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COMMONPLACES

ABOUT POLICE VIOLENCE
IN TUNISIA



COMMONPLACE # 1

Torture no longer really exists in Tunisia, but rather cases of ill-treatment

WRONG!

Torture can take many forms that are not limited to abuses that we may connect in our minds with practices from medieval ages.

Torture, within the meaning of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by Tunisia, is constituted of any severe pain or suffering, physical or mental, inflicted by a State official on his or her order or with his or her consent. This suffering must be inflicted intentionally and for a specific purpose, such as for obtaining a confession, for punishing or for discriminating against someone.

While it goes without saying that the simulacrum of drowning, the pulling of nails or sexual abuse are undoubtedly torture, the same is also true for punches, kicks and hits with batons or other arms exercised repeatedly until causing severe pain.

Such abuse is unfortunately not uncommon in Tunisia. In recent years, the OMCT has documented several cases of sexual abuse, electrocution, beating in the roast chicken position, burns, as well as cases of stark beatings causing severe suffering sometimes with serious after-effects, cumulating in death.

COMMONPLACE # 2

Torture is only used to obtain confessions

WRONG!

According to the UN Convention against torture, torture is defined as violence causing severe pain or suffering, physical or mental, inflicted for an identifiable purpose, without necessarily obtaining a confession. The

objective may indeed be to obtain a confession or information in the course of an investigation, but it may also be for the purpose of punishing a person or to making him/her suffer because of his/her racial, sexual, religious or other affiliation. The list of reasons is not exhaustive.

The idea that torture is limited to obtaining a confession is an error mainly conveyed by Tunisian law, which provides a poor definition for torture. Article 101bis of the Tunisian Criminal Code limits torture to the purpose of obtaining confessions or information and to the purpose of racial discrimination. This makes Tunisian law very restrictive and not in line with the international definition. Tunisia must immediately review article 101bis of its Criminal Code.

In Tunisian practice, torture is still being used during police custody to obtain confessions or information and to force detainees to sign reports, which will then be used against them by investigative judges. In many of the cases that the OMCT documented, torture is also used by security agents for punitive purposes, in private or public places, as well as in police stations or in detention facilities and, torture is applied on grounds of gender discrimination, most notably against members of the LGBTIQ++ community.



COMMONPLACE # 3



Police violence is no longer widespread, there are only isolated cases

WRONG!

While the number of cases of torture are less frequent than before the revolution, ill-treatment remains widespread and is carried out in various circumstances against a broad range of persons from different

backgrounds. Humiliation, threats, slaps, punches, kicks, beatings with sticks are common during arrests and police custody, but also during disputes between a citizen and a police officer on the public highway or in private places.

Arbitrary detention as in the case of migrants illegally deprived of their liberty in the center of El Ouardia constitutes a form of ill-treatment. The same applies to police harassment and verbal and physical assaults inflicted on persons listed under administrative control measures or against members of the LGBTIQ++ community. The deprivation of care of a detainee whose state of health is deteriorating is also considered ill-treatment – and as we know – can have fatal consequences.

Police violence peaks when protests erupt. Police violence may take the form of excessive use of force during the dispersal of gatherings, particularly with the inappropriate use of tear gas, and frequent physical and verbal assaults during arrest and custody of suspected protesters. Such treatment, even when it does not reach the threshold of torture, is no less serious and must be condemned in the strongest possible terms. Despite all of this, violence remains entrenched in police habits as an “acceptable” form of interacting with citizens. This is possible due to the quasi-impunity of police forces.

COMMONPLACE # 4



The Ministry of the Interior no longer covers up those responsible for violence

WRONG!

It is true that the Ministry of the Interior recently announced to have suspended the perpetrators of the assault on the minor, who was forcibly stripped off his clothes and beaten in the streets in Sidi Hassine. This

was only due to the recording of the violent scenes and the capture of police violence, which sparked a wave of outrage. In many cases, police officers remain on duty, even if indicted or even if convicted for violence. In the rare cases where torture or ill-treatment is being pursued in a trial, the accused police officers are most often convicted in their absence without even attending their trial. This means that they were not arrested but, on the contrary, continued to work as if they had not been prosecuted for a crime.

Judges necessarily rely on judicial police to issue summons to defendants, to execute arrest warrants and to compel the accused to attend their trials. However, when the accused are members of the security forces, judicial police officers evade their obligations and allow the accused to escape justice. Not delivering arrest warrants constitutes a criminal offense and

judicial police should be held accountable. The Ministry of the Interior remains silent to civil society's regular questioning on the lack of professional conduct.

The ministry shows complacency towards police unions that publish press releases or statements on social media networks to evade justice. Police unions openly insult and threaten citizens without any consequence to their action.

COMMONPLACE # 5

Tunisian justice is no longer complicit in police violence

حرية
تونس
FREEDOM

WRONG!

Judges are more inclined to remand detainees, who have just been assaulted by the police in pre-trial detention rather than to record their allegations of violence and open an investigation against security forces.

This phenomenon is particularly evident during protests leading to waves of mass arrests. This was the case in January 2021 when hundreds of suspected protesters were arrested, assaulted during arrest and custody, and sometimes forced to sign protocols before being transferred to court. In many cases, prosecutors have ordered their remand without even seeing them, based solely on police records. In other cases, prosecutors briefly saw the detainees and kept them in detention, even though the detainees alleged that they had been assaulted and their right to a lawyer or a medical examination denied or that their families were not being notified. Any of these violations could have given rise to the nullity of the entire police custody.

In addition, when a victim of torture or ill-treatment files a complaint against a state official, the judicial investigation that is opened is always fraught with many obstacles. Investigations are indeed characterized by extreme slowness and by the lack of diligence of prosecutors and investigating judges, who ignore many investigative procedures essential to revealing the truth. In the rare instances when cases go to trial, regardless of the severity of the violence inflicted on the victims, the facts are never qualified as a crime of torture but, at best, a crime of violence. Again, this is due to the poor definition of torture in the Tunisian Criminal Code.