Rapporto di ricerca COI Realizzato dall'Ufficio Immigrazione di ARCI nazionale

aggiornato al 31 marzo 2023

CONTESTO		NOTE
Paese di origine	Tunisia	N/D
QUESITO COI		**NOTE**
Tematica	GBV	M
Formulazione quesiti COI	**1. Risultano informazioni sul ricorso alla tortura da parte delle autorità statali (si consideri il periodo 2021/2023)?**	

Nota metodologica

1. Nel corso della presente ricerca è stata indagato il tema della tortura in Tunisia in senso ampio, indagando per temi (in generale / in detenzione / LGBTI). Ognuno dei profili può essere quindi ulteriormente approfondito in maniera specifica (considerando ad esempio luoghi, profili individuali, procedure amministrative/penali ecc.);

2. le fonti in lingua araba, non potendo fornire una traduzione certificata del testo sono state brevemente riassunte nei contenuti. In nota i paragrafi in lingua originali interessati;

3. Il presente Ufficio resta a disposizione per confrontarsi relativamente alle fonti e ai contenuti citati, oltre che per eventuali approfondimenti rispetto ai quesiti posti, le risultanze emerse e altre tematiche.

Roma
31/03/2023

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Per indagare il tema della tortura in Tunisia può risultare utile inquadrare l'indagine all'interno del contesto complessivo della Tunisia. Specificatamente, le fonti danno conto di come nell'ultimo anno siano continuate le gravi violazioni dei diritti umani, tra cui le limitazioni alla libertà di parola, la violenza contro le donne e le restrizioni arbitrarie imposte dallo stato di emergenza del Paese:

> "...In 2022, serious human rights violations continued, including restrictions on free speech, violence against women, and arbitrary restrictions under the country's state of emergency. Authorities have taken a range of repressive measures against opponents, critics, and political figures, including assigning them to fixed residences, imposing travel bans, and prosecuting them —sometimes in military courts—for public criticism of the president,security forces, or other officials. President Kais Saied's July 2021 power grab has weakened government institutions designed to check presidential powers and stunted the country's democratic transition.."[1]

La prosecuzione dello stato di emergenza, effettivamente, permette di adottare misure per fermare assemblee e manifestazioni, imporre il coprifuoco e reprimere le organizzazioni dei

1 HRW – Human Rights Watch: World Report 2023 - Tunisia, 12 January 2023 https://www.ecoi.net/en/document/2085505.html (accessed on 31 March 2023)

media. Restrizioni segnalate dai gruppi per i diritti umani, in quanto spesso strumentalizzate e e come potenziali violazioni dei diritti umani:

> "..State of emergency extended
> Various media reported on 01.02.23 that the state of emergency, which has been in force since 2015, has been extended until the end of the year. It was supposed to end on 30.01.23. Under the state of emergency, measures 11 can be enacted to stop assemblies and demonstrations, impose curfews and crack down on media organisations. According to human rights groups, the restrictions constitute violations of human rights because they are often abused.."[2]

Ciò in un contesto caratterizzato dalla azione presidenziale volta a sospendere parte della Costituzione tunisina (in particolar modo la tutela dei diritti e delle libertà[3]), e minando l'indipendenza giurisdizionale[4]:

> "...The refusal to reinstate the dismissed magistrates is among the latest moves against the judicial branch that Saied has taken since his power grab on July 25, 2021. That day, the president said he would take over supervision of public prosecution. Then, on February 12, 2022, as part of his purported war on corruption, Saied unilaterally dissolved the High Judicial Council (HJC), a constitutional body mandated to guarantee the independence of the judiciary. He replaced it, through decree no. 2022-11, with a temporary HJC in which all 21 members are appointed, including 9 directly by the president. The same decree-law gave the president the power to intervene in the appointment, career tracks, and dismissal of magistrates..."[5]

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Informazioni sulla tortura in Tunisia

In questo contesto, il ricorso alla tortura in Tunisia da parte delle autorità statali viene pacificamente richiamato dalle fonti internazionali tra il novero dei diritti umani violati in Tunisia:

2 BAMF, Briefing NotesGroup, 62 – Information Centre for Asylum and Migration6 February 2023, available at: https://www.bamf.de/SharedDocs/Anlagen/EN/Behoerde/Informationszentrum/BriefingNotes/2023/briefingnotes-kw06-2023.pdf?__blob=publicationFile&v=3 (accessed on 31 March 2023)

3 Specificatamente con un decreto presidenziale che sospende la parte delal costituzione dedicata ai diritti e alle libertà: *"...According to presidential decree 117, the constitution of 2014 was suspended except for the preamble and the first two chapters on general provisions and rights and freedoms. The transitional provisions provide the President of the Republic solely with the prerogative to legislate in all areas whether related to the organisation of justice and the judiciary, the organisation of information, the press, the organisation of political parties, unions, associations, organisations and professional orders as well as their financing, the organisation of internal security forces and customs, the electoral law, freedoms and human rights, personal status, or local power, and the organic budget law. The Presidency goes even further and reverses the universal rule of the supremacy of the Constitution by placing the presidential decree-laws above the constitution. The chapters maintained in the constitution will only be respected when they do not contravene the exceptional measures and presidential decree-laws…"* OMCRT, press release 25/09/2021, Tunisia: President's power grab an alarming slide towards authoritarianism, avaialble at: https://www.omct.org/en/resources/news-releases/tunisia-presidents-power-grab-an-alarming-slide-towards-*authoritarianism* *(accessed on 31 March 2023)*

4 Si veda, similmente, il rapporto di AI – Amnesty International: Amnesty International Report 2022/23; The State of the World's Human Rights; Tunisia 2022, 27 March 2023 https://www.ecoi.net/en/document/2089657.html (accessed on 31 March 2023)

5 HRW, Tunisia: President Intensifies Attacks on Judicial Independence, 2023, available at: https://www.hrw.org/news/2023/02/27/tunisia-president-intensifies-attacks-judicial-independence (accessed on 31 March 2023)

> "...Significant human rights issues included credible reports of: torture by government agents; arbitrary arrests or detentions; serious problems with the independence of the judiciary; serious restrictions on freedom of expression and media, including arrests or prosecutions of journalists, censorship, or enforcement of or threat to enforce criminal libel laws to limit expression; government corruption; discrimination and societal abuses; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, and intersex persons; laws criminalizing consensual same-sex sexual conduct between adults and the enforcement of those laws; and the worst forms of child labor…."[6]

Similmente poi, si hanno molteplici riscontri rispetto alla sussistenza di fenomeni di tortura e violazione dei diritti umani in Tunisia, in un generale regime di impunità delle forze di sicurezza statali:

> "...Since 2018, the FCO has not identified Tunisia as a "Human Rights Priority Country", however there are still ongoing human rights concerns: torture and mistreatment; the impunity of security forces; arbitrary arrests; prolonged periods of detention and prison conditions.."[7]

In questo senso si noti come, sebbene il Sub-comitato per la prevenzione della tortura UN abbia valorizzato e apprezzato i passi avanti fatti dal Governo per contrastare la tortura in Tunisia (come la costituzione di un ente per la prevenzione della tortura stessa), allo stesso tempo l'attenzione rimane alta e i problemi "seri", in particolar modo considerando la violenza imputabile alla polizia:

> "...Experts from the UN Sub-Committee on Prevention of Torture (SPT) confirmed, on Wednesday 6 April 2022, that Tunisia has made progress in the prevention of torture through establishing an effective national preventive body, with reference to the National Authority for the Prevention of Torture. However, they noted that there are problems, which they described as serious, that need to be resolved. They indicated, particularly, the violence committed by police..."[8]

Conseguentemente risultano diversi appelli (sia da parte di osservatori internazionali che di organicazioni nazionali), che sottolineano come la Tunisia debba ancora adeguare la definizione stessa di tortura nell'ambito della propria legislazione penale agli standard internazionali[9].

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6 USDOS – US Department of State: 2022 Country Report on Human Rights Practices: Tunisia, 20 March 2023 https://www.ecoi.net/en/document/2089227.html (accessed on 31 March 2023)

7 UK Gov, GuidanceOverseas business risk: Tunisia , 2022, available at: https://www.gov.uk/government/publications/overseas-business-risk-tunisia/overseas-business-risk-tunisia (accessed on 31 March 2023)

8 Middle East Monitor, 2022, UN: Tunisia has serious problems that need addressing , available at: https://www.middleeastmonitor.com/20220407-un-tunisia-has-serious-problems-that-need-addressing/ (accessed on 31 March 2023)

9 In questo senso, specificatamente, si noti come la definizione di tortura sia circoscritta alle attività volte ad estorcere confessioni. In questo senso la limitazione di definizione gioca un ruolo evidente nel livello di impunità tra le forze dell'ordine"… *L'impunité est aussi une double torture dont la tolérance n'est qu'un crime désavoué. L'Etat y est pour quelque chose, à vrai dire. A commencer par la réforme de la loi et son application d'une manière équitable. L'article 101 bis du code pénal, si obsolète soit-il, n'est plus à la mode, vu qu'il réduit la torture à des pressions exercées aux fins d'arracher des aveux…*" La Presse Tn, 2022, Lutte contre la torture : Ni sanctions ni poursuites judiciaires !, available at: https://lapresse.tn/129833/lutte-contre-la-torture-ni-sanctions-ni-poursuites-judiciaires/ (accessed on 31 March 2023)

Similmente, le fonti sottolineano la necessità di garantire l'avvio di indagini (e di processi) effettive a fronti delle denunce per tortura, così come la garanzia di equa riparazione per le vittime:

> "...The Committee recommended that Tunisia take the necessary steps to amend article 101 bis of the Criminal Code on the definition of torture, in order to bring it into line with the internationally accepted definition, and to ensure that complaints of torture or ill-treatment were investigated promptly, impartially and with due diligence by judicial officials, that persons suspected of such acts were duly tried and, if found guilty, were punished in a manner commensurate with the gravity of their acts, and that victims were granted adequate reparation.41 OHCHR made similar observations and recommendations42 and recommended that Tunisia develop a strategic plan for reform of the internal security sector to bring its legislation, procedures, and practices into line with international human rights standards while building the human rights capacity of the Internal Security Forces and equipping interrogation rooms with cameras..."[10]

Effettivamente il tema della impunità delle forze dell'ordine viene costantemente richiamato dalle fonti internazionali. In questo senso, il ricorso alla tortura sembrerebbe essere maggiormente (o generalmente) riconducibile alla azione della polizia tunisina nell'esercizio delle sue funzioni. Questo tanto considerando azioni con scopo punitivo, così come quelle volte ad ottenere confessioni. Ciò senza poi considerare la casistica di persone picchiate o molestate a causa del loro orientamento sessuale, delle loro presunte convinzioni religiose o del loro attivismo per i diritti umani:

> ".... Mais le laxisme et l'impunité l'emportent. On n'a pas encore retenu la leçon ! Violence institutionnelle, jusqu'à quand ? Le 5e rapport 2020-2021 du Sanad, programme d'assistance directe aux victimes de torture et de mauvais traitements de l'Omct en Tunisie, en dit long. Son bilan est assez critique : « Ces deux dernières années, Sanad a pu documenter 103 victimes agressées dans des lieux publics à des fins punitives par des agents de police agissant dans le cadre de leurs fonctions ou même à la suite d'une dispute d'ordre privé, des cas de personnes torturées ou maltraitées en garde à vue pour obtenir des aveux, violentées en détention, rouées de coups ou harcelées en raison de leur orientation sexuelle, de leurs croyances religieuses supposées ou de leur activisme en faveur des droits humains »..."[11]

Nel dettaglio , si veda in questo senso, il citato rapporto SANAD 2020/2021[12] , che sottolinea come la maggior parte dei casi di violenza e tortura commessi da parte della polizia sia appunto di natura punitiva, a seguito di alterchi tra cittadini e forze dell'ordine (polizia o guardia nazionale):

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10 HRC – UN Human Rights Council (formerly UN Commission on Human Rights): Tunisia; Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights [A/HRC/WG.6/41/TUN/2], 22 August 2022 https://www.ecoi.net/en/file/local/2080563/G2246640+%281%29.pdf (accessed on 31 March 2023)

11 La Presse Tn, 2022, Lutte contre la torture : Ni sanctions ni poursuites judiciaires !, available at: https://lapresse.tn/129833/lutte-contre-la-torture-ni-sanctions-ni-poursuites-judiciaires/ (accessed on 31 March 2023)

12 Nota metodologica: SANAD è il programma di assistenza diretta alle vittime di tortura e maltrattamento e maltrattamenti nell'ambito dell'Organizzazione mondiale contro la tortura (OMCT) in Tunisia.

> "...Dans la majorité des cas, les tortures et mauvais traitements infligés à des fins punitives le sont à la suite d'une dispute opposant un citoyen tunisien avec un agent de police ou de la garde nationale en service..."[13]

Similmente, nel rapporto del 2022:

> "…Depuis le dernier examen de la Tunisie, nos organisations ont documenté des dizaines decas de torture et/ou de traitements cruels inhumains ou dégradants (TCID) perpétrés par desagents de la police ou de la garde nationale - deux entités relevant du ministère de l'Intérieur- à des fins punitives, à la suite d'une dispute. Il s'agit parfois d'une dispute d'ordre privéeau cours de laquelle l'agent, agissant en dehors de son travail, abuse de son statut et deson autorité. Dans la majorité des cas, les tortures et mauvais traitements infligés à des finspunitives le sont à la suite d'une dispute opposant un citoyen tunisien avec un agent de policeou de la garde nationale en service..."[14]

Lo stesso rapporto sottolinea un diffuso livello di violazione delle garanzie procedurali come precondizioni della violenza istituzionale. A titolo esemplificativo, che sia a scopo punitivo o per ottenere una confessione, si sottolinea come nella maggior parte dei casi la violenza inizi in luoghi pubblici o a casa della persona arrestata e continua alla stazione di polizia. Ciò tuttavia, considerano come normalmente gli arresti vengono sempre effettuati senza mandato e, in molti casi, non in flagranza di reato, in violazione delle norme del Codice di procedura penale che regolano gli arresti. Questo spiega perché, in molti casi, la persona aggredita dalla polizia viene portata in commissariato e accusata di oltraggio o di altre false accuse per giustificare l'arresto a posteriori e, allo stesso tempo, dissuadere la vittima dal presentare denuncia.[15]

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13 Sul punto, dalla stessa fonte, si noti come il ricorso ai reati per oltraggio a pubblico ufficiale sia spesso utilizzato in maniera pretestuosa per gisutificare, ex post, arresti arbitrati: "*...Nombreuses sont les victimes accusées abusivement d'outrage à fonctionnaire public sur le fondement du très problématique article 125 du Code pénal. Cette accusation est généralement concomitante à la violence et vise à justifier a posteriori des arrestations arbitraires et/ou à faire pression sur la victime pour qu'elle renonce à poursuivre les agents qui l'ont agressée. Le recours par les agents à une accusation mensongère est très courant et d'autant plus problématique qu'il donne souvent lieu à des poursuites judiciaires effectives avec la complicité des magistrats…"* OMCT, Le constat, volume 1, 2021, available at: https://omct-tunisie.org/wp-content/uploads/2022/01/Rapport-annuel-SANAD-2020-2021-FR.pdf , come altresì: Sputnikarabic, 2023, available at: https://sputnikarabic.ae/20230129/حالات-التعذيب-في-تونس-1072848851.html , specificatamente: ".. وعندما يتعلق الأمر برجال الشرطة، عادة ما تنقلب الأمور على الضحايا الذين يتحولون بسرعة البرق إلى متهمين، كما يقول الحقوقي التونسي ونائب رئيس المنظمة العالمية لمناهضة التعذيب مختار الطريفي لـ "سبوتنيك".
ويؤكد الطريفي أن مصير أغلب قضايا التعذيب المرفوعة ضد أعوان الأمن يكون القبر، بل الأدهى من ذلك فإن أكثر من 70 بالمائة من ضحايا العنف البوليسي أو الشاهدين عليه توجه لهم تهمة "هضم جانب موظف عمومي" أو تهما كيدية مشابهة وتسلط عليهم أحكام تصل إلى السجن…" (accessed on 31 March 2023)

14 OMCT, 2022, Soumission conjointe pour l'Examen périodique universelde la Tunisie, 41ème session du groupe de travail de l'EPU, available at: https://omct-tunisie.org/wp-content/uploads/2022/03/2022_Rapport-Alternatif-EPU-torture.pdf (accessed on 31 March 2023)

15 In maniera più estesa: "*...Qu'elles soient exercées à des fins punitives ou pour obtenir des aveux, dans la majorité des cas, les violences débutent dans des lieux publics (au stade, dans la rue, à l'hôpital, etc.) ou au domicile de la personne arrêtée et se poursuivent au poste de police. 15. A de très rares exceptions, les arrestations ont toujours lieu sans mandat et, bien souvent, en dehors de tout flagrant délit, en violation des règles du Code de procédure pénal règlementant les arrestations. Ceci explique que dans bien des cas, la personne agressée par les forces de l'ordre soit conduite au poste de police et accusé d'outrage ou autre accusation mensongère afin de justifier à posteriori l'arrestation et de dissuader par la même occasion la victime de porter plainte. 16. Dans la majorité des cas, une fois au poste de police, le détenu n'est pas notifié de son droit à un avocat, ni de son droit à un examen médical et à faire prévenir sa famille, en violation de la loi n°2016-5 adoptée le 16 février 2016 pour accroître les garanties procédurales du gardé à vue et prévenir ainsi le recours à la violence et à la falsification des procès-*

Similmente:

> "...The law prohibits such practices, but there were credible reports government officials used them. The constitution prohibits "moral and physical torture," and the penal code penalizes the use of "violence" when it is used without just cause. Civil society organizations criticized the criminal code as insufficient to cover torture and not in line with international standards.
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> The National Police reportedly subjected some detainees to harsh physical treatment, according to firsthand accounts provided to national and international organizations. Several prominent local human rights activists decried the practice of what they referred to as torture in police stations and detention centers. The Tunisian League for the Defense of Human Rights (LTDH) recorded 21 suspected deaths and other violations of human rights of detainees in detention centers and prisons during the year. ...[…]… e law requires police to have a warrant to arrest an alleged suspect unless a crime is in progress or the arrest is for a felony. Arresting officers must inform detainees of their rights, immediately notify detainees' families of the arrest, and make a complete record of the times and dates of such notifications...[…]...Media and civil society reported police failed at times to follow these regulations and, on occasion, detained persons arbitrarily. .."[16]

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Tortura in detenzione

Considerando invece il ricorso alla violenza e alla tortura nei luoghi di detenzione (o comunque durante la presa in custodia da parte della polizia), OHCR ne da conto come di un fenomeno non isolato:

> "...OHCHR noted serious concerns about restrictions on freedoms, including house arrest without formal notification or explanation, and arbitrary arrest and detention. It noted that the practice of torture continued to be observed in places of deprivation of liberty.40 18. The Human Rights Committee noted that the definition of torture was still not in conformity with article 7 of the Covenant.It noted with concern that torture continued to be practised in the security sector, particularly during police custody, that the number of convictions for cases of torture and ill-treatment remained very low and that sentences handed down remained particularly lenient and reparations to victims insufficient…"[17]

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*verbaux d'enquête. Bien souvent, le procès-verbal de garde à vue mentionne que le gardé à vue a été informé de ses droits et qu'il y a renoncé. Dans certains cas, le détenu demande explicitement à bénéficier de son droit à un avocat mais cela lui est refusé. 17. Dans le cas où le gardé à vue serait soupçonné de crime, s'il ne renonce pas à l'assistance d'un avocat mais qu'il ne peut pas en désigner un lui-même, faute de moyen, un avocat doit être commis d'office. En pratique de nombreux accusés de crimes ne bénéficient de l'assistance d'un avocat qu'au moment de la première audience devant le tribunal. La désignation d'office reste un mécanisme peu utilisé par la police judiciaire et les avocats, peu indemnisés et avec plusieurs mois de retard, sont réticents à apporter leur assistance plusieurs mois de retard, sont réticents à apporter leur assistance.…"*OMCT, 2022, Soumission conjointe pour l'Examen périodique universelde la Tunisie, 41ème session du groupe de travail de l'EPU, available at: https://omct-tunisie.org/wp-content/uploads/2022/03/2022_Rapport-Alternatif-EPU-torture.pdf (accessed on 31 March 2023)

16 USDOS – US Department of State: 2022 Country Report on Human Rights Practices: Tunisia, 20 March 2023 https://www.ecoi.net/en/document/2089227.html (accessed on 31 March 2023)

In questo senso occorre notare come le fonti inscrivano il tema della violenza della polizia (e la sua impunità) all'interno di un contesto carcerario caratterizzato da un serio sovraffollamento, che impedisce la divisione tra condannati e accusati[18], e la violenza impunita della polizia[19]:

> "...The United Nations experts affirmed that the visit revealed problems, which they described as serious, and said that these problems worried the Sub-Committee.
> The experts indicated the overcrowding in prisons, which they said prevents separating prisoners in case of remand. They also pointed out to the convicted prisoners, and the violence of police, which they confirmed that is still continuing, attributing that to the impunity of the perpetrators..." [20]

Ancora, considerando casi di cittadini morti in conseguenza delle torture e delle violenze subite durante l'arresto, si veda:

> "... En Tunisie aujourd'hui, les cas de torture et d'autres mauvais traitements lors d'arrestations et en détention aux mains de la police restent systématiquement impunis. Il est scandaleux qu'aucune procédure pénale engagée contre un membre des forces de sécurité pour torture n'ait abouti », a déclaré Amna Guellali. ..." [21 e 22]

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17 HRC – UN Human Rights Council (formerly UN Commission on Human Rights): Tunisia; Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights [A/HRC/WG.6/41/TUN/2], 22 August 2022 https://www.ecoi.net/en/file/local/2080563/G2246640+%281%29.pdf (accessed on 31 March 2023)

18 Sul punto, similmente: *"...The visit, however, revealed severe issues of concern to the SPT, including prison overcrowding which prevents the separation of accused and convicted detainees. Police violence also persists because of the impunity of its perpetrators..."* OHCR, 2022, Tunisia: Progress made but concerns remain, says UN torture prevention body, available at: https://www.ohchr.org/en/press-releases/2022/04/tunisia-progress-made-concerns-remain-says-un-torture-prevention-body (accessed on 31 March 2023)

19 Per una più ampia panoramica relativa alla violazione dei diritti umani nei carceri tunisini si veda: AA, 2021, Tunisie : 630 violations des droits de l'homme dans les prisons en une année, available at: https://www.aa.com.tr/fr/afrique/tunisie-630-violations-des-droits-de-lhomme-dans-les-prisons-en-une-année/2211476# (accessed on 31 March 2023): *"...Une instance officielle tunisienne a annoncé, vendredi, que 630 violations des droits de l'homme avaient été enregistrées dans les prisons et les centres de détention du pays, en l'espace d'un an. C'est ce qui ressort des déclarations de Fathi Jarray, président de l'instance tunisienne de prévention de la torture (INPT - indépendante), lors d'une intervention devant le Parlement. "Au cours de la période comprise entre mars 2020 et mars 2021, l'instance a reçu 630 rapports concernant des violations des droits de l'homme dans les prisons et les centres de détention et de garde à vue", a déclaré Jarray..."*

20 Middle East Monitor, 2022, UN: Tunisia has serious problems that need addressing , available at: https://www.middleeastmonitor.com/20220407-un-tunisia-has-serious-problems-that-need-addressing/ (accessed on 31 March 2023)

21 AI, 2021,Tunisie, Tunisie. La mort d'une personne après une arrestation violente met en exergue l'impunité au sein de la police, available at: https://www.amnesty.org/fr/latest/news/2021/06/tunisi-death-following-violent-arrest-highlights-cycle-of-police-impunity-2/ (accessed on 31 March 2023)

22 Similmente: *"...l'affaire Moez Laâmari, jeune keffois récemment décédé sous les bottes de ses tortionnaires à la prison civile de Mornag, vient s'ajouter à la longue liste des victimes de la violence policière en Tunisie. Celles dont le droit à la vie, un des droits de l'homme des plus élémentaires en Tunisie, a été brutalement violé. C'est là un autre cas de torture et de mauvais traitement signalé et vivement dénoncé, sans que justice ne lui soit rendue..."*La presse, 2021, Pleins feux sur l'affaire Moez Laâmari : Une nouvelle victime de la torture ! , available at: https://lapresse.tn/104810/pleins-feux-sur-laffaire-moez-laamari-une-nouvelle-victime-de-la-torture/ (accessed on 31 March 2023)

Similmente, nel rapporto SANAD si conferma il ricorso della tortura a scopo punitivo nelle carceri, a opera della polizia penitenziaria:

> "...La torture à des fins punitives peut aussi être exercée en prison par des agents pénitentiaires. Ces cas sont moins nombreux que ceux impliquant des policiers ou des agents de la garde nationale, mais ils n'en sont pas pour autant anecdotiques..."[23]

Così come, tra l'altro, ribadito dal capo dell'Autorità nazionale per la prevenzione della tortura , Fathi al-Jari, che durante una sessione plenaria dedicata al dialogo sulla prevenzione della tortura in Tunisia, che "le condizioni carcerarie non rispettano gli standard internazionali, e non conformi alle garanzie della legge tunisina garantite ai detenuti ", sottolineando che la tortura colpisce tutte le fasce d'età.[24]

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Tortura come mezzo di contrasto al crimine

Se poi emergono fonti ulteriori relative a (presunte) torture e violenze a scopo politico:

> "...Two Tunisian citizens have filed a lawsuit in Washington against the country's interior minister and the head of the presidential guard, accusing them of playing a role in the alleged "abduction-style detention" and torture of a lawyer as well as the extrajudicial killing of a protester in January 2022.
> The civil lawsuit, filed on Wednesday evening in the US District Court for the District of Columbia, names both Tunisian Interior Minister Taoufik Charfeddine and Khaled Yahyaoui, a presidential guard member..."[25]

Un maggior numero di fonti sottolineano invece il ricorso della tortura come strumento volto ad ottenere confessioni. Ciò tanto considerando i casi di presunti terroristi johadisti arrestati in Tunisia:

> "...Although jihadi attacks have diminished considerably thanks to better security, the risk of new violence remains high. Jihadist cells are still active, mainly on the border with Algeria, while the

23 OMCT, Le constat, volume 1, 2021, available at: https://omct-tunisie.org/wp-content/uploads/2022/01/Rapport-annuel-SANAD-2020-2021-FR.pdf (accessed on 31 March 2023)

24 Per la fonte, in lingua originale, si veda: Al Araby, 2021, Torture, condizioni deplorevoli e nessun rispetto delle convenzioni internazionali nelle carceri tunisine, available at: https://www.alaraby.co.uk/society/تعذيب-وأوضاع-مزرية-ولا-احترام-للمواثيق-الدولية-في-سجون-تونس (accessed on 31 March 2023), e specificatamente il passaggio: "... أكّد رئيس الهيئة الوطنية للوقاية من التعذيب فتحي الجراي، خلال جلسة عامة مخصّصة للحوار حول الوقاية من التعذيب في تونس أمس الجمعة، أنّ "ظروف السجون لا تحترم المعايير الدولية، وهي غير مطابقة لضمانات القانون التونسي المكفولة للسجناء".
وتابع الجراي، في ردّه على انتقادات النواب من مختلف الكتل البرلمانية، أنّ أغلب السجون التونسية، ما عدا سجن النساء بمنوبة، تجاوزت طاقة استيعابها، مؤكداً أنّ التعذيب يطاول كلّ الفئات العمرية.
وحذّر الجراي من خطورة تواصل إفلات أعوان الأمن من العقاب، ما ساهم في تواصل الاعتداءات وتكرارها.
وأضاف أنّ هناك تعذيباً معنوياً صعب الإثبات، لكنه يترك أثراً عميقاً على السجناء، مشيراً إلى أنّه من بين أشكاله، ما تمّ رصده في مركز الإيقاف ببوشوشة في العاصمة، حيث أنّ موقوفين من الكهول ينامون على الأرض في ظروف سيئة، وهذا لا يحفظ كرامة المواطنين، مشيراً إلى تسجيل اكتظاظ كبير في معظم الوحدات السجنية.
وأضاف الجراي أنّ الهيئة لاحظت اهتراء في البنية التحتية لمعظم السجون، وأنّ نسبة الاكتظاظ بأماكن الاحتفاظ فاقت ضعفي طاقة استيعابها، لا سيما إثر الإيقافات الأخيرة...."

25 Middle east eye, Senior Tunisian officials face US lawsuit over alleged torture, extrajudicial killing, 2022, available at: https://www.middleeasteye.net/news/senior-tunisian-officials-face-us-lawsuit-over-alleged-torture-extrajudicial-killing (accessed on 31 March 2023)

> return of Tunisian foreign fighters from Syria and Iraq has been detected. The Tunisian government's response has been repressive, but not particularly effective. The thousands of convicted jihadists imprisoned in recent years have faced torture and harsh conditions in Tunisia's overcrowded prisons. Criminal justice reform, meanwhile, is lacking..."[26]

Tanto considerano le attività di investigazione da parte della polizia per reati comuni:

> "..Aside from Saied's reliance on the police, the police have their own long-standing grievances against certain judges and especially prosecutors. Of the 57 judges dismissed by Saied, more than half are also prosecutors. Police unions have long complained when judges drop charges against suspects whom the police insist are criminals; this is sometimes linked to the fact that police continue to extract confessions from suspects through torture and other forms of coercion, thus making them inadmissible in court. Police have even rearrested suspects immediately upon their release by prosecutors — in one case doing so despite a parliamentary inquiry finding no evidence against the suspects..."[27]

Di nuovo, coerentemente, considerando il ricorso alla tortura come mezzo per estorcere confessioni da parte di presunti criminali (per reati comuni o di terrorismo), così come a danno delle persone arrestate per il loro attivismo politico in favore dei diritti umani (o la partecipazione a manifestazioni), si veda ancora il rapporto SANAD 2022. Nel rapporto si menzionano altresì le tipologie di torture maggiormente comuni (pugni, calci, randellate o manganellate su tutto il corpo, aggressioni sessuali, umiliazioni e minacce di stupro, morte e procedimenti giudiziari con false accuse), oltre che le violenze di natura psicologica (.

> "...6 11. Les agents des forces de l'ordre continuent de recourir à la violence lors des interpellations ou en garde à vue pour extorquer des aveux ou des informations. Cela concerne des personnes soupçonnées de terrorisme ou d'infraction de droit commun mais aussi des individus arrêtés en raison de leur activisme politique exprimé sur les réseaux sociaux ou à travers leur participation à des manifestations. 12. Les violences consistent le plus souvent en des coups de poing, coups de pied, coups de matraque ou de bâton infligés sur tout le corps, des agressions sexuelles, des humiliations et des menaces de viol, de mort et de poursuites sur la base de fausses accusations. Les séquelles provoquées sont parfois très graves. 13. A cela s'ajoute le recours très fréquent à une violence psychologique qui prend la forme d'un harcèlement policier engendrant des préjudices psychologiques et matériels importants. Ce harcèlement touche aussi bien les personnes fichées en raison de leur dangerosité présumée que les personnes ciblées par le ministère de l'Intérieur en raison de leur activisme politique ou en faveur des droits de l'Homme.."[28]

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Tortura e LGBTI

26 GIS report, 2022,Tunisia's one-man show, available at: https://www.gisreportsonline.com/r/tunisia-coup-saied/ (accessed on 31 March 2023)

27 Middle East Institute, 2022, The executive versus the judiciary in Tunisia, available at: https://www.mei.edu/publications/executive-versus-judiciary-tunisia (accessed on 31 March 2023)

28 OMCT, 2022, Soumission conjointe pour l'Examen périodique universelde la Tunisie, 41ème session du groupe de travail de l'EPU, available at: https://omct-tunisie.org/wp-content/uploads/2022/03/2022_Rapport-Alternatif-EPU-torture.pdf (accessed on 31 March 2023)

Infine, le fonti danno conto in maniera specifica del ricorso alla tortura da parte delle forze dell'ordine nei confronti degli appartenenti alla comunità LGBT, eventualmente arrestati per il loro orientamento sessuale:

> "...Belhadj's circumstances reflect the "legal and social abuse" of LGBT people in Tunisia and the wider Arab world, according to Noralla of Human Rights Watch. "LGBTQ+ people in the MENA region can be beaten by their family or close social members. Victims rarely try to reach out to authorities afterward," she explained. "There are many claims and allegations against police actors reporting that they actively abuse LGBTQ+ people because of their gender and sexual orientation. They verbally and physically torture them inside and outside police stations and in prison.."..."[29]

Similmente, valorizzando specificatamente le violenze indirizzate ai militanti o i manifestanti[30] per i diritti LGBTI:

> "...Outre ce phénomène persistant, ces deux dernières années, SANAD a constaté une recrudescence des violences exercées à des fins punitives et à des fins d'obtention d'aveux à l'encontre de deux types d'acteurs : les manifestants (ou manifestants présumés) et les militants pour les droits de la communauté LGBTIQ++. L'intensité et le caractère systématique des violences exercées à l'encontre de ces personnes permettent de conclure qu'il s'agit là d'une pratique consciente et orchestrée et non de dérapages isolés comme pourrait parfois le laisser entendre la communication publique du ministère de l'Intérieur...[…]...s. Depuis fin 2019, DAMJ a en effet déposé 49 plaintes pour torture ou violence. L'organisation a récemment joué un rôle important d'observation et d'assistance juridique dans le cadre des manifestations qui ont agité le pays en janvier 2021 "[31]

29 DAWN Mena, 2022, The 'Nightmare' of Being Gay in Tunisia, available at: https://dawnmena.org/the-nightmare-of-being-gay-in-tunisia/ (accessed on 31 March 2023)

30 Ex multis: *"...0. Similarly, human rights defenders and activists have increasingly been harassed or jailed for opposing the government or participating in protests. Rania Al-Amdouni, a "feminist and LGBTQI human rights activist, actor and cinematographer," was imprisoned "on the charge of insulting a public employee."48 Hamza Nasri, "a queer activist and human rights defender," was sentenced "to 3 months in prison in absentia" in July 2021. ..."*The advocates for human rights, 2022, Tunisia's Compliance with the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, available at: https://www.theadvocatesforhumanrights.org/Res/LOIPR%20CAT%20Tunisia%20TAHR%20WCADP%20CTCPM%20ECPM.pdf (accessed on 31 March 2023)

31 OMCT, Le constat, volume 1, 2021, available at: https://omct-tunisie.org/wp-content/uploads/2022/01/Rapport-annuel-SANAD-2020-2021-FR.pdf (accessed on 31 March 2023)

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