

Tunisia

Report to the United Nations Committee Against Torture

57th session in Geneva, 18 April to 13 May 2016



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Submitted by

Association pour la Justice et la Réhabilitation

Association Al Karama

Association Tunisienne des Jeunes Avocats

Association Internationale pour le Soutien des Prisonniers Politiques

Damj, Aassociation Tunisienne pour la justice et l'égalité

Fondation Tunisienne pour la Réforme Judiciaire et de Sécurité

Justice pour les Anciens Militaires

Liberté et Équité

Ligue Tunisienne pour la Défense des Droits de l'Homme

Observatoire Chahed

Organisation Mondiale Contre la Torture

Observatoire Tunisien pour l'Indépendance de la Magistrature

Observatoire Tunisien des Prisons

AJR

AL KARAMA

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The authors of the Report

This report is the work of the following local and international organisations and NGOs:

Association pour la Justice et la Réhabilitation (AJR) ; Association Al Karama (AL KARAMA), Association Tunisienne des Jeunes Avocats(ATJA) ; Association Internationale pour le Soutien des Prisonniers Politiques (AISPP) ; Damj, l'association Tunisienne pour la justice et l'égalité (DAMJ) ; Fondation Tunisienne pour la Réforme Judiciaire et de Sécurité (FTRJS) ; Justice pour les Anciens Militaires (INSAF) ; Liberté et Équité (L&E) ; Ligue Tunisienne pour la Défense des Droits de l'Homme (LTDH) ; Observatoire Chahed (CHAHED) ; Organisation Mondiale Contre la Torture (OMCT) ; Observatoire Tunisien pour l'Indépendance de la Magistrature (OTIM) ; Observatoire Tunisien des Prisons (OTP).

These civil society organisations are active in the struggle against torture and its prevention, the promotion of democracy and transitional justice. Their activities include: assistance programs for victims of torture and other cruel, inhuman or degrading treatment; awareness raising; support for legislative and institutional reforms, and advocacy for their implementation.

Introduction

The prevention of torture and ill-treatment in Tunisia is particularly important because these practices were used extensively and systematically before the revolution and they still continue to be used today, despite the events of January 14, 2011.

Although Tunisia's third periodic report submitted to the Committee against Torture has been presented late, given that Article 19 of the United Nations Convention against Torture (CAT) requires reports to be submitted every four years, it is nevertheless an opportunity to take stock of the implementation of international commitments by the State party and establish new guidelines to better fight against torture and ill-treatment.

Since the last periodic report was submitted by the State party in 1997, torture has been criminalised in the Penal Code in Article 101 bis; however, this has not had a practical impact, especially before President Ben Ali fled the country on January 14, 2011.

Since then, Tunisia has experienced a process of democratic transition marked by the adoption of a new Constitution on January 27, 2014, which established a series of important mechanisms and institutions and the start of their implementation¹.

Progress has been made during this transition period, such as the adoption of new international conventions², the emergence of freedom of expression and more active participation by civil society³. However, there are barriers, which hinder this process of democratisation, such as the persistence of torture and impunity, and the lack of planning regarding specific institutional reforms to fight against these scourges.

Almost all aspects of the struggle against and prevention of torture are treated or addressed by the authorities (criminalisation of torture, reparation and rehabilitation of victims, prevention mechanisms, etc.), but they are only sporadically implemented, leaving a large gap between theory and practice.

The challenges for democratic transition are huge: the significant legacy of the old regime, the absence of government policy committed to the struggle against torture, resistance to change in institutional bodies, and terrorism and security threats suddenly rocking agendas and policy priorities.

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 1 Organic law no. 2015-50 of December 3, 2015 on the Constitutional Court. This has not yet been implemented because the draft organic law on the Higher Judicial Council has not yet been adopted. Organic bills are also being examined related to independent constitutional bodies, including a bill on a human rights body.

2 In February 2011, the Provisional Government's Ministerial Council adopted the Optional Protocol to the Convention against Torture, the International Convention for the Protection of All Persons against Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights and the Rome Statute establishing the International Criminal Court.

3 The Nobel Peace Prize 2015 was awarded to the Quartet: the Tunisian League of Human Rights (LTDH), the National Bar Association of Tunisia (ONAT), the Tunisian General Labour Union (UGTT) the Tunisian Union of Industry, Commerce and Handicrafts (UTICA), for their contributions to the national dialogue and efforts during the democratic transition.

1. The prohibition of torture: between theory and practice

a. From the legislative point of view

In 1999, the legislature introduced Article 101 bis into the Criminal Code, thereby criminalising torture. This article was modified by legislative decree No. 106 of October 22, 2011, amending and supplementing the Criminal Code and the Code of Criminal Procedure. As this reform was not subject to consultation with civil society unlike other post-revolutionary bills, it did not harmonise anti-torture legislation with the provisions of the Convention against Torture. Indeed, the current Article 101 bis of the Criminal Code establishes that:

“The term torture describes any act by which severe pain or acute physical or mental suffering is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession to an act that he or a third person has committed or is suspected of having committed.

Intimidating or coercing a person or intimidating or coercing a third person for the purpose of obtaining information or a confession is considered to be torture.

Any pain, suffering, intimidation or constraint inflicted for any reason based on racial discrimination is considered to be torture.

Any public official or similar person who directs, encourages, endorses or is silent about torture in the performance or during the performance of his duties is considered to be a torturer.

Any suffering resulting from legal penalties, driven by these penalties or inherent in them is not considered to be torture”.

This provision does not conform to the definition provided in Article I of the Convention against Torture.

For the crime of torture to be established, the perpetrator, in addition to his criminal intent, must have a desire to achieve a specific result. This special intent is reduced in the current version of the Article as being *“for the purpose of obtaining information or a confession”*, unlike the 1999 version which also established the aim of punishment as a possible element of the offence.

Neither the 1999 version or the current version of the Criminal Code comply with Article I of the Convention against Torture, which lists the goals sought by the perpetrator as indicative and non-limiting. While the 1999 version criminalises torture *“based on discrimination of any kind”*, the current version limits this to *“racial discrimination”*.

Some official speeches are based on the current definition in Article 101 bis of the Criminal Code, by considering that there is no torture in prisons insofar as the acts in question are not intended to extract confessions.

Some of the provisions resulting from the 2011 reform are satisfactory, including Article 101 bis §4 which considers that *“any public official or similar person who directs, encourages, endorses or is silent about torture in the performance or during the performance of his duties is considered to be a torturer”*, as the aggravating circumstances in Article 101 can be used together with the new §2 of Article 155 of the Code of Criminal Procedure, which now deems as invalid confessions and statements of the accused or witness statements, if it is established that they were obtained under torture or duress. The new §3 of Article 313 of the Code of Criminal Procedure, which prohibits extradition *“when the person subject to the extradition request risks being exposed to torture”* is also satisfactory.

In this regard, the extradition to Libya on June 24, 2012 of former Libyan Prime Minister Mahmoudi Baghdadi was the subject of great controversy among the public and within the Tunisian authorities. Mahmoudi Baghdadi’s lawyers called upon the African Court on Human and Peoples’ Rights to contest his

extradition. This was rejected by the Court because of its lack of jurisdiction⁴: Tunisia has not made the optional declaration accepting the compulsory jurisdiction of the African Court to receive requests from individuals or NGOs as required under Articles 5 (3) and 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights establishing an African Court on Human and Peoples' Rights.

The Criminal Code punishes illegitimate violence and abuse committed by public servants or similar (Art. 101 and 103 CC). Violence and abuse are regarded as offences punishable by five (5) years imprisonment⁵.

This legislation does not provide for specific laws to protect witnesses and victims of torture. However, Article 103 of the Criminal Code criminalises ill-treatment perpetrated against witnesses because of their statements or used to obtain confessions or statements.

In addition, Article 40 of Organic Law No. 2013-53 of December 24, 2013 on the establishment of transitional justice and its organisation, gives powers to the proceedings of the Truth and Dignity Commission (*Instance de la Vérité et de Dignité - IVD, see infra*) to "*protect witnesses, victims, experts and everyone it interviews, regardless of their status ... and, by ensuring the safety precautions, protection against criminality and aggression, and the preservation of confidentiality*".

Despite their shortcomings, these provisions could in theory have restricted, even a little, the use of torture.

On a positive note, according to Article 5 of the Code of Criminal Procedure, the limitation of ten (10) years for public prosecution of a crime was extended by the aforementioned Decree to fifteen (15) years for the crime of torture. The new provision in Article 5 § 4 of the Code of Criminal Procedure was repealed by Article 24 of Organic Law No. 2013-43 of October 23, 2013 concerning the national authority for the Prevention of Torture, which considers that public prosecution relating to crimes of torture is imprescriptible. The imprescriptible nature of prosecution is confirmed in Article 23 of the Tunisian Constitution⁶.

Nevertheless, since its criminalisation in 1999, no public official had been convicted under Article 101 bis of the Criminal Code⁷ due to many obstacles to prosecution.

b. Obstacles to prosecution

The courts under the old regime generally refused to register complaints of torture except in rare cases where there had been pressure from civil society and insistence from lawyers well-known for their defence of human rights. These cases have not resulted in serious and effective investigations. This obstacle has led to a denial of access to justice and the Committee against Torture has made decisions in favour of Tunisian victims who appealed to this UN mechanism:

- Communication no. 291/2006, petition filed by Saadia Ali on March 2, 2006, decision of the Committee dated November 21, 2008 (CAT/C/41/D291/2006, November 26, 2008),

4 <http://en.african-court.org/images/Cases/Decision/Decision%20Application%20No%20007-2012%20English%20Baghdadi%20v.%20Tunisia.pdf>

5 Article 14 of the Criminal Code establishes the classification of infractions: crimes are infractions punishable by at least five years' imprisonment, offences are infractions punishable by at least 16 days' imprisonment and contraventions are infractions punishable by 15 days' imprisonment at most.

6 Article 23 of the Constitution: The State protects a person's dignity and physical integrity, and prohibits physical and moral torture. The crime of torture is imprescriptible.

7 The only conviction for torture was issued March 25, 2011 against four agents for two years imprisonment. Having obtained the forgiveness of the victim, Sami Belhadeb, the accused benefited from a call to reduce their sentence to two years imprisonment.

- Communication no. 269/2005, petition filed by Ali Ben Salem on May 2, 2005, the decision of the Committee dated November 7, 2007 (CAT/C/39/D/269/2005, November 27, 2007),
- Communication no. 187/2001, Dhaou Belgacem Thabti, decision of the Committee dated November 14, 2003 (CAT/C/31/D187/2001, November 20, 2003),
- Communication n°189/2001, Bouabdallah Ltaïef, June 30, 2000, decision of the Committee dated November 14, 2003 (CAT/C/31/D/189/2001, November 20, 2003),
- Communication n°188/2001, Imed Abdelli, June 29, 2000, decision of the Committee dated November 14, 2002 (CAT/C/31/D/188/2001, November 20, 2003),
- Communication n°60/1996, Fayçal Baraket, November 6, 1996, Committee statement dated 10 November 1999 (CAT/C/23/D/60/1996, January 24, 2000).

Some public officials were, however, convicted for violence before the revolution⁸, but those verdicts did not generally correspond to the level of the damage suffered by the victims. They cannot, in any case, be considered as an indicator of a response to systematic acts of torture and ill-treatment.

Following the revolution, the obstacle of referral to the courts was lifted and hundreds of complaints of torture were recorded by the courts⁹. Unfortunately, to date none of these cases has resulted in a satisfactory judicial response. Most of these cases have not resulted in the most basic investigative measures aimed at the search for truth.

Numerous cases have been classified as closed or have been discontinued by the victims, in particular due to a lack of serious investigations and / or because of harassment and retaliation against them by security agents.

While Article 28 of the CCP requires that in cases of crime the public prosecutor immediately appoints an investigating judge within ordinary jurisdiction to receive information, numerous torture cases are transmitted to judicial police officers to complete the investigation. The cases are then subject to delay, without serious preliminary investigation.

Many victims of torture come from marginalised areas where crime rates are high, and some find themselves or their relatives suddenly prosecuted for offences following the filing of a complaint of torture. This was the case of relatives of Walid Denguir who died in custody on November 2, 2013, and of Samir Metoui, who found himself prosecuted for other crimes during his incarceration.

Custodial measures against officials suspected of having committed torture and other crimes are extremely rare.

For example, three officers of the law were preventively detained in the well publicised case of Ons and Ahlem Dalhoumi, who died on the night of August 23, 2014 after gunshots were fired by a security forces patrol while they were travelling by car accompanied by their relatives. The security force trade unions staged a sit-in before the trial at Kasserine court to support the 13 agents involved in this case and to put pressure on the investigating judge responsible for the case. Following this pressure, two officers were released and the case was transferred to the Court of First Instance in Sfax due to the tense situation. In January 2016, the only remaining agent held under preventive detention was released.

In the six cases that were the subject of a decision by the Committee against Torture, only the case of Fayçal Baraket, who died in October 1991 following his arrest at the national guard station in Nabeul, led to

8 See § 156 to 172, p33-34 in the periodic report of the Tunisian State.

9 The AISPP and OCTT identify more than 400 complaints of torture registered in the courts after the revolution.

significant actions after the revolution. Indeed, following pressure from civil society, in March 2013¹⁰ Fayçal Baraket's body was exhumed, 22 years after his death, and experts proved that he had died due to torture he suffered during police custody and not following a traffic accident as had been concluded by the prosecutor in 1991. To date, the Fayçal Baraket case remains without judicial response

Following this long-awaited decision, the judge from the trial court in Grombalia ordered arrest warrants against a number of police officers, however, to date this order has not been implemented.

In another similar case regarding Rachid Chammakhi, who died in 1991, the judge in the Court of First Instance at Grombalia ordered the detention of two doctors, a hospital director and a former interior minister but the indictment Chamber, the body of appeal to the orders issued by the investigating judge, released all the accused. An agent of the order was arrested and released at the end of the period of preventive detention. Arrest warrants against other defendants have yet to be acted upon. One of the main people accused fled during his hearing in 2012, and is now the subject of a warrant issued by the investigating judge.

Moreover, there are several cases of investigations into suspicious deaths that have not yet led to a satisfactory legal response, including the following:

- Riadh Bouslama, who died on ... during his incarceration at the Monastir prison;
- Abderraouf Khammassi, who died on September 8, 2012, while in police custody;
- Mohamed Ali Snoussi, who died October 3, 2014 while in police custody;
- Walid Denguir, who died on November 2, 2013 while in police custody;
- Makram El Chérif, who died on December 14, 2014 while incarcerated in Messadine prison;
- Sofiène Dridi, who died on September 17, 2015 during his detention in Mornaguia prison;
- Kais Berrhouma, who died on the night of October 4, 2015 after being subjected to a violent arrest by a brigade of the National Guard;
- Abdelmajid Jedday¹¹, who died on May 13, 2015 following his arrest by police in Sidi Bouzid.

In the case of Riyadh Bouslama, after the revolution the investigating judge was able to make a convincing case that would suggest that he did not die from natural causes, nevertheless the closure of the investigation has to date not been decided. In the other cases, investigations were not serious: almost no notice was given for the hearings except for the hearings involving the victims' relatives, and no detention orders or warrants were issued.

In the cases of W. Denguir, M.A. Snoussi and S. Dridi, the authorities had offered hypotheses about the cause of death, which they stated were due to natural causes even before the forensic autopsy was undertaken. In the case of W. Denguir and M.A. Snoussi, the victims' lawyers and families could not register as plaintiffs on the grounds that the investigation was preliminary and open against unknown parties, in accordance with Article 31 of the CCP¹². This interpretation has no legal basis, however in the case of A. Jedday the victims' family lawyer has been able to successfully begin the incorporation procedures to register as a plaintiff in the case and has gained access to the case file.

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10 Exhumed in the presence of Dr. Derrick Ponder and in accordance with the request of the Committee against Torture in 1999.

11 A few months before his death, Abdelhamid Jedday had filed a complaint of torture.

12 Article 31 of the CCP: The Public Prosecutor, in the presence of a sufficiently substantiated or sufficiently justified complaint, may request that the investigating judge be provisionally informed against the unknown, until that moment in which he may make charges or, if appropriate, new requisitions against the people referred to.

The well publicised case of Barraket Essahel, regarding 244 military personnel who were tortured in 1991¹³ according to a list compiled by the Ministry of Defence, resulted in Ben Ali and some high-ranking officials and officers being sentenced to between 2 and 5 years' imprisonment for violent offences.

The crime of torture did not exist in 1991, but the trial which took place in the military courts after the case was transferred from the ordinary courts, presented a number of flaws that mean it is an unsatisfactory judgment. Some lawyers' claims have not been taken into account, some of the accused have not been cited to appear, others have totally escaped prosecution and medical examinations have not identified any permanent damage and disabilities among the victims that would have allowed for other charges and accusations against the defendants, including the aggravating circumstances of the crime of violence under section 219 of the Criminal Code¹⁴.

Another similar case which concerned military personnel who underwent torture in 1987 did not seem to go on the road to a just and fair verdict by the military court because of the various problems that accompanied this trial.

Also, in the case of Rached Jaidane, victim of torture during his arrest at the Interior Ministry in July 1993 and during his 13 years in prison, the Court of First Instance of Tunis only upheld the crime of violence against Ben Ali, even though the effects of this torture were considerable and there are several suspects, direct perpetrators of acts of torture, who could have been prosecuted¹⁵.

13 The number of victims is apparently higher than the figure established by the Ministry of Defense. There is great suspicion that at least one victim, Abdelaziz Mahouachi, reportedly died following torture. The case of Abdelaziz Mahouachi was separated from the case Barraket Essahel for unsound reasons.

In December 2012, the victims of Barraket Essahel received the order of the republic. In June 2014, the Presidency of the Republic organised an official ceremony in military uniform.

14 Article 219 of the Criminal Code: *"when violence ... is followed by mutilation, loss of use of a limb, disfigurement, disability or permanent disability, where the rate of incapacity does not exceed 20%, the culprit is punished by five years' imprisonment. The penalty is ten years in prison, if the result of this sort of violence is an incapacity rate exceeding 20%."*

15 This case is currently before the Tunis Court of Appeal.

2. The persistence of torture fed by impunity

All the cases mentioned above, but also hundreds of cases and complaints of torture that have remained for years in the drawers of Public Prosecutors or investigating judges without serious investigations or closed without follow-up, lead us to the conclusion that torture and ill-treatment are crimes that continue to go unpunished.

Reports and statements have been prepared by local and international observers showing that torture is still being used after the revolution, during arrest, police custody and detention.

These are not isolated cases, contrary to statements by the authorities. Torture is widespread, in all its manifestations, and its practice tends to increase after each terrorist attack. Indeed, these events have triggered mass, violent arrests; often humiliating and punitive reactions against people detained within the scope of the anti-terrorist law and their families; the appearance of bills and the adoption of draconian laws¹⁶; speeches and campaigns that stigmatise and smear human rights defenders and civil society who struggle for the prohibition of torture and ill-treatment in all circumstances; and obstacles to the work of journalists or even aggression towards journalists who seek to report on terrorist attacks.

To explain impunity, the authorities often cite the slow pace of justice due to the overload of cases among judges and lack of resources. Certainly there is a need for in-depth measures to improve the working conditions of those who are responsible for law enforcement, but this is merely used as an excuse by the authorities, since it has been found that other criminal cases are usually dealt with in a reasonable manner and lead to a more or less timely criminal law response.

The persistence of torture is a serious legacy from the former regime and should be eradicated, using all necessary and specific measures.

The designation of a deputy Public Prosecutor in the court of first instance in Tunis in charge of torture cases could be considered a good measure if it was extended to all the courts of first instance and if this deputy had been granted the means for a genuine independent institution, effectively protected, transparent, and accessible to any person or entity.

Judges who are required to undertake prompt investigations and “*report to the Public Prosecutor offences that have come to their knowledge in the exercise of their functions*” (Art. 29 CCP), must have the means and necessary protections to carry out their work.

It is also important to bear in mind that the denial of justice constitutes serious professional misconduct which could be subject to disciplinary and judicial proceedings. In fact, Article 101 bis §4 of the Criminal Code considers a torturer to be any public official who “*endorses or is silent about torture*”. Article 32-4 of the Criminal Code considers meanwhile that an accomplice is “*anyone who has knowingly lent assistance to perpetrators to ensure, by concealment or any other means, the success of the offence or impunity for its perpetrators*.”

Also, although Article 14 of the CCP requires the investigating judge to “*observe any offence committed in his presence in the performance of his duties or whose existence becomes apparent during the course of regular*

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 16 Civil society has expressed concern about the draconian bill on the punishment of offences against the armed forces. This bill threatens freedom of expression, freedom of the press and provides some immunity to the armed forces for the consequences of the misuse of lethal force. Organic law no. 2015-26 of August 7, 2015, on the fight against terrorism and the suppression of terrorist laundering includes worrying provisions: the extension of investigative powers and special investigation techniques without really foreseeing new guarantees to control these measures or the supervision of investigations; the increased duration of police custody, which can now be ongoing up to 15 days; the possible use of closed proceedings and anonymity of witnesses; the risk of improperly using the criminalisation of the glorification and incitement to terrorism; the establishment of death sentences for certain crimes, etc.

information”, few investigative judges in the presence of a defendant with signs of beatings or torture, take these facts into account *ipso facto*.

Forensic doctors and other legal experts, accustomed to producing very basic forensic and medical reports, should follow the instructions of the Istanbul Protocol and denounce any pressure or interference in their code of ethics and their free practice. For example, in drug use cases, punishable by law No. 52 of 18 May 1992 on narcotics, it is sometimes found, contrary to the law, that urine samples are collected by law enforcement officers.; the taking of these samples is sometimes humiliating and accompanied by physical aggression.

After the revolution the authorities were aware of the need to fight against torture and undertake systemic reforms. Thus circulars were issued and recommendations made against this scourge, training on Human Rights has been programmed for agents and executives responsible for law enforcement and the judiciary, consultations and projects have been established with the support of international organisations and associations for the implementation of new standards (Code of conduct for public officials¹⁷, Code of conduct of the internal security forces, reform of police custody, etc.), a commission for the reform of the Criminal Code and a strategic vision of judicial reform has been adopted by the Ministry of Justice.

All these measures do not seem to be part of an overall strategy for the fight against torture. Some measures appear to be ineffective in the absence of strategic monitoring and planning.

Torture is carried out most often in enclosed areas, away from supervision and shielded from view. It is therefore urgent that institutions for the deprivation of liberty in Tunisia are open to the outside world.

17 Decree no. 2014-4030 of October 3, 2014, approving the code of conduct for public officials.

3. Places of deprivation of liberty

a. Living conditions

The first thing an observer would see at a place of detention in Tunisia is the outdated infrastructure, overcrowding and the pale and tired faces of both the detainees and the officials responsible for security.

There are 27 prisons in Tunisia and six rehabilitation centres¹⁸, some of which were not intended to serve as places for the deprivation of liberty. Of this total, there are theoretically 19 detention centres and 8 prisons where sentences are served, but in practice, this separation has not been respected, since people detained preventively and convicted persons who are serving their sentences, are in the same jail

According to the Ministry of Justice¹⁹, on December 31, 2013, there were over 25,000 prisoners, out of a total population of 10,886,500 people²⁰, which equates to an incarceration rate of about 230 per 100,000 inhabitants.

According to a report by the United Nations High Commissioner for Human Rights in March 2014, 58% of prisoners are being held in custody pending their trial although this preventive measure is considered to be an exceptional measure under Article 84 of the CCP.

In addition, the prison population is young on average, comprising around 30% of those incarcerated for short sentences not exceeding one year, and about 26% of those detained for crimes related to drug consumption²¹.

This repressive criminal policy creates overcrowding that exceeds 150% of the capacity in some prisons and wings where prisoners are forced to sleep on the floor next to the toilet or to share one bed between three people.

It is therefore necessary to establish guidelines encouraging the use of alternative penalties to imprisonment, such as criminal reparation or community service work²², which currently are not used in more than twenty cases per year, according to the Ministry of Justice.

This prison overcrowding affects inmates, prison officers and operational staff. Prison management and prison overpopulation have become more critical after the revolution because of the many fires that occurred in prisons as well as the promotion of a large number of officers that reduced the number of people assigned to prisons.

18 The following is a list of prisons in Tunisia: Mornaguia, Borj El Amri, Mornag, Rabta, Manouba, Saouaf, Borj Erroumi, Ennadhour, Bizerte, Beja, Le Kef, Jendouba, Eddir, Sers, Seliana, Messaadine de Sousse, Monastir, Mahdia, Kairouan, Houareb, Sidi Bouzid, Kasserine, Gafsa, Sfax, Gabès, Harboub de Médnine and Kebili.

The following is a list of rehabilitation centres for delinquent minors: El Mghira, Gammarth, El Mourouj, Mjez El- Bab, Sidi El Hani, Agareb and Souk Ejjdid.

19 Since Law No. 2001-51 of May 3, 2001, administrative agencies relating to prisons and re-education in Tunisia and the executives and staff of prisons and rehabilitation fall under the authority of the Ministry of Justice rather than the Ministry of the Interior. Thus, the administration of these centres is currently provided by the General Directorate of Prisons and Rehabilitation of the Ministry of Justice.

20 Census population as of July 1, 2013 (source: National Institute of Statistics)

21 Data provided in the report of the High Commissioner for Human Rights published in March 2014, which mentions a breakdown by age in detainees as follows: 18-25 years, 55%; 30-39 years, 29%; 40-49 years, 11%; 50 and over, 5%.

22 Alternative sanctions are governed by Law No. 2009-68 of 12 August 2009, concerning the introduction of criminal penalty reparations and the modernisation of alternative methods to imprisonment.

While the needs of prisoners are many, the means available are limited, especially regarding medical monitoring because of the small number of operational doctors.

During his visit to Tunisia in June 2014, Juan E. Méndez, UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment, reported that only 24 doctors worked full time in prisons to meet the needs of 24,000 prisoners. The General Directorate of Prisons and Rehabilitation attributes this low rate to a lack of enthusiasm among doctors to work in prisons.

These prison doctors are barely able to meet the requirement of submitting prisoners to a medical examination upon incarceration, as set out in Article 13 of Law No. 2001-52 of 14 May 2001 on the organisation of prisons. The medical examination is sometimes performed by prison officers who only have two or three months of medical training.

Given the large daily intake of detainees to prisons, the medical visit is brief, and is not sufficient to find any traces of beatings or injuries on the bodies of detainees. The few medical reports which reach the justice system make superficial and undeveloped indications. To our knowledge, there are no cases after the first medical consultation in prison, in which the prison administration has referred cases to the Public Prosecutor's Office because of signs of torture found on the bodies of detainees.

Medical monitoring is generally not guaranteed, among other reasons - but not only –due to lack of resources.

Moreover, due to the quasi-military operations in prisons, where detainees are forced to perform a military salute each time an officer or other member of the prison service passes by, doctors find themselves *ipso facto* subordinated to general guidelines which make them lose their independence.

Strengthening the supply of health professionals in prisons is a priority. It is recommended that these health professionals depend solely on their parent ministry, namely the Ministry of Health. The General Directorate of Prisons and Rehabilitation appears to support this idea.

Overcrowding also affects sanitation. The families of the detainees offset the bad quality of prison meals by sending food baskets, often in difficult conditions.

Moreover, this overcrowding creates a climate of stress, tension, aggression and violence which is in turn conducive to creating the circumstances for favours, corruption, and discrimination.

It is found in prisons an informally delegated power to some prisoners, who have a good relationship with the management of the prison and are responsible for keeping order and performing daily tasks in the cells. These "detainee-monitors", known as "Cabran", sometimes have higher authority than the lower-ranking prison officers and are often intermediaries in corruption and sources of inequality between inmates leading to conflict in prisons.

In addition, overcrowding does not permit individualisation of the sentence served and constitutes an obstacle to social integration, which explains the fairly high rate of recidivism among prisoners²³.

Finally, prisons also suffer from a lack of effective mechanisms for handling grievances and complaints. (These shortcomings also concern other places for the deprivation of liberty, such as custody centres.) The complaints and grievances of inmates reach local and international observers mainly through families and their lawyers

23 In its report of 2014, the High Commissioner indicates a re-offending rate of 45%.

b. Monitoring of places of deprivation of liberty

Before January 14, 2011, local and international associations and organisations were denied access to places for the deprivation of liberty.

The only local body to pay visits was the Higher Committee on Human Rights and Fundamental Freedoms. However this national institution, governed by a legal framework that was not compatible with the Paris Principles, has none of the qualities of independence and impartiality required.

This should change shortly, as the Constitution of January 27, 2014 provided a chapter on the establishment of constitutional bodies with independence and financial and administrative autonomy (Art. 125 to 130 of the Constitution)²⁴. In addition, a draft organic law on a human rights body consistent with the Paris Principles and Article 128 of the Tunisian Constitution should soon be transmitted to the Assembly of People's Representatives (*Assemblée des Représentants du Peuple* - ARP) to serve as a new legal framework for this body, updating law no. 37-2008 of June 16, 2008 concerning the Higher Committee on Human Rights and Fundamental Freedoms.

At the level of international bodies, only the International Committee of the Red Cross (ICRC) was allowed to visit places of detention under a 2005 agreement with the Ministry of Justice.

After January 14, 2011, places for the deprivation of liberty have become more accessible to outsiders.

The High Commissioner for Human Rights, which came to an agreement in 2011 with the Tunisian government²⁵ to open an office in Tunisia, conducts visits to places for the deprivation of liberty.

The Tunisian League of Human Rights (*Ligue Tunisienne des Droits de l'Homme* - LTDH) reached an agreement in June 2015 with the Ministry of Justice allowing them to carry out unannounced visits to places of detention. In February 2016, the LTDH made an agreement with the Ministry of Social Affairs to visit retreat centers. Then in March 2016, an agreement was made with the Ministry of Education to visit dormitories.

In 2013, Human Rights Watch obtained an authorisation from the Interior Ministry for two months to visit a number of custody and investigation centres. Such an unprecedented agreement should be followed by others of the same type, as they contribute to preventing multiple failures and abuses against suspects during arrests by the security forces or during preliminary inquiries.

Juan E. Méndez, the UN Special Rapporteur on Torture, was denied access during his visit to Tunisia in June 2014 to the Gorjani detention centre under the pretext that it is a centre for investigation and not a custody centre. However, the main specialised national security brigades are housed in this centre.

During a preliminary investigation, the accused is in a vulnerable position, alone with investigators without being able to speak with a lawyer or have visits from his family. Indeed, the current provisions of the Code of Criminal Procedure only allow access to a lawyer during investigations by the security forces as part of a rogatory commission²⁶ ordered by the judge handling the case.

24 Body for the elections, body on visual communication, human rights body, body on sustainable development and the rights of future generations, body on good governance and the fight against corruption.

25 Decree-Law No. 2011-94 of September 29, 2011, ratifying the agreement between the Government of the Republic of Tunisia and the High Commissioner for Human Rights to open an office in Tunisia.

26 The rogatory commission is governed by Article 57 of the CCP which states that if it is unable to gain certain information itself, the judge may commit rogatorily, magistrates from other districts or police officers in his constituency, regarding acts of office, with the exception of judicial warrants. The judge will issue an order to this effect which will be communicated upon execution to the Public Prosecutor

The recent reform of the police custody system, which will come into force on June 1, 2016, however, will allow access to a lawyer with an active role during police custody. This reform reduces the duration of police custody²⁷, and although it is still outside of the 48 hours recommended by both the Special Rapporteur on Torture, Juan E. Méndez, and the Committee against Torture²⁸, it is a step forward in expectation of further reforms in line with international standards. It is also hoped that this reform can ensure the right to a medical examination if the suspect wishes, a right often flouted although Article 13 bis of the CCP mentions it as a right during custody.

The implementation of this reform requires the involvement of all stakeholders, including lawyers, police, prosecutors and others. It is essential that there is coordination and joint reflection on the practical implementation of this reform even before its entry into force on June 1, 2016.

Local and international observers are strongly advocating for the future National Forum for the Prevention of Torture, and for it to be given powers to inspect places for the deprivation of liberty and to establish the necessary recommendations in the fight against torture and ill-treatment.

Indeed, since the ratification by Tunisia in July 2011 of the Optional Protocol to the Convention against Torture, civil society has invested heavily, thanks to the collaborative approach of the authorities, in the establishment of a legal framework for this mechanism in line with the OPCAT guidelines.

Following a lengthy consultation process, organic law no. 2013-43 was adopted on October 23, 2013, on the National Authority for the Prevention of Torture. This legal framework is satisfactory overall apart from a few inaccuracies (which may be overcome in practice or through decrees for its application) and risks of barriers to visits if the provisions of Article 13²⁹ of the Organic Law are found to have been applied inappropriately.

This body has not been put into place so far, and the authorities have been called upon to speed up the process and give it all the facilities and resources needed for its proper functioning.

Also, the authorities must not consider that this body replaces civil society, which must continue to have access to places of detention and fully play its monitoring role. Indeed, an agreement was concluded in December 2012 with the Ministry of Justice allowing some associations and NGOs to conduct prison visits until the adoption of the Organic Law on the National Authority for the Prevention of Torture.

This agreement was reached just after the death in Mornaguia prison of Béchir Golli, on November 15, 2012, and Mohamed Bakhti, on November 17, 2012. The two detainees had been arrested following attacks against the US Embassy on September 14, 2012. In order to report abuse and to proclaim their innocence, they had begun a hunger strike with other inmates that lasted more than 57 days until the announcement of their deaths.

In December 2014, the Ministry of Justice and the ICRC signed a protocol on the medical treatment of prisoners on hunger strike. However, the death of these two detainees and many other unfortunate events have highlighted the need for reflection on mechanisms allowing detainees better treatment for their grievances, claims and complaints.

27 The duration of a custody order is for three days extendable once for the same duration under a written and reasoned decision by the Public Prosecutor. The new reform fixed the initial term of custody to 48 hours in order for crimes and offences extendable by 48 hours for a crime and 24 for offences. For contraventions, it was set at 24 hours, non-renewable. The duration of custody for terrorism cases continues to stand at five (5) days, renewable twice by the Prosecutor pursuant to a reasoned decision in writing.

28 Concluding Observations of the Committee against Torture: Tunisia 19/11/1998. A/4/44, paras.88-105.

29 Article 13 *"The authorities concerned may object to a planned or impromptu visit to a particular place only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder where the visit is set to take place, which temporarily prevent the visit taking place, and which, via a reasoned written decision should be immediately forwarded to the President of the body, mentioning the mandatory duration of the temporary ban"*.

c. Treatment of claims and complaints submitted by persons deprived of liberty

In theory, there are several ways that allow a person deprived of liberty to file claims and complaints. However, generally the processing of complaints suffers from a lack of efficiency and transparency.

Thus, a detainee can theoretically apply to the sentence enforcement judge to evoke grievances or ill-treatment, but the fields of intervention and powers of this institution are limited, as created by Law No. 2000-77 of July 23, 2000, and amended by law No. 2002-92 of October 22, 2002 to strengthen the powers of the sentence enforcement judge.

The sentence enforcement judge has the right to visit the prison at least once every two months (Art. 342-3 CCP) and to interview detainees subject to a conviction (Art. 17-7 of law No. 2001-52 of May 14, 2001 on the organisation of prisons). He is informed by the prison doctor of “*serious cases*”, receives an annual report written by the prison administration on social activity and he also writes an annual report to the Ministry of Justice (Art. 342-4 CCP).

However, despite these positive factors, the sentence enforcement judge is not dedicated full time to this function due to overwork and for the same reasons mentioned above in the case of prison doctors. His role is limited to its primary strictly judicial mission, of deciding on parole or discharge.

In theory, everyone has the right to administrative recourse by challenging an act or a decision adversely affecting him. Thus, a prisoner or a person held in custody may complain to the administrative departments concerned, including the general inspections in the Ministry of the Interior, the General Inspectorate of Prisons or the Directorate of Prisons³⁰.

However, the absence of a legislative framework concerning the status of refugees and asylum seekers is notable. It is the High Commissioner for Refugees (UNHCR), which handles cases of refugees and asylum seekers. Measures for the detention of foreigners in an irregular situation also require the development of specific legislation.

As for actions taken by the executive branch, as part of a terrorism case known as Bir Ali Ben Khalifa dating back to February 2012, the Ministry of Human Rights and Transitional Justice³¹ ordered the opening of an investigation to shed light on “*the strong possibility of acts of torture*” in this case. The Ministry’s investigation commission concluded that there was a “*strong possibility of the use of illegal means and ill-treatment during the investigation*” in this case. However, this finding was not followed by an announcement of measures to be taken against the perpetrators.

In 2012 the legislature created a special commission to investigate the use of excessive force against demonstrators on April 9, 2012. However, to date the commission has not submitted its conclusions.

Other administrative and / or judicial inquiries have been opened as a result of violence and excessive use of force against demonstrators in November 2012 in Siliana, but the results of these investigations are slow in coming.

The absence of an inventory on the number and outcome of these claims and specific data showing the causation between claims and disciplinary measures taken against law enforcement officers or referral to the judicial authorities, can only lead to doubts and reservations about the effectiveness of the treatment of complaints by the Administration. This lack of data concerns not only the judiciary itself but

30 Although the 2001 law on the organisation of prisons does not expressly establish an administrative appeal in the case of decisions of the Disciplinary Commission in these establishments.

31 This ministry was created by Decree No. 2012-22 of January 19, 2012, establishing the Ministry of Human Rights and Transitional Justice and fixing its powers.

also administrative departments, such as the Criminal Affairs Directorate in the Ministry of Justice or the ordinary and military courts.

Gabriela Knaul, the UN Special Rapporteur on the independence of judges and lawyers, stated in the report issued following her mission in Tunisia, dated November 27 to December 5, 2014, that "*she has been informed that there was no information technology infrastructure for the automatic assignment or management of cases, no database that records the number, type and status of court cases or statistics produced thereof or published*"³²

Access to data and archives is an essential condition for the good documentation of cases of human rights violations and their treatment. Without cooperation and facilitation of tasks on the part of the authorities, victims of grave human rights violations, including torture and ill-treatment, will never be able to obtain compensation and rehabilitation in accordance with Article 14 of the Convention against Torture.

32 Paragraph 52, report of the Special Rapporteur on the independence of judges and lawyers, regarding her mission to Tunisia, published on May 26, 2015, A/HRC/29/26/Add.3.

4. The victims of torture and other forms of cruel, inhuman or degrading treatment

Before January 14, 2011, victims of torture and other grave human rights violations were left to their own devices. The lucky ones were heard by civil society and international observers.

The events of January 14, 2011 have led to hopes for the ability of Tunisia to make progress on human rights. But such progress will take shape only through concrete measures and individual support for victims.

As already mentioned above, after the flight of Ben Ali, the first provisional government ratified new international conventions on human rights in February 2011, in particular the OPCAT, the International Convention for the protection of all persons against enforced disappearance, the Optional Protocol to the International Covenant on civil and political rights allowing the human rights Committee to receive individual communications, and the Rome Statute establishing the International Criminal Court.

Then came the decree laws³³ concerning the victims of the former regime, which were certainly not specific to torture and ill-treatment, however some of their provisions could apply to some victims.

Decree law No. 2011-1 was adopted on February 19, 2011³⁴, on amnesty for those who have been convicted or have been prosecuted for specific crimes but also *“for common or military law offences when the charges were made on the basis of a trade union or political activity”*. This decree gives the right to reinstatement in employment and to compensation claim (Art.2).

Decree law No. 2011-97 was adopted on October 24, 2011, on compensation for martyrs and the wounded of the revolution of January 14, 2011. Simultaneously, a National Investigation Commission on abuses recorded during the period from December 17, 2010 until the accomplishment of its objective, was created by decree law No. 2011-8 dated February 18, 2011.

Some victims have benefited from provisional compensation measures. However, as made clear in the report of Pablo de Greiff, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition, following his mission of November 11-16, 2012 in Tunisia: despite *“laudable efforts”* deployed to respond quickly to the demands of the victims, *“the measures taken so far, which are mostly one-off and separate, must be urgently integrated into an overall framework”*.

The Rapporteur then concluded that *“the measures taken to date have been mainly designed using an approach based on events or periods, which has led to classifying victims in various categories and has thus resulted in a worrying fragmentation among the different groups of victims, as well as within society, including civil society actors”*.

For example, among the victims of Barraket Essahel who have struggled to date to obtain full recognition of their rights, some have found themselves excluded from the amnesty because they had been tortured without there being any prosecutions or convictions. However, Law No. 2014-28 of June 19, 2014 relating to the situation of the military affected by the case known as *“Barraket Essahel”* helped to extend the amnesty to all victims of this case. But these measures alone will not guarantee justice to those victims whose careers were destroyed and who will experience the serious effects of torture for the rest of their lives.

33 Since January 14, 2011 and until the establishment of the National Constituent Assembly (NCA) after the first free and independent elections in the country on October 23, 2011, laws were passed in the form of decree laws by the provisional executive in place.

34 This decree-law was amended and supplemented by Law No. 26 of December 24, 2012 and a decree of November 18, 2013 fixed the composition and modalities of operation of the Technical Commission for the assessment of physical disability as established by this decree.

Victims of torture and other serious human rights violations need, as stressed by Special Rapporteur de Greiff, *"a true global policy, including the four components of transitional justice (truth, criminal justice, reparation and guarantees of non repetition)"*.

With this framework in mind, the National Constituent Assembly adopted organic law 2013-53 of December 24, 2013 on the establishment of transitional justice and its organisation.

This organic law, which refers in its first article to the four components of transitional justice, created the Forum for Truth and Dignity (*Instance de la Vérité et de la Dignité* - IVD), to investigate major violations of human rights that took place from July 1, 1955 until the promulgation of this law (Art. 17).

This transitional justice process, which began *de facto* upon the establishment of the first provisional government after the flight of Ben Ali, was confirmed by Article 148-9 of the Constitution of January 27, 2014 which establishes that *"the State undertakes to apply the system of transitional justice in all areas and within the time prescribed by the related legislation. In this context the evocation of the non-retroactivity of laws, the existence of a previous amnesty, the authority of res judicata, or the prescription of the crime or punishment, are inadmissible"*.

Since the installation of the IVD, whose members were elected by the National Constituent Assembly for a 4-year activity period to be extended for one year by a reasoned decision made by the body (Art. 18), this body has so far not been offered all the assets and support of the authorities that would allow it to perform its prerogatives and missions well.

Indeed, the IVD had to undertake negotiations to be assigned installation facilities and a budget allowing it to cover its operational needs. It is still fighting to gain access to data, information and records in possession of the State. The fund entitled 'the fund for the dignity and rehabilitation of victims of the dictatorship' (Art. 41), which will be used for reparation and compensation to victims, has so far not been regulated and thus not yet apportioned.

Communication between the IVD and the executive power is weak. A draft organic law on special procedures of reconciliation in the economic and financial field, which was not approved by the Venice Commission as it did not meet the criteria of transitional justice, was adopted by the Ministerial Council without proper consultation with the IVD.

Specialised chambers of trial courts housed within appeal courts will be responsible for deciding cases of serious human rights violations submitted by the IVD, including: murder, rape and other forms of sexual violence, torture, forced disappearance, the death penalty without guarantees of a fair trial, violations related to electoral fraud and financial corruption, embezzlement of public funds and forced migration for political reasons.

Decree No. 2014-2887 was adopted on August 8, 2014, establishing the specialised criminal courts for transitional justice, to be situated in the trial courts housed within the Courts of Appeal of Tunis, Sfax, Gafsa, Gabes, Sousse and Le Kef, and magistrates were appointed for this purpose.

Despite all the operational difficulties and differing political views on the process of transitional justice, the IVD declared in March 2016 that it has received 27,800 complaints³⁵ including 36 cases of enforced disappearances recorded during 1991-2008.

It should be noted that despite the adoption of the International Convention for the Protection of All Persons against Enforced Disappearance, national legislation does not yet have a mechanism to criminalise practices of enforced disappearance; nevertheless legislation is being prepared by the Executive. This legislation would allow addressing enforced disappearance cases legally, like the case of Kamel Matmati, who disappeared in 1991, and other cases.

35 The deadline for receipt of applications by the victims by the IVD will be closed in June 2016 one (1) year and a half since the start of the body's activities.

The process of transitional justice is essential for victims of grave violations of human rights and also an important step for the success of the democratic transition.

The IVD should improve its communication skills and ensure more transparency of its activities and its advances in the treatment of victim's records.

The authorities should support this process and pay special attention to urgent situations for the victims especially in terms of psychological and medical assistance. Indeed, many failures were noted in this area and torture victims and those injured in the revolution have found themselves fighting with the Administration to receive adequate medical assistance. There are existing civil society initiatives³⁶, but these cannot replace State obligations. The authorities announced the creation of a centre for the rehabilitation of victims of human rights violations, but to date this has not been established.

The authorities should also provide a response to the problems of dysfunctional justice in cases of torture and other violations of human rights.

Almost all victims of torture, including those who enter within the framework of transitional justice and those who sit outside that framework, have had disappointing experiences with the ordinary courts and military justice system. The cases of those martyred and wounded in the revolution finally treated by the military justice system include many judicial and extra-judicial incidents.

The disappointment of torture victims, those wounded in the revolution and the martyrs' families is particularly significant considering that some of their lawyers, such Leila Haddad, Najet Laabidi, Abderraouf Ayadi, Charfeddine Kellil and Abdennaceur Aouini have been brought before the ordinary courts or military courts, charged with contempt of public office or with insulting an official of the judiciary (Art. 125 and 126 of the Criminal Code) or other serious charges often used by the old regime in retaliation against opponents and critics. A complaint was filed against Imen Triki, Samir Ben Amor, Samia Abbou and Anouar Ouled Ali following their denunciation of abuse of power and significant suspicions of torture perpetrated by the Anti-terrorism Brigade at the Gorjani Centre.

Radhia Nasraoui has been the subject of a complaint after her statements criticising certain practices of forensic pathologists in cases of torture, especially some autopsies considered to be unduly brief.

The disappointment of the victims is even stronger when they see negative campaigning and defamation against human rights defenders at times leading even to aggression, such as in the case of Mohamed Attia and Chokri Dhouibi, members of the Steering Committee of the LTDH, attacked respectively in April 2012 and May 2014 during protests, H la Boujenah, assaulted on the night of August 24 to 25, 2014 in Sousse by police, Ahmed Ka n che, assaulted by police officers on July 8, 2014 in Sfax or activist Sadok Ben Mhenni and his daughter, blogger Lina Ben Mhenni, who were attacked while under police escort, on August 30, 2014 in Djerba by police officers.

Civil society is also often accused of 'sympathy with terrorists' after they report torture and other human rights violations in the context of terrorism cases.

The authorities should ensure an end to all these abuses because they are obstacles to the restoration of confidence in state institutions and the success of the democratic transition. Rooting itself as a State with a functioning rule of law would also allow Tunisia to promote its model in the region and to better fight against the threats of terrorism and destabilisation in the country.

36 The OMCT has established two centres called *Centres Sanad* for social and legal assistance to victims of torture, and Dignity created an institute for the rehabilitation of torture survivors, Nebras Institute. Other local organisations assist victims of torture by providing legal advice and psychological assistance

Conclusions and recommendations

In this turbulent context, and with the mixed results described, it is difficult to make a categorical statement on the current situation in Tunisia and the prevention of torture and ill-treatment.

What is certain is that the situation has changed since January 14, 2011, but the challenges are many and complex for the struggle against torture and for the success of democratic transition. Nothing is “completely won” or “completely lost”.

This periodic review should be used to advantage by the State party to identify obstacles to be eliminated and achievements to be strengthened.

Civil society can only recommend and urge Tunisia to continue to use as references at all times, international standards, good practice on human rights and the provisions of the new Tunisian Constitution. The spirit and letter of the Constitution should be implemented in practice and without delay.

Thus, we recommend the following to the State party:

- Ensure that Article 101 bis of the Criminal Code complies with Article I of the United Nations Convention against Torture and other cruel, inhuman and degrading treatment.
- Make the practice of enforced disappearance a crime punishable by law.
- Continue the moratorium on the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the death penalty.
- Make the optional declaration accepting the compulsory jurisdiction of the African Court to receive petitions from individuals or NGOs.
- Respect the decisions of the Committee against Torture and the periodicity of four years for periodic reports.
- Carry out a specific audit of cases of torture and ill-treatment in order to detect the reasons for the malfunctioning of justice.
- Install a numeric digital device enabling the visibility and accessibility of cases handled by the courts.
- Create an institution for a deputy prosecutor in charge of torture cases in each court of first instance.
- Enact legislation for the protection of witnesses and victims.
- Permit access to a lawyer from the first hours of custody and ensure proper implementation of the reform of the police custody system.
- Place the judicial police under the authority of the judiciary.
- Ensure control over investigations of the judicial police in particular through the prosecutors, who must themselves ensure their independence from the executive.
- Establish the National Authority for the Prevention of Torture and ensure all the means necessary for its proper functioning.

- Establish the human rights body in accordance with the Constitution and the Paris Principles.
- Reform the organic law that organises prisons so that it incorporates mechanisms for the treatment of prisoners' complaints, expands the list of persons able to visit detainees and grants access to a lawyer for the inmate during his sentence without prior authorisation.
- Find ways to improve working conditions, infrastructure and services provided to inmates in prisons.
- Place operational prison medical staff under the auspices of the Ministry of Health, which must be the responsible body for the prison health services.
- Make places for the deprivation of liberty more open to the outside world and the interventions of civil society.
- Reinforce the number of judges who enforce sentences (JEP) and broaden their prerogatives. The activity of the JEP should be dedicated to this function.
- Fight against prison overcrowding including limiting the use of preventive detention, by using alternative punishments and reforming law 52 on narcotics.
- Ensure the safety and protection of judges.
- Provide ongoing training on the Istanbul Protocol for prosecutors, judges, forensic doctors and forensic experts.
- Encourage judges to always refer to international conventions legally ratified by Tunisia.
- Adopt specific legislation on the right to asylum and the status of refugees and on measures for the detention of foreigners in an irregular situation.
- Encourage civil society to play its role as a partner with regard to the development of legislative and institutional reforms
- Ensure the separation of powers and set up a High Council for an autonomous and independent judiciary.
- Accelerate the process of establishing a Constitutional Court while ensuring its impartiality and independence.
- Limit the jurisdiction of military courts solely to military offences, as stipulated in Article 110 of the Constitution.
- Ensure the proper functioning of the specialised chambers for transitional justice.
- Support the process of transitional justice and provide the IVD all the means necessary for its proper functioning including access to data, information and records in possession of the state.
- Meet the urgent needs of victims of torture and ill-treatment in particular in terms of psychological and medical assistance.

Signatories

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AISPP		Association Internationale pour le Soutien des Prisonniers Politiques akermisaida2000@yahoo.fr
AJR		Association pour la Justice et la Réhabilitation Tel : +216 21 980 680 justice.rehabilitation@gmail.com
ATJA		Association Tunisienne des Jeunes Avocats Tel : +216 71 576 419 atja.avocats@gmail.com
CHAHED		Observatoire Chahed Tel : +216 71 241 775 observatoire.chahed@gmail.com www.chahed.tn
Damj		Damj, Association Tunisienne pour la justice et l'égalité Tel : +216 22 616 020 baaboubadr@yahoo.fr
EI KARAMA		Association El Karama Tel : +216 97 549 754 adppkarama@gmail.com
FTRJS		Fondation Tunisienne pour la Réforme Judiciaire et la Sécurité Tel/Fax: +216 71 240 212 tunisian.repese@gmail.com

INSAF



INSAF. Justice pour les Anciens Militaires

Tel : +216 71 257 453 | insaf.assoc@yahoo.fr | www.insaf-anc-mil.org

LIBERTE &
EQUITE



Liberté et Équité

www.facebook.com/liberte.equite

LTDH



Ligue Tunisienne pour la Défense des Droits de l'Homme

Tel : +216 71 258 001 | Fax : +216 71 257 005 | contact@ltdh-tunisie.org

OMCT



Organisation Mondiale Contre la Torture

Tel : +216 71 322 561 | Fax : +216 71 322 562 | www.omct-tunisie.org

OTIM



Observatoire Tunisienne pour l'Indépendance de la Justice

Tel : +216 71 224 224 | Fax : +216 71 224 244 | marsed.kadha.tn@gmail.com

OTP

Observatoire Tunisien des Prisons

Tel : +216 71 834 530 | obs.prisons@gmail.com

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