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Tunisia: Indictments a step closer for justice in Faysal Baraket's case of death under torture

A Tunisian court has indicted 21 individuals for the torture to death of Faysal Barakat, more than 25 years after his arrest in October 1991 for criticising the Ben Ali government on television. The accused, who reportedly include members of the security forces and former state officials, have lodged an appeal against the indictments.

Amnesty International has closely followed this case since 1991 and reiterates its call for all those against whom there is sufficient admissible evidence of responsibility for the torture of Faysal Baraket to be prosecuted in fair trials. This should include anyone, such as officials in positions of command, who ordered, authorised or assisted in his torture.

The Baraket family's lengthy quest for justice reflects the fact that to this day impunity for human rights violations remains prevalent in Tunisia. Prosecuting and punishing all those responsible for his torture and death would not only deliver long awaited justice to his family, but would also signal that Tunisia is truly breaking with the legacy of violations, Amnesty International said.

Faysal Baraket's case is emblematic of the widespread torture and other ill-treatment that were a hallmark of President Zine El Abidine Ben Ali's rule, and the lengths to which the authorities went to cover up the crimes of state agents. The indictments follow the conclusions of the fourth judicial investigation into Baraket's death on 8 October 1991. The Tunisian authorities under Ben Ali had repeatedly botched or stalled investigations to cover up the real cause of his death, claiming that he had died in a car accident. In 1992 independent forensic pathologist Dr Derrick Pounder, to whom Amnesty International had sent Faysal Baraket's autopsy report for an expert opinion, concluded that he had died as a result of a systematic physical assault.

The Accusations Chamber of Nabeul's Court of Appeals confirmed on 1 December 2016 indictments against 11 persons for torture, under Article 101bis

of the Tunisian Penal Code, and 10 others for complicity in torture.

Those accused have appealed the indictments. Faysal Baraket's relatives have also appealed, saying that some individuals involved in his death and the cover-up of his torture are not included among those indicted. The Court of Cassation is expected to issue a ruling on the appeals in the next few months.

In a December 2016 letter to Amnesty International, the Tunisian government confirmed the indictments saying that "state agencies were cooperating and coordinating to provide all necessary information to assist the investigations."

Tunisia's Truth and Dignity Commission, established by the Transitional Justice Law in December 2013, has been holding public hearings in which victims of human rights violations and their families have been testifying. The hearings have aired on national television since November 2016. Faysal Baraket's brother, Jamal and his mother gave their testimonies in the first public hearings. The hearings have shined a much needed spotlight on the widespread abuses of the past and have been giving a platform to victims and their relatives. But as Faysal Baraket's case shows, the [transitional justice process](#) will not be complete unless it leads to criminal prosecutions for the crimes of the past decades. The Truth and Dignity Commission (Instance Vérité et Dignité, IVD) has the authority to transfer cases to specialized chambers within first instance courts, also created by the Transitional Justice Law, but no case is known to have been transferred to the chambers yet.

Background

Faysal Baraket, a 25 year-old student and member of the then outlawed Islamist opposition party Ennahda, was arrested on 8 October 1991 after he criticized the Tunisian authorities during a television interview. He died on the same day. His brother Jamal was arrested days earlier and tortured repeatedly in detention.

Amnesty International became involved in the case in early 1992 after gathering testimonies from witnesses who said they heard Faysal Baraket screaming as he was tortured and beaten for hours in the Nabeul Police Station. Later they saw him slumped in a corridor, unconscious, his body contorted in the position used in the "roast chicken" torture method – where the victim is tied to a horizontal pole with hands and feet crossed over and tied together. His face was bruised and he had cuts around the eyes.

An autopsy report obtained by Amnesty International and examined by forensic

expert Dr Derrick Pounder, concluded that Faysal Baraket had died as a result of injuries caused by the forcible insertion of an object in his anus, and that his feet and buttocks bore the marks of severe beating. The injuries pointed to a pattern of systematic physical assault.

The case was submitted to the United Nations Committee against Torture (CAT), which concluded in 1999 that Tunisia had breached its obligations to hold a prompt and impartial investigation into the death, and recommended the body be exhumed in the presence of international forensic experts.

[The exhumation of Faysal Baraket](#)'s remains was finally carried out in March 2013, 14 years after it had been recommended by CAT and two years after Zine El Abidine Ben Ali was ousted from power. The exhumation occurred in the presence of his family, Tunisian judges and forensic doctors, forensic pathologist Dr Derrick Pounder and Amnesty International delegates. The exhumation revealed further forensic evidence of his torture which was included in the judicial investigation.