

# AMNESTY INTERNATIONAL

## Briefing

Index: MDE 29/013/2010

Date: 16 June 2010

### **Continuing abuses against individuals suspected of terrorism-related activities in Morocco**

Amnesty International is concerned by the persistent reports of continuing human rights violations in the name of countering terrorism in Morocco. These are said to include secret and incommunicado detention; unexamined claims of torture or other ill-treatment and flawed legal proceedings.

The ongoing hunger strike staged by a number of detainees accused of terrorism-related activities in Salé Prison, near Rabat, against their treatment highlights the urgent need for the Moroccan authorities to address the human rights concerns set out below.

The Moroccan authorities must investigate all allegations of torture or other ill-treatment at the hands of the security forces and ensure that no statements extracted under torture or duress are used as evidence in legal proceedings. The Moroccan authorities must also ensure that detainees are treated in accordance with international law and standards, as set out in the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), treaties to which Morocco is a state party, and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Detainees in particular should be granted adequate access to medical care of their choice.

#### **MOROCCO'S COUNTER-TERRORISM MEASURES**

Moroccan legislation does not provide adequate safeguards for suspects in terrorism-related cases. Law No. 03-03 on Combating Terrorism fails to provide a sufficiently precise definition of "terrorism", in violation of the principle of legality for a criminal offence. It also amends the Moroccan Code of Criminal Procedure to allow, in terrorism-related cases, for the extension of *garde à vue* (pre-arraignment detention) for up to 12 days, and extends the period in which detainees are denied contact with their lawyers to up to six days; rendering detainees even more vulnerable to torture or other ill-treatment, as well as affecting their right to an adequate defence.

Amnesty International regrets the Moroccan authorities' failure to implement the recommendations set out by the organization in its 2004 report *Morocco/Western Sahara: Torture in the "anti-terrorism" campaign - the case of the Témara detention centre*, which documented the sharp rise of cases of torture or other ill-treatment and other human rights violations in the context of countering terrorism since 2002. While the authorities replied to Amnesty International's concerns in February 2004 listing existent safeguards in Moroccan legislation for the protection of detainees; they did not comment on specific cases raised, nor did they take steps to address the pattern of secret detention and torture in the Témara detention centre. Impunity for such abuses has not only left victims of torture or other ill-treatment, as well as other human rights violations, without redress, but also facilitated the repetition of violations – as outlined in this document.

While the scale of arrests today is not on par with the period preceding the May 2003 bomb attacks in Casablanca as well as their aftermath, when up to 2,000 suspects were arrested in a clampdown on individuals suspected of involvement in terrorism-related activities, the Moroccan authorities continue to periodically announce the dismantlement of terrorist networks affiliated with al-Qa'ida. Statements by the Moroccan official news agency claim that such networks plan attacks inside the country, as well as recruit Moroccan nationals to join armed groups in Iraq or Afghanistan. Such announcements, for instance made on 23 September 2009 and 26 April 2010, generally come in the wake of reports of arrests and incommunicado detention of scores of individuals. The well-documented irregularities and human rights violations in the context of the "Belliraj affair", which included a number of political

figures, once again brought to the forefront abuses committed by Moroccan authorities in context of countering terrorism.

Amnesty International unreservedly condemns acts of violence targeting civilians as well as indiscriminate attacks, which show complete disregard for the right to life. The Moroccan authorities have the right and the duty to take measures to protect the security of people under their jurisdiction and to bring to account those suspected of involvement in any such acts. However, in doing so, the Moroccan authorities must respect their human rights obligations under the ICCPR and the CAT.

### **THE HUNGER STRIKE IN SALÉ PRISON**

According to information received by Amnesty International, a group of about 20 detainees in Salé Prison accused or convicted of terrorism-related offences are currently on hunger strike. The majority of those who have already been convicted claim their innocence and are airing their grievances against what they consider to be their unlawful detention and the miscarriage of justice in their cases. Those in pre-trial detention are protesting against the charges brought against them, which they view as trumped-up and based on police statements they had been coerced to sign under torture or duress while in *garde à vue* (pre-arraignment detention).

One of the detainees currently on hunger strike is **Mohamed Hajib**, a dual Moroccan/German national, who was arrested on 18 February 2010 upon his return to Morocco from Pakistan via Germany. His family was not immediately informed of his arrest, and only saw him for the first time after his arrest on 1 March. Amnesty International wrote to Moroccan Minister of Justice, Mohamed Naciri, on 27 March 2010 urging his intervention to ensure that Mohamed Hajib is treated humanely and to ensure that he is granted a fair trial, including by ensuring that statements extracted under torture or duress are not used as evidence in trial proceedings. The organization has received no response. Mohamed Hajib's health has deteriorated considerably as he has been on a hunger strike since 10 May 2010. He is reported to be too weak to stand up or talk. Another detainee in pre-trial detention in Salé Prison is **Anwar Majrar**, who started a hunger strike on 31 May. According to the information obtained by Amnesty International, Anwar Majrar, who had previously been convicted on charges of terrorism-related activities and released upon serving his term, had been detained incommunicado and tortured in the Témara detention centre on both occasions. He was reportedly beaten, suspended from the ceiling in contorted positions, flogged and had cold water poured over him.

### **SECRET AND INCOMMUNICADO DETENTION**

Amnesty International is concerned by reports that members of the Directorate for the Surveillance of the Territory (Direction de la surveillance du territoire, DST), an intelligence body implicated in past and ongoing human rights violations, continue to arrest, detain and interrogate individuals suspected of involvement in terrorism-related activities outside of the Moroccan legal framework. Members of the DST are not considered to be part of the judicial police; and as such should not arrest and hold suspects. However, Amnesty International receives persistent reports that plain-clothes security officials believed to be members of the DST continue to arrest suspects without warrant and hold them for weeks or longer in unrecognized places of detention. The families of those arrested by members of the DST are not officially notified of their arrest in breach of Article 67 the Moroccan Code of Criminal Procedure, which states that the authorities must immediately inform the family of decisions to place suspects in custody. This leaves distraught families frantically searching and asking about their relatives in police stations, prisons and the prosecuting authorities' offices. Officials generally deny any knowledge of the arrest and whereabouts of their relatives.

After an initial period under the custody of the DST, suspects are transferred to the judicial police – usually in Casablanca. It is alleged that the arrest dates are routinely falsified, marking the date of arrest as the date when suspects were transferred to the judicial police, rather than the date when they were taken into the custody of members of Moroccan security forces. On numerous occasions, Amnesty International has expressed its concerns regarding the erosion of safeguards for the protection of detainees with the promulgation of Law No. 03-03 of 28 May 2003 on Combating Terrorism, which extended the time limit for *garde à vue* to a maximum of 12 days and extended the period in which detainees are denied contact with their lawyers to up to six days. In practice, even these limited safeguards continue to be flouted by the DST.

For instance, **Abdel Aziz Danjier**, another detainee who has been on hunger strike since 3 June, was reportedly held in the custody of the security services in an unrecognized place of detention for 37 days, after his arrest on 28 May 2008. He was then held for a further 12 days in the custody of the judicial police in Casablanca. He was sentenced on 28 January 2010 to 10 years' imprisonment for terrorism-

related activities, in proceedings which were marred by allegations of torture. Another detainee in Salé Prison, **Khaled Kaddar**, was also sentenced to eight years' imprisonment in January 2010 for terrorism-related activities. According to eye-witnesses, Khaled Kaddar was arrested by about four men in civilian dress from a street near his home in Oujda on 26 July 2008. About a month and a half after his arrest, Khaled Kaddar was able to call and inform his family for the first time that he had been arrested and that he was detained in Salé Prison. During the first family visit to Salé Prison, he told them that he had been held in the custody of the DST at the Témara detention centre for 45 days, where he said he was tortured. Amnesty International wrote to the Moroccan Minister of Justice on 29 April 2010 calling on him to ensure that Khaled Kaddar's allegations of torture are promptly investigated, and that he is granted a fair trial on appeal. The organization regrettably received no response.

## **TORTURE OR OTHER ILL-TREATMENT**

The prolonged period that detainees spend cut off from the outside world exposes them to the risk of torture or other ill-treatment. Amnesty International continues to receive worrying reports that Moroccan security agents torture or otherwise ill-treat individuals suspected of terrorism-related activities in an unrecognized detention centre, believed to be the Témara detention centre, which is located in a forested area about 15 kilometres from Rabat. Among the most frequently reported methods of torture are: beatings, the suspension of the body in contorted positions, and the threat of rape or other sexual abuse of the detainees' female relatives. Other reported methods include rape by the forced insertion of objects into the anus, sleep deprivation, cigarette burns, and the application of live electrodes to the body. The purpose of the torture seems to be to extract information about terrorist networks, including those seeking to recruit Moroccans to join armed groups in Iraq or Afghanistan, or in order to extract "confessions". According to the information available to Amnesty International, most suspects are coerced to sign police statements after they are transferred out of the custody of the security forces to the custody of the judicial police, where they are threatened with being returned to Témara detention centre if they do not comply. They are generally not allowed to read the statements they sign.

Another detainee in Salé Prison, **Youssef al-Taba'i** was arrested on 28 March 2010 in a street in Casablanca by four men in plain-clothes, who reportedly did not present an arrest warrant. According to information obtained by Amnesty International, he was forced into a vehicle and blindfolded. Interrogation sessions started immediately upon his arrival at an unrecognized detention centre, believed to be the Témara detention centre. It was reported that security officials poured freezing water over him and turned on the air-conditioning, beat him with wires, and denied him food, sleep or prayer for 48 hours. He was handed over to the judicial police in Casablanca on 26 April, with a group of about 30 other individuals. That same day, the Moroccan official news agency, Agence Arabe Maghreb Press, reported the dismantlement of a terrorist network and the arrest of 24 people in connection with terrorism-related activities. According to the information available to Amnesty International, Youssef al-Taba'i spent another 11 days in the custody of the judicial police, where he signed a police statement under threats of being returned to the Témara detention centre if he refused. The investigation in his case is ongoing, but he is facing charges of "belonging to a criminal gang" with the aim of attacking national security and providing shelter to persons who are wanted by the authorities. It is reported that others implicated in this case have also been tortured or otherwise ill-treated while detained incommunicado and in secret.

**Mohamed Gatit** was also reportedly tortured in the Témara detention centre, where he stayed for about 18 days in November 2009. He was reportedly handed over to Moroccan security officials by their Algerian counterparts in early November 2009. According to information available to Amnesty International, once he arrived at the detention centre he was immediately taken to an interrogation room and beaten all over the body, mostly with fists and kicks, while handcuffed and blindfolded. He reportedly lost consciousness and bled from his nose as a result of the beatings. It is believed that Mohamed Gatit, who admits to participating in armed fighting in Iraq, was interrogated about other Moroccans in Iraq. He was reportedly arrested in Algeria in March 2009, held in an unrecognized detention centre believed to be Ben Aknoun in Algiers for about eight months without charge or trial, and subjected to torture or other ill-treatment at the hands of the Algerian security forces.

Even though torture is criminalized in Moroccan legislation, torture allegations are rarely investigated. To the best knowledge of Amnesty International, no official of the DST has ever been prosecuted for torturing or otherwise abusing detainees. In the fourth periodic report submitted to the Committee against Torture in April 2009, the Moroccan authorities noted that judicial proceedings were initiated against 13 officials suspected of torturing or otherwise ill-treating detainees in 2007 and 2008. However, the report neither specified their official positions nor indicated whether proceedings resulted in convictions

## FLAWED LEGAL PROCEDURES

Amnesty International is deeply concerned that evidence tainted by allegations of torture or other ill-treatment continues to be used in legal proceedings. According to the information available to Amnesty International, the information contained in statements based on interrogation reports prepared by the DST, while the suspects were in their custody, continue to be used as the basis of prosecutions and as evidence in trial proceedings.

Amnesty International is also concerned that the right to adequate defence is not fully respected in terrorism-related cases. For instance, individuals are frequently brought in front of the judicial authorities for the first time only after prolonged periods in incommunicado detention, and without the presence of a lawyer. In several cases known to Amnesty International, the investigative judge does not inform the suspects of their rights to be assisted by a lawyer. In addition, Amnesty International has received reports that lawyers are not always permitted to access a copy of their clients' files, impeding their ability to present an adequate defence.

[REDACTED]

## IMPUNITY

Amnesty International remains concerned at continued impunity enjoyed by members of Moroccan security forces for human rights violations in the context of counter-terrorism. In the majority of cases where complaints about torture allegations have been made, investigations have either not been opened, have been dismissed or not adequately conducted, or have not resulted in perpetrators being prosecuted. To date, hundreds of Islamist detainees sentenced after the 2003 Casablanca bombings continue to protest against their convictions, in trials which were tainted by unexamined claims of torture or other ill-treatment during questioning by the security forces. Scores have received long prison sentences and over a dozen have been sentenced to death on the basis of "confessions" that they allege were extracted through torture or other ill-treatment.

**Hammou Hassani** was sentenced to death in 2005 for terrorism-related activities and murder. Upon his arrest in July 2004, he spent two days at a police station in Nador where he was reportedly tortured, before being transferred to an unrecognized detention centre on 17 July 2004 believed to be the Témara detention centre. There, he was reportedly stripped, beaten all over his face and body, and had a pen inserted into his anus. He is reported to still have scars on his left knee and his right heel as a result of the torture. He stayed in the custody of Moroccan security officials for six days before being transferred to the judicial police in Casablanca, where Hammou Hassani, who is illiterate, thumb-printed a statement, without knowing its content. He maintains his innocence. Amnesty International is not aware of any investigations into the allegations that Hammou Hassani has been tortured.

**Noureddine Gharbaoui**, a victim of human rights violations documented by Amnesty International in its report *Morocco/Western Sahara: Torture in the "anti-terrorism" campaign - the case of the Témara detention centre*, is currently in Salé Prison serving a 10-year sentence for forming a criminal gang and concealing objects obtained through crime. His torture allegations have not been investigated; nor has he been granted a retrial despite allegations that evidence extracted under torture was used to convict him.

## MOROCCO'S INTERNATIONAL OBLIGATIONS

As a state party to the ICCPR, Morocco is under an obligation not to arbitrarily arrest and detain people, to respect the rights of those arrested to be promptly informed of the charges against them, to bring them before the judicial authorities within a reasonable time, and to allow them to challenge the lawfulness of their detention (Article 9); as well as to ensure that their trials meet the international standards as set out in Article 14 of the ICCPR.

The UN Working Group on Enforced and Involuntary Disappearances which visited Morocco in June 2009, noted in its post-mission report issued in February 2010 the high number of allegations that members of the DST arrest and detain individuals in the unrecognized Témara detention centre and called on the authorities to exert more efforts to investigate such allegations.

The UN Human Rights Committee recommended in 2004 in the framework of its review of Morocco's Fifth Periodic Report that the Moroccan authorities "ensure that complaints of torture and/or ill-treatment are examined promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished

under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10)". However, the Moroccan authorities are failing to investigate all allegations of torture or other ill-treatment, to bring those responsible to justice in proceedings meeting international standards of fair trial, and to provide victims with reparation as required under the ICCPR and the CAT. Moroccan authorities are also failing to uphold their obligations not to use evidence extracted under torture in legal proceedings as per Article 15 of the CAT.

## **RECOMMENDATIONS**

In order to put an end to the impunity enjoyed by Moroccan security forces, in particular members of the DST, and prevent the recurrence of serious human rights violations, Amnesty International calls on the Moroccan authorities to:

- Ensure that members of the DST do not carry out arrests and detain individuals suspected of terrorism-related activities in unrecognized places of detention;
- Conduct full, impartial and independent investigations into all allegations of torture or other ill-treatment, including in the absence of formal complaints; and ensure that perpetrators including members of the DST are brought to justice in proceedings meeting international standards of fair trial;
- Ensure that no information or evidence extracted under torture or duress is used in trial proceedings;
- Ensure that lawyers have unrestricted access to their clients' files to enable them to adequately prepare their defence;
- Order retrials in proceedings meeting international standards for fair trial for all those convicted on the basis of evidence established, or suspected, to have been obtained by torture or other ill-treatment;
- Amend the Moroccan Code of Criminal Procedure to ensure its full conformity with human rights law and standards, including Article 66, by limiting the period of *garde à vue* to a strict minimum and granting detainees immediate access to their lawyers and families;
- Implement the recommendations of the Moroccan Equity and Reconciliation Commission to reform the judicial system and ensure its independence in line with international law and standards, in particular the UN Basic Principles on the Independence of the Judiciary and UN Basic Principles on the Role of Lawyers. Any reform of the justice system should ensure that victims of human rights violations have a right to an effective remedy; and
- Ensure that detainees currently on hunger strike in Salé Prison are given access to medical treatment of their choice, and are treated humanely in accordance with the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.