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# MOROCCO / WESTERN SAHARA

## “Turning the page”: achievements and obstacles

### 1. INTRODUCTION

In the course of the past few years, a number of legislative and institutional measures have been taken in Morocco which have resulted in significant improvements in the human rights situation. In 1991 came the release of more than 330 people who had “disappeared” in secret detention for up to 18 years but whom the Moroccan authorities had repeatedly denied holding. In the early 1990s some 400 prisoners of conscience and political prisoners were released and more than 190 death sentences were commuted. According to Amnesty International’s information, no executions have been carried out in Morocco since 1994, although tens of people remain under sentence of death. Legal amendments included the repeal of the 1935 *dahir* (decree), the use of which had resulted in the imprisonment of many prisoners of conscience on vague charges of “disturbing public order”, and the limitation of the period of *incommunicado* detention (*garde à vue*). Since the mid-1990s political arrests and torture have significantly decreased.

On an institutional level, Amnesty International took note of the creation in 1990 of the *Conseil consultatif des droits de l’homme* (CCDH), Consultative Council for Human Rights, a body appointed by King Hassan II, and in 1993 of the Ministry for Human Rights. With regard to international human rights instruments, Amnesty International welcomed the ratification by Morocco in June 1993 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), and its publication in the Official Gazette in December 1996, as well as the ratification of other important international human rights treaties<sup>1</sup>.

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<sup>1</sup> The *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination against Women*, and the *Convention on the Protection of Migrant Workers and their Families*.

The organization has also noted Morocco's commitment to human rights "as universally recognized", both in the preamble to the 1996 Constitution and in the 1998 government program, its stated resolve to ensure that complaints of human rights violations are investigated, its intentions and initiatives to provide human rights training for members of the security forces, the army and the judiciary, and its introduction of human rights teaching into state schools and other educational institutions.

*These developments have meant that Moroccan civil society has been able to enjoy appreciably higher levels of freedom in recent years. Political parties, independent media bodies and non-governmental organizations (NGOs) are widespread and active in Morocco. Criticizing the monarchy and expressing views in favour of the independence of Western Sahara<sup>2</sup> remain taboo, but Moroccans are increasingly able to engage in opposition activities, criticize government policies and conduct open debates on human rights issues.*

Regrettably, the improvements which have taken place in the past eight years in the human rights situation in Morocco apply to a much lesser extent to the situation in Western Sahara<sup>3</sup>. Political parties, NGOs and privately owned media are virtually non-existent in Western Sahara, where open debate, opposition activities and criticism of the government are not tolerated. Contact with the outside world for the population of Western Sahara is extremely limited as foreign journalists, NGO workers, and even tourists rarely go to Western Sahara, where the high degree of surveillance makes it impossible to associate with others, or to move or work freely. Such surveillance makes it very difficult for victims of human rights violations and their families to inform human rights organizations of their cases, and when such information does reach the outside world it is usually well after the event. With regard to arrests, incommunicado detention, torture or ill-treatment and deaths in suspicious circumstances, the frequency of such incidents in Western Sahara has also decreased in recent years but nonetheless remains higher than in Morocco, and access for Sahrawi victims to complaint mechanisms is far more limited than for Moroccan victims.

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<sup>2</sup> *Amnesty International takes no position on the territorial dispute between Morocco, which claims sovereignty in Western Sahara, and the Polisario Front, which calls for an independent state in Western Sahara, or on the issues concerning the referendum on the future of Western Sahara. Its concerns relate solely to human rights violations which fall within its mandate.*

In June 1998, an Amnesty International delegation, led by the organization's Secretary General, visited Morocco and presented to the government a memorandum detailing its concerns and lists of cases of "disappearances", deaths in custody, prisoners of conscience and political prisoners sentenced after unfair trials. The delegation met with government ministers and officials, members of the CCDH and numerous representatives of human rights organizations and civil society. During the visit, the authorities committed themselves to resolving conclusively the grave injustices of the past. In October 1998, 28 prisoners of conscience and political prisoners were released and in April 1999 the authorities indicated that more political prisoners would be freed. However, at the time of writing this report, Amnesty International had not received a response from the government on the concerns raised in its memorandum of June 1998. In this respect, Amnesty International is bringing new cases to the attention of the Moroccan authorities and once again inviting a response. While recognizing the real progress that has been made on human rights during the past years, Amnesty International takes this opportunity to remind the Moroccan authorities that it has raised expectations which have yet to be fully realized.

This report looks at Amnesty International's principal concerns in Morocco and Western Sahara at the present time.

## **2. "DISAPPEARANCES"**

*The issue of "disappearances" has marked Morocco's history in the past three decades and remains one of the most painful unresolved human rights issues. More than 900 people "disappeared" between the mid-1960s and the early 1990s at the hands of Moroccan security services. Some 300 Sahrawis and at least 44 Moroccan "disappeared" were released in 1984, 1991 and 1992 after spending up to 18 years completely cut off from the world in secret detention centres. More than 100 "disappeared" died in secret detention, and the fate of hundreds of others "disappeared" - most of them Sahrawis - remains unknown.<sup>3</sup>*

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<sup>3</sup> For further information on the cases of the "disappeared", see Amnesty International reports

The pattern of "disappearance" of known or suspected political opponents by the Moroccan authorities dates back to the 1960s. One of the oldest outstanding cases of "disappearance" in Morocco is that of Abdelhaq Rouissi, a trade unionist who "disappeared" from his home on 4 October 1964. He was seen in secret detention centres in 1979, 1983 and 1989 but the Moroccan authorities continue to deny all knowledge of his detention. Scores of other Moroccans "disappeared" after being arrested by the security forces, most of them in the 1970s.

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*Morocco and Western Sahara: Human rights violations in Western Sahara* (AI Index: MDE 29/04/96), issued in April 1996, *Morocco: Breaking the wall of silence: The "disappeared" in Morocco* (AI Index: MDE 29/01/93), issued in April 1993 and *Morocco: "Disappearances" of people of Western Saharan origin* (AI Index: MDE 29/17/90), issued in November 1990.

"Disappearances" of Sahrawis began to occur at the end of 1975 and continued until the early 1990s.<sup>4</sup> The last large wave of "disappearances" known to have taken place was in November 1987, at the time of a UN technical mission's visit to Western Sahara. The men, women and even children who "disappeared" in Western Sahara came from all walks of life. Many were detained because of their alleged pro-independence activities, support for the Polisario Front, and opposition to Morocco's control of the Western Sahara. Others, including elderly people and children, "disappeared" because of their family links with known or suspected opponents to Moroccan government policy in Western Sahara.

Bachirould Selmaould Al-Daf, a 14-year-old boy, was arrested on 20 February 1976 in the area of Mahziat, around 20kms south of Amgala. He was taken with a group of around 10 individuals, including his father, his uncle and his cousin, while they were looking for water for the animals they tended. Since that time, his family have been unable to obtain any information from the authorities regarding his fate. Former detainees at the Laayoune secret detention centre have reported, however, that he had been held with them there, but subsequently died in detention.

At least some of the remaining "disappeared" may still be alive in secret detention. The families of the "disappeared" have been searching for information on their relatives for up to 35 years. In the light of Morocco's history of secret detention, the burden of proof must rest with the Moroccan authorities to establish the whereabouts of the "disappeared" - whether dead or alive - to the satisfaction of the families, who continue to hope for their release and who will continue to hold the Moroccan authorities responsible for their fate. In fact, the Moroccan authorities are required by Article 13 of the UN Declaration on the Protection of All Persons from Enforced Disappearance (Declaration on Disappearance) to establish a competent and independent state authority to undertake prompt, thorough and impartial investigations of all allegations of enforced "disappearances".

### ***Turning the page***

The release of hundreds of long-term "disappeared" in 1991 raised hopes that the fate of all remaining "disappeared" could be clarified. However, eight years later, the authorities have provided no information about the majority of the remaining "disappeared". In recent years the expression "turning the page on the past" has often been used by the

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<sup>4</sup> Only a few cases of "disappearances" have been reported since 1991 - among them is Saidould Mohamed-Ahmedould Didi Kirouan, a 27-year-old student, who was arrested at his home in Laayoune in November 1992 by members of the Moroccan security forces. He was reportedly arrested following a demonstration protesting against a celebration by the Moroccan authorities of the anniversary of the Green March and seen soon after the arrest in a security forces barracks in Laayoune. His family have been unable to obtain any information regarding his whereabouts since.

Moroccan authorities when referring to steps taken or envisaged to improve the human rights situation, particularly in relation to "disappearances". However, there is great concern amongst victims and relatives of victims of "disappearance", and within the human rights community in Morocco, that the measures recently announced are aimed at closing the debate on the issue of "disappearances" rather than addressing the concerns of the hundreds of victims and their relatives. Amnesty International believes that the matter cannot be closed until the fate of each of those alleged to have "disappeared" is made known to their families, the persons responsible for the "disappearances" are brought to justice and victims and families of "disappeared" persons receive adequate compensation. This is the minimum that is required by the Declaration on Disappearance, with which Morocco, as a member of the UN, is expected to comply.

Hopes raised by the authorities' promises in early 1998, shortly after the formation of Prime Minister Abderrahmane Youssoufi's government, that all outstanding dossiers relating to human rights violations would be promptly "solved" were disappointed by the list of "disappearance" cases issued last October by the CCDH. While in June 1998 Amnesty International had submitted more than 500 cases, the CCDH list contained only the names of 112 "disappeared", none of them Sahrawi, and was divided into various groups. The largest group of 56 includes some 30 "disappeared" who died in the secret detention centre of Tazmamert in the 1970s and 1980s and whose deaths had already been acknowledged by the authorities in 1994, when the authorities had issued death certificates to the families of most of these people. As for the other "disappeared" mentioned on the list, some are cited as having died, others as having probably died, others as having "disappeared in unknown circumstances" and others as being alive either in Morocco or abroad. In all these cases no information or clarification was provided by the CCDH or by other authorities about the circumstances in which these victims "disappeared", about the place, date and causes of their deaths, or about the authorities responsible for their "disappearance". As for those who are mentioned on the list as being alive in Morocco or elsewhere, no information is provided concerning their whereabouts, which would allow confirmation that they are indeed alive.

On 9 October 1998 King Hassan II announced that he had given orders for the authorities to implement the recommendations of the CCDH and to resolve all outstanding human right dossiers within the coming six months. Almost exactly six months later, on 7 April 1999, the CCDH announced its proposal to establish an arbitration body to decide on compensation claims, but only for the families of some of the individuals mentioned in the CCDH list of 112 names published in October 1998.

Regrettably, the recent initiative by the Moroccan authorities has failed to address concerns regarding hundreds of "disappeared". The deaths of dozens of "disappeared" in secret detention are not acknowledged; the whereabouts of hundreds of remaining "disappeared" are still unknown; none of the perpetrators of the violations has been



prosecuted; and hundreds of survivors have been excluded from the possibility of applying for compensation or rehabilitation care. In addition, relatives of those included in the CCDH list consider the measures announced to be insufficient.

The CCDH list of 112 cases does not include a single Sahrawi "disappearance" case and does not mention several Moroccan "disappearance" cases which have been submitted to the Moroccan authorities by national and international human rights organizations. For example, the cases of four Moroccan "disappeared" who were included in a list presented by Amnesty International to the Moroccan authorities in 1996 and again in 1998 have not been referred to by the CCDH. Moroccan human rights organizations have published the names of at least a dozen other Moroccan "disappeared" whose cases have not been addressed by the CCDH. Since 1981 Amnesty International has presented cases of hundreds of Sahrawi "disappeared" to the Moroccan authorities, but to date no concrete measures are known to have been taken to investigate these cases.<sup>5</sup>

In its April announcement the CCDH stated in no uncertain terms that the "disappearance" dossier as fixed at 112 cases was "definitively closed following the examination of all cases by the members of the council". The CCDH statement clearly indicates that no further investigation is envisaged on other cases. Such a position contradicts the provisions of the Declaration on Disappearance, which states "An investigation... should be able to be conducted for as long as the fate of the victim of enforced disappeared remains unclarified" (Article 13, 6), as well as provisions contained in the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture - both ratified by Morocco.

The UN Human Rights Committee in its General Comment on Article 6 of the ICCPR has stated: "State parties should also take specific and effective measures to prevent the disappearance of individuals, something which unfortunately has become all too frequent and leads all too often to arbitrary deprivation of life". However, it is not only the right to life which is violated by "disappearances", but also other provisions of the ICCPR, including the right not be subjected to torture (Article 7), the right to liberty and security of person (Article 9), the right of those deprived of liberty to be treated with humanity and with respect for the inherent dignity of the human person (Article 10) and the right to recognition as a person before the law (Article 16). Furthermore, especially in regard to families of the "disappeared", the physical, psychological and emotional harm

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<sup>5</sup> In 1996 Amnesty International sent the CCDH a non-exhaustive lists of hundreds of Sahrawis who "disappeared" between 1975 and 1987. Cases of Sahrawi "disappeared" were submitted to the Moroccan authorities in June 1998 and raised again in a letter to the government in April 1999.

caused may amount to torture, which is totally prohibited by the Convention against Torture and cannot be justified under any circumstances.

So long as all the cases of the "disappeared" are not fully resolved, including through full public disclosure of the fate and whereabouts of the "disappeared", payment of adequate compensation to the victims and families, and bringing to justice the perpetrators, these violations of the ICCPR and the Convention against Torture will continue.

Rather than turning the page on past human rights violations, the measures which the Moroccan authorities have taken on this matter are tantamount to them turning their back on the victims of "disappearance". Simply declaring that the subject is "closed" cannot and will not resolve the matter. Several aspects of the "disappearance" dossier are outstanding and must be addressed urgently. These are:

- The cases of some 450 remaining "disappeared", most of them Sahrawis, whose fate remains unknown.<sup>6</sup>
- The cases of some 70 Sahrawi "disappeared" who died in the secret detention centres of Agdz, Qal'at M'gouna and Laayoune between 1976 and 1991. For most of these victims the date, place and circumstances of their deaths are known as these details have been provided by former Sahrawi and Moroccan "disappeared" who were detained with them and witnessed their deaths. Their deaths in secret detention must be acknowledged by the authorities and their bodies must be returned for burial to their families, who must also be compensated.
- The cases of the "disappeared" whose deaths were announced by the CCDH in October 1998. Information must be provided to their families concerning the date, place and cause of their deaths, and their bodies must be returned for burial to their families, who must also be compensated.

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<sup>6</sup> In 1998 Amnesty International submitted to the Moroccan government non-exhaustive lists of outstanding cases containing more than 480 Sahrawi and about 50 Moroccan "disappeared". The organization has recently obtained information that, of the 480 submitted cases of Sahrawis, about 120 Sahrawis had been released in previous years and over 10 had died in detention. The organization has further received credible information on some 40 cases of Sahrawis who "disappeared" in the 1970s, 1980s and early 1990s and who were not included among the figure of 480. Amnesty International communicated this information to the CCDH in May 1999, urging them to investigate the cases of the remaining "disappeared" as well as those who had been released.

- The cases of more than 350 former "disappeared" who were released between 1984 and 1992. These include: six Moroccans released in 1984 after 10 years' "disappearance"; some 300 Sahrawis released in 1991 after up to 16 years' "disappearance"; 31 Moroccans released in 1991 after 18 years' disappearance; and eight members of the Oufkir family released in 1992 after 20 years' "disappearance". These survivors of "disappearance" must receive compensation and rehabilitation for their ordeal.
- In ALL cases investigations must be carried out to establish responsibility for these "disappearances" and deaths and the perpetrators must be brought to justice.

***Absence of official acknowledgement of the "disappeared"***

Relatives of the "disappeared" have been deeply disappointed by the inadequacy of the information published by the authorities so far. The families of those mentioned in the CCDH list as having "disappeared in unknown circumstances", such as Abdelhaq Rouissi (mentioned on page 3), feel that the authorities are trying to shirk their responsibility concerning these "disappearances". The family of Mohamed Souari, a medical student who "disappeared" in Rabat in 1979 and who was also mentioned as having "disappeared in unknown circumstances", issued a communiqué on 17 October 1998 stating that the CCDH declaration contradicted previous statements made privately to them by members of the security forces, who had assured them that Mohamed Souari was alive and well in detention and would be released. The families of Hocine El-Manouzi and Belkacem Ouezzane, who "disappeared" in 1972 and 1973 respectively, and of others, were deeply distressed to find the names of their loved ones mentioned in the CCDH list as dead, with no explanatory information.

As for the 70 or so "disappeared" Sahrawis who are known or believed to have died in the secret detention centres of Agdz, Qal'at M'gouna and Laayoune, the families of these victims have never received death certificates nor have they been formally notified of their relatives' deaths, as the authorities refuse to even acknowledge that these "disappeared" died in secret detention. Among those who have died during "disappearance" is Emghaili ment Yahdihould Embarek, a married woman in her 30s, who was arrested in 1985 in Laayoune by Moroccan security forces at the time of a visit to the city by King Hassan II. According to testimonies of other "disappeared" who were subsequently released, she died in the secret detention centre of Laayoune.

Obtaining and verifying information on cases of "disappearances" has always been difficult. This is especially so with regard to Sahrawi "disappearances", due to the amount of time which has passed since they occurred, the high degree of surveillance

maintained by the Moroccan authorities in the territory, and the limited contact which the population is able to have with the outside world. Despite such conditions Amnesty International continues to receive credible information and updates on "disappearance" cases that occurred between the mid-1970s and early 1990s. In May 1999 the organization had recorded some 400 cases of Sahrawi women and men who remain "disappeared" and some 70 who are reported to have died in secret detention.

However, detailed information remains difficult to obtain as even the few families who have received information about their "disappeared" relatives have been reluctant to talk openly for fear of putting their "disappeared" relatives at further risk, or out of concern for their own safety. There have been cases of people trying to obtain information about their detained relatives and themselves being arrested or harassed. The practice of arrest and detention outside any parameters of legality, and the denial to both detainees and their families of any recourse through the judicial system, discourages families from raising complaints or seeking information about their "disappeared" relatives.

### ***The survivors of "disappearance"***

Right up to the release of hundreds of "disappeared" in 1991 the Moroccan authorities at the highest level denied all knowledge of the "disappeared" or of the secret detention centres where the "disappeared" were held. Many of the "disappeared" were held in solitary confinement for all or prolonged periods of their captivity and none had any access to any medical care for the entire duration of their detention. The "disappeared" in Tazmamert never saw daylight for 18 years. The Oufkir family, six of them children at the time of their "disappearance", were held in separate cells and were not allowed to see each other for 10 out of the 20 years they were secretly detained. Those held in Agdz, Qal'at M'gouna and Laayoune were kept handcuffed and blindfolded most of the time for the first few years of their captivity.

Some of the "disappeared" spent years of their secret detention unable to get up off the floor. Some of those who were released died shortly after as a result of the treatment they had been subjected to. One example is the case of Moulay-Ahmedould Moulay-Hassan Al-Leili, who was forced to wash the bodies of dead detainees during the 15 years he spent in the secret detention centres of Agdz and Qal'at M'gouna. He died on 22 June 1991, the day after his release in the 1991 amnesty. All those who survived still bear the physical and psychological scars of their ordeal. *In the absence of official efforts to deal with this issue, Moroccan human rights organizations have been providing some medical care and therapy for victims but do not have the resources to deal sufficiently with all cases.*

To date none of the survivors of "disappearance" has received any compensation or rehabilitation. In the majority of cases the authorities still refuse to acknowledge the "disappearance" of hundreds of people who spent years in secret detention. In April 1999 the CCDH stated that only relatives of those "disappeared" whose names appear among the dead on the CCDH list are eligible to claim compensation and that they had to do so within a fixed time frame and with no possibility for appeal. No mention was made of the survivors of "disappearance".

Since 1994 the Tazmamert survivors have been receiving a monthly stipend of 5,000 dirhams (approximately US\$500). This is by all accounts a discretionary pension, paid through informal means and open to withdrawal at any point, leaving the individual survivors and their family in fear of forfeiting it through conduct disapproved of by the authorities - for example, talking or writing about their experiences in Tazmamert. This arrangement does not and cannot substitute for proper compensation to which the survivors of Tazmamert are entitled.

Other survivors of "disappearance" have received no compensation whatsoever. The 300 or so Sahrawis who were released in 1991 remain virtually cut off from the outside world and are often intimidated. Their right to freedom of expression, association and movement is severely curtailed, and to date they are denied any compensation or means to seek redress for the treatment they suffered during years of secret detention. In the early 1990s, some of

them were rearrested and again held in secret detention, in some cases for prolonged periods.

Given the political sensitivity relating to the Western Sahara issue, the "disappearance" of Sahrawis has been a taboo issue. Media, political parties, NGOs and others who have raised the cases of the Moroccan "disappeared" have on the whole avoided the issue of the Sahrawi "disappeared", and it remains very difficult for anyone to bring up cases with the Moroccan authorities.

Since August 1998 however, a group of former Sahrawi "disappeared", all of whom spent years in the secret detention centres of Qal'at M'gouna and Laayoune before being released in the royal amnesty of June 1991, have been campaigning in Rabat for the Moroccan authorities and civil society to take notice of their plight. The group, known as the Coordination Committee of the Former Disappeared of Qal'at M'gouna and Laayoune [Fr translation: Comité de coordination des anciens disparus de Qal'at M'gouna et Laayoune] are closely observed by the Moroccan security services and in recent months both they and their friends have been intimidated, especially in Western Sahara but also in Rabat. This group has met with representatives of the CCDH on several occasions to discuss the concerns of Sahrawi "disappearance" survivors, of relatives of those who died in detention and of those who remain "disappeared". Nevertheless, the Moroccan authorities have not so far publicly referred to any of the hundreds of cases of Sahrawis who remain "disappeared".

The presence of these former Sahrawi "disappeared" in Rabat and their contact with human rights organizations and with former Moroccan "disappeared" and relatives of "disappeared" have contributed to raising awareness of their plight and to breaking the taboo surrounding the Sahrawi "disappeared".

On 10 December 1998, on the 50<sup>th</sup> anniversary of the Universal Declaration of Human Rights, former Moroccan and Sahrawi "disappeared", as well as the families of people who are still "disappeared", issued a joint communiqué, calling for all outstanding issues relating to "disappearances" to be resolved as a matter of urgency. Significantly, it was the first time that former Moroccan "disappeared" and former Sahrawi "disappeared" had come together to issue a joint appeal to the Moroccan authorities and express their mutual solidarity in a public statement. Since then Moroccan and Sahrawi survivors of "disappearance" have continued to work together.

In recent years some 30 survivors and relatives of "disappeared" have been meeting regularly in the offices of the Moroccan human rights organizations in Rabat and have formed a committee to present their demands to the authorities and to the public. The committee has issued several statements critical of the recent CCDH announcements regarding "disappearances". Although their presence in Rabat is temporary because of financial constraints, the small group of former Sahrawi "disappeared" currently in Rabat have, since the end of 1998, also been taking part in these meetings. The vast majority of former Sahrawi "disappeared" and relatives of "disappeared", however, remain in Western Sahara and cannot

*communicate freely with the outside world or even with other Sahrawi victims in the territory.*

*Former "disappeared" and the families of the "disappeared" and of those who died in secret detention are determined to continue their battle to find out the truth about the fate of those who remain "disappeared" and to obtain rehabilitation and compensation for both those who survived the ordeal of "disappearance" and for the families of the deceased "disappeared". These victims and their families have the full support of human rights activists, both in Morocco and outside, who continue to remind the Moroccan authorities of their obligations according to international standards and to campaign on the issue. The Declaration on Disappearance stipulates that on the basis of an official investigation persons alleged to have perpetrated an act of "disappearance" shall be prosecuted (Article 14). However, in Morocco the authorities have failed to adhere to their international obligations to conduct investigations possibly leading to the prosecution of those responsible for "disappearances".<sup>7</sup> Compensation for the victims of "disappearances" or their relatives must also be provided.<sup>8</sup> The victims, the families of victims and human rights activists cannot and will not consider the issue of "disappearance" as*

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<sup>7</sup> The Convention against Torture also stipulates in Articles 12 and 13 that investigations must be carried out and those responsible brought to justice.

<sup>8</sup> Article 13 of the Declaration on Disappearance stipulates states parties' obligations to conduct prompt, thorough and impartial investigations - even in cases with no formal complaint. Article 19 of the Declaration on Disappearance stipulates that the victims of acts of enforced "disappearance" and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible, and that, in the event of the death of the victim as a result of an act of enforced "disappearance", their dependants shall also be entitled to compensation.



"closed" so long as the concerns detailed above remain unaddressed and unresolved. The Moroccan authorities are the only ones who can take the necessary measures to address these concerns, and unless they do so the dark page of Morocco's human rights past cannot be turned.

### **3. PRISONERS OF CONSCIENCE & POLITICAL PRISONERS**

Amnesty International welcomed the release during the 1990s of some 500 prisoners of conscience and political prisoners imprisoned after unfair trials. Since the legal amendments of 1991 cases of prisoners of conscience have substantially diminished and, where they occur, the sentences imposed tend generally to be much lighter than in previous decades.

In the past few years scores of people have been detained solely on account of the non-violent expression of their beliefs, the majority of them for periods ranging from a few days to a few months. Several of them have been sentenced for offences under Article 179 of the *Code pénal* (CP), Penal Code, which carries up to five years' imprisonment for "insulting members of the royal family". Due to the sensitivity of this charge, the organization is aware that not all cases are brought to the attention of human rights organizations or mentioned publicly.

Not every person sentenced under this article has made direct reference to the royal family. Mustafa Naas, aged 27, from near Al-Jadida, was charged with offences under Article 179 and sentenced to a two-year prison term in January 1997 for an expression he allegedly used in protest against the detention of his father by the *caïd*, a local official. The expression, literally translated as "We'll make this place a republic", can be used to make one's displeasure known without necessarily calling for the abolition of the monarchy.

Mustafa Rachih expressed his anger about his family's poor living conditions in a slum in Casablanca by attaching to his tent a banner on which he called for the King to treat his subjects fairly. In 1998 he was sentenced to five years' imprisonment. Later, on the basis of a medical examination which declared that Mustafa Rachih could not be held responsible for what he had written on the banner because of his unstable psychological state, the prison sentence was annulled and he was transferred to an institution for the mentally ill. There have been several cases of people pleading mental illness in order to avoid being sentenced under Article 179.

People with a political profile charged with “insulting members of the royal family” have been sentenced to the maximum period of imprisonment under Article 179. In 1997 Arslane Smouzi, former president of a branch of the *Shabiba Ittihadiya*, a political youth organization affiliated to the *Union socialiste des forces populaires* (Socialist Union of Popular Forces), the party in government since 1998, was charged under Article 179 and sentenced to five years’ imprisonment. Abderrahmane El-Ouadoudi, spokesman of the opposition *Kaïdiyyine* student movement and president of a branch of the Association of Unemployed Graduates, was sentenced to five years’ imprisonment in March 1995 in connection with his participation in an illegal demonstration in the streets of Marrakesh on 1 May 1992. El-Ouadoudi is accused of chanting slogans critical of the monarchy and calling for its abolition during the demonstration. Other participants in the demonstration who were arrested and sentenced in 1992 under the same charges were released in an amnesty of 1994.

Kais Abdelghani, a student at the Faculty of Law and Economics at Rabat University, was arrested in February 1999 and charged with insulting the King while he was expressing his religious views. At Friday prayers in a mosque he had questioned the appropriateness of referring to the King by the title *Amir Al-Mu’minin* (Leader of the Faithful). He was sentenced to three years’ imprisonment.

Prisoners of conscience can also be jailed under articles of the Press Code and the Law of Associations. Article 90 of the Elections Law 1997, which punishes dissemination of wrong information and lies, but was used to sentence over a hundred activists of the *Parti de l’avant-garde démocratique socialiste* (PADS), Socialist Democratic Avant-garde Party, to jail terms for their call to boycott the municipal elections in June 1997 and the legislative elections in November 1997, is of particular concern. Amnesty International calls on the Moroccan government to bring all legislation into conformity with its international obligations under treaties it has ratified.

The human rights situation in Western Sahara continues to lag a long way behind that in Morocco itself and the restrictions on freedom of expression in the territory are still severe. On the occasion of the royal amnesty in 1994, when hundreds of political prisoners and prisoners of conscience were released, an explicit exception was made of “whosoever does not recognize the fact that the Sahara is Moroccan”.

The longest-serving prisoner of conscience in Morocco is Mohamed Daddach, a Sahrawi, who was arrested in 1979 and is still serving a life sentence for having tried to desert the Moroccan security forces into which he had reportedly been forcibly enlisted.

Even though in recent years unfair trials of political prisoners, including possible prisoners of conscience, have decreased, this practice has not completely disappeared.

Following demonstrations in February 1998 in Lemseyed, Western Sahara, in which demonstrators burned a public building, 20 people were tried in Agadir. Eight defendants received sentences of two years' imprisonment and the rest were jailed for three months, despite the fact that torture allegations by some defendants were not investigated and that the prosecution failed to prove that the defendants had participated in the incident.

Political prisoners detained for years after unfair trials - in many cases convicted on the basis of confessions extracted under torture - include Mustapha Oukil and Belkacem Hakimi, both sentenced in 1985 to life imprisonment on charges of arms trafficking on behalf of an Islamist group.

Abdesalam Yassine and Abraham Serfaty have received special forms of punishment. Abdesalam Yassine, a prisoner of conscience, has been under house arrest in Salé since 30 December 1989 despite never having been tried. He remains under heavy guard with visitors strictly controlled. Neither he nor his lawyer has been shown an order permitting his detention, and neither has been informed of the offence he is supposed to have committed. Yassine is the spiritual leader of an Islamist group formed in the 1970s. The following decade he tried to establish the group as a political organization - *Al-Adl w'al-Ihsan* (Justice and Charity) - but was refused permission. In July 1992, his lawyer lodged an appeal against the illegal detention, but no response has yet been received. In 1993, Amnesty International received a copy of an undated letter from Morocco's Permanent Representative at the UN in Geneva which left little doubt that Yassine is being detained solely for the peaceful exercise of his rights to freedom of association and expression.

Abraham Serfaty, formerly one of the longest-serving prisoners of conscience in Morocco, has, since his release from prison in September 1991, been forcibly exiled in France on the grounds that he is not Moroccan. Arrested in 1974, he was sentenced to life imprisonment in 1977 in a mass trial of 170 members of an illegal Marxist group, *Ila'l Amam* (Forward), which advocated the right to self-determination for the people of Western Sahara. In July 1998, the Supreme Court declared itself unable to rule on his nationality.

#### **4. TORTURE, ILL-TREATMENT AND DEATHS IN CUSTODY**

Arrests and torture of known or suspected opposition activists, practices which had been very widespread until the early 1990s, have very significantly decreased in recent years. However, despite ratification by Morocco of the Convention against Torture, reports have continued to be received of torture and ill-treatment during incommunicado detention, as well as in prisons. In Morocco these allegations concern mostly common-law detainees

and prisoners; in Western Sahara they also concern political detainees. In both cases torture and ill-treatment appear to be used either to extract confessions or information or to punish or intimidate the victims.

Hamid Muntassir, a 16-year-old student, was tortured in the context of investigations into the death of a friend of his. He was arrested on 7 June 1998 in Azemmour, near Al-Jadida, on suspicion of having pushed his friend off a building and was held incommunicado for three days in Azemmour police station. He told an Amnesty International delegate: "The police blindfolded me with a piece of black cloth. They made me sit on the floor. Then they took off my sandals, lifted my legs up and beat me on my bare feet. They told me I should confess to pushing my friend off the building. They beat me and threatened me with electric shocks."

His allegations are consistent with a medical examination requested by his lawyer and carried out on 12 June 1998, which noted swellings on the soles of his feet. A medical examination ordered by the court on 11 June 1998 was not conducted until 26 June - more than two weeks later - and concluded that there were no traces of torture. A complaint was filed by his family on 22 June 1998 but no investigation is known to have been carried out.

*A number of people, especially among the poor, the uneducated and those living in rural areas, have testified to Amnesty International that they were subjected to beatings, torture and ill-treatment by the security forces, including by members of the auxiliary forces<sup>9</sup> such as *caïds* (an official rank), when they were being questioned about issues such as land or trade disputes. The circumstances involved suggest that their treatment was intended to intimidate them, as a warning, or to punish them for their refusal to comply with the official's orders or because they had complained about such orders.*

On 28 October 1998, 65-year-old Mohamad Doussal was summoned by an auxiliary officer in the grocery market in Safi to the office of the *caïd* of the seventh district (*muqata'a*) of Safi. At the office of the *caïd* he reportedly had his trousers forcibly removed, following which he was beaten on the soles of his feet (a method of

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<sup>9</sup> The auxiliary forces are a kind of parallel police, accountable to the Minister of the Interior.

torture known as *falaqa*) and genitals by four auxiliary officers. When he returned to the market his pain was noticed and he was taken in an ambulance to hospital, where he was given a medical certificate prescribing a period of 30 days off work. On 12 November 1998 he filed a complaint and in May 1999 an investigation was opened at Safi Court of Appeal.

The maximum limit of 72 hours' incommunicado detention<sup>10</sup>, the period when detainees have no access to the outside world *and are therefore most at risk of torture or ill-treatment, appears to be generally respected in Morocco but less so in Western Sahara. No reports of detainees being held incommunicado for weeks or even months - as used to be the case up to the early 1990s - have been received in recent years, but in some cases the limits of incommunicado detention are not respected. What is intended to be incommunicado detention can turn into secret detention, as the security forces often do not inform detainees' families that their relatives have been arrested and, even when contacted, many deny all knowledge of the detained persons. Especially up to the end of 1997, there was a pattern of intimidation in Western Sahara whereby people suspected of anti-government or pro-independence sympathies were arrested, held in secret detention for a few days or a few weeks, beaten and tortured and subsequently released without charge.*

Hammed Ali Hamad, was arrested in Laayoune, Western Sahara, in May 1997 and held in secret detention for 11 days, during which time he was reportedly beaten and tortured, notably by being tied by his wrists to the back of a car which was then driven around in circles in the courtyard of the security forces' centre where he was being held. During the entire period of his detention his family could not obtain any information or confirmation of his detention. He was subsequently released without charge but was forbidden to go to a hospital to obtain medical care even though he was in a poor medical condition. He still suffers from the injuries sustained and has not recovered the full use of his hands.

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<sup>10</sup> Article 68 of the *Code de procédure pénale* (CPP), Criminal Procedure Code. In cases deemed to involve attacks against state security the period can increase to 96 hours.

***Excessive use of force***

In addition to torture and ill-treatment in detention, there have been incidents of beatings and ill-treatment of demonstrators and student activists by security forces. The use of excessive force amounting to ill-treatment - particularly in the form of beatings *in situ* - on the part of the security forces appears to be carried out deliberately as a form of punishment, and not as a legitimate attempt to restore order. Whilst recognizing the responsibility of the authorities to maintain law and order, such methods are contrary to Article 3 of the UN Code of Conduct for Law Enforcement Officials<sup>11</sup>.

Jobless graduates have more than once been subjected to excessive use of force at the hands of the security forces. On 15 February 1999 a group of blind supporters of the Association of Unemployed Graduates, on their way to demonstrate against unemployment in front of the parliament in Rabat, *were beaten and injured by security forces. On 26 October 1998, some 200 demonstrators were reportedly injured and 95 arrested by security forces when riot police using clubs broke up a peaceful demonstration by around 3,000 jobless graduates in Rabat. All those arrested were later released. No investigation has been conducted into either incident.*

In February 1999 dozens of students - most of them Sahrawis - were beaten by security forces on the Souissi II student campus in Rabat. Several students were injured, at least eight of them seriously. According to Sahrawi and Moroccan victims and witnesses interviewed by Amnesty International on the campus in March 1999 the security forces intervened following a dispute, deliberately beat the students, including some who were in their rooms and had not been involved in the dispute, and destroyed students' property.

***Deaths in custody and in suspicious circumstances***

In the past few years dozens of people, most of them common-law detainees, have died during incommunicado detention or after being beaten by security forces at the time of arrest in circumstances suggesting that torture and ill-treatment may have caused or contributed to their deaths.

On 2 October 1998 Jaouad Farihane, aged 24 from Meknès, was stopped by police officers in the red-light district of Tiflet. According to witnesses, when he refused to produce his identity card, several policemen beat him and he fell to the ground. He was

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<sup>11</sup> The UN Code of Conduct for Law Enforcement Officials states "that the use of force by law enforcement officials should only be exceptional"(Article 3, a) and "in accordance with a principle of proportionality" (Article 3, b).

taken by the police to Tiflet Hospital, where he was found dead on arrival, and from there to the morgue in Khemisset. Later that night the police informed his sister in Meknès about his arrest but not about his death. Eventually on 4 October his relatives, who had been searching for him, were informed by police that he had died. However, when they went to the morgue they were not allowed to see his body. The family reported that the authorities prevented them from examining the body by taking it directly to the funeral on the evening of 5 October 1998. No investigation is known to have been carried out into the case.

On 20 November 1998 Hicham Janah was arrested and taken to Meknès central police station. Having learned of his arrest, his mother went to the police station on two occasions, but was told that he was not being detained there. Finally, when his mother and brother went to the police a third time, his detention was confirmed. His mother informed the police that Hicham was epileptic and needed regular medical care, producing medical certificates to confirm this, but the police refused to accept the medicine. On 22 November Hicham was transferred to Meknès prison and, there again, prison authorities refused to accept the medicine brought by the family. The following day Hicham failed to show up for a scheduled court appearance and his family learned from another accused that he had collapsed in prison and been taken to hospital. The family found him in hospital in a coma with injuries to his head, which the authorities claimed were caused by a fall during an epileptic attack. He died the following day, on 24 November. No investigation appears to have been opened into the death.

### ***Inadequate investigations***

According to the Convention against Torture, the Moroccan authorities are required to investigate promptly and impartially all cases where torture or ill-treatment is alleged to have been committed, as well as any case where there is reasonable ground to believe that torture may have been committed - even if no complaint is filed (Article 12). Articles 76 and 127 of the Moroccan *Code de procédure pénale* (CPP), Criminal Procedure Code, stipulate that the state prosecutor and the examining magistrate must, at the end of the period of incommunicado detention, allow the detainee access to a medical examination if the detainee requests it or if there is evidence that the detainee may have been subjected to violence.

In addition to the complaints raised by victims, their families and lawyers before examining magistrates and prosecutors, before the courts during trials and in written communications to the judicial and governmental authorities, cases of torture and deaths in custody are often described in communiqués and reports by local human rights organizations and in Moroccan newspapers. Information about such cases is, therefore, often in the public domain and, as such, available to the authorities even when no complaint is lodged.

In practice the legal provisions above are often not respected. Requests for medical examination have often been refused by the judiciary, even in cases where the detainees bear obvious marks of torture or ill-treatment. In some cases the medical examination was authorized at a later stage, by which time the marks of torture had disappeared. The judicial authorities have often failed to open investigations even when these were requested by the detainees and their lawyers or by the families and lawyers of detainees who died in custody. In other cases investigations have been opened but have dragged on for years without tangible progress or conclusion and in other cases still, the complaints have been dismissed without adequate investigations.

On 13 August 1998, Mohamed and Mustafa Essrout, two brothers aged 37 and 24 respectively, lodged a complaint about torture in Casablanca. They alleged that when they went to a *caid*'s office on 3 August 1998 to collect confiscated goods which Mohamed had been selling in the street, the *caid* called in auxiliary officers, who beat them on the soles of their feet (the *falaqa* method), pulled them by the hair and kicked them with boots. Mohamed and Mustafa Essrout were taken to hospital where they both received treatment and a medical certificate prescribing 15 days off work. As of May 1999 no investigation had been carried out into their complaint.

Particularly in remote and rural areas of the country, where there appears to be a much lesser degree of supervision by the judicial authorities over the police and auxiliary forces, victims often feel that it would be unsafe to lodge a complaint with the very same authorities who ill-treated them. They may not be aware of their rights or know how to take their complaint to higher authorities, or they may lack the financial resources to pay for a lawyer to lodge a complaint on their behalf. Given that the cases in which members of the security forces responsible for human rights abuses against detainees have been prosecuted are so few - and the cases in which prosecution ended in a conviction even fewer - it is not surprising that relatively few victims do complain.

In some cases the investigations opened seem to exempt some of those responsible for the violations. A recent example is the case of Hichem Chekroun, a 17-year-old boy serving a three-year sentence for theft in Oukacha prison in Casablanca, who was raped in January 1999 by common-law detainees, allegedly with the complicity of a prison warden. Before the rape Hichem Chekroun and some 80 other youths had been moved from the youth wing to one of the adult wings housing prisoners convicted of serious crimes, including rape. The youths' transfer took place in preparation for the filming by a local television of a documentary on prison conditions for youths and was aimed at showing that the youth wing was less crowded than it is in reality. After the rape Hichem had to be taken to hospital in a very serious condition, but the prison administration did not inform his family of the incident. The family learned about their son's rape from other detainees in the same prison and it was only after the family obtained the information through its own means that the prison authorities admitted what



had happened and announced that they would open an inquiry. However, the inquiry concerns only three detainees and one prison warden but not the prison officials responsible for ordering the transfer of the youths to the adult wing and for concealing the rape from the boy's family.

### ***The obligation to prosecute***

Where investigations indicate that torture has occurred, the necessary steps must be taken to bring the perpetrators to justice. Under the Convention against Torture, the Moroccan authorities are obliged to ensure that those alleged to have committed an act of torture are prosecuted (Article 7). However, in the absence of prompt, thorough and impartial investigations into reports of torture, the chances of bringing perpetrators of torture to justice remain remote.

For victims seeking to bring their torturers to justice, it is discouraging to find out that when complaints are processed, excessive delays and other inefficiencies occur. Fatima Doulaoui, who complained that she had been tortured during incommunicado detention by Marrakesh judicial police in November 1988, had to battle through legal proceedings for 10 years to see her complaint investigated. It was only recently that a member of the security forces was charged in connection with her complaint.

Even though the Moroccan authorities publicly accept that current human rights violations must be investigated and those responsible brought to justice, over the past years only a small number of members of the security forces have been prosecuted for abuses. According to information provided by the Moroccan authorities, 37 members of the security forces and other officials were brought to justice between the beginning of 1994 and the beginning of 1998 for acts including beatings, causing injuries and use of violence.<sup>12</sup>

Before 1994 there were even fewer reports of members of the security forces being prosecuted. To date the overwhelming majority of those responsible for human rights violations, including those who ordered and carried out gross violations over long periods of time, have been afforded total impunity. Not only have such people not been brought to justice, but neither have they been removed from positions of authority on the grounds of the violations for which they have been responsible. For example, though systematic torture is no longer practised in Derb Moulay Cherif, Casablanca, the head of the once notorious centre for secret detention and torture was promoted to the position of Director at the *Direction Générale de la Sûreté Nationale* (DGSN), National Security, and in that capacity was a member of the delegation which presented the Moroccan

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<sup>12</sup> See Morocco's second periodic report to the Committee against Torture (05/01/99 CAT/C/43/Add.2).

government report to the UN Committee against Torture in Geneva in November 1994. Today he remains in that position.

Some former Polisario figures who held positions of responsibility in the Polisario security apparatus, and who are alleged to have been responsible for human rights abuses in the refugee camps administered by the Polisario authorities in the south of Algeria, have since left the camps and are now in Morocco. Under the Convention against Torture (Article 7), Morocco has an obligation to investigate anyone suspected of committing torture in Morocco or in another country, and, if enough evidence is found, to extradite or prosecute them. However, to date the Moroccan authorities are not known to have taken any steps to investigate the allegations against these individuals.

Amnesty International has submitted dozens of cases of torture allegations and deaths in custody and in suspicious circumstances to the Moroccan authorities in recent years, urging them to take the necessary measures to ensure that the complaints are investigated, that the findings of the investigations are made public and that anyone found responsible is brought to justice. In June 1998 an Amnesty International delegation visiting Morocco submitted a list of 30 cases of deaths in custody or following arrest between 1993 and 1998 where torture and ill-treatment are alleged to have caused or contributed to the deaths. On this occasion, as on previous occasions, Amnesty International has received no response from the government on the cases submitted, but has continued to monitor the developments on the cases via the lawyers and families of the victims. According to Amnesty International's information, only in one case out of those submitted have members of the security forces been convicted and sentenced for having caused the death of a detainee - the case of Abdelhamid Al-Mourabit, who died in 1996. In all the other cases the investigations were either closed with no conclusive result, never opened or are still continuing long after the complaint was filed. The same pattern applies for cases of deaths in custody in previous years, as well as for virtually all the other complaints of torture and ill-treatment raised over the years.

### ***The need for legal and judicial reform***

Recent announcements heralding judicial reform have raised hopes that issues relating to unfair trials and independence of the judiciary will be addressed. Positive legal amendments passed in the past nine years<sup>13</sup> have led to a substantial reduction in practices such as prolonged secret detention and torture. However, the treatment of the detainee by the security forces during incommunicado detention, the manner in which the *procès*

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<sup>13</sup> Notably the 1991 amendments. These limited the duration of incommunicado detention and stipulated that the detainee's family should be notified as soon as he or she is taken into police custody; that the accused's lawyer have the right to be present at the initial interrogation by the prosecutor at the end of incommunicado detention; and that the detainee in incommunicado detention have access to doctors when requested.

*verbaux* (interrogation records) are drawn up and the reluctance of the judiciary to investigate complaints relating to breaches of the above procedures remain powerful obstacles to the establishment of the right to a fair trial.

Moroccan legislation does not state clearly that no confession or statement will be admissible in court if it is obtained under torture or duress. On the contrary, CPP Articles 291-294, which provide that *procès verbaux* stand until the opposite is proved and that witnesses can establish facts contrary to their contents only on grounds of forgery, undermine the principle of the presumption of innocence, and are often used by judges as a pretext for refusing to investigate allegations of torture or ill-treatment. Article 15 of the Convention against Torture stipulates that "any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

In February 1997, 14 students were arrested and charged after a demonstration in front of the Department of Law in the University of Marrakesh. During their trial, both the court of first instance and the appeal court rejected the defence's petition to call witnesses who apparently were ready to testify that some defendants were a considerable distance away from the demonstration when they were arrested. The defendants denied having taken part in the demonstration and rejected the confessions recorded in the *procès verbaux*, asserting that they had been tortured and coerced into making them, and pointing out the thumb-prints in place of signatures on the documents. The appeal court on 7 April 1997 held that, in accordance with CPP Article 294, the *procès verbaux* could only be challenged on the basis of forgery and upheld the convictions imposed by the court of first instance, while reducing the duration of the prison sentences imposed on the defendants.

In Lemseyed, Western Sahara, after demonstrations in February 1998 in which demonstrators burned Moroccan flags, photographs of the King and set fire to a public building, 20 people were tried in Agadir. Defendants stated that they had been tortured while in prolonged secret detention in Laayoune by methods including beatings, being forced to sit on batons or bottles and having cigarette ends stubbed out on the body, and that they had been forced to sign the *procès verbaux*. The marks of torture were visible during the trial, which took place in March 1998, but no medical examination was ordered. Although the witnesses for the prosecution withdrew their statements which had stated that they had recognized the accused at the night-time demonstration, all the accused were found guilty. Eight defendants received prison sentences of two years' imprisonment, while the remainder were sentenced to three months' imprisonment.

The consistent and long-standing failure by judges to fulfil their obligations under law to investigate systematic breaches of procedure at stages of pre-trial investigation, means that whatever the technical safeguards regarding incommunicado detention and the

drawing up of the *procès verbal*, they do not protect the rights of the accused in practice nor ensure the proper administration of justice. Mechanisms must be put in place which guarantee the independence of the judiciary and an efficient supervision by the judiciary of the security forces' treatment of detainees.

## 5. CONCLUSION AND RECOMMENDATIONS

There can be no doubt that the human rights situation in Morocco and Western Sahara has markedly improved over the last decade. However, there is no room for complacency, and developments in the early 1990s must be followed by further action if the momentum gained is not to be lost.

The following recommendations, which are based on Morocco's obligations under international human rights law, are made by Amnesty International in a spirit of cooperation and in the hope that the Moroccan government will agree that the time is particularly opportune for their implementation. The organization believes that vigorous and consistent measures by the government are crucial for the wrongs of the past to be redressed, the lingering atmosphere of impunity to be dispelled and the existing limits on human rights protection to be removed. In particular the organization calls on the government to:

### *Concerning "disappearances":*

- \* Urgently take the necessary measures to ensure that all the "disappeared" who are still alive are released and that the fate of those who died in detention is clarified;
- \* Formally acknowledge the secret detention of all former "disappeared" and of all those known to have died in secret detention, and provide adequate compensation to the former "disappeared" and the families of the "disappeared" who died in detention;
- \* Ensure that the rights of all former "disappeared" to freedom of expression, communication, association and movement are fully protected;
- \* Urgently set up an independent judicial body which should be charged with accounting, as far as possible, for all persons who have "disappeared" after arrest at any time since the 1960s and ensuring the release of all remaining "disappeared". If some of those who "disappeared" are found to have died in detention, their relatives should be informed about the circumstances of their detention and death. The body should be composed of individuals known for their impartiality and competence and should be independent of any institution or agency that might be the subject of the inquiry. It should be empowered to visit all alleged places of secret detention, release all those illegally detained, question any person, have full access to all documents necessary to its inquiries and ensure the protection of any witnesses and sources.

### *Concerning torture and ill-treatment:*

- \* Ensure that allegations of torture and ill-treatment, including brutality by security forces outside of the context of detention (such as during demonstrations or gatherings), are thoroughly, promptly and impartially investigated and that security force members are suspended while they are being investigated;
- \* Take the necessary measures to ensure that anyone found to be responsible for such acts is brought to justice;
- \* Establish an independent and impartial body to investigate the practice of torture;
- \* Circulate and make public instructions to the security forces, the prison service, the Prosecutor's office and the judiciary, stating that all allegations of torture or ill-treatment and breaches of regulations of incommunicado detention must be promptly, fully and impartially investigated, and stating that judges may not, under any circumstances, accept as evidence confessions extracted after torture and denied in court by defendants;
- \* Impose a ban on incommunicado detention and ensure access to legal counsel within 24 hours as recommended by the UN Special Rapporteur on torture;
- \* Withdraw the reservation made in accordance with Article 28 of the Convention against Torture to the effect that it does not recognize the competence of the Committee against Torture under Article 20, and make the declaration necessary under Article 22 as regards individual complaints.

*Concerning deaths in custody:*

- \* Take the necessary measures to ensure that all cases of deaths in custody and in suspicious circumstances, especially in recent years, are promptly, fully and impartially investigated and that anyone found to be responsible is brought to justice;
- \* Review the legal provisions regarding inquests into deaths in custody with a view to ensuring that they are carried out in an independent and impartial manner in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

*Concerning prisoners of conscience, fair trials and forcible exile:*

- \* Proceed with urgency with the planned revision of existing legislation and, in particular, remove all provisions that permit the imprisonment of prisoners of conscience;
- \* Ensure that all prisoners of conscience, including Abdesalam Yassine, held under house arrest, be immediately and unconditionally released, and that all political prisoners sentenced after unfair trials since the 1970s are released unless they are immediately retried in full compliance with international standards for fair trial;
- \* Consider amendments to the CPP, particularly Articles 291-294, to reinforce the presumption of innocence and to place the burden of proof on the prosecutor in the event of denial of the contents of the interrogation records by the defendant;
- \* Allow Abraham Serfaty to return immediately to Morocco from forcible exile.

*Concerning the ICCPR:*

- \* Ensure that Morocco becomes a party to the first Optional Protocol to the ICCPR, enabling the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violations of rights set forth in the ICCPR, and a party to the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.