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TUNISIA: WHERE RUNNING FROM POLICE CAN BE DEADLY

A YEAR SINCE OMAR LABIDI DIED, THE STRUGGLE TO ENSURE ACCOUNTABILITY FOR ABUSES BY SECURITY FORCES CONTINUES

The Tunisian authorities must ensure that emblematic cases of police brutality in the last year do not go unpunished if they have any intention to address impunity for security forces accused of serious human rights violations, Amnesty International said today.

One year ago, in March 2018, Amnesty International joined 15 Tunisian and international human rights organizations in [calling](#) on the Tunisian government to take concrete steps against members of the security forces who threaten or blackmail judges into halting judicial proceedings opened against them.¹ To date, the Tunisian authorities have taken no tangible action. The failure to address threats by powerful security unions formed to supposedly defend rights and interests of the police and other forces, has become one of the main contributors to impunity for human rights abuses, with investigative judges fearing threats or reprisals.

Amnesty International has documented four illustrative cases that highlight, yet again, the urgent need for fundamental reform of the security sector and the empowerment of the judiciary to end impunity for police responsible for serious violations, including possible unlawful killings and torture and other ill-treatment. The four cases are: those of Omar Labidi; Aly and Youssef Bouzwida; Iheb² and Ayman Othmani.

This statement details police violence against these individuals, including the circumstances that led to two deaths, and notes serious concerns relating to the state's failure to duly investigate such abuses, in particular:

- Unnecessary or excessive use of force by security forces, including one case in which live fire was shot at crowds apparently without warning;
- Targeted attacks by police of young men particularly around sports events, leading to serious injuries, amounting to cruel, inhuman or degrading treatment and possibly torture;
- Irregularities around investigations into police abuse, including missing medical reports, and the security forces' intentional denial or delays in providing medical care to victims of excessive use of force or torture and other ill-treatment; and
- Investigations into cases of alleged police abuse delayed or stalled entirely, with an apparent failure to address the non-compliance of security officers to appear before judges.

The Tunisian authorities' failure to hold members of the security forces accountable for serious violations illustrates the fundamental flaws that persist in Tunisia's criminal justice system despite some reforms since the 2011 uprising. Torture and other ill-treatment continues to be widespread at arrest and in pre-charge detention, and security forces often use unnecessary and excessive force in law enforcement operations. The four cases documented in this statement are emblematic of a wider pattern of abuse and raise serious questions about the thoroughness and impartiality of investigations, the lack of separation between the police and the investigating and prosecuting authorities, and lack of transparency in decision-making. Even where investigations are not

¹ Amnesty International, *Tunisia: Appeal to the government to put an end to the widespread impunity* (Index: MDE 30/8848/2018).

² Amnesty is withholding, based on the organization's assessment of the case, the full name of this person for fear of reprisals.

directly conducted under police supervision, the daily working relationship between investigative judges and the police means that there is a considerable risk that investigations may be carried out in a partisan manner in cases where the suspected perpetrator is a police officer.

The Tunisian government must implement without further delay reforms of the police and security apparatus to ensure oversight and compliance with international human rights law, ensure that investigations are independent and efficient and can proceed without undue interference and build trust in the criminal justice system. As a matter of priority, Amnesty International recommends that:

1. The authorities conduct thorough, prompt, effective and impartial investigations into all allegations of torture and other ill-treatment and all incidents in which security forces appear to have used unnecessary and excessive force, and, if there is sufficient admissible evidence, prosecute and punish those found responsible;
2. The ministry of interior orders alleged perpetrators to appear in court when summoned by judges;
3. Prosecutors investigate alleged perpetrators' failure to appear in court;
4. The ministry of interior prohibits security forces and their unions from threatening or putting any type of pressure on judges investigating abuses by their members and investigates refusal to serve or failing to perform duties by its members;
5. The ministry of interior suspends members of security forces accused of abuses from their active service until the investigation concludes;
6. The ministry of interior continually reviews trainings provided to law enforcement officials to prevent repetition of mistakes or otherwise undesirable results of those officials' actions;
7. The authorities develop a framework for the protection of victims and witnesses of abuses by security forces.

BACKGROUND

Over the past four years, Tunisia's security forces have been continuously praised by the Tunisian government as well as many within the international community for their efforts in fighting terrorism and have received new funds to recruit additional officers and provide better equipment. European governments such as Germany and the UK have invested in capacity building and training for Tunisian police. Yet the Tunisian government has shown a lack of political will to push through real reforms to improve police conduct and tactics, or to ensure judicial oversight and accountability. This has only served to shield perpetrators from prosecution and entrench impunity leading to persisting violations.

The overwhelming majority of investigations of members of the security forces hardly ever make it past the investigative judge phase and have not led to successful prosecutions of perpetrators. The Tunisian authorities are therefore failing to provide the right to a remedy by ensuring independent and impartial investigations and prosecutions of allegations of torture and other serious offences by security forces. Under Tunisia's constitution, the state has an obligation to protect human dignity and physical integrity and there is no statute of limitations for crimes of torture. Further, the Penal Code criminalizes assault, torture and other use of force by public officials with prison terms of up to eight years.

One of the most striking examples of the state's failure to ensure accountability for abuses committed security officers in recent years is the **Ben Arous Court incident**. According to a report by the National Authority for the Prevention of Torture (INPT), on 22 February 2018, a person suspected of "physical and moral violence" was tortured by four police officers during his detention in the Hammam-Lif police station in the southern suburbs of Tunis. The victim had told the INPT that the officers had assaulted him and sprayed him with tear gas after making him take off all his clothing. He said that the officers made him stand injured and naked in the rain, wearing a car tyre around his waist.

On 26 February 2018, after the investigative judge at the Ben Arous Court of First Instance had questioned officers suspected of involvement, the main security forces union (Syndicat des Fonctionnaires de la Direction Générale des Unités d'Intervention, SFDGUI) called on its members to refuse to provide security for the court in Ben Arous until all security officers suspected of torture were released. The same day, a large group of security officers also occupied the court premises, pressuring the judge to release their colleagues. The judge eventually released the officers in custody, seemingly out of fear for his own safety. The SFDGUI issued a statement later in the month calling on all security forces not to provide security for any judicial proceedings related to officers' conduct or to respond to summons from such proceedings.

OMAR LABIDI

On 31 March 2018, a group of police officers chased 19-year-old Omar Labidi as he was leaving Rades stadium in the southern suburbs of Tunis along with a group of other football fans, and eventually pushed him into a river where he drowned. The death of the young football supporter caused outrage among Tunisian football supporters and on social media under the hashtag #تعلم_عوم (learn to swim in Arabic). One year after his death, judicial authorities appear to be stalling the investigation into Omar Labidi's apparently unlawful killing.

In the early evening of 31 March, Omar was on his way out of the stadium after violence broke out between fans and the police. According to Toumi Ben Farhat, the family's lawyer who reviewed witness statements, the police started chasing Omar and other fans. He was eventually caught by a police officer who beat him and dragged him to the bank of Oued Meliane river. The lawyer told Amnesty International that during interrogations two witnesses had testified that they saw the officer pushing Omar into the river, even though he was shouting that he could not swim. According to witnesses, the police officer replied: "Then learn to swim."

When first interrogated on 3 April by the Gorjani Investigative Unit, the same two witnesses described seeing officers beating Omar on the same body parts mentioned in the preliminary forensic report that was made available to the lawyer on 18 June. According to lawyer Ben Farhat, the forensic report described two major bruises on Omar's body; one to his upper left leg and a second one to his thorax. Both bruises appeared to be caused by a truncheon. On 11 May, the two witnesses identified the officer at a police line-up after they had described him physically in earlier interrogation sessions.

The lawyer told Amnesty International that during their first interrogations, 17 officers belonging to the team that was identified as potentially responsible for the death, denied that they left the stadium at all. But when they were presented with videos clearly showing them chasing people in the stadium's surroundings, they confessed that they had agreed between themselves on a unified account.

On 14 May, the investigative judge at the Ben Arous Court of First Instance charged the 17 police officers with involuntary manslaughter and failure to provide assistance to a person in danger. If found guilty, they could face a seven years prison sentence. Lawyer Ben Farhat told Amnesty International that he would press for the charges to be amended to include intentional murder.

One year after Omar Labidi's death, judicial authorities appear to be stalling the investigation. According to the lawyer, the investigative judge has yet to hear one last police officer as a witness, – who had not responded to two requests by the judge to attend – to bring in the final forensic report and to retrieve a video taken by a witness from the Gorjani Investigative Unit. Most interviews of witnesses took place in May and June last year, but the process seems to have slowed down since then. More recently, the investigative judge heard two accused and eight witnesses on 7 January, and then 14 accused and six witnesses on 31 January. To date, all of the suspects remain free.

Amnesty International is concerned about the conduct of the investigation into Omar Labidi's case. In particular,

the failure of the investigative judge to issue formal summons (as opposed to a non-binding request) to a police officer to appear as a witness may point to a lack of impartiality and effectiveness. Additionally, it is of serious concern that the suspected officers have not been suspended from duty or at the very least transferred to a position not involving contact with the public, until the investigation is concluded.

ALY AND YOUSSEF BOUZWIDA

"I believe in [the entity] that we call state, order and rule of law. If I did something wrong, I need to be held accountable, but if I am subjected to injustice, I need to seek justice. I don't know how to run, and others don't know how to swim; I survived death, but others died. I hope that my disappointment in the state will be fixed by the state", Aly Bouzwida speaking to Amnesty International.

On 5 May 2018, police officers assaulted Aly and Youssef Bouzwida, two brothers aged respectively 32 and 26, after clashes broke out between police officers and fans following a basketball game in Rades, in the southern suburbs of Tunis. To this day, the brothers are waiting for an investigation into their assault to start and for perpetrators to face justice.

According to Aly Bouzwida, who related his story in a [video](#) published on social media³, the two brothers left their home late in the afternoon to look for their father, who had been to the basketball game. They were worried that their father might struggle to breathe as police officers had responded to the violence with teargas. On their way to the stadium, they came across at least 15 police officers in an area of Rades where there were no clashes. According to Aly, a policeman shouted "They are here!" and started running after them. The brothers say they were walking peacefully and that they did not engage in any violence at the time.

Aly reported to Amnesty International that the police caught them and immediately started beating them relentlessly with batons on their heads and all over their bodies, for around 20 minutes, until Youssef lost consciousness. A resident filmed a 30 second [video](#) showing the violence to which the two brothers were subjected.⁴

Civil protection officers, who are not part of the police forces and were present in that area, arrived on the scene and took Youssef to the hospital. However, police took Aly to the police station, and prevented the civil protection from transferring him to hospital. After about ten hours, Youssef who had regained consciousness in the hospital, was also brought to the police station. At approximately 5am, both were released without charge, and Aly was finally able to go to the hospital to get stitches on his head and do medical tests to ensure that he did not suffer any internal injuries. He said that he had bruises all over his body.

The following day, the Ministry of Interior published a [statement](#) concerning injuries among police officers who were "protecting public and private properties from troublemakers deliberately throwing solid materials and stones at security officers", adding that four individuals were arrested and that public prosecution had authorized the opening of an investigation into them for "throwing stones at security officers".⁵

When Aly and Youssef's video was shared on social media, people linked it to the case of Omar Labidi and initiated the hashtag [#تعلم_اجري](#) (learn to run in Arabic).

When police beat unresisting people under their control, this amounts to cruel, inhuman or degrading treatment

³ Interview with Aly Bouzwida available on Facebook: www.facebook.com/www.foot24.tn/videos/1079012328920966/ (in Arabic).

⁴ 30 second video showing the violence to which the two brothers were subjected: www.facebook.com/231028246991584/videos/1688326934595034/

⁵ Statement of the Tunisian Ministry of Interior, 06 May 2018, www.interieur.gov.tn/actualite/6019 (in Arabic).

or punishment and, depending on the severity and purpose of such action, could amount to torture. Torture and other ill-treatment are prohibited absolutely, in all circumstances, under a raft of treaties that Tunisia is a party to.⁶ All complaints of torture and other acts of ill-treatment must be promptly and efficiently investigated by an impartial, independent body, and where sufficient, admissible evidence is found, suspected perpetrators must be prosecuted, in fair trials.⁷

Aly told Amnesty International that his lawyer filed a complaint against the police for violence. He said that the police officers had, in turn, filed a complaint against him for throwing stones, an accusation denied by both brothers who said they were not involved in the post-game clashes. Ten months after the incident took place, Aly confirmed to Amnesty International that, to this day, he was waiting for the investigation to start.

IHEB

On 27 October 2018, police officers seized Iheb (full name withheld) – a 19-year-old high school student – and started beating him, as he was leaving the Rades stadium after watching a football match. Iheb's family filed a complaint for torture and, to date, the case has not moved forward.

Late in the afternoon on Saturday 27 October 2018, Iheb was leaving the Rades stadium after watching a football match. He told Amnesty International that football fans were clashing with police officers, so he waited for the situation to calm down before leaving the stadium. He stated that he did not engage in any violence.

When he reached the bottom of the stairs, police officers seized him and started beating him. Iheb told Amnesty International that at least six officers started beating him relentlessly on his head and all over his body with batons, shouting at him that he was insulting police, until he started bleeding from his head. Iheb said that he began feeling faint. He was put in a police van where officers handcuffed him and continued beating him and accused him of selling drugs at the stadium – an allegation that he denied. He described how the police then threatened to rape him:

“They did not tell me that they were arresting me or where we were going. I had no idea what was happening as I was bleeding and feeling faint. At one point, the van stopped and two officers along with the one that was driving started threatening me with rape. I thought they were really going to do it until one of them changed his mind and told the others that it's not worth it.”

The combination of the police's beatings of a detainee requiring hospital treatment and a threat of rape that the victim saw as credible are clearly cruel, inhuman and degrading and may have amounted to torture.

The police officers eventually drove Iheb to the New Medina police station. Iheb told Amnesty International that he repeatedly asked to be taken to hospital and to be able to call his parents. At the police station, Iheb was interrogated and denied accusations by police officers that he had been carrying drugs in his pockets.

After he had signed his statement, the officers took Iheb to the Charles Nicolle hospital. A doctor treating him sent him to another room to get stitches and said she wanted to examine him again. However, after his stitches were applied, police officers prevented him from going back to see the doctor and drove him to Bouchoucha police detention centre. He was refused permission to call his parents, and was kept in Bouchoucha for three days before being released on 30 October.

When Iheb went back to the hospital to retrieve the doctor's report, hospital staff said they were not able to find it. As a result, he only has the front-desk registration document, meaning that he only has proof that he was

⁶ For instance, the International Covenant of Civil and Political Rights (Article 7), The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and The African Charter of Human and Peoples' Rights (Article 5).

⁷ See for instance Articles 12 and 13 of the UN Convention against Torture.

admitted to hospital on 27 October, but no medical assessment of his injuries. He believes that the doctor's report was never filed in an attempt to cover up what happened. According to the certificate issued by a private forensic doctor commissioned by Iheb's family and reviewed by Amnesty International, the young man sustained injuries to his left shoulder that was dislocated, concussion, and bruises all over his body including his groin.

Iheb's family filed a complaint on 23 November 2018 against the police officers involved in the assault. The prosecution mandated the sub-directorate of criminal cases in Hay El Khadhra in Tunis to conduct a preliminary investigation. On 6 December 2018, Iheb was summoned to be heard by the police about his complaint. However, to date, the case has not moved forward, and the perpetrators have yet to face justice.

AYMAN OTHMANI

"If my brother's case is also dismissed like many others before, and justice is not revealed, we can consider ourselves as no more than mosquitos in this country", said Imed Othmani, Ayman's brother.

"500 thousands of millions of dinars cannot replace one single strand of hair of my son. If justice doesn't grant my son's right, I am ready to dig his remains out and take him abroad and let a foreign doctor examine his body again and give a counter-expertise. I don't trust this state anymore", added Ayman's mother.

Excessive use of force by law enforcement officials is not only exercised in stadiums and following sports events. On the afternoon of 23 October 2018, customs officers shot 19-year-old Ayman Othmani during a raid on a warehouse in Sidi Hassine neighbourhood of Tunis, where they believed smuggled goods were stored. Witnesses said that after they had shot him, officers surrounded Ayman Othmani, while he was unconscious, and beat him for at least ten minutes. He died of his wounds. According to his family and lawyer who saw the forensic report, he was shot in the back and his upper leg.

The raid sparked violent clashes between the customs officers and youths from the neighbourhood after some of them started throwing stones. Residents were surprised by the unusual raid and started to group in the street to find out what was happening. According to his mother, Ayman became caught up in the clashes at around 3pm as he was on his way back to work at a construction site after having had lunch at home. At least three eyewitnesses reported in interviews published by the independent media platform '[Nawaat](#)'⁸ and on [social media](#) by Human Rights Watch's representative⁹ that customs officers were firing live ammunition against individuals throwing stones.

While there are conflicting accounts of how fire was opened, the use of firearms by customs officers appears to have been unnecessary and disproportionate and resulted in an apparently unlawful killing. According to witnesses who were [interviewed](#) at the time by Human Rights Watch¹⁰, customs officers immediately used firearms against unarmed youths and did not take gradually escalating measures to disperse those throwing stones, for example by calling in riot police or using less lethal weapons.

Crucially, in the published interviews reviewed by Amnesty International and footages that Amnesty International had access to through the family, the eyewitnesses who saw Ayman during the clashes said that he was not involved in throwing stones and had tried to hide behind a barrel of water, and subsequently tried to escape. The fact that Ayman was shot in the back appears to corroborate the account that he was trying to run away. A carpenter in the neighbourhood whose account was also published online said that he saw Ayman lying down on the ground when at least seven officers started beating him. That same neighbour said that when he and other neighbours

⁸ Nawaat, 25 October 2018, www.nawaat.org/portail/2018/10/25/ع-شهود-العثماني-عائلة-أيمن-العثماني-وشهود (in Arabic).

⁹ Interviews with eyewitnesses available on Facebook: www.facebook.com/amna.guellali/posts/10156494178581041 (in Arabic).

¹⁰ Interviews with eyewitnesses available on Facebook:

www.facebook.com/amna.guellali/videos/pcb.10156494178581041/10156494154481041/ (in Arabic).

noticed that he had a hole in his T-shirt, they lifted it and saw that Ayman had been shot in the back. According to witnesses, officers claimed that it was not a bullet injury and that Ayman had been hit by a stone thrown by young people that they said were “his friends”.

Imed Othmani, Ayman’s brother, told Amnesty International that officers had crushed Ayman’s face with their shoes while he was lying on the ground and then started dragging him by his shoulders. Imed’s claims were supported by videos recorded by neighbours and that he showed to Amnesty International. The family also told Amnesty International that Ayman was only taken to hospital around 5pm, two hours after the clashes had started. They alleged that the officers prevented neighbours from calling an ambulance, claiming that they had already called one. When the ambulance failed to arrive, Ayman was eventually taken to hospital in a private car by a neighbour; he died around midnight.

Later that day, the General Directorate of Customs released a [statement](#) in which it claimed that the officers followed the appropriate protocol for the escalation in the use of necessary force.¹¹ The statement claims that “the officers started by warning the “aggressors” who kept escalating and even tried to reach for the officers’ weapons”. According to the statement, officers fired warning shots in the air to clear the way for them to leave the neighbourhood, and that only at that point, did they notice an individual (Ayman Othmani) lying down on the ground. Despite testimonies that confirmed that Ayman was just passing by, the statement described him as one of the “aggressors”.

On 24 October, the General Directorate of Customs’ spokesperson declared that an administrative investigation had been ordered but added:

“Ayman had either been hit by a ricocheting bullet that hit one of the buildings and its fragments rebounded on the young man and injured him, or during the clashes there was some pushing, and a stray bullet came out and hit him.”

The spokesperson also added that the case had been referred to the public prosecutor at the Tunis Court of First Instance. The following day, the court’s spokesperson said that four customs officers were under investigation and placed in custody. On 26 October however, all four were temporarily released following the findings of the ballistic report that Ayman was hit by a ricocheting bullet rather than a direct shot. The news was relayed by several media outlets, causing outrage in Ayman’s neighbourhood where protests took place the same night.

On 23 October, the hospital doctor told the family that he was able to attend to Ayman’s gunshot wound through a surgery on his back and that he should be fine. The following day, the Head of the Police District confirmed to Ayman’s mother that Ayman was shot twice, once in his back and once in his leg.

The investigative judge summoned the mother the day that followed her appearance on a [TV program](#)¹², and also confirmed to her that Ayman had been shot twice. Further, Sondos Ben Ghorbel, the lawyer representing Ayman’s family, told to Amnesty International that the forensic report mentioned the existence of “two deadly bullets” inside Ayman’s body; one in his left upper back and one in his upper left leg. The existence of that second injury confirming that Ayman was shot twice appeared to strengthen allegations that the shooting had been deliberate.

Both Ayman’s mother and defence lawyer are accusing the doctor and the hospital of negligence and medical error for failure to accurately record this in the medical report.

“If I were beside my son when this happened, I would have protected him and took the bullet instead. I don’t have that much left in my life, I would leave him to continue living his life. My son is so young, and he didn’t do

¹¹ Statement of the General Directorate of Customs, 23 October 2018, www.facebook.com/notes/douane-tunisienne/1942333632518585/ بلّغ

¹² Elhiwar Ettounsi – *Les 4 vérités*, 1 November 2018, www.youtu.be/lIdA_ie8NrgA (in Arabic).

anything wrong,” said Ayman’s mother to Amnesty.

On 7 March 2019, the investigative judge confirmed the indictment of two customs officers with involuntary manslaughter charges and three other officers with failure to provide assistance, and referred the case to the criminal chamber at the Tunis II Court of First Instance, thus refusing the lawyer’s appeal for the charges to be amended to murder. She is now seeking a cassation decision for the charges to be escalated, describing the conclusion of the investigation as unsatisfying. While the indictment is encouraging, the authorities must now ensure that Ayman Othmani’s killing does not go unpunished, that the officers are suspended from their duties and prosecuted in independent and impartial courts.

At the heart of the international human rights standards governing the use of force by police lies the human right to life, enshrined in Article 3 of the Universal Declaration of Human Rights. Under the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles),¹³ law enforcement officials are required to “as far as possible, apply non-violent means before resorting to the use of force”. Where the use of force is unavoidable, they must “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved”, minimise damage and injury and “ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment”.

International standards emphasize the importance of proportionality in judging whether the use of force is legitimate and strictly unavoidable, in order to protect life. Under Principle 9 of the Basic Principles, security forces may only resort to the use of lethal force if there is an imminent threat of death or serious injury; it is unavoidable to protect life and only when less extreme means are insufficient. With the exception of circumstances of extreme and immediate danger, law enforcement officials must identify themselves as such and “give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed”.

Evidence collected by Amnesty International and others shows that Ayman Othmani did not appear to pose a direct and imminent threat to the lives of security forces and others.

CONCLUSION

Tackling impunity for human rights violations cannot be achieved unless the justice system and the security apparatus in Tunisia are reformed and transformed into real tools for protecting human rights rather than instruments that serve the authorities’ interests. Omar, Aly, Youssef, Iheb and Ayman are merely emblematic cases for the prevailing impunity enjoyed by security forces, but hundreds of other victims of serious human rights violations are still awaiting justice. The Tunisian government must implement without further delays the reforms it has been committed to and prioritize its progress towards ending the impunity, in order to build trust in the criminal justice system.

¹³ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.