

SANAD REPORT

2022-2023 **سند**

سند
Centre de Conseil OMCT
مركز للتوجيه OMCT





SANAD REPORT 2022-2023

FOREWORD

In September 2023, it is ten years that SANAD has opened its doors to those, who have seen the darkest sides of human nature, who have been subject to torture and other forms of cruel, inhuman, and degrading treatment, who have experienced injustice and were left alone. It is ten years that SANAD provides and enhances comprehensive and tailor-made direct assistance to victims and their families. Our beneficiaries come from different paths of life. They all share similar sentiments in their quest for justice and their need to reestablish their human dignity and individual lives. Torture and institutional violence break the social contract between the citizen and its protector. Where the State is no longer able to safeguard the human security of the persons living on its soil, SANAD aims at being the connecting link, at providing hope and confidence, at changing attitudes and institutional behavior.

Over the past ten years, SANAD has forged relationships of trust with public institutions, specialized civil society organizations and dedicated professionals. While the responsibility to repair the damage caused by violent state officials lays with the state, it is only in cooperation and strategic partnership with each other that we will be able to ensure reconstruction and rehabilitation. We wholeheartedly thank our partners for the trust and support in accompanying the many beneficiaries of SANAD with patience, respect, and kindness.

SANAD saw many challenging moments and encounters situations of distress – a vague of suspicious deaths in custody, petty conflicts between ordinary citizens and law enforcement officials that row out of the rim, the persecution of

*For simplicity and ease of reading, all references to people are made in both the masculine and feminine genders.

human rights defenders during protests, brutal crackdown on alleged suspects of terrorism, the stigmatization of marginalized groups including migrants. The list is long, each event is painful. SANAD remains a trusted companion for its beneficiaries, over years and in a holistic manner. We know that the independence of justice is at stake and do our best to find innovative ways to challenge the judicial system and to fight impunity. We learn from experienced human rights defenders such as our vice-president, mentor and friend, Me Mokhtar Trifi, and pass on our knowledge and expertise to committed young human rights defenders. We are fortunate to be able to count on the support of a dedicated team of social workers, psychologists, doctors and lawyers who share our values and our struggle. Thank you to you all!

We dedicate this edition of the SANAD report to Me Radhia Nasraoui known for her tireless fight against injustice and the hope that she brought to countless victims of torture and their families.

**We owe you respect
and gratitude for your
inspirational work.**

In friendship and with respect,
SANAD





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SANAD - A COMPREHENSIVE, MULTIDISCIPLINARY DIRECT ASSISTANCE PROGRAM

SANAD is the multidisciplinary direct assistance program for victims of torture and cruel, inhuman or degrading treatment in Tunisia set up in 2013 by the World Organization Against Torture. SANAD aims to provide direct assistance to victims and to facilitate their social reintegration, to combat impunity and to build the capacity of professionals and civil society actors in the protection of human rights. Through its three counseling centers, based in Kef, Sfax and Tunis, SANAD works with direct and secondary victims from all over Tunisia, men, women and children.

With its extensive know-how and experience and aware of the relevance of a holistic approach to achieve rehabilitation, SANAD provides social, psychological, medical and legal assistance to its beneficiaries. These four components are complementary and indeed necessary to succeed with strategic litigation, which means taking a long and arduous process for complainants. One of the preconditions for success is that victims are able to follow the process through to the end, which can only happen if they rebuild their lives at the same time.

Beneficiaries get in touch with SANAD either upon the advice of other beneficiaries, or through civil society partners, or through the National Instance for the Prevention of Torture (INPT), or because the SANAD team offers its assistance following information published or received on cases of violence.

Experienced legal and social coordinators accompany SANAD beneficiaries and with them to define an individualized intervention plan and monitor their situation on a regular basis. They are supported by the entire SANAD team, including the program director and program officers as well as the legal team of SANAD Elhaq, SANAD's legal action group.



OUR APPROACH



A warm welcome

The SANAD team provides people who have suffered violence at the hands of a public official with a professional welcome that takes into account the impact of trauma. The team presents SANAD's services and operating procedures in a way that takes into account the distress and sense of insecurity felt by victims of torture and ill-treatment. Empathy and openness are at the heart of what we do, and we take care to explain the capabilities and limitations of our program. For people who cannot be cared for by SANAD, the team refers them, if necessary, to other competent organizations.



A specific intervention plan

For each beneficiary, an individual intervention plan is drawn up. The plan focuses on the needs of the victim, taking into account his/her socio-economic situation and the consequences of the traumatic effects on his/her family and loved ones. The plan is put in place in consultation with the professionals involved, and can be reviewed and readapted according to progress or complications that may arise.



Individualized support

According to the established intervention plan, the SANAD team accompanies beneficiaries to public administrations, specialized organizations and/or professionals. In some cases, long-term support may be necessary. Indeed, the effects of torture are serious, multiple and long-lasting, and new needs may emerge during the assistance process. Some beneficiaries, particularly the most vulnerable such as the disabled, women, minors and the elderly, need to be accompanied as closely as possible.



Coordination with relevant stakeholders

To ensure quality and holistic direct assistance, SANAD works with committed professionals. SANAD has established a network of lawyers who are available to accompany beneficiaries to court. SANAD also works with health professionals such as doctors, psychiatrists, psychologists and social workers. The OMCT's partner organization, Psychologues du Monde Tunisie (PDM-T), provides psychological counseling in a confidential and compassionate manner. SANAD coordinates with public administrations, such as local structures of the Ministry of Social Affairs, Centres de Défense et d'Insertion Sociale (CDIS), public hospitals, prison administration (CGPR) and the Instance Nationale de Prévention de la Torture (INPT). A close and fruitful working relationship has been developed with specialized associations, notably the Beity, Amal, the Tunisian Union of Social Solidarity (UTSS), Damj, the International Legal Foundation (ILF), and the Tunisian League for Human Rights (LTDH) as well as the Tunisian Organisation against Torture (OCTT).



Regular follow-up

SANAD maintains a regular dialogue with beneficiaries and all those involved in the direct assistance process, in order to evaluate intervention strategies and improve the quality of services provided. Quantitative and qualitative evaluation tools are put in place to obtain concrete results that help victims and their families mitigate the impact of trauma and facilitate social reintegration.

This report provides an account of SANAD's activities and an analysis of its observations between January 2022 and May 2023.

INTRO DUCTION



INTRODUCTION

Tunisia has been undergoing a major political crisis since July 25, 2021. Ascendancy of the executive power over the judiciary and legislature, and an increasingly inward-looking administration give cause for serious concern and threaten SANAD's work, inter alia through repeated attacks on the judiciary.

Shortly after the dissolution of the Conseil Supérieur de la Magistrature (CSM) on February 12, 2022, the President passed Decree-Law no. 35, granting himself prerogatives guaranteeing him a stranglehold over the judiciary. Decree-Law no. 35, adopted on June 1, 2022, grants the President the power to dismiss judges, who commit acts "likely to compromise the reputation of the judiciary, its independence or its proper functioning". These decisions are subject to appeal "only after an irrevocable criminal judgment has been handed down". On the same day, the President adopted a presidential decree dismissing 57 judges. This major attack on the independence of the judiciary is designed to instill fear in the ranks of judges and prosecutors, who show themselves to be too independent of the executive. It also raises fears of growing self-censorship among judges, who will be increasingly inclined to follow the instructions of judicial police and unwilling to investigate cases of torture and ill-treatment.

In the same spirit, the executive is launching unprecedented attacks on lawyers of all kinds, through legal proceedings brought against them, generally for remarks made in connection with the exercise of their functions. From Abderrezak Kilani to Ayachi Hammami, more and more lawyers are paying a high price for defending the rule of law. The legal profession is becoming a risky business, as is the defense of human rights in general.





Human rights defenders are joining the ranks of political opponents as targets of the executive branch. The President has equipped himself with a arduous new censorship tool: Decree 54 on combating offences relating to information and communication systems. Since its adoption in September 2022, it has already served as the legal basis for the prosecution of several journalists, lawyers and critics of the executive power. It joins the list of criminal provisions used to conduct gagging prosecutions and thus silences critics of the regime, particularly those who denounce human rights abuses and the regime's authoritarian drift.

The judiciary is openly used as a tool of repression at the service of the executive. Since February 2023, waves of arrests have multiplied in the ranks of political opponents and critics of the regime. A dozen leading figures (political activists, journalists, businessmen, lawyers) have been arrested by the anti-terrorist brigades. Their families and lawyers reported violations of procedural guarantees during arrest and custody. The detainees were accused of plotting against the internal and external security of the State on the basis of anonymous testimonies and messages exchanged between the defendants and foreign delegations. In violation of the presumption of innocence and the independence of the judiciary, Kais Said warned that any judge ordering the release of the defendants would be considered their accomplice.

On February 21, just a few days after this first wave of politically motivated arrests, the president has addressed a hate-filled, conspiracy-mongering speech against sub-Saharan migrants, who as a consequence experienced unleashed violence and were physically attacked by ordinary citizens. Some - with or without residence permits - claimed to have been forcibly evicted by their landlords. Dozens lost their jobs. The Ministry of Employment announced that its services would be carrying out intensive campaigns to monitor the employment of foreign workers. Security forces have also arrested hundreds of sub-Saharan nationals, including those with legal status. There are numerous reports of arbitrary and discriminatory arrests, accompanied by hate speech and physical violence. Human rights organizations have mobilized to denounce this wave of violence and provide assistance to the victims.

At a time when human rights are being exposed to continued violations, Tunisian civil society has to play a greater role as watchdog, whistleblower and protector of vulnerable groups. This may lead the executive powers to modify and reform decree law 2011- 88 governing civil society organizations, in order to better control them, potentially putting them through a myriad of administrative hurdles and funding restrictions. The reform has not yet been adopted, but CSOs experience procedural hassles from administration aimed at slowing down their funding.

Another worrying development is the closing in of state institutions. While civil society has played a crucial role in the construction of Tunisian democracy, the authorities are currently closed to dialogue with civil society organizations working on the promotion of human rights. Numerous far-reaching legislative and practical reforms are needed to bring Tunisian law and practice into line with international human rights standards. Any institutional advocacy is, however, thwarted by the lack of an interlocutor. With the new assembly lacking legitimacy, this may also be valid for the legislature putting the relevance of advocacy into question.

Despite this difficult context, SANAD has continued to assist and accompany victims of torture and ill-treatment, as well as to carry out advocacy activities. Despite the many obstacles, we have been able to help improve the lives of our beneficiaries over the past year and a half. We are pleased to share some of these success stories in this report.



SANAD IN FIGURES

Since its creation, SANAD has assisted

932 BENEFICIARIES

577
PRIMARY
VICTIMS

&

305
SECONDARY
VICTIMS

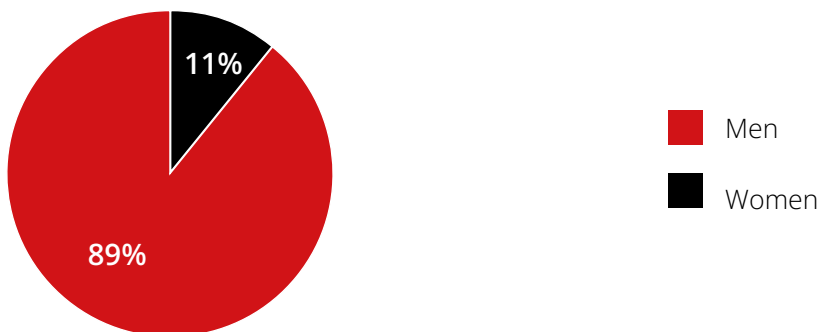
Since January 2022:

187
NEW BENEFICIARIES
HAS BEEN ASSISTED
BY SANAD

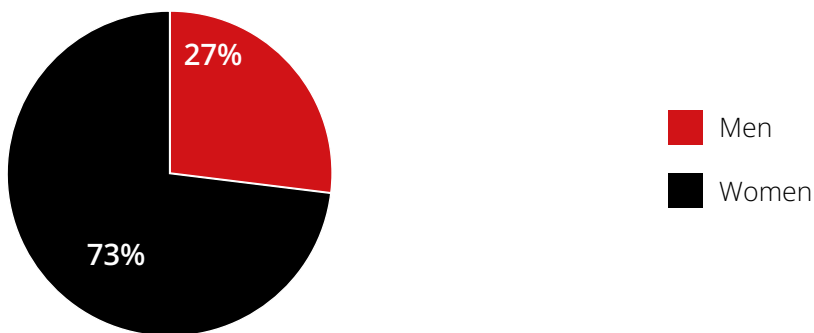
of whom **112**
ARE DIRECT
VICTIMS

including
10 migrants
and **22 detainees**
and **75 are indirect victims.**

Gender breakdown of direct victims:

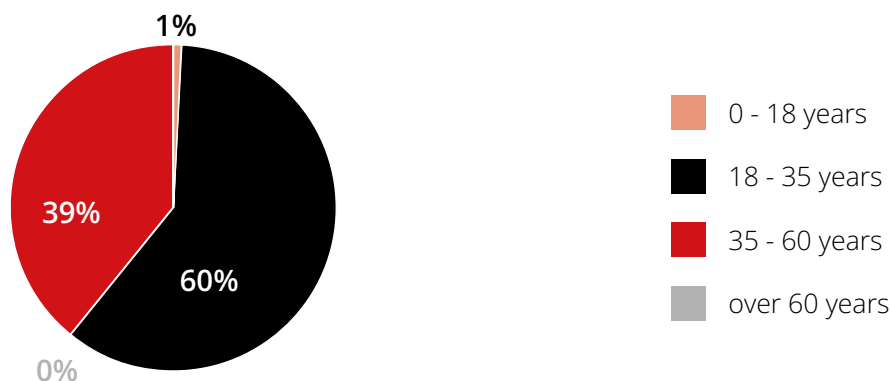


Gender breakdown of indirect victims:



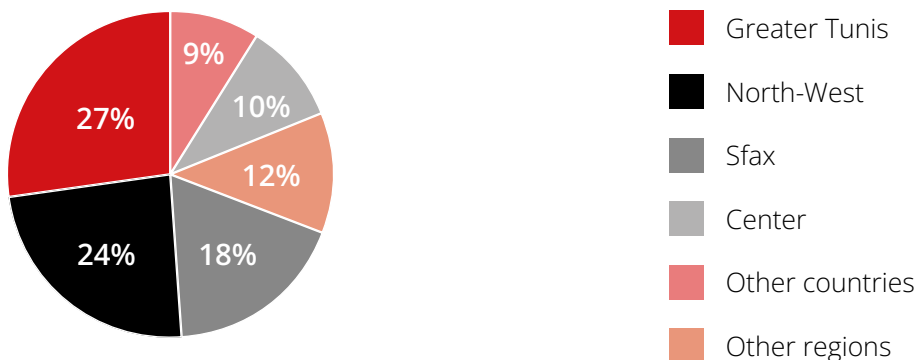
While the majority of direct victims of torture and ill-treatment accompanied by SANAD are men (89%), the vast majority of family members affected by these acts are women (over 73%). SANAD also supports family members, most notably women and children.

Breakdown of direct victims by age:



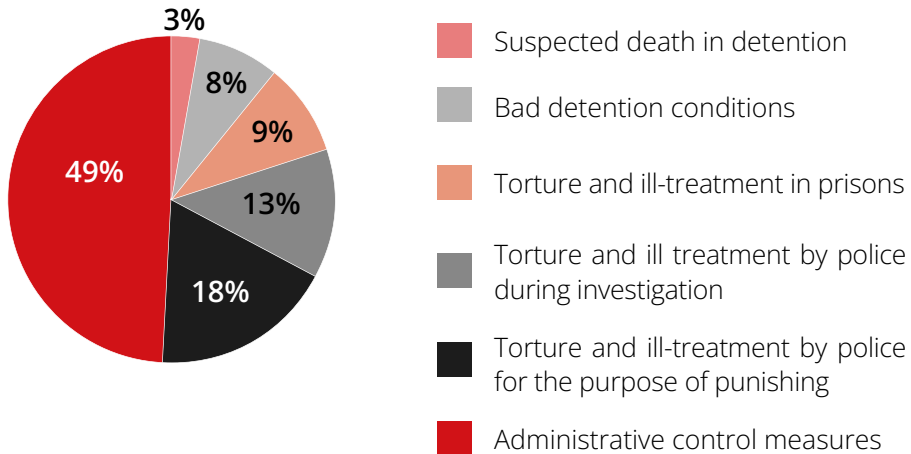
Of the **112 direct victims** assisted by SANAD, **68 beneficiaries are under the age of 35 years old** and **43 beneficiaries are between 35 and 60 years of age**.

Breakdown of direct victims by region:



The geographical provenance of SANAD beneficiaries, and more specifically of primary victims, shows a strong concentration around **Greater Tunis (27%), the North-West (24%) and Sfax (18%)**. This is due to the location of SANAD centers, and does not reflect the actual distribution of victims of torture and ill-treatment in Tunisia. **10 migrants** contacted SANAD during the reporting period.

Types and contexts of violations:



49% of SANAD beneficiaries are subjected to arbitrary restrictions of their liberty as a result of administrative control measures. In many cases, these restrictions are such that they can be described as police harassment constituting ill-treatment. Moreover, as in previous years, the police - including the National Guard - use violence more for punitive purposes than to obtain confessions. 16 beneficiaries assaulted for punitive purposes were subsequently prosecuted for contempt.

SANAD CARE

SOCIAL ASSISTANCE

Despite the particularly difficult social and economic context that the country has been experiencing for the past three years now, the OMCT has continued, through its SANAD program, to provide comprehensive quality assistance to its beneficiaries.

Aware that they are working with victims who are struggling with major social, economic and/or psychological difficulties and survival, the experienced SANAD social coordinators help beneficiaries define their priorities. In the aftermath of institutional violence, SANAD together with the victims and/or their families identifies their needs that may relate to education, economic integration, housing, state aid or any other social right. They also ensure the coherence of interventions with the various state social structures and specialized civil society organizations.

Over the reporting period, SANAD has focused on empowering beneficiaries to develop their potential, overcome difficulties and foster their agility with complex administrative procedures.

Whatever their degree of dependence and vulnerability, persons welcomed by SANAD are considered and, above all, treated as persons with a will of their own. They cannot simply be taken care of passively. Their right to express themselves is real, not just possible or theoretical. In that respect, as in previous years, SANAD has continued to work with its beneficiaries to create and/or re-establish the links with society that have been severed as a result of the violence they have suffered.

Encouraged and guided by the social coordinators, beneficiaries have contacted public administration to assert their right to the various social benefits offered by the State. Since January 2022, SANAD has supported four beneficiaries in the implementation of procedures that have enabled them to obtain four free/half-price healthcare schemes in public hospitals and three permanent allowances of 240 TND/month for beneficiaries with no income. In addition to facilitating access to permanent benefits, SANAD's social coordinators also helped two beneficiaries to obtain circumstantial state benefits provided by the Tunisian union for social solidarity (UTSS). In collaboration with the defense centers for social integration (CDIS) and based on a thorough understanding of the dealings of public administration, SANAD social coordinators carried out efficient advocacy in the interest of SANAD beneficiaries to overturn decisions of the regional direction for social affairs (DRAS) on the refusal of two free-of-charge healthcare schemes and a permanent allowance. These interventions were carried out in coordination with the various DRAS, including those of Kef, Sidi Bouzid, Ben Arous, Monastir and Tunis 1.

By virtue of its holistic approach, SANAD's social assistance is not limited to reviewing files and facilitating access to social services and social aid. SANAD considers education to be an essential right. Facilitating access to education helps flourishing the social life of children and adults alike, by developing their personality and identity, as well as their physical and intellectual capacities. It is also key in giving disadvantaged children a chance to escape poverty. In 2022, six beneficiaries benefited from support to that end: three children were enrolled in a nursery school and three others in tutoring establishments.

SANAD's victim-centered approach since its inception has led to a pertinent observation: the need to make exceptions to classical direct assistance. Exceptional forms of assistance have played a decisive role in the rehabilitation of several beneficiaries. One such example is providing emergency shelter to enable beneficiaries starting an income-generating activity as was the case for two beneficiaries: during the reporting period, SANAD supported one to keep his home and another to find a new one. This exceptional financial assistance enabled them to take a breath and to focus on vocational training.



Ghozlan¹ 32, is the wife of a prisoner (detained for 18 months) and mother of three children aged 10, 8 and 4 years old. She contacted SANAD and asked for help. She was lost and didn't know what administrative steps to take. The administration was refusing to review her file, leaving her with no source of income to raise her children. She wanted to benefit from the permanent allowance which was originally in the name of her imprisoned husband. When SANAD inquired about possible procedures, it turned out that Ghozlan's situation was complicated by the fact that her husband was detained in a terrorism case. Together with the psychologist from social services, we contacted and pleaded with all the relevant authorities to reconsider the refusal to change the permanent allowance to the name of the mother.

Thanks to a close exchange with the DRAS and advocacy from CDIS and SANAD in favor of her case, Ghozlan was finally able to benefit from a free-of-charge healthcare scheme and a monthly allowance of 240 TND, which helps her to continue to pay the rent for her house.

1. For reasons of confidentiality and protection, the names of certain beneficiaries mentioned in this report have been changed.

SOCIO-PROFESSIONAL INTEGRATION


SANAD has realized the vital need for beneficiaries like Ghozlan to find and/or keep a job thanks to the self-support group that the SANAD team is moderating for persons registered as "S". Being placed on an "S" list or placed under house arrest has disastrous consequences for a person's life, and that of their family and friends. It's a slow social death, especially for women without support (divorced, widowed, separated, wives of prisoners, etc.). Their children either drop out of school for a lack of means or are poorly educated. They feel in no position to "feed" them. In 2022, the SANAD social coordinators continued to work with women beneficiaries "S" to jointly develop a professional action plan adapted to their socio-economic environment, in order for them to find the inspiration to continue their fight for their children's survival. SANAD and its partners seek to build a stable, healthy environment for children of beneficiaries so that they can find their place in society. Men beneficiaries "S" are also increasingly confronted with this struggle.

Since January 2022, SANAD has helped nine women and two men to regain a degree of financial independence through micro-projects (pastry-making, commerce, hairdressing, sewing, etc.), thanks to the purchase of basic materials that were needed to start up a new and more sustainable source of revenue. For the beneficiaries, this independence is the starting point for a return to "normal" family life. SANAD has supported five other beneficiaries through vocational training to equip them with the skills they need to integrate into the job market.

For almost two years now, SANAD has been working with its beneficiaries to identify and gradually finance microprojects, given the complexity of state or private financing, which remains an enormous challenge for beneficiaries from underprivileged backgrounds and without university qualifications, or for persons registered as "S" without a stable income and solvency. State microfinance agencies are particularly demanding when it comes to selecting applications, most notably about the borrowers' level of training. State microfinancing in Tunisia is always focused on specific sectors, such as young investors and farmers.

The SANAD team, aware of these difficulties and concerned with the sustainability of financial support to beneficiaries, continues to strengthen collaboration with public training and apprenticeship institutions. SANAD also continues to advocate with the Ministry of Social Affairs and the Ministry of Vocational Training and Employment for a broader and more efficient integration of victims of torture and ill-treatment in professional fields, which is an essential element when (re)constructing their lives.


2. "S" refers to persons placed under administrative control measures by the Ministry of the Interior. In most cases, they are harassed by security forces.



Sonia, aged 36, is the wife of a prisoner and mother of three children. She was living in a precarious socio-economic situation. SANAD supported her on all levels: educational, medical and economic. SANAD began by supporting the creation of Sonia's professional project, namely the preparation and sale of sandwiches with traditional bread, through the purchase of the necessary equipment. At the same time, SANAD encouraged her to enroll in school to help her overcome her illiteracy and acquire a minimum of knowledge to be able to read and write bills, prescriptions, numbers, etc. SANAD facilitated her children's enrolment in a day-care center to provide the academic support they needed. SANAD also intervened at the hospital for Sonia to recover her confiscated healthcare booklet. Since then, Sonia has been able to provide a decent life for her children while awaiting her husband's release.



Khaled is a 33-year-old man on the "S" list. He took the decision to resign from his job because his state of health did not allow him to make the physical effort required, and he suffered a lot from stigmatization by his hierarchy at work due to his criminal record and the police harassment. SANAD supported Khaled to train as a barber for men. He successfully completed his six-month training. With the support of the social coordinator, Khaled is in the process of finding a job with his new diploma.



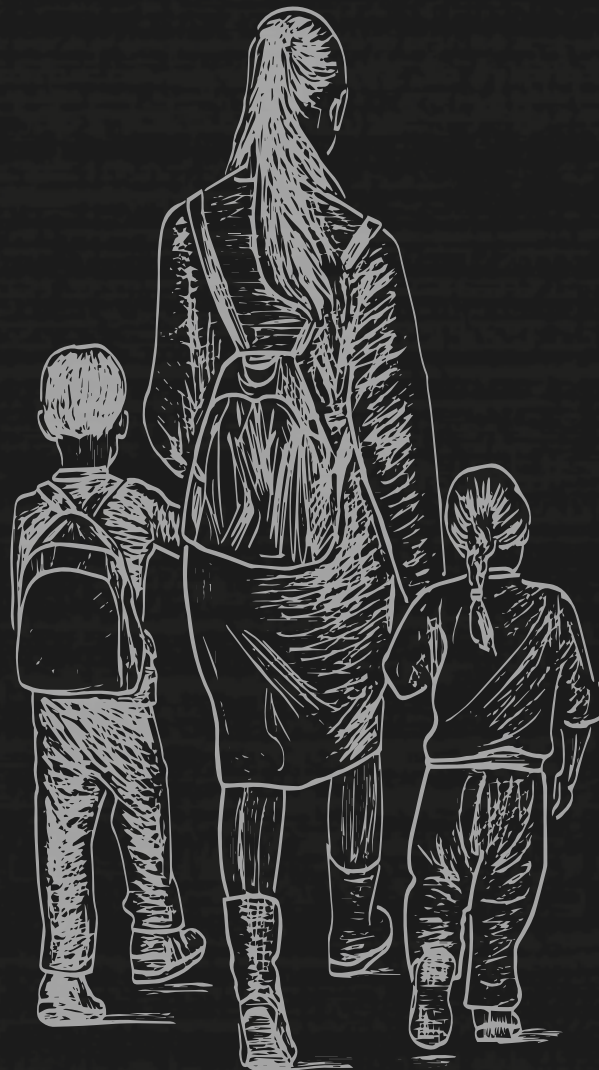


PSYCHOLOGICAL ASSISTANCE

Requesting or accepting psychological assistance means for SANAD experiencing mutual trust with beneficiaries. A vital support in rebuilding one's life, SANAD refers beneficiaries for consultations to psychologists from its partner organization Psychologues du Monde-Tunisie (PDM-T) either on the basis of a victim's request, or upon the affirmative assessment of the social coordinators.

PDM-T provides specialized, high-quality support through individual, group and family consultations, especially for beneficiaries in the regions. SANAD also works with other experienced private psychologists to meet the needs of beneficiaries. SANAD's network of mental health professionals is growing.

Fathya, 39, is registered as "S" and mother of two children. When she contacted SANAD, she spoke of great sadness, an acute lack of interest in work, attention difficulties and depression due to regular police harassment. Fathya also mentioned suicidal thoughts. SANAD followed her case with great attention and provided psychological assistance adapted to her needs and situation. Fathya's condition has clearly stabilized. She is able to better manage her emotions and has been able to return to work.



In 2022, SANAD continued group therapy in form of self-support groups for five women beneficiaries registered as 'S', all from the Greater Tunis region, suffering from the repercussions of arbitrary administrative control measures. The constructive approach of this group, based on the exchange of participants' experiences, to overcome their suffering and develop new perspectives, has largely contributed to its success. It was also an important tool for measuring the impact of administrative control measures on the social and emotional lives of the victims and those around them, especially their children. To enable women in other regions to benefit from similar experience, SANAD set up a self-support group in Sfax in February 2023. Ever since, six women, mainly from Sidi Bouzid and Mahdia, exchange and share their experiences. The groups are moderated by the SANAD social coordinators, who have acquired and evolved their skills in managing discussion groups since 2017.

With the technical support and the experience of the Spanish organization Sir[a], member of the OMCT's SOS-Torture Network, PDM-T psychologists and SANAD network psychiatrists were able to strengthen their capacities to evaluate the psychological impact of torture. In 2022, PDM-T began producing Istanbul Protocols for several SANAD beneficiaries to support their legal cases in court. In the first quarter of 2023, three protocols were finalized pending submission to legal proceedings at court.

SANAD also has a particular interest in working persons under compulsory hospitalization orders. Due to the lack of space in specialized units within psychiatric hospitals, some forty persons are in prison rather than in specialized health care institutions, with only a limited number of places available. Therefore, persons with this condition and suffering from serious illness, are sent into prison and do not receive adequate health care, but often rather become sources for institutional violence and victims of ill-treatment, while court decisions clearly declare their criminal irresponsibility and order their transfer to specialized institutions for compulsory hospitalization. Since September 2022, SANAD has been committed to supporting persons under compulsory hospitalization through music therapy sessions in the specialized department of the Razi Hospital in Tunis. SANAD cooperates closely with hospital administration, and seeks to find lasting solutions for this particularly vulnerable group.




MEDICAL ASSISTANCE

In order to ensure quality assistance, SANAD combines medical and social support to meet both the needs of victims for medical redress for the physical after-effects of torture, and the needs of beneficiaries and their families for greater social equality in the public health system. The social coordinators guide and facilitate victims' access to public services, calling on private doctors only in special situations (due to a lack of identity cards, urgency of the situation, absence of quality service in the public sector, etc.). Since January 2022, 30 new victims have benefited from surgery, dental operations, rehabilitation sessions, medication and various medical examinations.

The social coordinators are also a source of information and advice for victims of torture and their families. They accompany families in precarious situations to the services of the Ministry of Social Affairs for the granting of free or half-price healthcare schemes, which guarantee beneficiaries access to a variety of medical services.


In the first half of 2022, SANAD coordinated with the general inspection of Tunisian prison administration (CGPR) to provide access to healthcare for its beneficiaries in detention. Pending the signing of a cooperation agreement, SANAD has sent letters to the CGPR and called on the LTDH and the Tunisian Authority for the prevention of torture (INPT) to follow up on the grievances of families and inmates during prison visits.



Hedi, 47, is married and the father of a 12-year-old child. One evening, in front of his home, he was subjected to a violent physical attack by his neighbor, a municipal policeman. The attack left scars on his face that required stitches. His child, who witnessed the violent scene, was traumatized to the point of finding it difficult to leave the house alone to go to school. SANAD intervened to provide the necessary psycho-medical assistance and facilitated medical examinations by a neurologist, dentist and endocrinologist, and covered the cost of additional tests and medication. Thanks to his medical treatment, Hedi no longer has scars. He has regained a good body image and self-confidence. Psychological consultations have helped both, father and child, to resume their social lives.



Lamia, 38, the wife of a prisoner, has been suffering from cancer for five years. The disease has not been properly treated because of her poor socio-economic situation. With her four children, Lamia, who is registered as "S", suffers from police harassment, notably frequent police raids which prevent her from working regularly. SANAD supported Lamia through medical follow-up. The social coordinator urgently obtained an appointment for her at a radiology center to assess the progress of her illness. Since a radiological examination was not available at the hospital, SANAD facilitated these examinations in the private sector. Since then, Lamia has been able to concentrate on her professional rehabilitation thanks to a micro-project financed by SANAD to ensure the needs of her children are met, despite her fragile health.





AUGUST 18, 2016

JAMEL OVERGHI'S LIFE IS TURNED UPSIDE DOWN.



He arrives at the scene of a fight involving his brother.



POLICE ARRIVE. TWO OF THEM CLUB JAMEL.

THIS BRIEF BUT EXTREMELY VIOLENT ATTACK DESTROYS JAMEL IN AN INSTANT.

HE FALLS INTO A COMA and spends over seven months in various hospitals.

His wife finds herself alone with their 3-year-old daughter and a two-month-old baby.

Jamel is now

82% DISABLED

He can barely walk and can no longer live a normal life.



HE HAS BEEN FIGHTING FOR JUSTICE FOR ALMOST SEVEN YEARS, BETWEEN HOPE AND DISILLUSIONMENT.

JULY 15, 2020

The court in Kef sentences his assailants



Despite the extreme severity of the suffering inflicted, **THE JUDGES REFUSED TO QUALIFY THE CRIME AS TORTURE** since Jamel had not been forced to sign a confession.

56"
50"
46"
40"
36"
30"
26"

**6 AND 3 YEARS' IMPRISONMENT
+ 150 000 TND**

**A LOT OF MONEY, BUT NOT MUCH FOR
A SHATTERED LIFE.**



An unfortunate consequence of the poor definition of torture in the Tunisian penal code.



MARCH 9, 2022

THE JUDGMENT OF THE COURT OF APPEAL IS A CRUSHING BLOW FOR JAMEL!

reduced sentences for the defendants and a rejection of the compensation claim on spurious legal grounds. The defendants remain free.

WITH THE SUPPORT OF SANAD ELHAQ, JAMEL CONTINUES HIS LEGAL BATTLE.



NOVEMBER 2022, 16

The Court of Cassation overturns the appeal ruling.

HOPE FOR JUSTICE IS REBORN.



THE NEXT HEARING WILL TAKE PLACE ON

JUNE 2023, 27

LET'S DEMAND JUSTICE FOR JAMEL!



SANAD ELHAQ

Despite the many presidential attacks on the judiciary, SANAD Elhaq continues to win victories before judicial courts and administrative tribunals. This is thanks to an ever-increasing follow-up of cases and continuous capacity building of lawyers for increasingly strategic and technical actions. SANAD Elhaq is the OMCT's legal action group, made up of the team's specialized jurists and lawyers from the SANAD network.

CRIMINAL LITIGATION

Since January 2022, SANAD Elhaq has filed and/or followed up on **20 new complaints of torture and ill-treatment, two of which concern suspicious deaths in custody.**

In addition, SANAD Elhaq continued to monitor the 86 cases already before the criminal justice system. Beneficiaries and lawyers face many obstacles, including the sometimes extreme slowness of investigations and the lack of diligence on part of investigating judges. To overcome these obstacles, SANAD Elhaq regularly organizes workshops between the SANAD Elhaq team and the lawyers of its network to discuss specific legal issues and identify best practices, legal reasoning and even avenues for litigation to overcome certain obstacles.

A workshop, held in March 2022, focused on the difficulties encountered by victims and their lawyers at the preliminary investigation and judicial inquiry stages following complaints of torture, violence or suspicious death. Throughout the years of experience in providing legal assistance to victims before the criminal justice system, SANAD Elhaq has observed that, due to gaps in the Tunisian code of criminal procedure, the victim's right to be informed of the progress of the investigation and to intervene in the course of this investigation depends largely on the will of the investigating judge. The victim, whether a civil party or not, may be reduced to essentially playing a passive role, with little guarantee of his or her fundamental right to obtain reparation for the violation suffered. SANAD Elhaq took stock of this problem and identified five procedural obstacles, illustrated by five cases of beneficiaries. Together with two university professors experts on criminal procedures, SANAD Elhaq looked at the issues in the light of international standards on victims' right to remedy and how to best overcome any legal obstacles.

Despite continuing difficulties, criminal litigation led by SANAD Elhaq has seen major advances since the end of 2021. After more than a year of slowdown in judicial activity due to the pandemic and general strikes of judges, trials of public officials finally came to a successful conclusion. SANAD Elhaq obtained **convictions for 15 public officials** (13 with firm prison sentences and two with suspended sentences) for the assault or homicide of ten SANAD beneficiaries in trials at first instance.

SANAD Elhaq's recent success is largely due to its modus operandi. The SANAD Elhaq team works in close collaboration with the network lawyers. The documentation of each case is carried out and reworked by the legal coordinators, and the legal strategy is discussed jointly with the mandated lawyer. Over the years, the lawyers have improved the quality of their complaints and introduced reasoning in international law. In addition, each beneficiary's file is discussed regularly to reassess the strategy, to define next steps to be taken by the lawyer, to identify additional evidence to be provided, to issue expert opinions to be carried out, and legal reasoning to be promoted. This regular review of each case is an opportunity to revive the legal process so that the case progresses and does not fall into oblivion, as has long been the case.

SANAD Elhaq's successes, however, have been mixed. **No one has been convicted for torture, no agent has been imprisoned, no victim has received compensation, and all the agents have had their sentences reduced on appeal, if not simply acquitted.**

No conviction for torture



Although in several of the cases brought before courts, the facts should have been qualified as torture according to the United Nations Convention against Torture, they were only qualified as a simple offence of violence. Undoubtedly, there are several reasons for such a low legal classification: On the one hand, it results from social acceptance of a certain level of violence. For example, the Convention defines torture as an act causing severe pain or suffering, whether physical or mental. Tunisian judges take a very restrictive view of the term "severe", and often exclude mental suffering. In addition, the Tunisian definition of torture requires and restricts violence to have been carried out in order to obtain a confession or information, or on the basis of racial discrimination. These requirements, which are not included in the international definition, explain why even in the case of an obviously violent act, the facts are not qualified as torture. In the majority of torture cases documented by SANAD in recent years, the violence was inflicted for punitive purposes.



This is the case of Jamel Ouerghi. In order to punish him, police officers were beating Jamel in August 2016, who subsequently spent four months in a coma. This violent episode left him with serious physical and psychological after-effects. He has filed a complaint for torture. As the abuse had been inflicted for punitive purposes and not to obtain a confession or information as required by the Tunisian Criminal Code, the investigating

judge qualified the act as an offence of violence. SANAD Elhaq's lawyer who was appointed to represent the victim, contested this qualification. On July 15, 2020, the judges of the Kef criminal chamber sentenced two police officers, one to three years' imprisonment for violence committed by a public official (article 101 of the Criminal Code) and the other to six years' imprisonment for aggravated violence (article 219 of the Criminal Code), but without taking into account his status as a public official. The judges recognized that the facts constituted torture within the meaning of international law, but refused to use this qualification on grounds that trial judges cannot aggravate the charge mentioned in the indictment. All parties appealed against this decision. On March 8, 2022, the Kef Court of Appeal upheld the charges and reduced the sentences to three years' imprisonment for the officer convicted under article 219 of the Criminal Code, and two years' suspended imprisonment for the officer prosecuted under article 101. The Court of Cassation confirmed that article 101bis could not be used in this case.

For years, the OMCT has been campaigning for the amendment of article 101bis of the Criminal Code, which criminalizes torture, in cooperation with the National Instance for the Prevention of Torture. This reform was also one of the recommendations of the Committee against Torture to the Tunisian State during its review of Tunisia's compliance with the Convention against Torture in 2016. Tunisia will be reviewed again by the Committee, probably in 2024. It is crucial to reform the Criminal Code before then, as the OMCT recalled in its report "10 obstacles to justice - a guide to legislative reforms to combat impunity" from January 2023.

Absenteeism of defendants: a symptom of the lack of authority in the justice system



Of the handful of criminal trials of public servants accused of assault that have taken place over the past year and a half, several have been rendered meaningless by the absence of the defendants, who were convicted in absentia, i.e. in their absence. Yet, they currently serve as police officers, whose place of work and address are well known. They have been accused of violence and prosecuted, but have not deigned to attend their trial, nor has anything been done to compel them to appear. No arrest warrants are issued in such cases, and if they are, they remain not executed by the judicial police, who are supposed to guarantee that the accused will attend their trial. The justice process thus takes place in a partially empty courtroom, in the absence of the main parties concerned. Once a conviction has been handed down, nothing changes for the defendants, who continue to live their lives and carry out their duties.

In the majority of cases, convicted agents end up contesting their conviction and obtaining a new trial, this time in their presence. Not only does this waste precious time for already overworked judges, but for the victims it also means additional legal fees and yet another psychological ordeal.

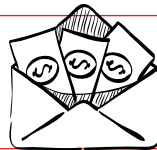


That's what happened to Youssef and Basma. The couple was out for a motorcycle ride on May 7, 2018, when two police officers signaled them to stop. As Youssef didn't own the motorcycle, he continued his way of fear that the policemen would cause him trouble. The police pursued the couple and one of the officers intentionally pushed them so that they lost their balance. They crashed into a tree. Seeing the two bodies lying on the ground, the police officers fled. Youssef and Basma were hospitalized. Basma suffered several fractures to her jaw, nose and face, and had to undergo surgery. Her fiancé suffered leg fractures and head trauma. A judicial investigation was opened the following month, and the officers were remanded in custody for some time. In May 2022, the two officers were sentenced to five years' imprisonment for violence against the couple. The officers were also ordered to pay Basma 25,500 TND in damages and 1,300 TND to her husband. Unfortunately, as the defendants failed to appear at their trial, they were sentenced in absentia. They lodged an objection. Following the retrial in November 2022, one of the agents had his sentence reduced to six months' imprisonment, while the other was acquitted. An appeal is pending.

The trial of Lina Ben Mhenni's assailants followed a similar course. After an initial sentence in absentia of one year imprisonment on June 20, 2020, almost six years after the attack, the two officers lodged an objection. A year and a half later, one of them was acquitted, while the other received a two-month suspended prison sentence. Lina's family and the prosecutor appealed. Against all expectations, on May 16, 2023, the Court of Appeal sentenced the acquitted agent in absentia to eight months' imprisonment. The accused was considered absent, even though his lawyer had attended a hearing and the accused himself had appeared in court on the day of the last hearing.

Public officials indicted in cases of violence seem to regard justice as devoid of binding force. The relegation of the judiciary to the status of a mere function and not as an independent power in recent speeches by the executive branch contributes to the denigration of judges by the security apparatus. It is notable that since SANAD's creation, none of the convictions of police officers that we have obtained has led to the actual imprisonment of the convicted defendants. Judges do not issue committal orders, so the defendants are kept at liberty until all avenues of appeal have been exhausted, which can take years.

No compensation for victims



Most of SANAD's beneficiaries whose complaints have gone to trial suffer significant physical and/or psychological harm. Moral and psychological harm, however serious, profound and disabling, is often ignored or underestimated by the criminal justice system, which per se focuses more on physical harm. The amount of compensation awarded to the victim is sometimes based on a forensic evaluation of the injury. However, the methods used to assess compensation remain opaque, as no reasons are given for the judgments. SANAD concludes that, in the vast majority of cases, the compensation awarded is very low in relation to the seriousness of the violence suffered.



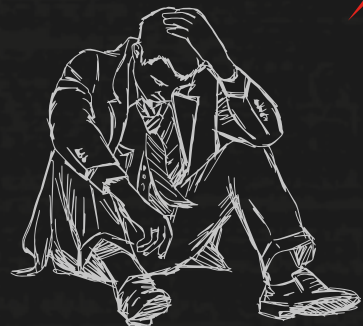
Ala was tortured in 2018, following an altercation with a police officer who had just assaulted his younger brother. According to his account, a few hours after the altercation, the same officer returned to Ala's neighborhood in the company of three other officers. They beat Ala up in the street and then took him to the Cité Morjène police station, where they beat him up again. After a brief stay in hospital, he was taken to the Tabarka police station, where he was again abused. The officers accused Ala of assaulting them and took him into custody. Ala received several blows to the head, chest and ribs. His head was immersed in cold water until he lost consciousness. He was also sexually assaulted. The officers forced him to sign a statement in which he accused himself of hitting police officers.

The next day, he was brought before an examining magistrate, who noted traces of violence on his body and ordered a forensic examination, which was never carried out. He was also remanded in custody for contempt of a public official with violence. On March 21, 2022, the correctional chamber of the Jendouba court acquitted Ala. However, it sentenced the three police officers involved to three years' imprisonment for violence and ordered them to pay the victim 3,000 TND in compensation. This compensation is derisory in relation to the harm suffered by Ala. The physical harm, which led to his hospitalization after his detention, and the psychological harm resulting from the violence of the attack, the signing of a confession under threat and the false accusations made by the officers against him, which led to his placement in pre-trial detention for two years. It should be noted that the agents, who were accused and eventually convicted of violence, were never detained.

Despite the low level of compensation, Ala must be considered lucky to have had his assailants ordered to pay him damages. It is becoming increasingly common for courts to reject victims' claims for compensation on the basis of a variety of legal reasonings, the effect of which is to absolve security guards of their responsibility.

This is what happened to Jamel Ouerghi, whose case we already mentioned above. It should be pointed out that Jamel suffers from a permanent disability rate of 82%, according to the forensic expertise carried out during the trial. During the trial of his assailants, the victim's lawyer requested that the two defendants be jointly and severally liable to pay 140,000 TND in compensation for bodily injury, 100,000 TND for moral injury and 7,696 TND for professional injury, based on the calculation in the forensic report and the victim's monthly salary. The Kef Court of First Instance ordered the agents to jointly compensate the victim to 100,000 TND for physical injury and 50,000 TND for moral injury. The judges refused to compensate the professional loss, basing their decision on a ludicrous reasoning that compensation for this loss was covered by the provisions of a law on civil liability insurance for the use of land motor vehicles. On appeal, in a dramatic turn-around, the court rejected all the civil claims, on the grounds that the victim should have sought different reparations from each of the two defendants, and not from both jointly. This ruling was overturned by the court of cassation, and a new appeal is currently underway.

In the course of 2019, Samir, a young man confined at Sfax University Hospital, was placed in isolation on the arbitrary decision of a nurse, without an authorization of the treating physician. Suffering from bipolar disorder, agitation and acute depression, the patient set fire to his isolation room, causing his death. The Sfax 2 court sentenced the accused nurse to two years' imprisonment and a fine of 1,000 TND for the crime of manslaughter due to failure to comply with the law. However, the judges rejected the civil action brought by the deceased's heirs, referring to the provisions of article 8 §2 of Law no. 83 1983 on the general status of State personnel, local public authorities and public administrative establishments. The court held that it was up to the administration to cover the compensation. The judges' erroneous interpretation of the law was simply intended to protect the public servant by forcing the victim to engage in a new, lengthy and costly legal battle to obtain compensation from the administration. The rejection of the claim for compensation was confirmed by the Court of Appeal, which also overturned the two-year prison sentence, replacing it with a simple fine of 400 TND. SANAD Elhaq has appealed at court against this decision, which is likely to set a precedent and encourage other judges to exempt accused agents from their responsibility to compensate victims.



Against a backdrop of increasing pressure from the executive on the judiciary, it is to be feared that the jurisprudence of criminal courts will continue to move towards greater leniency in favor of public servants prosecuted for violent behavior, to the detriment of victims.

**Military justice,
a threat to victims' access to justice**



This fear was recently underpinned by a very worrying decision handed down by the criminal chamber of the Sfax 1 court in the case of Ons and Ahlem Dalhoumi, shot dead by police as they were driving home from a wedding party on August 14, 2014 in Kasserine. On February 20, 2023, the court decided to declare itself incompetent and to refer the case to military justice on the basis of article 22 of law no. 82-70 of August 6, 1982, concerning the general status of the Internal Security Forces. SANAD Elhaq's lawyer has lodged an appeal. Should the Court of Appeal uphold this decision, it would set a dangerous precedent. Military justice does not offer the same guarantees of impartiality and independence as civil justice. The referral of cases of torture and ill-treatment committed by serving police officers would be a further blow to the fight against impunity.

The judiciary is still unable to play a decisive role in the fight against impunity for torture and ill-treatment. Although an increasing number of trials of public officials responsible for aggression are taking place, the outcome is still unsatisfactory. While victims do not receive the expected support from the justice system, they are increasingly exposed to reprisals from the security apparatus.

SLAPP suits,³ the defensive weapon of security agents



These reprisals most often take the form of SLAPP suits, i.e. criminal charges designed to dissuade or punish victims from lodging a complaint. The most common of such charges is based on article 125 of the Criminal Code: contempt of public office / insulting a public official. **Of the 28 new victims of torture and ill-treatment accompanied by SANAD before the criminal justice system since January 2022, 16 are being prosecuted or have been convicted for contempt of public office.** These prosecutions follow complaints lodged by the aggressor agents in order to justify the arrest of the victims and to discredit their complaints for torture or violence. In almost all cases, the contempt investigations have progressed much more rapidly than the complaints lodged by the victims against their aggressors. More than half of the victims prosecuted for contempt were convicted, while only one complaint lodged by one of the 14 victims resulted in a trial in which the victim was convicted more severely than his assailant.

To assist its beneficiaries in these retaliation cases, SANAD Elhaq refers cases to its partner organization, the International Legal Foundation (ILF), who provides legal assistance to SANAD beneficiaries in proceedings in which they are accused. The assistance provided by ILF in police custody and throughout the legal proceedings is complementary to the support provided by SANAD that assists victims in their quest for justice to stop and obtain redress for the torture and ill-treatment suffered. SANAD Elhaq may also appoint a lawyer from its network to handle the reprisal case, particularly in regions where ILF has no lawyer present.

3. Strategic Lawsuits Against Public Participation (SLAPPs) are lawsuits used by individuals and corporations to intimidate and silence public critics by forcing them into legal battles they cannot afford until they cease their criticism or opposition.

2011



Tunisian revolution.
A tipping point



AFTER HIS RELEASE, MONGI HAS SEVERE PHYSICAL AND PSYCHOLOGICAL AFTER-EFFECTS. HE LIVES UNDER DAILY POLICE CONTROL, WITHOUT HOUSING OR RESOURCES.



Mongi is again arrested and tortured at the Jendouba police station



1993

He was sentenced to 6 months' imprisonment and 10 years' administrative control for "belonging to an illegal association".

2012

Mongi finally files a complaint for torture. His hope for justice begins to grow.

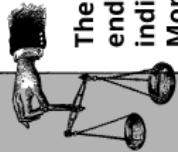


FEBRUARY 2023

WITH THE SUPPORT OF SANAD, MONGI TAKES HIS CASE TO THE ADMINISTRATIVE COURT IN ORDER TO OBTAIN COMPENSATION FOR ALL THE DAMAGE SUFFERED. HE SUES THE TUNISIAN STATE FOR TORTURE, ILL-TREATMENT AND DENIAL OF JUSTICE.

2014

The investigation ends with an indictment of Mongi's torturers. They appeal.



1992

He was finally acquitted and released in February 1992, after

9 MONTHS IN PRISON.



1991



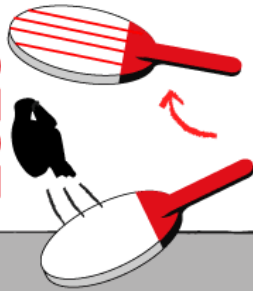
IF THE ADMINISTRATIVE COURT RULES IN HIS FAVOR,

AFTER 30 YEARS

OF JUSTICE DENIED,

HOPE IS REBORN

2015/ 2020



Mongi lives through five years of judicial ordeal. His case is transferred between several indictment as he navigates between hope and disillusionment.

IT WILL BE A GREAT SIGNAL OF HOPE FOR ALL VICTIMS

MONGI HAS NO INTENTION OF GIVING UP!

The Court of Cassation closes the case and states that there was no reason to prosecute the aggressors as the crime of torture was not criminalized at the time of the events.

2020



Mongi HAMDI a married pastry chef and father of a three-year-old child, is arrested by the police. Suspected of belonging to an Islamist movement, he was detained and tortured for 15 days before being released.

MONGI HAMDI

BEATEN, DEPRIVED OF FOOD

Mongi is arrested again. Tortured in police custody in Jendouba, he was also tortured several times in preliminary detention

HE NO LONGER SEES HIS SON

His wife divorces him.

1988

The authorities close down his patisserie and accumulates debts

PAISSERIE

FERMÉ

MAY 1987



ADMINISTRATIVE LITIGATION

Aware of the limits of the criminal justice system, SANAD Elhaq has in recent months developed another type of litigation before the administrative courts to obtain compensation for victims of torture and ill-treatment.

State liability litigation: a promising complement to criminal litigation



This new form of litigation against the State - otherwise known as "recours de plein contentieux" (full litigation) - was first initiated for beneficiaries referred to as "S", who are subject to multiple arbitrary restrictions of their freedoms by the Ministry of the Interior. They are all subject to one or more of the following measures: house arrest, travel ban, repeated summonses to police stations, searches outside the scope of any legal proceedings, refusal to issue administrative documents, prolonged detention during road or border checks for intelligence purposes, as well as neighborhood inquiries and visits by police officers to their homes and workplaces.

The arbitrary application of administrative control measures restricting individual freedoms is a form of police harassment that can be categorized as ill-treatment, given the psychological and moral damage it causes.

In July 2020, SANAD Elhaq lodged files with the Administrative Court on the grounds of abuse of power for several beneficiaries under administrative control measures, in order to obtain the suspension and, ultimately, annulment of the restrictions on freedoms and the registration as "S" as such. SANAD Elhaq continues to monitor the advancement of these files and submitted six new appeals for abuse of power in 2022 and 2023.

Between January 2022 and the date of the publication of this report, SANAD has obtained two positive rulings from the administrative court following a recours on the abuse of power filed on behalf of a beneficiary to request the cancellation of his registration "S" and the implementation of administrative control measures.

However, it turned out that the suspension or annulment of arbitrary administrative control measures restricting freedoms by way of administrative court decision was not always sufficient for putting an end to the implementation of these measures, and even less to compensate the victims for (often severe) psychological, moral and material damage suffered. This is why SANAD Elhaq has decided to explore the possibility of full litigation in order to obtain both the annulment of the administrative control measures as well as a compensation for the victims. We think that financial condemnation of the administration is a priori the most effective means of making agents stop using illegal practices.

In September 2022, SANAD Elhaq organized a workshop for its lawyers to develop a strategy for administrative litigation on state liability for SANAD beneficiaries, maximizing the chances for success by taking into account best practices and best legal reasoning. Four judges from the administrative court took part in the discussions. Following this exchange, SANAD Elhaq has published a guide to administrative jurisprudence on state liability.

This guide covers all aspects of full litigation, from the qualification of the State's liability to the appropriate use of summary proceedings, including the difficult assessment of the various losses suffered by victims. It presents best practices and precedents that SANAD Elhaq's lawyers can draw on to prepare well-founded, well-argued appeals. On the basis of the guide, the OMCT has drawn up two short guides in Arabic to help lawyers prepare full litigation appeals for persons under house arrest and under arbitrary administrative control measures.

The first appeals for compensation (recours de plein contentieux) were lodged with the administrative court in December 2021. To date, we have filed 18 of these appeals for beneficiaries registered as "S".

SANAD Elhaq has **won its first** substantial **victory** following one of the appeals initiated in December 2021. The administrative court annulled the registration of a beneficiary and ordered the Ministry of the Interior to pay her 5,000 TND as compensation for moral prejudice. Should this new decision be confirmed on appeal, it will help prompt the Ministry of the Interior to rethink its security policy. SANAD Elhaq has initiated the same type of litigation in other cases.

We have begun to extend state liability litigation to cases of beneficiaries who have been victims of torture and have not obtained justice before the criminal courts.

The first appeal of this type concerns Mongi HAMDJ, a SANAD beneficiary who was tortured in the 90s. Mongi was unable to obtain satisfaction before the criminal justice system despite a complaint of torture lodged after the revolution. The criminal judge considered that the facts could not be qualified as torture, as torture was only criminalized in the Criminal Code in 1999 and therewith time-barred and not eligible. One of the two motions filed with the administrative court calls into question the responsibility of the Ministry of the Interior and the Ministry of Justice for the torture and ill-treatment inflicted in detention. The other, more innovative recourse seeks to question the responsibility of the Tunisian State for having criminalized torture in its Criminal Code only in 1999, while having ratified the United Nations Convention against Torture in 1988. This litigation is the fruit of extensive documentation of the damage suffered by the victim and in-depth exchanges on legal argumentation, when developing the guide on state liability litigation published by SANAD Elhaq in January 2023.




The tightening of administrative jurisprudence on suspended sentences: an effect of pressure from the executive?



While, for the time being, administrative litigation remains promising, an increasing number of attacks by the executive on the independence of the judiciary raises fears of a reversal in administrative jurisprudence in favor of a greater protection of public administration and to the detriment of citizens who are victims of abuse of power.

A particularly worrying indicator is the trend in the number of decisions taken by administrative courts concerning requests for a stay of execution of manifestly arbitrary restrictions of liberty. All appeals lodged for beneficiaries registered as "S" - whatever the type of appeal - include requests for a stay of execution of the contested administrative control measures. The aim is to get the administrative court to order, within a short timeframe, the suspension of the implementation of the contested measures, pending the court's ruling on the legality of the measure. The decision-making power for this type of urgent appeal is concentrated in the hands of the president of the administrative court.

Out of 25 requests for a stay of execution filed since December 2021, the court issued eight positive rulings, compared with 12 rejections. The court argues that the risk and fact of irreparable harm caused by the disputed registration and administrative control measures had not been established. The court had already adopted a similar reasoning in September 2021, when it rejected the requests for stay of execution filed by prominent personalities placed under house arrest after the presidential seizure of power on July 25, 2021. These decisions by the president of the administrative court, presumably under pressure from the executive, provoked indignation among administrative judges. SANAD witnesses how beneficiaries affected by this ruling suffer clearly irreparable harm, as explained by SANAD Elhaq's lawyers in their appeals.



This is the case for Wiem, a young woman, who was arrested, tortured and prosecuted for terrorism in 2016. Although she was acquitted, she has since been registered as “S” and subjected to intense police harassment. Her father died following a police raid on his home; her two brothers had to stop their studies because of police harassment; her employer eventually fired her because of police pressure. After taking her case to the administrative court with SANAD's assistance, Wiem was summoned to the police station, and received calls and visits from officers at her home to question her about her social situation, religious practice and income, as well as about her application to the court. However, the court rejected the request for stay of execution and turned a blind eye to the obvious psychological and material damage that the harassment is causing to Wiem and her family.

The same stereotypical reasoning was used to reject the request for stay of execution of the house arrest of Tarek, a father who has been under house arrest since 2015, after a 15-day police custody for terrorism ended in dismissal. He has suffered several arrests, notably when he wanted to take his sick daughter for treatment to a bigger city in 2016, or when he wanted to take his wife and daughters to the beach in 2020. His children and wife are so traumatized by the frequent visits and house searches that his wife has filed for divorce on several occasions. The psychological and moral damage caused by the house arrest is serious, but totally ignored by the president of the administrative court.

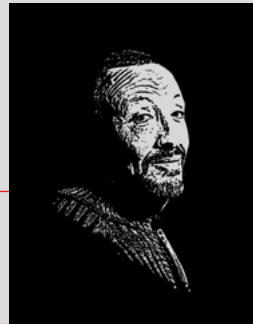
Aware of the limits of administrative justice when it comes to arbitrary restrictions on freedoms, SANAD Elhaq provides its beneficiaries on the "S" list with other forms of support and legal assistance. On several occasions, we have addressed written correspondence to the Ministry of the Interior's General Directorate for Human Rights to request that certain measures be lifted. SANAD has obtained passports for two women on the "S" list thanks to such interventions. In addition, SANAD Elhaq has appointed lawyers to defend beneficiaries who have been arbitrarily placed under house arrest and prosecuted for breaches of the order. Two beneficiaries were acquitted by criminal courts thanks to SANAD Elhaq's lawyers, who successfully demonstrated that the house arrests were arbitrary measures restricting freedoms, and that consequently the violation of these measures could not be punished.

TRANSITIONAL JUSTICE

The OMCT has been working in favor of transitional justice since the very beginning of the process. As a civil party in seven trials before specialized criminal chambers, the OMCT, via SANAD Elhaq, observes the progress of hearings and works actively to advance trials and to coordinate lawyers' strategies.

But the more time passes, the more the process seems to slow down. Unfortunately, we can only observe a growing wait-and-see attitude on the part of the judges in the chambers. The future of transitional justice looks increasingly bleak. The lack of political will to see the process through is all the more evident given that transitional justice has disappeared from the new Tunisian constitution adopted on July 25, 2022. In addition, the President's repeated attacks on the judiciary raise fears of increased self-censorship among judges. Some trials, begun four or five years ago, are ready to move into the pleadings and deliberation stage. Yet, judges keep postponing court hearings. It seems that no one wants to be the first to rule, perhaps for fear of reprisals and the impact on career development. While some defendants had begun to appear at the hearings (under the threat of having their assets frozen as a result of proceedings led by the OMCT), they are once again losing interest in their trial, encouraged by a security apparatus that is careful not to execute the warrants issued by the chambers. The victims themselves are beginning to lose hope. Both, victims and observers of the process, see the wreckage of transitional justice as a prelude to the collapse of the rule of law.

**Rached Jaïdane, an example
of determination and resilience**



Rached Jaïdane is one of the persons that the OMCT accompanies before transitional justice. His trial opened at the specialized criminal chamber in Tunis on October 4, 2018. Rached has not missed any of the 22 hearings held since then, always encouraging the judges to move forward and his lawyers to keep fighting, despite a discouraging context. Some sessions have been marked by hearings of defendants and witnesses, but most have been rushed, due to the absence of the defendants, a judge, or no reason at all. Even though he is well aware that the process is seriously jeopardized by a lack of political will, Rached persists. He's doing so not for himself, but for Tunisia's youth, whom he fears will one day suffer the same fate as he did. He also does it to honor the memory of his twin brother, who died while he was in prison. Rached continues to reach out to young people to bear witness, raise awareness and keep consciousness of the importance to prevent the recurrence of violence, also through a judicial decision.

It was with the same courage and determination that Rached defended his doctoral thesis in mathematics, which he started over 30 years ago and interrupted when he was arrested in July 1993. On June 4, 2022, at the age of 59 years, he proudly presented his work to a jury, his body shaking from the after-effects of torture. He received unanimous congratulations. The OMCT organized his thesis party and publicized his story of resilience. Rached has already published 16 scientific articles in specialized journals.

SANAD ELHAQ :

AN ANALYSIS AND ADVOCACY UNIT

For over a year, one of the main challenges facing SANAD has been the inward-looking attitude of the Tunisian state. Current and future partnerships and cooperation with the authorities (CGPR, Ministry of the Interior and Ministry of Justice) are jeopardized by the President of the Republic's declared intention to interrupt dialogue with human rights associations. Even the most open administrations are distancing themselves from civil society partners with whom they had developed fruitful collaborations in recent years.

In the absence of productive advocacy strategies at the national level, SANAD has stepped up its monitoring of violations and mobilization in partnership with other associations. We coordinated or joined communication initiatives on cases of violations against lawyers, journalists, associative militants, political activists and magistrates. SANAD Elhaq has also participated in the analysis and denunciation of draft or released decrees such as decree 54 on cybercrime and the draft reform of decree 88 governing associations, both of which are liberticidal.

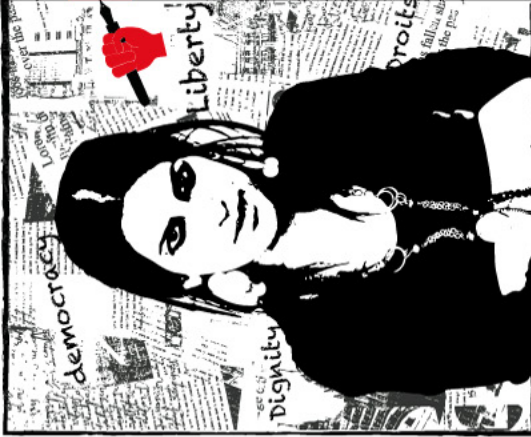
The entire SANAD team has been involved in raising awareness among young citizens in disadvantaged regions and neighborhoods, in partnership with CSOs such as Awledna, Ifriqiya, the Tunisian League for Citizenship, ACEC, Théâtre Forum, Damj, Arthémis, la Voix des Jeunes du Krib, Becikat and IMDED/Heinrich Böll Stiftung. SANAD is a regular speaker at café debates, as well as at universities, presenting its work and raising awareness about the impact of human rights, notably for youth.

In addition, SANAD has carried out important advocacy work at the international level. Firstly, on the occasion of Tunisia's Universal Periodic Review (UPR), SANAD, via the OMCT, prepared a "Torture and Impunity" report in partnership with the Tunisian League for the Defense of Human Rights (LTDH) and the Organization Against Torture in Tunisia (OCTT). We also coordinated the preparation of a report on "Security and Freedoms" for the Alliance for Security and Freedoms, and a report on "Transitional Justice" for the Coalition for Transitional Justice. We also participated in the shadow report on "Individual Freedoms" in partnership

with the Collectif Civil pour les Libertés Individuelles. This reporting work was accompanied by an advocacy mission to Geneva, accompanied by partners from Damj, LTDH, Al-Karama for rights and freedoms, the Nabil Baraketi Foundation and the INPT. The delegation met the teams of United Nations special procedures on the independence of judges and lawyers, on the right to peaceful assembly and freedom of association, on torture and cruel, inhuman and degrading treatment, and on human rights defenders. These meetings provided an opportunity to present the findings of civil society on the deteriorating human rights situation in Tunisia, with a focus on institutional violence, impunity, attacks on the independence of the judiciary and attacks on freedom of expression.

On the basis of SANAD Elhaq's findings and legal analyses, the OMCT was able to draw up an assessment of torture and impunity in a report sent to the Committee against Torture on June 13, 2022. This report was submitted with a view to the Committee's adoption of the list of issues intended to guide Tunisia in the preparation of its report ahead of the next CAT review. At the end of its November 2022 session, the Committee against Torture adopted the list of issues covering most of the questions raised by the OMCT in its report. It highlights the large number of legislative and practical reforms that need to be implemented by Tunisia in order to comply with its obligations under the Convention against Torture. To guide the Tunisian State along the path of reform, the OMCT published a report in January 2023 entitled "10 obstacles to justice: a guide to legislative reforms to combat impunity".

In partnership with DAMJ, SANAD Elhaq also lodged an appeal with the special procedures to highlight the torture and arbitrary detention of Maya, a transgender Tunisian victim of violence, who was arbitrarily detained on the grounds of her sexual orientation and gender identity. Following the President's speech inciting hatred against migrants of sub-Saharan origin, together with Terre d'asile Tunisia, we appealed to the Working Group on Arbitrary Detention to denounce the use of the El Ouardia accommodation center as a center for the arbitrary detention of migrants.



LINA IS 31 YEARS OLD.

She is a blogger, journalist and human rights activist, known for her fight against institutional violence



AUGUST 30, 2014

Lina is beaten and insulted at the police station in Houmet Essouk in Djerba.

www.omct-tunisie.org

OCTOBER 28, 2014



Lina files a complaint against the police officers who assaulted her. A LONG QUEST FOR JUSTICE BEGINS, WHICH REMAINS UNFINISHED TO THIS DAY.

NOVEMBER 18, 2017

After three years of investigation and an attempt to hush up the case, an investigating judge finally accuses the two main aggressors of violence.



HER PARENTS CONTINUE TO FIGHT



JANUARY 27, 2020

Lina dies of an illness.



FOR JUSTICE



JUNE 26, 2020

The court in Médenine sentences the two policemen to

one year's imprisonment for violence and 500 TND in damages.



THE DOWNSIDE

is that the agents did not attend their trial and were sentenced in absentia. They are therefore considered to be on the run, even though they are still on duty!



7 DÉCEMBRE 2021

The two agents finally object to their conviction and are finally tried in person.

One was acquitted and the other sentenced to two months' suspended imprisonment and 300 TND in compensation.



LINA'S FAMILY APPEALS THE DECISION

THE APPEAL TRIAL OPENED ON

JANUARY 2023, 24

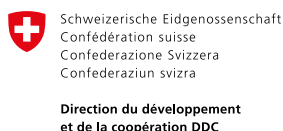
WE DEMAND JUSTICE FOR LINA!



ACKNOWLEDGEMENTS

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

OMCT would like to express its thanks to its donors, in particular the Swiss Agency for Development and Cooperation, 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 this report are the sole responsibility of the OMCT and should in no way be interpreted as reflecting the opinion of the institutions supporting it.

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Héléne Legeay, Najla Talbi and Nejla Slim wrote the report based on the team's data and observations. Thanks to all those who contributed to the finalization of the report with their advice and support.

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