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Algeria: Authorities must adequately investigate death of jailed journalist after months in coma

On 11 December, British-Algerian freelance journalist Mohamed Tamalt, 41, died in custody in Mohamed Lamine Debaghine University Hospital in Bab El Oued, Algiers, over five months after his arrest on 27 June. He had immediately gone on hunger strike to protest against his detention, before entering coma in late August. Hundreds attended his burial in Bourouba cemetery in Algiers on 12 December, including human rights defenders and civil society activists.

Tamalt was serving a two-year prison term for “offending” Algerian president Abdelaziz Bouteflika, public bodies and officials in Facebook posts. His Facebook posts included a video with an allegedly subversive poem and images of President Bouteflika, which he also featured on his blog. Mohamed Tamalt was imprisoned solely for the peaceful exercise of his right to freedom of expression, and Amnesty International had [called](#) for his release.

On 26 December, Algeria’s prison administration, the General Directorate for Penitentiary Administration and Rehabilitation, announced publicly that he died from an infection, citing the conclusions of an autopsy. Since he was admitted in hospital in late August, the prison and health authorities had not kept his family informed of his deteriorating health situation, nor did they inform his family of his death.

Amnesty International calls on Algerian authorities to conduct a prompt, thorough and independent investigation into the events from the time of his arrest up to his death, including his allegations of ill-treatment. The organization also calls on Algerian authorities to ensure that if the investigation finds that he was subjected to such ill-treatment, those responsible face appropriate disciplinary and criminal measures, including being brought to justice in fair trials and if convicted subjected to penalties proportionate to the gravity of the offence.

Amnesty International calls on Algerian authorities not to use public insult laws to stifle criticism, and in particular to repeal Penal Code articles that punish criticism of officials of any rank and public bodies with imprisonment or high fines. The organization also urges the authorities to make defamation a matter for civil rather than criminal action. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression made similar recommendations in 2012 following a visit to Algeria, which the authorities have failed to implement.

Return from exile

Originally from Algiers, Mohamed Tamalt sought asylum in the UK in 2007 after receiving death threats, linked to his publications, from members of the military establishment and intelligence apparatus. He wrote articles for Algerian dailies *El Khabar* and *Echourouk* as well as *Al Wahda* magazine before founding an online blog, *Arab Context*, in 2009. There, and on his Facebook page, he regularly published stinging criticism of corruption and nepotism among government officials, often questioning how they had acquired funds to allow lavish lifestyles for themselves and their relatives. He acquired a significant following on social media.

Though Tamalt acquired British citizenship, he decided to return permanently to Algeria in June 2016. He remained well-aware, however, that he continued to risk prosecution and imprisonment for his continuing scrutiny of Algerian officials, as he warned on Facebook days before his arrest.

After his arrest, he was allowed to contact consular representatives and was visited in hospital by the British authorities. However, so far as Amnesty International is aware, they did not intervene to ensure the protection of his rights, including access to effective remedies for the human rights violations he was subjected to, despite being pressed to do so by his British lawyers.

Arbitrary detention

His detention and trial were peppered with irregularities. The reports of his interrogation following his arrest were issued in a format containing the heading of the Department for Information and Security (DRS), an intelligence body which the authorities claim has been defunct since January 2016.

The court of Sidi Mhamed initially charged him with “offending” the President and public institutions under Articles 144 bis and 146 of the Penal Code. Although these offences do not carry imprisonment as a penalty, the court unlawfully ordered his pre-trial detention in El Harrach Prison in Algiers. This order breached Article 118 of the Code of Criminal Procedure that provides that pre-trial detention can only be ordered for offences punished by imprisonment or more severe penalties. The court then stood by its unlawful decision by refusing to release him on bail during a hearing on 4 July, prompting his lawyers to withdraw from the hearing in protest at his [arbitrary detention](#).

When his lawyers raised the unlawfulness of his detention during a trial hearing on 11 July, the court added a new charge of offending public officers under Article 144 of the Penal Code, which carries a penalty of up to two years in prison. The same day, the court of Sidi Mhamed sentenced him to the maximum term of imprisonment for the offence, and a fine of 200,000 Algerian dinars (about US\$ 1,800).

According to Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Algeria is a party, no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. To be considered lawful, deprivation of liberty must be compatible with international law as well as domestic law. In particular, the grounds and procedure established by law must conform to international law and the deprivation of liberty must be neither arbitrary nor violate the safeguards contained in Articles 9(2) to 9(4) of the ICCPR or other rights under the Covenant.

Deprivation of liberty is arbitrary when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty, or when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by the ICCPR, including the right to freedom of expression.

Allegations of ill-treatment

During his appeal hearing on 9 August, Mohamed Tamalt told the court that following his transfer from El Harrach Prison to El Kolea Prison on 12 July, guards had beaten and insulted him, and his lawyers lodged an official complaint. However, the court disregarded his allegations of ill-treatment, did not open an investigation, and upheld his conviction.

Mohamed Tamalt went on hunger strike from the day of his arrest on 27 June to protest against his detention. On 22 August, he was admitted to hospital as his health deteriorated and he [went into coma](#).

In September, his brother noticed a 7-centimeter stitched wound on his head, for which medical staff reportedly gave him no satisfactory explanation. He then lodged a complaint of ill-treatment with the judiciary requesting an independent medical examination, fearing that Mohamed Tamalt may have been beaten in prison. An investigation was officially opened, but neither his family nor his lawyers were informed of subsequent developments until they learned of his death.

Forty-seven members of opposition parties in Algeria’s lower house of parliament, the People’s National Assembly (APN), presented a motion calling for a parliamentary inquiry into the journalist’s death, which the APN rejected on 25 December.

On 26 December, the Algeria Press Service (APS) official news agency cited the prison administration, stating that the autopsy conducted on the day of Mohamed Tamalt's death concluded that he had died from a "septic shock" proceeding from an infection, and ruling out allegations of ill-treatment in detention. The autopsy report stated that such infections are common among comatose patients who stay for prolonged periods in intensive care.

However, as the UN Subcommittee for the Prevention of Torture has explicitly noted, the absence of medical evidence does not prove that ill-treatment has not occurred. Marks of violence can fade with time, and some forms of ill-treatment leave few or no visible marks.

Furthermore, APS quoted the prison administration as threatening to take legal action in relation to "malicious attempts to exploit" the journalist's death. Amnesty International fears that this statement could deter victims of human rights violations including torture and other ill-treatment, their lawyers, and human rights defenders from informing the authorities for fear that they may be accused of making false allegations or defaming public officials. This would directly undermine any efforts undertaken by the authorities to eradicate such violations in detention.

Family kept in the dark

After Mohamed Tamalt was admitted to hospital his family received no information from the prison or health authorities about his deteriorating health condition, they told Amnesty International. In addition, the authorities refused his lawyers' requests to visit him in hospital for several weeks after he was first admitted in hospital.

On 11 December, prison authorities, without having informed his family of his death, announced it in a public statement issued by APS. The statement said that he had undergone operations following a brain stroke in August, and in relation to a recent pulmonary infection. It stated also that the cause of death was a pulmonary infection – although the autopsy was not conducted until after this statement, around 6pm on the day he died, and was done without consulting the family. The statement also falsely alleges that Mohamed Tamalt received a visit from his mother while in hospital. The prison and health authorities have yet to deliver the autopsy report or other medical reports to the family.

Between 21 and 25 December, the family lodged requests with local and national judicial authorities, as well as the Ministry of Justice and the prison administration, requesting his full medical file, in addition to Mohamed Tamalt's personal effects including his clothes, which they have yet to receive.

Long overdue reforms to the Penal Code

Algeria amended its [Constitution](#) in February without providing the required safeguards for the right to freedom of expression, and still leaves room for authorities to resort to public insult laws to quell dissent. Article 144, which includes penalties of imprisonment merely for criticizing government officials, is one of many Penal Code provisions that violate the right to freedom of expression. Other articles include prohibitively high fines for offending the President (Article 144 bis), public bodies (Article 146), criticizing court cases (Article 147); these and multiple similar provisions in the Information Code unduly restrict the right to freedom of expression and have a chilling effect, particularly on journalists, that generates a climate of self-censorship.

The UN Human Rights Committee, the body that monitors States' compliance with the ICCPR, has said that the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties. The Committee has stressed that all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and noted the importance of ensuring uninhibited public debate about public figures in the political domain and public institutions. The Committee has specifically stated that laws should not provide more severe penalties for the defamation of heads of state, officials and state institutions as compared to ordinary members of the public.

Public document

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