



TUNISIA: TORTURE, ILLEGAL DETENTION AND UNFAIR TRIALS

Hundreds if not thousands of young people suspected of terrorism-related offences, including a few children, have been arrested in Tunisia in the past five years. Many have been tortured and otherwise ill-treated, held incommunicado and subjected to enforced disappearance. Some have been sentenced after unfair trials before military and other courts to long prison terms or even death.

**IN PRACTICE THESE
GOVERNMENT STATEMENTS
ARE NOTHING MORE THAN
HOLLOW RHETORIC**

A number of those suspected of involvement in terrorism-related offences had been returned to Tunisia by the US, European and other governments even though there were substantial grounds to believe they would be at risk of torture and other ill-treatment, unfair trials, enforced disappearance or the death penalty.

The Tunisian government has repeatedly asserted that it abides by its international human rights obligations. Tunisia has indeed introduced legal reforms that offer better protection for human rights, at least in theory. However, in practice these government statements are nothing more than hollow rhetoric. The laws that should have provided effective protection have been routinely flouted by the Tunisian authorities, and have not served as an adequate safeguard against torture, unfair trial and other human rights abuses.

INCOMMUNICADO DETENTION, ENFORCED DISAPPEARANCE

Individuals detained on suspicion of involvement in terrorism-related offences, including those forcibly returned from European and other countries, have frequently been held by officers of the Department of State Security (DSS) in prolonged incommunicado detention, lasting weeks or months, during which the detention is not acknowledged or the fate or whereabouts of the detainee are concealed, leaving the detainee outside the protection of the law, a situation that amounts to enforced disappearance. The case files of those returned from abroad and detained generally include no documentation indicating or acknowledging their return. Police reports include little information indicating that the detainee was arrested in Tunisia.

Families and lawyers who have sought information from the Ministry of the Interior and Public Prosecutor about relatives believed to be held by the DSS report that the

authorities have refused to confirm that the individuals in question have been taken into custody or to divulge other information, such as the reason for arrest or place of confinement. Some families have eventually obtained news of their relatives, but only through unofficial sources within the police or from other detainees following their release or transfer to prisons where visits are allowed.

Arrest dates are frequently falsified by state security officials, particularly in political and security cases, in order to suggest that the detainee was arrested days or even weeks later than was actually the case. In this way, the security authorities have initially held detainees illegally for several weeks while creating the illusion that they were operating within the law.

TORTURE AND OTHER ILL-TREATMENT

Most allegations of torture and other ill-treatment relate to periods of incommunicado and unacknowledged detention, prior to any period of officially recorded detention.

Detainees are commonly tortured and otherwise ill-treated to extract “confessions” or other statements that are later submitted as evidence at trial, and to punish and intimidate. Many defendants have subsequently retracted such “confessions” at trial, but the courts routinely accept these statements as evidence for conviction and fail to adequately investigate allegations of torture or other ill-treatment.

The most commonly reported methods of torture are beatings on the body, especially the soles of the feet; suspension by the ankles or in contorted positions; electric shocks; and burning with cigarettes. There are also reports of mock executions, sexual abuse, including rape with bottles and sticks, and threats of sexual abuse of female relatives.

Prisoners serving sentences imposed for political or security reasons are at particular risk of further abuse in prison. Amnesty International has received reports of various violations of these prisoners’ rights, including torture and other ill-treatment, and being held in isolation for weeks beyond the 10-day limit on solitary confinement prescribed under the Tunisian law on prisons, which could in some circumstances itself constitute a violation of the prohibition of torture and other ill-treatment.

These prisoners have also often been denied medical care arbitrarily and on a discriminatory basis.

Political prisoners in Tunisia have staged a number of hunger strikes to protest against the harsh conditions. On occasion, the prison authorities have responded to these protests with torture or other ill-treatment.

NO ACCOUNTABILITY FOR TORTURE

Tunisian law provides a number of safeguards against torture. Torture is a crime punishable by up to eight years in prison, and judges and Public Prosecutors can, in theory, order investigations into torture allegations and medical examinations to determine whether detainees have been the victims of violence.

“ I WAS BEATEN WITH A STICK ALL OVER MY BODY, GIVEN ELECTRIC SHOCKS, INSULTED AND THREATENED WITH DEATH

Houssine Tarkhani, speaking to his lawyer. He was detained by the DSS after his forcible return from France to Tunisia in 2007.

In practice, however, these safeguards are ineffective. In virtually all relevant cases known to Amnesty International, the Tunisian authorities have failed to undertake adequate investigations into allegations of torture and other ill-treatment, and bring alleged perpetrators to justice. Detainees have not been permitted access to medical examinations while being held in *garde à vue* (official pre-arraignment police custody) detention by the DSS, nor have they been examined by forensic medical doctors at the end of their detention by the DSS. Requests for medical examinations and complaints about torture and other ill-treatment put before the investigating judge or directly before the Public Prosecutor by families and their lawyers have been consistently dismissed or have not been followed up with full and effective independent investigations and action against perpetrators.

UNFAIR TRIALS

Tunisia's law includes provisions that theoretically guarantee the right to a fair trial, including the right to legal counsel, the obligation to investigate allegations of torture and other ill-treatment, and the right to be tried before an independent and impartial court of law. However, these safeguards have regularly been violated at all stages of the judicial proceedings. Trials of suspects charged with terrorism-related offences fail to satisfy international standards of fair trial, including through:

- Use of information extracted under torture and other ill-treatment. There are no provisions in Tunisian law that expressly prohibit the admission by courts of evidence obtained under torture (except against a person accused of torture), as required by the UN Convention against Torture, and "confessions" are left to the discretion and appraisal of the judge to accept or reject as evidence. Judges at every level have failed to ensure that defendants received medical examinations or that their torture allegations were properly investigated, even when there was visible evidence of physical abuse.
- Denial of prompt access to lawyers. Tunisian law does not give detainees a right to have contact with lawyers for the duration of their *garde à vue* detention. In addition, detainees in terrorism-related cases appear also to have been denied legal representation when brought before an investigating judge for the first time, in violation of international and Tunisian law. Some detainees have later said that they were not informed of their rights or were intimidated into making statements without the presence of a lawyer by threats that they would be returned to the DSS where they would face further torture and other ill-treatment.
- Disregard of the rights of defence. Defence lawyers are not given adequate time and facilities to prepare the defence and are sometimes denied access to their clients during pre-trial detention. Reports of torture and other ill-treatment given in court are often arbitrarily interrupted by trial judges, preventing the accused from making a full defence, and lawyers themselves are routinely intimidated and harassed by security officers.
- Trials before military courts. The Tunisian Code of Military Justice permits the trial by military courts of civilians charged with undermining state security or serving in peacetime in a foreign army or a terrorist organization abroad. Trials before military courts in Tunisia fail to satisfy international standards of fair trial, notably the right to a public trial before an independent and impartial court, the right to prompt access to a lawyer, the right to prepare an adequate defence, and the right to appeal.

I WAS ASSAULTED IN MORNAGUIA PRISON AND LOST THREE OF MY FRONT TEETH... I WAS ALSO STRIPPED NAKED TO FORCE ME TO SHAVE MY BEARD

Saber Ragoubi, speaking to a trial judge in December 2007. He was sentenced to death largely on the basis of information obtained from him and his co-defendants under torture.

THE COURTS STILL OCCASIONALLY PASS DEATH SENTENCES, SOMETIMES IN THE ABSENCE OF THE DEFENDANT

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DEATH PENALTY

Under Tunisian law the death penalty can be imposed for a wide range of offences, including attacks against state security. While the authorities have maintained a de facto moratorium on executions, apparently since 1991, the courts still occasionally pass death sentences, sometimes in the absence of the defendant. Amnesty International is particularly concerned that Tunisian courts have continued to impose death sentences, including in cases where they have failed to ensure that fundamental fair trial safeguards are applied at all stages of the process.

ACT NOW

Write to the Tunisian authorities, urging them to:

- Publicly condemn and take effective measures to prevent torture and other ill-treatment, and make clear to all officers involved in arrest, detention and interrogation, in particular those of the DSS, that torture and other ill-treatment will not be tolerated under any circumstances.
- Publicly condemn and take effective measures to prevent incommunicado detention and enforced disappearance.
- End impunity for the security forces by initiating prompt, effective and independent investigations of all allegations of torture and other ill-treatment and bring those responsible to justice.
- Immediately halt all pending trials of civilians in military courts; transfer these cases to civilian courts for a new trial in proceedings that meet international fair trial standards, or release the individuals; order retrials for all civilians already convicted by military courts or release them.
- Order retrials in proceedings that meet international fair trial standards where evidence obtained by means of torture or other ill-treatment was admitted in the proceedings (except against a person accused of torture), or where claims that evidence was obtained by torture or other ill-treatment were summarily or otherwise improperly dismissed.
- Introduce an immediate moratorium on executions with a view to abolishing the death penalty.

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