Death Sentence over Facebook Posts: A Grave Collapse of Rule of Law and Freedom of Expression in Tunisia

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HuMENA for Human Rights and Civic Engagement strongly condemns the ruling issued on 1 October 2025 by the Criminal Chamber of the Court of First Instance in Nabeul, sentencing citizen Saber Chouchane to death.

Saber Chouchane is a day laborer from a remote area in the Cap Bon region, a father of three children, with a secondary school level education ("old system, second year"). He managed a Facebook account under the name "Qais al-Taees" through which he posted critical comments with very limited reach that did not exceed a few dozen followers. The issuance of a death sentence on the basis of such expression starkly illustrates the alarming deterioration of Tunisia's judicial system.

According to available information, Chouchane was charged under vague and overly broad provisions of the Penal Code, including Article 67 (insulting the President of the Republic) and Article 72 (plotting to change the form of government), in addition to charges of "spreading false information." The case was initially referred to the Judicial Pole for Counter-Terrorism, which declined jurisdiction due to the absence of any terrorist elements. It was then transferred to the Nabeul Court of First Instance, which ultimately handed down a death sentence. Moving from the dismissal of terrorism charges to the imposition of the harshest possible punishment for Facebook posts underscores the arbitrariness of the case and constitutes a blatant violation of the principle of proportionality. This judgment also stands in contrast to Tunisia's judicial practice since 1991, which has maintained a de facto moratorium on executions, even though the death penalty has not been formally abolished in law.

Tunisia is bound both constitutionally and internationally to uphold freedom of expression and the right to a fair trial. Under the International Covenant on Civil and Political Rights (ICCPR), restrictions on expression are permitted only under conditions of legality, necessity, and proportionality (Article 19), while Article 6 limits the application of the death penalty strictly to the "most serious crimes" and only following a fair trial. Similarly, the African Charter on Human and Peoples' Rights protects the right to life (Article 4) and guarantees freedom of expression and fair trial rights (Article 9). Criminalizing political speech or criticism of the authorities and treating it as a capital offense is incompatible with these obligations and produces a chilling effect that threatens journalists, human rights defenders, and ordinary citizens alike.

This case is not about a single provision or decree, but rather reflects a structural breakdown in the

relationship between law and authority: the excessive expansion of political criminalization, punitive interpretations of broadly worded provisions, the erosion of proportionality, and the instrumentalization of the judiciary as a tool of reprisal rather than a guarantor of rights. Leaving this precedent unchallenged will entrench a trajectory that dismantles what remains of civic space in Tunisia.

HuMENA calls for:

- The immediate annulment of the death sentence and the release of Saber Chouchane, with full respect for due process guarantees and adequate redress.
- An end to the use of political criminalization provisions in the Penal Code against peaceful expression, and a comprehensive legislative review to bring Tunisian laws into line with Articles 6 and 19 of the ICCPR and Articles 4 and 9 of the African Charter.
- Safeguarding judicial independence and ending political interference, including through a transparent and professional review of the handling of this case and accountability for those responsible.
- A public commitment by the Tunisian authorities to respect the right to life and freedom of expression, and to end the prosecution of journalists, defenders, and citizens for their peaceful opinions.

HuMENA further reiterates its principled and absolute opposition to the death penalty in all cases, without exception. The death penalty is inhumane, irreversible, and has no place in a justice system. Its use as a tool to punish peaceful expression is doubly egregious, violating both the right to life and human dignity.

The death sentence over Facebook posts is not merely an individual case; it marks a turning point in the dismantling of civic space in Tunisia. Silence from the international community will be interpreted as a green light for further violations.

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