

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Tunisia: The authorities must move quickly to implement the recommendations of the UN Committee against Torture**

The Tunisian authorities must take prompt action to fully implement the recommendations made by the UN Committee against Torture and end impunity for torture and other ill-treatment, Amnesty International said today.

Amnesty International welcomes the concluding observations published on 13 May by the UN Committee against Torture, an independent body of experts tasked with assessing Tunisia's implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

While acknowledging several positive steps taken by Tunisia since 2009 as well as recognizing the open and constructive dialogue with the Tunisian delegation, the Committee highlighted the lack of due diligence and the delays by the judiciary and judicial police in investigating allegations of torture and other ill-treatment, and noted the continuing impunity enjoyed by security officers accused of such acts. In particular, the Committee expressed concern that, out of 230 cases of torture before the courts between January and July 2014, 165 were still being investigated, while only two cases resulted in convictions.

The Committee has noted that Tunisia's definition of torture remains inconsistent with the definition provided by the Convention against Torture. It urged Tunisia to accelerate the legislative reform process in this regard, as well as to remove a provision from the Penal Code allowing for exemption from punishment for public officials who denounce acts of torture.

In a briefing submitted to the Committee in April, Amnesty International outlined – among other things – its concerns regarding the Tunisian authorities' persistent use of torture and other ill-treatment in detention and the lack of conclusive investigations into allegations of such acts. It also expressed concerns about several suspicious deaths in custody. In its report, Tunisia stated that approximately 34 detainees have died in custody every year since 2013 but provided no information about investigations into these cases. The Committee urged Tunisia to open immediate and effective investigations into all allegations of torture and other ill-treatment and that the officers suspected of such acts be immediately suspended. It also called for impartial and effective investigations into deaths in custody, and highlighted the importance of allowing victims and families to be party to the judicial investigations.

Amnesty International calls on the Tunisian authorities to promptly implement the Committee's recommendations regarding Tunisia's counter-terrorism legislation and practices. These recommendations include addressing the overbroad definition of terrorism-related acts and reducing

the maximum period of pre-charge detention (*garde-à-vue*) in line with international standards. They also confirm that all persons placed in pre-charge detention must have access to all judicial guarantees, including in terrorism-related cases, and all forms of secret detention must be ended. Specifically, the Committee expressed its concern at the 15-day maximum pre-charge detention (*garde-à-vue*) in terrorism-related cases, and provisions that allow detainees to be barred access to lawyers for up to 48 hours. In its briefing, Amnesty International submitted details concerning the torture and other ill-treatment of several individuals detained as part of counter-terrorism operations following a series of armed attacks that have taken place in Tunisia over the past year and which have killed or injured scores of persons. While the Tunisian authorities must protect people's right to life and security, they similarly have the obligation to do this by resorting to measures that comply with Tunisia's international human rights obligations. The authorities must ensure that those held on terrorism related charges and their families are protected from harassment, intimidation or any other form of reprisals.

Amongst the Committee's concerns is also the harassment of complainants and their families. The Committee has recommended that the Tunisian authorities ensure the protection of witnesses and complainants by putting in place an independent, confidential and accessible system for lodging complaints of torture and other ill-treatment; establish a system that protects victims and their families from reprisals; and, hold anyone responsible for such reprisals to account.

Amnesty International encourages the Tunisian authorities to act on the recommendations of the Committee with regard to violence against women. While welcoming Tunisia's efforts to combat gender-based violence, the Committee urged Tunisia to expedite the passing of a comprehensive law on violence against women, and ensure that it recognizes all forms of violence including family violence and marital rape. The Committee also pointed out the need to amend provisions of the Penal Code to ensure that perpetrators of sexual violence do not escape justice.

The Committee expressed concern at the criminalization of consensual same-sex relations and the fact that gay men are forced to undergo anal examinations following threats from the police, and urged Tunisia to repeal Article 230 of the Penal Code which criminalizes consensual same-sex relations. The Committee also expressed its concerns about the use of forced vaginal examinations, including following accusations of sexual relations outside of marriage or those related to sex work. It urged the Tunisian government to end all such invasive medical examinations that do not have any medical justifications. Amnesty International's briefing to the Committee highlighted its concerns of renewed allegations of sexual harassment and cases of sexual violence by state agents since the 2011 uprising. The organization's research has found that the criminalization of consensual same-sex relations, sex work and adultery continues to put people, including LGBTI persons and sex workers, at high risk of abuse and violence at the hands of the police.

The Tunisian authorities have taken a number of positive steps aimed at breaking the cycle of abuses under President Zine El Abdine Ben, when the use of torture and other ill-treatment was both widespread and systematic. Among these are recent changes to the Code of Criminal Procedure, which have reduced the maximum length of police custody, when most allegations of torture and other ill-treatment are made. Law 2016-5 adopted in February this year also prescribes that detainees have access to a lawyer, a medical expert and their family. While noting its appreciation for the new law, the Committee recommends that the maximum time is not exceeded in practice. The Committee also recommends that the state ensures detainees' confidential access to independent medical experts and their medical records and that medical experts are able to report

confidentially evidence of torture and other ill-treatment to independent investigating authorities and without risking reprisals.

Despite positive changes, more needs to be done to ensure that Tunisia's legislation is in line with international standards, that Tunisia effectively breaks with the cycle of impunity, and that all detainees have their human rights ensured regardless of the nature of the accusations made against them.