

Tunisia: Counter-terrorism law to protect from torture and ill-treatment

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Today, the OMCT called for any new counter-terrorism law and policy to effectively prevent torture, cruel and inhuman or degrading treatment.

‘The debate on a new counter-terrorism law in Tunisia provides the opportunity to mark a clear departure from the past, to comply with human rights and provide effective safeguards against torture and other forms of ill-treatment’, said Gerald Staberock, OMCT Secretary General, addressing a consultation hosted by the Tunisian Minister for Human Rights and Transitional Justice. Access to a lawyer from the moment of arrest (garde à vue) and judicial oversight over detention are but two of the fundamental safeguards to prevent abuse. ‘The adoption of a national preventive mechanism (NPM) on torture presently under consideration would be another important step securing unhindered access to any place of detention, including national security detention’, stated Gerald Staberock.

The OMCT recalled the legacy of the 2003 counter-terrorism law, which resulted in systematic and widespread torture, enforced disappearances and other serious human rights violations. The OMCT reiterated some lessons learnt from global counter-terrorism: to clearly separate law enforcement and intelligence powers, to proceed with security sector reform and to ensure full legal and democratic accountability of any element of the security infrastructure.

‘Acts of terrorism attack the very values that human rights law seeks to protect. Threats of terrorist acts need to be taken seriously. One of the best protection measures against such threats is the protection and empowerment of actors striving for an open and tolerant democratic society,’ he noted.

Any new counter-terrorism law needs to clearly prescribe criminal offences (which the 2003 law failed to do) and treat them within the ordinary criminal justice system. From OMCT’s global experience, it is vital to align law enforcement with the rule of law to enable investigations into complex criminality. Equally critical is reinforcing the independence of the judiciary, which would enable the justice system to address acts of terrorism in the future with full respect for the right to a fair trial.

The OMCT welcomes the commitment articulated by the Ministry of Human Rights and Transitional Justice to address terrorist acts with full respect for human rights and for the absolute prohibition of torture, cruel and inhuman or degrading treatment. The OMCT considers of great importance the continuous engagement of civil society in the elaboration of a new counter-terrorism law.

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