

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Two Detainees Report Beatings, Torture

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(Tunis) Tunisian authorities should open prompt and thorough investigations into allegations of mistreatment in Mornaguia prison. The allegations were brought by two suspects detained under the 2003 anti-terrorism law.

Mohamed Amine Guesmi, a suspect in the assassination of opposition leader Chokri Belaid, and Thameur Nassri, a 15-year-old boy detained for aiding terrorist networks in the Chaambi Mountains, filed complaints of mistreatment before judicial authorities on August 19 and 21, 2013, respectively. To date, the general prosecutor and the investigative judge have not officially opened an investigation into these allegations, nor have they ordered a medical examination of either prisoner to record physical evidence of abuse.

Even if the Tunisian authorities are under pressure over high-profile killings, they still cant abuse suspects, said Joe Stork, deputy Middle East and North Africa director at Human Rights Watch.

Guesmi was arrested on February 21 and charged with complicity in the killing of Belaid, the leftist leader assassinated on February 6. Guesmi is suspected of driving the motorcycle on which the alleged assassin, Kamel Gadhgadhi, fled the crime scene after killing Belaid.

Nassri was arrested on August 8 on suspicion of aiding a terrorist group hiding in the Chaambi Mountains, near [Tunisia's](#) border with Algeria. On July 29, eight soldiers were killed, three of them mutilated, by a group that the authorities said was close to Al Qaida in the Islamic Maghreb. Since April 28, more than 16 members of the Tunisian security forces have been injured during counterterrorism operations in the region.

Guesmi's lawyer, Salha Ben Farah, told Human Rights Watch that she saw him on August 2 in Mornaguia prison. At the time of the visit, Guesmi bore no visible signs of mistreatment and was in good health. His wife, Hela Farah Guesmi, told Human Rights Watch that she visited her husband in prison on August 13 and that he was still in good health.

When Ben Farah went to visit her client on August 16, the prison authorities told her he had been sent to a hospital for treatment, without disclosing the name of the hospital or the nature of his ailment. Farah told Human Rights Watch that she spoke with two of her other clients, Yasser Mouelhi and Mohamed Ali Dammak, also suspects in Belaid's killing, who had been held in the same cell as Guesmi. They told her that the prison authorities had not brought Guesmi back to their cell since he left for his wife's visit on August 13. The lawyer waited until 3 p.m., but Guesmi was not brought back to the prison. His family went to look for him in hospitals throughout the governorate of Tunis, but could not find him.

On August 17, the general director of prisons, Habib Sboui, denied on Radio Mosaique that Guesmi had been subjected to mistreatment or that he had disappeared, and said that his family is welcome to come and visit him at any time. However, when his wife, accompanied by a Human Rights Watch researcher and two journalists, went to the prison to ask to see him, prison authorities denied them access, saying that they had to come during official visiting hours.

Later that afternoon, Mohamed Ali, Guesmi's brother, went to the prison to ask to see him, and this time the authorities authorized the visit. Mohamed Ali told Human Rights Watch:

I was allowed to see him for only five minutes. I wanted to shake hands with him, but my brother couldn't move his right arm, he was supporting it with his left arm. He had also dark marks around his wrists, seemingly from the handcuffs.

Ben Farah told Human Rights Watch that she went with three other lawyers from the defense team to visit Guesmi on August 19. She too saw dark marks around his wrists, which she thinks resulted from the prolonged use of handcuffs. She said that Guesmi showed them

bruises on his right arm that he said were from beatings. He told them prison guards put him in a punishment cell for five days and beat him.

These accounts did not indicate the reasons for the beatings. Prison authorities told Guesmis lawyers that he had been put in a punitive isolation cell because he had behaved aggressively toward a guard. Law no. 2001-52 of May 14, 2001, concerning the organization of prisons, provides for progressive disciplinary measures for detainees who break the prisons regulations. Article 22 states that prison authorities may decide as a disciplinary measure to confine the detainee in an isolation cell equipped with the necessary sanitary facilities, after consulting the prison doctor, and for a period not exceeding ten days. Under no circumstances could beatings and torture be justified as disciplinary measures.

Ben Farah told Human Rights Watch that Guesmis defense team filed a complaint of torture against prison authorities before the investigative judge of the 13<sup>th</sup> bureau of the Tunis First Instance Tribunal, who is in charge of investigating Belaid's killing. They also requested a medical examination of their client. They said that so far, the investigative judge has not ordered a medical examination and has not officially opened an investigation into the torture allegations.

In the case of Nassri, Human Rights Watch has collected credible information about allegations of beatings and mistreatment. Neji Nassri, Thamer's father, told Human Rights Watch that the National Guard arrested his son on August 8 and transferred him to Aouina, the National Guard headquarters in Tunis. When the father saw the son about a week later in the Mornaguia prison, Thamer told him he had been beaten and threatened with rape.

Thamer Nassri's lawyer, Rafik el Ghak, told Human Rights Watch that for security reasons, the juvenile judge decided to place his client in an individual cell on August 15. When el Ghak visited on August 16, he saw bruises on Nassri's temples, and on his arms. Nassri told his lawyer that several prison agents had come in and out of the isolation cell, beating him and telling him, "You will see what we will do to you, you terrorist." He told el Ghak that one of the guards lashed his arms with a hosepipe, and others kicked him on the legs with their boots and slapped his face. El Ghak said that on August 21 he filed a complaint to the prosecutor of the Manouba First Instance Tribunal, and requested an immediate medical examination for his client. However, the prosecutor has not yet ordered a medical examination or issued a formal request to open an investigation into the torture allegation.

A forensic examination of torture victims at an early stage is critical for the effective investigation of torture and other ill-treatment and punishment. Delays in performing medical examinations undermine the record of physical evidence of abuse.

Principle 2 of the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) requires States to ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated.

Principle 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that, "No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment."

Torture and other ill-treatment were rampant under former president Zine El Abidine Ben Ali, who fled in January 2011. The UN special rapporteur on torture, who visited Tunisia in May 2011, noted ongoing torture and other ill-treatment. He highlighted the need for Tunisian authorities to conduct in-depth investigations of reports of torture and ill-treatment, to prosecute those responsible, and to give the victims access to effective remedies and reparation.

Crucial for combating ill-treatment is a functioning system of independent and unannounced visits to monitor all places where persons are held when deprived of their liberty. Tunisia ratified the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment on September 1988, and signed the Optional Protocol to the Convention against Torture (OPCAT) on June 29, 2011. On November 11, 2012, the Ministry of Human Rights and Transitional Justice submitted a draft law to the NCA to create a national body responsible for independent monitoring of detention centers.

However, the NCA has not yet ratified it.

Impunity for torture should be a relic of the old Tunisia, Stork said. In order to end abuse of prisoners, authorities should open investigations, hold people to account, and promptly establish a national preventative mechanism with the widest mandate to visit all places of detention.

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