to notify them of the requests for treatment, transfer to another prison, psychological or psychiatric follow-up or the filing of a complaint for torture or ill-treatment suffered in prison.

SANAD has gathered concerns from families about their family members in detention. These concerns have been aggravated by the public health crisis brought on by the Covid-19 pandemic. Restrictions on movement prevented families from visiting their loved ones in detention. In cooperation with PDM-T and CGPR, SANAD launched an innovative initiative to ease the tensions associated with confinement: together, we produced an awareness-raising video for detainees featuring Kamel Touati, a famous Tunisian actor, who speaks with humor about the psychological impact of confinement on the confined and the importance of preventive measures. The messages were prepared by PDM-T psychologists. The video was regularly shown in all the prisons.

Twenty beneficiaries in detention in 2020 and 27 in 2021 benefited from SANAD's assistance. In some cases, their close relatives have also benefited from holistic follow-up support (psychological, social and educational by facilitating access to school for the children of the detainees) according to their needs as evaluated by SANAD. This wraparound care is rooted in the conviction that the path of a victim's reconstruction includes his or her close circle, that is, the indirect victims.

Nesrine

Nesrine is the wife of Kais, who has been detained since 2017 on allegations of terrorism. Nesrine suffers from the incarceration of her husband, who has been subjected to ill treatment in prison and several transfers from one prison to another. In addition, Nesrine is alone in supporting their two daughters (five and seven years old), without a stable source of income. She also suffers from the social isolation of one of her two daughters, Ons. Nesrine was completely disoriented and suffering from depression when she contacted SANAD in 2020. SANAD provided assistance tailored to the family's needs, including a follow-up on the conditions of Kais's detention and an assistance plan to help the mother and daughter overcome the psychological effects of same. SANAD found a kindergarten for Ons that was sensitive to the girl's difficulties in socializing. Now six years old, she has opened up to the outside world and to other children her age and participates in group activities. Kais's prison situation has improved as a result of SANAD's coordination with the CGPR general inspection. He stopped his hunger strike and was able to access necessary medical care. The improvement of her daughter's and her husband's situation allowed Nesrine to regain hope and find a job: **« I was living in an emotional and financial abyss but thanks to your support and accompaniment I have a better quality of life and I can plan life projects for my daughters. »**

Elyes

Elyes was arrested in 2017, tortured in police custody and then abused in prison. His wife Nahla requested SANAD's help to improve her husband's conditions of detention. SANAD's team worked to ensure that Elyes received emergency surgery to prevent him from developing a severe disability. SANAD covers the expenses related to Nahla's travels to regularly visit her husband, who is detained in another governorate.

Many members of one family were injured during a police raid on their home in 2018. While looking for an absent son of the family, the officers used excessive force during the raid, assaulted the family members present, and arrested Sami, one of the sons present. The family contacted SANAD for legal and medical support for Sami, who had gone on hunger strike in prison. SANAD obtained medical care for Sami in prison. He then stopped his hunger strike. SANAD also provided several family members with in-home counseling, in collaboration with PDM-T, which supported the family in overcoming the psychological shock caused by the attack. SANAD also provided legal assistance to all family members, who were prosecuted for their alleged use of violence against the police during the raid. Sami was eventually released and his mother and two sisters were dismissed in May 2021.

1.6. LEGAL ASSISTANCE

SANAD continued the accompaniment and the follow-up of its beneficiaries on their way to seek justice before the different jurisdictions. During the period covered by this report, SANAD Elhaq filed 17 complaints of torture or ill-treatment and took up 23 new cases in which judicial investigations had already been initiated as a result of complaints filed by the victim or after the victim's death under suspicious conditions. Among 40 complaints, eight SANAD beneficiaries were subjected to retaliatory "contempt of office" complaints in response to their filings. These obstacles have led us to reflect on more strategic actions to enable the exposure of torture practices in Tunisia through strategic litigation, with the aim of increasing the chances of obtaining a prompt and impartial investigation and a fair trial. During 2020-2021, SANAD did not obtain any convictions under either Article 101 of the Tunisian Criminal Code (violence perpetrated by a public official) or Article 101bis of the Criminal Code (torture). More positively, 10 administrative decisions (out of 13 requests filed in July 2020) were issued by the administrative court in favor of SANAD beneficiaries listed as «S». 22 other administrative decisions were issued in favor of migrants arbitrarily detained at the Ouardia center. In collaboration with associative partners and lawyers, SANAD Elhaq has initiated litigation before the administrative court.

SANAD also continued to closely follow the cases of its beneficiaries in the framework of the transitional justice process. The OMCT is civil party in seven emblematic cases of torture before the specialized criminal chambers.

SANAD's team regularly discusses the cases of beneficiaries in detention with the general inspection of the CGPR in order to address the grievances of beneficiaries in detention.

SANAD accompanies its beneficiaries in obtaining administrative or civil status documents such as identity cards, certificates of good conduct (bulletins n°3) or passports. During 2020 and 2021, nine beneficiaries were able to obtain these documents. SANAD sends correspondence to the Ministry of the Interior, arranges for the accompaniment of the beneficiary by a lawyer from SANAD Elhaq to the police station when summoned by the police and eventually takes legal action, including appeals before the administrative court.

2. SANAD ELHAQ SANAD'S LEGAL ACTION



2.1. THE GENESIS OF SANAD ELHAQ

Since its creation in 2013, SANAD has accompanied hundreds of victims of torture and ill-treatment in their quest for justice. This field experience has allowed SANAD to acquire a nuanced understanding of the obstacles barring victims' access to justice. These obstacles are of two principal kinds:

- The deficiencies of the legal texts that favor the continuation of violence and impunity. One example is the incomplete definition of torture in the Tunisian penal code, which is much more restrictive than the definition given by the International Convention against Torture and partly explains the absence of convictions for torture.
- The poor practices of magistrates and the judicial police involved in torture investigations: investigations are unreasonably slow; investigative acts (hearings of perpetrators and witnesses, collection of other evidence) are often insufficient; and forensic examinations are sometimes cursory and inconclusive. Victims are often threatened and retaliated against by the officers who assaulted them, sometimes with the assistance of the judicial police officers who are intended to investigate the assault.

After seven years of court practice, SANAD concluded that in order to change the operations of the justice system in Tunisia, SANAD needed to reform its legal aid. A criminal case has little chance of progressing if the victim and his or her lawyer do not provide the magistrate with precise documentation. Similarly, if the investigating judge and subsequently the trial judge theoretically must characterize the offense

in a way that reflects the seriousness of the facts, there is little chance of a satisfactory trial outcome if the victim and his or her lawyer do not utilize all available remedies to advocate for a legal qualification that conforms to international standards.

These observations demonstrate that legal assistance to victims of torture and ill-treatment requires diligence, consistency of effort, technical acumen and legal creativity, which can only be ensured through an enhanced circulation of information, analysis and expertise among SANAD and its network of lawyers, as well as through the creation of spaces for reflection with a view to developing relevant litigation strategies.

The obstacles to administrative litigation are also significant. The examination of submissions for judicial recourse is often delayed. In addition, the onus is on the victim to prove the violations he or she alleges, and his or her word is weighed against that of an entire State administration. With respect to litigation on State responsibility aimed at obtaining compensation for the violence suffered, these efforts have so far resulted in very little financial or other compensation, also due to the excessive slowness of the judicial procedures.

A strategic litigation center

Based on this observation, SANAD gave birth to SANAD Elhaq in April 2020. Until now, SANAD was in charge of the documentation of cases and entrusted the legal assistance to the lawyers of the SANAD network. From now on, the lawyers and the SANAD team will work in a complementary and coordinated manner within the new structure, SANAD-Elhaq. The latter aims to strengthen documentation and legal analysis in order to compel judges not to look the other way on violations.

Each case of torture or ill-treatment that is to be brought to court is thoroughly documented by SANAD Elhaq, including the collection of the victim's detailed account and the collection of evidence. Thereafter, SANAD Elhaq's team analyzes each step of the procedure before a criminal, administrative or international court or tribunal to identify any shortcomings, inconsistencies and other obstacles to be overcome. SANAD Elhaq analyzes these issues in accordance with applicable international standards and develops innovative litigation strategies to overcome obstacles in the victims' quest for justice. Litigation strategies are continuously re-evaluated to ensure that beneficiaries receive the best possible legal assistance.

Legal follow-up no longer relies on the shoulders of lawyers alone. SANAD's lawyers have a team of experts in documentation and legal analysis at their side, all of whom contribute to providing the victim with the most diligent assistance possible. The diversity of profiles that make up SANAD Elhaq (Tunisian lawyers specialized in criminal and administrative litigation, experts in documentation, experts in international law, etc.) is an asset that serves the legal care. The mutualization of expertise and points of view is the guarantee of a high quality assistance.

A center of expertise

Through the multi-faceted legal assistance provided to a great many beneficiaries, SANAD Elhaq has sufficient documentation to produce analyses, diagnose dysfunctions in the justice system and develop recommendations and advocacy strategies to address them.

SANAD Elhaq has already initiated several thematic reflections that have resulted in the production of reports and legal notes and the design of strategic litigation, providing a foundation for advocacy strategies that have already been implemented and will continue in the coming years.

The team produced legal analyses of the arbitrary restrictions exercised against people listed as «S» due to the alleged danger they pose, as well as of the arbitrary detention of migrants at the El Ouardia center. These analyses, based on international standards applicable to restrictions and deprivations of freedom, have been used in the framework of litigation procedures carried out for the benefit of beneficiaries listed as «S» and the migrants.

In addition, SANAD Elhaq conducted an in-depth analysis of a procedural obstacle encountered in several beneficiary cases, namely investigating judges' refusal to allow relatives of those who died under suspicious circumstances at the hands of the security forces to file civil actions. The families of the deceased are excluded from the judicial investigations conducted in these cases, investigations that can last for years without the families so much as receiving information regarding the official cause of death. Before SANAD Elhaq initiated strategic litigation to overcome this procedural obstacle, SANAD's legal team prepared a study identifying the problem and outlining international standards guaranteeing the rights of victims (including their relatives) to be informed of the progress of the investigation.

Continuous training

SANAD Elhaq's team has benefited from several trainings aimed at strengthening its knowledge and skills in several technical areas.

In the first quarter of 2021, SANAD Elhaq organized a training cycle on international litigation. The team organized three coaching sessions between SANAD Elhaq's lawyers and experts from the UN Committee Against Torture, the UN Human Rights Committee and the African Court on Human and Peoples' Rights. At each session, two groups of lawyers presented an expert with two cases of SANAD beneficiaries, each of which raised specific issues of concern in SANAD Elhaq's work (inadequacy of the national definition of torture, slow investigation, cases of suspicious death, police harassment of a listed person, etc.). The lawyers presented the facts and proposed a legal analysis grounded in international law in response to which the experts offered commentary. Each session was an opportunity for a fruitful technical exchange not only on the mechanisms and methods by which international bodies operate, but also on the use of international law by lawyers in their regular practice. As a result of these exchanges, SANAD Elhaq plans to prepare complaints to be submitted to international bodies.

Between April and September 2021, SANAD in partnership with PDM-T began a training cycle on the «Fundamentals of Psychological Assessment of Torture» primarily for PDM-T psychologists involved in the psychosocial care of torture victims, provided by the Spanish organization Sir[a]. Investigating judges very rarely order psychological assessments in the context of investigations for torture or ill-treatment. When they do, such assessments only take place at the trial stage and are intended to evaluate the victim's degree of incapacitation to determine the appropriate amount of compensation. As a result and to date, such assessments do not attempt to prove the occurrence of psychological violence nor its psychological impact in order to contribute to the administration of the evidence. In the medium term, SANAD Elhaq wishes to achieve the procedural change that such forensic examinations be ordered by the investigating magistrates and that these examinations be conducted in accordance with the international standards set by the Istanbul Protocol. In order to do so, SANAD Elhaq has published a legal note with arguments to encourage prosecutors and investigating judges to order forensic psychological examinations in accordance with the latter. In addition, SANAD Elhaq would also like to be able to provide the judiciary with psychological forensic reports, in accordance with the Protocol, that are carried out by psychologists within its network. This practice would allow these psychologists to demonstrate an appropriate methodology for magistrates and forensic doctors who may be obliged to produce similar reports at the request of the judiciary. An initial expert assessment was carried out for a beneficiary who was a victim of aggression in prison.

Foued

Foued¹ was arrested in February 2020 and placed in pre-trial detention in a common law case. Following an argument with a prison guard, he was placed in solitary isolation for ten days. During solitary hold, a group of officers came to his cell and subjected him to humiliation and sexual violence as punishment for insulting their colleague. A few months later, when Foued was suffering from abdominal pain, he asked to see a doctor and was refused by the guards. They took him out of the collective room and kicked and punched him all over his body and face, leaving traces that his lawyer and the prosecutor saw several days later. Foued nevertheless filed a complaint. He was subjected to a forensic examination the following month at the request of the prosecutor, as part of the investigation for torture. The forensic examination was carried out in an accelerated manner, however, and in the presence of prison officers. Foued did not dare to mention the sexual assault. He was released a few days later and was able to ensure the physical traces resulting from his last assault were noted in two medical reports. Foued's physical scars have now almost completely disappeared, but his psychological trauma remains intense. SANAD offered him a psychological examination to establish the psychological consequences of his torture in accordance with the Istanbul Protocol. Foued agreed to undergo the assessment and the report established by a psychologist of PDM-T was transmitted by the lawyer of SANAD Elhaq to the justice.

1. See other aspects of Foued's story on page 14.

2.2. SANAD ELHAQ'S LITIGATION ACTIVITY IN THE CONTEXT OF HEALTH AND POLITICAL CRISES



Since its creation, SANAD Elhaq has initiated or pursued the implementation of litigation strategies in three main areas: criminal justice, administrative justice and transitional justice.

The public health crisis and the country's political instability have greatly disrupted the progress of the cases handled by the Tunisian justice system, which has partially withdrawn as a result of these events. SANAD Elhaq has redoubled its rigor, diligence and creativity to advance its cases and to attempt to overcome the obstacles that its beneficiaries face in their quest for justice.

2.2.1. Criminal litigation against victims of torture: Dealing with a justice system on standby

Since January 2020, SANAD Elhaq has filed 17 complaints of torture or ill-treatment and has taken on 23 new cases in which judicial investigations had already been opened following complaints filed by the victim or after the victim's death under suspicious conditions.

The legal support of the beneficiaries in the criminal justice system has several objectives. The first is the recognition of the violation suffered by the victim and its compensation. The second is the penal sanction of the perpetrators of torture or ill-treatment. This sanction, which must be appropriate to the seriousness of the acts, is necessary to compensate the victim. Beyond individual cases, such sanctions are indispensable to society as a whole, in that they constitute an essential measure for the prevention of new acts.

According to international standards governing access to justice for victims of torture and ill-treatment, investigations must respect certain requirements of seriousness, independence, impartiality and promptness. For the moment, the record of the fight against impunity for torture and ill-treatment remains poor for various reasons identified by the OMCT. The slowness and lack of diligence of investigations, the great difficulty in obtaining a prompt and thorough forensic expert assessment, the systematic use of the accusation of violence rather than torture for the rare cases that go to trial and, finally, the reprisals or threats weighing on the victims who wish to file a complaint are all obstacles that mean that, so far, no complaint of torture has resulted in a satisfactory trial based on a diligent investigation.

From March 2020 onwards, these numerous obstacles were compounded by a public health crisis as well as a political and institutional crisis that disrupted judicial institutions. From the beginning of the health crisis that arrived with the Covid-19 pandemic, measures were taken by the Ministry of Justice to limit the spread of the virus. Thus, on March 11, 2020, a memorandum from the Ministry of Justice announced the closure of courts except for urgent cases. Prosecutors have at times deserted the courts or, although present, have refused any contact with the public. Victims of criminal offenses were denied the right to file complaints with the prosecutor in a clear stifling of justice. Investigations into torture and ill-treatment were suspended, even though they had already been struggling to make progress before the onset of the health crisis. At the same time, investigations for contempt of officials and other minor offences were progressing with greater speed, as a result of a dual-paced justice system for such investigations that the health crisis has only aggravated. Covid-19 thus came to provide a facade of legitimacy to the selective delay of justice.

In the few cases in which a trial was held, it was postponed due to a decision by the judicial authorities to postpone trials in which the defendants were free, which was the case in all trials involving torture or ill-treatment.

In July 2020, following the release of the lockdown, judicial activity briefly restarted only to be interrupted again by the summer judicial vacations. In this short interval, SANAD Elhaq obtained a significant progress in a criminal case, that of Jamel Ouerghi.

2. See CAT Shadow report 2016 and CCPR Shadow report 2020.

Jamel

Jamel had been beaten by police officers for punitive purposes in August 2016 and spent four months in a coma. He retained from this episode of violence serious physical and psychological after-effects. The judges of the Court of First Instance of Kef sentenced two police officers to three and six years in prison, respectively. The only drawback is that the sentence was issued for the crime of violence and not for the crime of torture. The investigating judge maintained the formal qualification of violence rather than torture because, according to the Tunisian definition of torture, the latter can be used only to obtain confessions. As Jamel was tortured for punitive purposes, his case did not constitute torture according to the justice. The judges of the court of Kef finally recognized that the victim had indeed been tortured according to its the international definition, but still condemned the torturers for violence on the questionable basis that they could not increase the severity of the existing assessment of the case. SANAD Elhaq continues to follow the case in appeal with the objective of obtaining the qualification of torture.

Mohammed

In November 2016, Mohammed, a worker from Kasserine, was arrested while at work. The authorities were looking for him as a result of a common law case in which he had been convicted in absentia. At the police station where he was taken after his arrest, Mohammed was beaten. One of the officers hit him on the head with a blunt object. Mohammed had to be taken to the emergency room. He spent one month in a coma followed by an additional month and a half of hospitalization. Mohammed lost an eye and still suffers paralysis in both his feet and one arm. An investigation into the incident was opened in December 2016, which resulted in only a few fragmentary and incomplete investigative actions. Finally, in 2021, SANAD Elhaq requested that the case be deferred. On September 28, 2021, the Court of Cassation granted this request, dismissing the investigating judge of Kasserine and entrusting the case to an investigating judge of the Tunis 1 court. SANAD Elhaq will prepare a memorandum to the new investigating judge to provide him with a list of witnesses and potential perpetrators and accomplices to be interviewed.

Hafid

In January 2021, as part of the repression against the protest movement that rocked Tunisia, Hafid, an activist from Kasserine, was arrested at his home without a warrant in the middle of the night. He was violently assaulted at the time of his arrest and was then tortured at the police station and forced to sign reports accusing him of inciting others to participate in protests. After three days in police custody, the prosecutor ordered his release. His lawyer filed a complaint and the prosecutor referred the investigation to a judicial police brigade in Tunis. While Hafid faced reprisals from the Kasserine police and was threatened with dismissal by the governorate for which he worked,

After a timid resumption of judicial activity in September 2020, the justice system came to a new halt with a strike by judges and court clerks, which resulted in an almost total interruption of judicial activity. The latter remained considerably impeded during most of 2021.

Among the cases taken in charge by SANAD Elhaq, few cases have made significant progress during this period, such as the case of Abdesslam ZAYAN³.

The near judicial oversight of the past two years has been conducive to further analysis of the files. In particular, SANAD Elhaq initiated a review of the medical and forensic documentation of its beneficiaries' files in order to identify and address any deficiencies in this documentation.

Since the start of the judicial year in September 2021, investigations and trials for torture or violence have finally resumed and some cases have made significant progress.

3. For more details, see Abdesslam's story on page 15 of Volume 1, THE FINDINGS.

the torture investigation remained stalled. In September 2021, SANAD Elhaq sent a letter to the Ministry of the Interior cautioning them about the violations suffered by Hafid. Following this letter, the judicial police in Tunis summoned him to be heard in the context of the torture complaint.

Famille à Sfax

In September 2021, after three years of investigation, an investigating judge in Sfax charged four officers with violence perpetrated against a family during a police raid at their home one night in November 2018. The police officers had raided the home with the ostensible motive to arrest one of the family members, who had nevertheless left the country. The officers inflicted punches, baton blows and rifle butts on several family members and sprayed tear gas at them, including a two-year-old child. After the assault, family members were charged with attempted murder of a police officer, assault on a public official and resisting a public official, among other charges. Two of the sons were remanded into custody. In May 2021, both sons were convicted, one for contempt of an officer and the other for stone-throwing. The other members of the family were acquitted. The four police officers accused of violence against the family will soon be brought to trial before the correctional chamber of the Court of First Instance of Monastir.

Lina Ben Mhenni

Since August 2014, the OMCT has been involved in the case of the late activist and campaigner Lina Ben Mhenni. On August 14, 2014, she found herself the victim of police violence (punched, kicked and slapped in the courtyard of the Homt Essouk/Djerba Security District). Her parents and her security guard were also insulted. With the support of SANAD, Lina and her father filed a complaint. Nevertheless, the case was confronted with a dual-paced judicial system whose efficiency always depends on the degree of influence of the complainants or the accused. The case lasted seven years between investigations and judicial proceedings marked by numerous postponements. The OMCT team regularly accompanied the family, the involved associations and volunteer journalists to the audiences in Medenine. On the outskirts of the March 12, 2020, audience at the Medenine Court, we organized a press conference with Lina's family in collaboration with the ONAT section of Medenine. On June 25, 2020, the Court of First Instance of Medenine issued its decision, sentencing Lina's attackers to one year's imprisonment in absentia. The two defendants evaded their trial. They opposed the judgment, however, and the case continues with regular trips to sensitize the court and the general public.

2.2.2. Administrative litigation: A field of innovation for SANAD Elhaq

Since its founding, SANAD Elhaq has invested in the field of administrative litigation to put an end to the restrictive measures implemented by the Ministry of the Interior against several of its beneficiaries:

- people who have been listed as "S" by the Ministry of the Interior because of their presumed dangerousness and who are, on this basis, subjected to arbitrary measures of restriction of freedom often constituting police harassment or even ill-treatment;
- irregular migrants who are arbitrarily detained in the El Ouardia center outside any legal framework.

For these two types of beneficiaries, SANAD Elhaq's lawyers have filed an appeal with the administrative court to have these measures cancelled. Knowing that such appeals usually take several years to be decided, the lawyers have supplemented them with summary appeals aimed at obtaining the suspension of the implementation of the measures while waiting for the court to decide on the appeal for cancellation. In order for such an application for interim relief to be admissible, the applicant must prove that the measure of concern, in addition to being manifestly illegal, is likely to have consequences that are difficult to reverse. While criterion is relatively easy to meet in the case of arbitrary detention, it is less so in the case of measures restricting the freedom of listed persons.

Litigation against arbitrary restrictions on the freedom of persons listed as «S»

SANAD has been accompanying listed beneficiaries for years because of their alleged danger to public order. Many of them have become victims of its arbitrary restrictive measures of freedom called administrative control measures. On July 14, 2020, lawyers mandated by SANAD Elhaq and its partners Avocats sans frontière (ASF) and Psychologues du Monde - Tunisia (PDM-T) submitted recourse for interim and annulment proceedings to the administrative court of interim appeal and cancellation. These submissions challenged the filing and administrative control measures suffered by eleven SANAD beneficiaries. In October 2020, SANAD Elhaq filed a similar appeal for a twelfth beneficiary. These appeals are the result of several months of documentation and of legal analysis based in national and international law, the foundations of which had already been established in the aforementioned «Being S» report published by the OMCT in December 2019.

According to the Administrative Tribunal Act, the administrative court is obliged to issue decisions on applications for interim relief within a maximum of one month from the date of filing. This requirement notwithstanding, decisions on applications submitted in July did not begin to be handed down until October. To date, ten decisions have been issued in interim proceedings, while two cases have still not been decided a year and a half after the initial applications for appeal. Out of ten decisions, six are positive and have been communicated by a bailiff to the Ministry of the Interior. Two applications for interim measures were rejected by the administrative court, owing to the estimation that the appellant had failed to prove that the contested measure was likely to have consequences that were difficult to reverse. The court therefore did not confirm the legality of the restrictions of freedom. In two other cases, the Ministry of the Interior claimed that the beneficiary was not subject to any restrictive measures. SANAD Elhaq continues to monitor annulment appeals.

Of the 12 beneficiaries for whom SANAD Elhaq has applied for interim measures, six are still subject to control measures (summons to the authorities, house arrests, refusal to issue a B3 bulletin, etc.). In May 2021, the OMCT addressed correspondence to the Ministry of the Interior requesting an immediate cessation of these measures, which constitute genuine police harassment. SANAD Elhaq is considering other remedies in the event of further harassment.

In 2021, SANAD Elhaq documented ten other new cases of listed persons and appointed lawyers to shortly submit a new round of appeals to the administrative court.

In order to prepare for this litigation and based on several years of experience in administrative appeal against administrative control measures, SANAD Elhaq has formalized models of interim measures against some of these measures suffered by the listed persons: prohibitions/impediments to leaving the country, house arrest, summons and arrests for questioning at the police station, home and workplace visits, as well as refusals to issue administrative documents (CNI, passport, B3). These models provide guidance on how to detail the facts in order to maximize the chances of successful appeal. They also include specific legal arguments grounded in national and international law. In order to support this advocacy, SANAD Elhaq has published a note on international standards applicable to restrictions of freedom and socialized it with the lawyers in its network. These legal tools published online are also intended for use by other victims or their lawyers.

Litigation against arbitrary detention of migrants

The public health crisis and the overall attention given to the increased risk of spreading the virus in locations with restricted liberties has highlighted the problem of illegal detention of migrants in El Ouardia center. When the OMCT was questioned in April 2020 about the health situation in El Ouardia, nearly thirty migrants were detained there. The legal analysis conducted by SANAD Elhaq showed that the detention of migrants in El Ouardia is systematically arbitrary. This deprivation of freedom is without any legal basis and is carried out without any procedural guarantees in a center that is not officially recognized as a place of restricted liberties but rather as a shelter. After having unsuccessfully challenged the Ministry of the Interior and communicated on the illegality of the detention of migrants in El Ouardia, SANAD Elhaq and its partners Terre d'asile Tunisie (TAT), the Tunisian Forum for Socio-Economic Rights (FTDES) and Lawyers Without Borders (ASF) have decided to conduct a strategic litigation aimed at obtaining the immediate release of the detainees.

On June 5, 2020, lawyers mandated by the organizations filed 22 requests with the administrative court for summary judgment and cancellation concerning migrants arbitrarily detained in El Ouardia. This was the first litigation to challenge the arbitrary

detention of migrants in Tunisia. This strategic litigation, which was accompanied by extensive media coverage, was successful. On July 10, the administrative court issued 22 interim decisions ordering the suspension of the detention measure.

In the end, it took more than two months for all 22 migrants to be released by the Ministry of the Interior. Not only were the releases of the applicants late, but the Ministry of the Interior also continued to detain migrants in El Ouardia in a practice still qualifying as arbitrary detention.

On February 24, 2021, SANAD Elhaq filed a new appeal to obtain the release of a migrant active in the defense of migrants in Tunisia and detained for over a year without legal basis. The migrant was released before the court ruled on the interim appeal. The Ministry of the Interior certainly wanted to avoid a new sanction of the administrative court and the media frenzy that would follow.

2.2.3. Litigation in transitional justice: A long-term battle

The OMCT is currently a civil party in seven emblematic cases of torture. Lawyers from SANAD Elhaq are representing the OMCT in these cases, in coordination with the victims' lawyers. The first trial began in May 2018, but no judgment has yet been rendered three and a half years later. The entire process is lengthy and punctuated with many obstacles, among them the excessive sluggishness of the trials that is detrimental to both the victims and the defendants.

This slowness, materialized by quasi-systematic postponements of the proceedings, is due to three principal factors. First of these is the health crisis, which has had a major impact on the functioning of the justice system over the past two years. For many months, trials in which defendants are at large have been postponed. This is the case for all transitional justice trials in which no accused are in detention, contrary to the common practice of remanding persons accused of even minor offenses.

Second, many of the postponements have arisen due to the annual rotation of judges. In the July 2020 rotation, 29 of the 91 judges of the specialized chambers were transferred, followed by 28 judges in the July 2021 rotation. The latest move includes the president of the specialized chamber in Tunis, who handles a great number of cases. As required by the law on transitional justice, all judges of the specialized chambers must receive training in transitional justice before taking up their positions and must then proceed to study the many cases before they can continue proceedings. According to information obtained by the OMCT, the training of the new judges will not take place until January 2022.

A final factor that explains the constant postponements is the persistent absence of many defendants or their lawyers from the hearings owing to the complicity of the judicial police, who fail to execute the warrants ordered by the judges. The absence of the accused seriously compromises the revelation of the truth to which the transitional justice trials must contribute. Moreover, if the judicial police do not compel the defendants to attend their trial, there is little chance that they will arrest them once the judgment is rendered, which will diminish the purpose of these convictions as a guarantee of non-repetition.

In 2021, during several audiences and before the court ordered the postponement, SANAD Elhaq's lawyer asked the judges to systematically order warrants for the arrest of absent defendants and to freeze the assets of defendants who flee their trial. In parallel, SANAD Elhaq initiated a criminal litigation aimed at sanctioning judicial police officers who fail to issue the arrest warrants ordered by the specialized chambers. SANAD Elhaq's team has prepared a model criminal complaint and shared it with the lawyers of the victims for whom the OMCT has filed as a civil party. The filing of the complaints in April 2021 resulted in a significant amount of media coverage.

Thanks to this strategy, seven defendants (including two former ministers) appeared at the hearing on October 1, 2021, before the specialized chamber of Nabeul in the trial of the torturers of Fayçal Baraket. The plaintiffs had come to request the abandonment of the decision ordering the freezing of their assets. The hearing unfortunately lasted only five minutes and was postponed because of the absence of two assessors resulting from the rotation of judges. Had the chamber been full, the defendants who had been fleeing their trial for more than three years would have finally been tried.

The hearing of the trial of the torturers of Rached Jaïdane has been postponed three times in 2021 alone. The hearing scheduled for March 25, 2021, was postponed to June 14 due to the absence of a defendant. The June 14 hearing was adjourned to November 4 for the same reasons. Then the hearing of November 4 was cancelled due to the transfer of the president of the chamber in Tunis. The case was postponed to January 24, 2022. Since its opening on October 4, 2018, the trial of Rached Jaïdane has given rise to 14 hearings, the vast majority of which were adjourned after a few minutes.

The excessive length of trials, the absence of the accused and the negative impact of the annual rotation of magistrates are not the only obstacles to the functioning of transitional justice observed by SANAD Elhaq in the context of the follow-up of the OMCT trials. Other obstacles include the lack of evidence due to the insufficient investigations carried out by the Truth and Dignity Commission (IVD) due to both a lack of means and a lack of cooperation from the requested administrations, as well as the absence of an appeals procedure for the decisions of the specialized chambers.

The monitoring of the hearings by SANAD Elhaq nourishes the advocacy work carried out by the OMCT, often in partnership with other members of the Coalition for Transitional Justice. In 2020, the OMCT launched a campaign entitled «Al Adala Awwalan». It resulted in the publication of a report by the same name as well as an awareness-raising video and animated gifs presenting the seven emblematic cases in which the OMCT is a civil party: those of Rached Jaïdane, Nabil Barakati, Barraket Essahel, Sohnoun Aljaouhari, Fayçal Baraket, Mohamed Koussai Jaïbi and Rachid Chammakhi.

In December 2020, OMCT and its partners Avocats sans frontières (ASF) and the International Commission of Jurists (ICJ) published a report titled, «No Reconciliation without Justice: Assessment and Perspectives of the Specialized Criminal Chambers in Tunisia». The report, which analyzes the obstacles to transitional justice procedures, inspired another document that was sent in January 2021 to the United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition. The latter had requested information from civil society on the progress of transitional justice in order to prepare a report that was published in early July 2021.

In March 2021, after the resumption of the trials before the specialized chambers and given the persistent absence of the defendants and the postponements of the hearings, the OMCT prepared a communication addressed to several United Nations special procedures that was co-signed by several members of the Coalition.

Given the regime change resulting from the establishment of the state of emergency on July 25 and the abrogation of most of the 2014 Constitution, the future of transitional justice is more uncertain than ever. The failure of the process would send a particularly negative signal to the ordinary criminal justice system and bring the fragile construction of the rule of law to a halt.

2.3. LITIGATION AS AN ADVOCACY TOOL



The criminal, administrative and transitional justice litigation conducted by SANAD Elhaq has objectives that extend beyond the cases of the beneficiaries. For listed persons subject to restrictive measures of freedom, the objective is to establish the arbitrary nature of these measures and obtain substantial legal reforms, in particular the repeal of decree n° 78-50 of January 26, 1978, regulating the state of emergency. For arbitrarily detained migrants, the objective of the litigation is to obtain the closure of illegal detention centers. Communications around the administrative litigation of SANAD Elhaq also aim more globally to promote a reform of the law on the administrative court in order to achieve the establishment of a real emergency litigation. The time limits for the examination of appeals for interim relief are effectively null due to the extreme slowness of proceedings.

For victims of torture confronted by their aggressors' impunity, the objective is to promote the adoption of concrete legislative and practical reforms, such as the amendment of the definition of torture in the penal code, the creation of an investigation unit specialized in torture or the amendment of the Code of Criminal Procedure in order to regulate the duration of investigations and to guarantee rights to victims throughout investigative proceedings.

Concerning transitional justice, all legal assistance is focused on the success of the seven trials in which the OMCT is a civil party. These trials are intended to serve as an example for Tunisian criminal justice and to help ensure the prevention of similar crimes in the future.

In order to achieve these objectives, SANAD Elhaq and the OMCT's advocacy team produce analyses on the phenomena of torture and impunity and set precise and relevant objectives for changes needed to halt institutional violence and to remove the obstacles hindering victims' access to justice.

Based on the diagnoses and recommendations, the team defines strategies for media communication - sometimes focused on beneficiary cases - public awareness, and lobbying of decision-makers in order to obtain both medium- and long-term reforms. This advocacy work reinforces the litigation activity, while the latter in turn nourishes the advocacy work.

Salem

In October 2021, SANAD Elhaq prepared a legal memorandum and samples of appeals for interim relief against restrictive measures. These materials were prepared based on SANAD Elhaq's experience with administrative litigation conducted in recent years for beneficiaries listed as «S» who were victims of administrative control measures.

These documents were used to prepare appeals for new beneficiaries. They also, however, fed into the OMCT's advocacy to challenge the proliferation of house arrests and prohibitions/preventions of individuals from leaving the country decided by the Ministry of the Interior against a large number of politicians, magistrates, deputies, lawyers and businesspersons in the context of the state of exception decreed by the President of the Republic on July 25. A few days after the publication of the note and the appeal models accompanied by a press release by the OMCT announcing the imminent referral of the case to the United Nations, all the house arrests were lifted and the President announced that the restrictions on leaving the country would also be lifted for people who are not subject to a criminal investigation.

3. NEW PERSPECTIVES FOR SANAD

SANAD strives to adapt its direct assistance to people in need and at risk of reoffending. In this regard, SANAD is becoming more involved in the rehabilitation of ex-prisoners who often have difficulty breaking out of a cycle of violence. Their relatives do not welcome them upon their release from detention. In addition, SANAD beneficiaries face many obstacles in renewing their administrative documents, finding a job or training and rebuilding their lives, all of which are challenges that explain the high rate of recidivism in Tunisia.

SANAD has accompanied several beneficiaries after their release from prison. Aware of this experience, the prison administration and SANAD are in the process of establishing a formal cooperation in the accompaniment and rehabilitation of ex-prisoners. Habiba's story illustrates the many challenges of rebuilding one's life after leaving prison.

Habiba

Convicted of a common crime at a very young age, Habiba spent 20 years in prison. She was released at the end of 2020. When she was released, she found herself totally alone, abandoned by her family, without work, without a home and having spent 20 years of her life locked up. Originally from a city in the east of Tunisia, she had to move to another city in order to find refuge. She asked SANAD to help her overcome the precariousness and trauma resulting from her 20 years of detention punctuated by ill-treatment. Thanks to the psychological support provided by SANAD, Habiba is gradually regaining her bearings and trying to define a life plan. SANAD also provides her with medical assistance to repair the physical damage caused by her detention. SANAD's social coordinator

facilitates medical appointments in different regions. SANAD pays for Habiba's doctors' fees, examination and treatment costs, as well as her transportation costs.

SANAD has also accompanied Habiba in navigating various institutional, state and association structures. It assisted her in renewing her identity card with the police district. In collaboration with the Regional Direction of Social Affairs (DRAS), SANAD obtained a care card and a permanent allowance for Habiba. A delegation from Social Affairs visited Habiba's home to identify her material needs.

Habiba was trained in the manufacture of cleaning products during her incarceration. She was able to obtain a diploma and wishes to create her own business in this field. SANAD supports her in refining her project in collaboration with several stakeholders: the regional delegation of women, regional and local structures linked to the Ministry of Social Affairs and associations that can provide the necessary technical support. SANAD's support touches on all aspects of Habiba's project: identification of the market audience, choice of products, budget, location, but also the means to be provided so that she can work in appropriate conditions without harming her health. Today, Habiba's situation has improved significantly. She continues to express her enthusiasm and determination to move forward and make a new start.

ON THE WAY TO RECONSTRUCTION

*For the first time,
my citizenship was recognized.*

Mourad

*Now I have my dignity back
in my country.*

Salem

*Today, I have a new vision of life
and I can't wait to start my new
project.*

Elyes

*At SANAD, I was looking for a little
light to see the end of the tunnel,
said Nawel. I am on the verge of
depression and I am worried that
it will affect my daughter*

Nawel

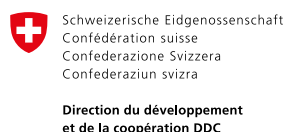
*I was living in an emotional and
financial abyss but thanks to your
support and accompaniment I
have a better quality of life and
I can plan life projects for my
daughters.*

Nesrine

ACKNOWLEDGEMENTS

The work of SANAD, the OMCT's direct assistance program for victims of torture and ill-treatment in Tunisia, would not be possible without the strong cooperation of our associative and institutional partners. The OMCT warmly thanks all its friends and partners, who strive to improve the lives of persons, who have suffered injustice and violence, and who work for an improved rule of law and against prevailing impunity.

The OMCT wishes to express its gratitude to its donors, particularly to the Swiss Development and Cooperation Directorate, the European Union, the United States Bureau of Democracy, Human Rights and Labor Affairs and the United Nations Voluntary Fund for Victims of Torture.



The contents of the report, however, are the sole responsibility of the OMCT and should in no way be interpreted as reflecting the views of the institutions supporting it.

The OMCT thanks its SANAD support team, in particular Najla Talbi, Sabine Gatri, Sara Attafi, Loubeba Chelbi, Amal Cherif and Nejla Slim for the professional support offered to beneficiaries, as well as its SANAD Elhaq legal action team, in particular Hélène Legeay, Inès Lamloum, Hafid Hafi, Oussama Bouagila and Wahiba Rabah for the meticulous follow-up of strategic legal cases and sustained advocacy. Hélène Legeay, Najla Talbi and Nejla Slim wrote the report based on the team's documentation and observations. Thanks to everyone who helped finalize the report.

Finally, the OMCT would like to express its gratitude to Mr. Mokhtar Trifi for his invaluable and continued support.

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Design : LMDK Agency



SANAD REPORT

2020 - 2021



**INSTITUTIONAL VIOLENCE
UNTIL WHEN?**