

EXTERNAL

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To: Medical groups
From: Medical Office / Research Department - Middle East
Date: 19 March 1992

MEDICAL CONCERN

**@Deaths in detention
£TUNISIA**

Over the past 18 months, thousands of suspected members of the Islamic *al-Nahda* (Renaissance) movement have been arrested in Tunisia and in many instances held incommunicado for protracted periods. Since April 1991, at least ten men - eight of whom were members or suspected sympathisers of *al-Nahda* - are believed to have died in police custody in circumstances which strongly suggest that they died as a result of torture.

In one of these cases Amnesty International has had access to an autopsy report - that of Faisal Barakat, who died in October 1991. Amnesty International was told by the Tunisian Government that he had died in a traffic accident, an account which is at odds with forensic findings.

Faisal Barakat was a well-known member of *al-Nahda* and had appeared in an interview on Tunisian television condemning the government for its handling of an incident in March 1991 when several students were reportedly killed or injured following clashes with the police. He later went into hiding and was tried *in absentia* and sentenced to six months' imprisonment for, amongst other things, membership of an illegal organization. He is said to have been arrested in Nabeul on 8 October 1991 at a place of hiding.

Eyewitnesses in Nabeul police station on 8 October state that they saw Faisal Barakat brought in and taken to the police chief's office. He already showed signs of having been ill-treated. They said that they then heard the sounds of him being tortured and ill-treated under interrogation over a period of four to five hours, that his apparently lifeless body was then dumped in a corridor and a doctor summoned who arrived after about half an hour.

Faisal Barakat's family were informed of his death on 17 October 1991 and were told by the authorities that he had died in a road traffic accident. Amnesty International subsequently received a copy of the report of an autopsy carried out on the body of Faisal Barakat at Nabeul Hospital on 11 October 1991. The text of this report was submitted for comment to an independent forensic pathologist who concluded that, on the basis of the autopsy findings, death could not have been the result of a traffic accident, but had resulted from perforation of the rectosigmoid junction which had caused sudden death as a result of shock and an induced abnormality of heart rhythm. His report concludes:

"In summary the autopsy report indicates that this man died as the result of the forceable insertion of a foreign object at least 6 inches into the anus. Prior to his death he had been beaten about the soles of his feet and buttocks. Other scattered injuries to the body are consistent with further blows. The entire pattern of injury is that of a systematic physical assault and very strongly corroborates the allegation of ill-treatment and torture that has been made. The injury pattern as a whole and the injuries to the anus, feet and buttocks in particular are incompatible with involvement in a road traffic accident and this explanation for the death has no credibility in the light of the autopsy findings."

In the light of the above, Amnesty International is seriously concerned by the Tunisian authorities' earlier response to expressions of concern about this and other deaths. They have stated publicly that Faisal Barakat's death was found to be the result of a road traffic accident after an autopsy was ordered. A judicial enquiry led by the *Parquet de Grombalia* (Grombalia Public Prosecutor) is said to have confirmed these findings. The authorities deny that ill-treatment and torture are being routinely used, although evidence suggests that this has become commonplace since the widespread arrests of Islamicists began in 1990. (For further information, please see *Tunisia: Prolonged incommunicado detention and torture*, Amnesty International, March 1992, AI Index: MDE 30/04/92.)

The discrepancy between the Government's account of Faisal Barakat's death and the forensic evidence casts further doubt on their account of other deaths said to have occurred in custody. It is unclear what form of investigations have taken place into such deaths or in how many instances autopsies have been carried out. According to Tunisian government authorities, a judicial enquiry has been initiated into three deaths (other than that of Faisal Barakat) on the recommendation of the Driss Commission. This is a Commission of Inquiry established by the Tunisian President in June 1991 in response to criticisms about the prolonged use of incommunicado detention and torture. These inquiries concern the deaths of Abdelraouf Laaribi, who died in May 1991; Abdelaziz Mahuashi, who died in April 1991 and Fathi Khiari who died in August 1991. Information concerning these and other deaths is given in appendix.

The Tunisian Government has said that in Abdelraouf Laaribi's case, although a judicial inquiry has been opened to determine the cause of his death, he was neither arrested nor held in *garde à vue* detention. They do not, however, give any further details about the place or time of death or for what reasons a judicial inquiry was ordered if Mr Laaribi's death did not occur in detention. No further information is at present available on the conduct of the inquiry into the deaths of Abdelaziz Mahuashi or Fathi Khiari.

The Tunisian Government has also responded to concern about one of the other deaths - that of Rachid Chammakhi who was arrested on 24 October 1991 and died approximately a week later. His family had been told that he had died of jaundice. The Tunisian authorities have since told Amnesty International that an autopsy was conducted and that this gives renal failure as the cause of death. No further information was made available, however, on what led to renal failure or on other findings noted on autopsy.

The text of the autopsy report on Faisal Barakat is reproduced below in the original French and in English translation. Extracts from the independent forensic pathologist's opinion on this report are also given below and the available details on other deaths are appended.

Amnesty International is calling on the Tunisian Government to urgently ensure an end to prolonged incommunicado detention, ill-treatment and torture and is urging that a full and proper inquiry is instituted into all alleged instances of death in custody.

APPENDIX 1: Autopsy report on Faisal Barakat

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Hôpital régional de Nabeul

RAPPORT D'AUTOPSIE JUDICIAIRE

Nous soussignées, Docteur [illisible] SASSI, Chirurgien, [illisible: ?Chef de?] Service, [illisible] Chirurgien à l'Hôpital de Nabeul désignés en vertu d'une régulation no. 745 du 11. 10. 91 par Monsieur le Chef de Poste de la circulation de Menzel Bouzelfa à l'effet de procéder à l'examen et à l'autopsie du cadavre d'un inconnu pour déterminer la cause de la mort :

- mydriase bilatérale
- présence d'ecchymoses [illisible]
 - la pommette gauche, lèvre inférieure et le menton
- petit hématome sous le cuir chevelu temporal droit
- ecchymose et oedème de la main droite et la face dorsale de l'avant bras droit
- ecchymose et dermabrasion de l'avant bras gauche
- ecchymoses étendues avec oedème très important des fesses
- ecchymoses et dermabrasion des deux genoux
 - la jambe gauche est le siège de deux plaies punctiformes sans lésions osseuses sous jacente
 - ecchymose et dermabrasions de la jambe droite
 - ecchymose de la plante des deux pieds

A l'autopsie :

- * Crâne : absence de toute fracture du crâne, absence d'hématome intra-crânien ou intra-cérébral
- *Absence d'inondation ventriculaire ou d'engagement cérébral
- *Poumons: congestion pulmonaire intéressant la totalité des deux poumons ne laissant valide que 2 segments du lobe supérieur du poumon gauche
- *Coeur arrêté en systole ne comporte pas de lésions vasculaires ou valvulaires
- * Estomac dilaté est vide d'aliments
- *petit hématome du pelvis avec perforation de la jonction rectosigmoïdienne

Conclusion :

La mort serait consécutive à une insuffisance respiratoire aiguë en relation avec la congestion pulmonaire étendue

Signature [illisible]

[sans date visible]

TRANSLATION:

Regional Hospital of Nabeul

Judicial Autopsy Report

We, the undersigned, Dr [illegible] Sassi, surgeon [illegible: ?Head of?] Service [illegible] Surgeon at Nabeul Hospital designated by virtue of regulation no.745 of 11.10.91 by Head of Traffic Police of Menzel Bouzelfa to proceed with the examination and autopsy of a cadaver of an unidentified man to determine the cause of death:

- bilateral dilated pupils
- presence of bruising [illegible]
left cheek, lower lip and chin
- small bruise under the scalp at the right temple
- bruising and oedema of the right hand and the dorsal surface of the right fore-arm
- bruise and abrasion of the left forearm
- extensive bruising with major oedema of the buttocks
- bruising and abrasion of both knees
- the left leg is the site of two punctiform wounds without underlying bone damage
- bruise and skin abrasion of the right leg
- bruise on the soles of both feet

On autopsy:

- Skull: absence of any skull fracture, absence of intra-cranial or intra-cerebral haematoma
- no ventricular dilation or cerebral involvement
- lungs: pulmonary congestion affecting all of the lungs except 2 segments of the upper lobe of the left lung.
- heart stopped in systole showing neither vascular nor valvular lesions
- stomach: dilated and empty of food
- small haematoma of the pelvis with perforation of the rectosigmoid junction

Conclusion: Death was due to acute respiratory insufficiency related to extensive pulmonary congestion.

Signature [poor copy renders it illegible]

[Date not visible]

APPENDIX 2: Extracts from independent opinion of Professor Derrick Pounder, UK, on the autopsy report issued by Nabeul Hospital (see appendix 1)

APPENDIX 3: Extracts from the Amnesty International report *Tunisia: Incommunicado Detention and Torture*, AI Index MDE 30/04/92, March 1992.

APPENDIX 4: ECOSOC resolution 1989/65 on Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions

INTERNAL

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To: Medical professionals
From: Medical Office / Research Department - Middle East
Date: 19 March 1992

MEDICAL LETTER WRITING ACTION

**DEATHS IN CUSTODY
TUNISIA**

Keywords

Theme: Deaths in custody/ torture/ ill-treatment/ incommunicado detention/ autopsy

Summary

Since April 1991 at least ten deaths in custody have occurred in Tunisia in circumstances strongly suggesting that death was the result of torture. Amnesty International had access to the autopsy report pertaining to the death of one of the detainees - Faisal Barakat. When this was examined by an independent forensic pathologist, it was shown that the authorities' account of death was inconsistent with autopsy findings. Full details are given in the attached action which includes the text of the autopsy report on the body of Faisal Barakat (appendix 1), extracts from the comment of the independent forensic pathologist (appendix 2), details of other deaths in custody (appendix 3) and ECOSOC resolution 1989/65 on Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions (appendix 4).

Recommended Actions

Letters to the addresses below are requested from medical professionals *and preferably from forensic pathologists where possible*. Letters should:

- introduce yourself (where appropriate as a forensic specialist interested in human rights issues)
- refer to the death of Faisal Barakat in October 1990 and to the autopsy report issued at Nabeul hospital, the findings of which are not consistent with the account given by the *Parquet de Grombalia* (Grombalia Public Prosecutor) that he had died in a road traffic accident
- letters may either refer to the opinion of the forensic pathologist consulted by AI or, if you are writing as a forensic specialist, give comment on the autopsy report and the government's account of death. You could raise pertinent details and express concern

that a judicial enquiry into his death should have failed to take account of the significance of autopsy findings

- note that several deaths in police custody are reported to have occurred in Tunisia during the past year and express your concern at the absence of authoritative information about those deaths due to lack of impartial and accessible inquiry reports
- raise the case of Rachid Chammakhi who is said by the government to have died of "renal failure". Ask for the cause of this kidney failure and for details of the autopsy which was carried out
- refer to the new UN principles on investigation of contentious deaths [ECOSOC resolution 1989/65) and urge the Tunisian government to adopt the procedures recommended therein, in particular principle 9 which states, *inter alia*, that deaths such as those you are writing about should trigger "a thorough, prompt and impartial investigation ... to determine the cause, manner and time of death, [and] the person responsible". [The ECOSOC resolution 1989/65 on Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions is attached.]
- ask that all reported deaths in custody become the subject of public enquiry and seek details of any forensic investigations which have been carried out

Addresses

Son Excellence
M. Abdallah Kallel
Ministre de l'Interieur
Ministère de l'Interieur
Avenue Habib Bourguiba
Tunis
Tunisia

M. Abderrahim Zouari
Ministre de la Justice
Ministère de la Justice
Boulevard Bab Benat
Tunis
Tunisia

Copies of letters should be sent to Tunisian diplomatic representatives in your own country.

Note: Amnesty International has raised with the Tunisian Government the deaths in custody of a further three detainees. Maher Safi and Fathi Aloui, both common-law detainees, are said to have died in custody in November and December 1992. Their cases were raised in a communiqué of the *Ligue Tunisienne de Défense des Droits de l'Homme* (Tunisian Human Rights League) on 13 December 1991. The third case relates to Mouldi Ben Amor who was arrested on 15 December 1991 and held in prolonged incommunicado detention in Tunis. On 21 January 1992 the authorities informed his family that he had died, but no medical certificate giving the cause of death was provided.

Note: The Tunisian authorities have indicated that an inquiry is being conducted into Mr Mahuashi's death.

Note: The Tunisian authorities state that Mr Maaribi was not arrested or held in *garde à vue* detention, but that a judicial inquiry has been ordered to determine the cause of his death. No further information has been provided on the time, place or circumstances surrounding his death.

Note: The Tunisian authorities have indicated that an inquiry is being conducted into Mr Khiari's death.

Note: The Tunisian authorities have now informed Amnesty International that an autopsy found the cause of Mr Chammakhi's death to be renal failure. They did not, however, provide any information on the cause of renal failure or any other autopsy findings.