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# amnesty international

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## MOROCCO / WESTERN SAHARA

### Addendum to “Turning the page”: achievements and obstacles

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#### 1. INTRODUCTION

This document is an addendum to the report *Morocco/Western Sahara: “Turning the page”: achievements and obstacles* (AI Index: MDE 29/01/99), which was originally planned for public release on 22 June 1999. The addendum acknowledges and summarizes the comments of two documents, one sent by the *Conseil consultatif des droits de l’homme*<sup>1</sup> (CCDH), Consultative Human Rights Council, and the other by Morocco’s Human Rights Ministry. Both documents were sent to Amnesty International in response to its report, of which the Moroccan authorities and the CCDH had received advance copies. The full texts of both responses are available from Amnesty International’s International Secretariat on request.

Amnesty International learned that the CCDH and the Human Rights Ministry were preparing responses prior to the original launch date of the report and the organization decided to delay the release in order to reflect the response in an addendum and advance its ongoing dialogue with the CCDH and the Moroccan authorities. Both responses contain general comments on the form and approach of Amnesty International’s report, make remarks about individual cases of human rights violations raised and outline some proposals for reforms. This addendum does not seek to make reference to or comment on every remark made about Amnesty International’s report in the responses, but rather focuses on the specific points raised.

#### 2. THE ISSUE OF “DISAPPEARANCE”

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<sup>1</sup> The *Conseil consultatif des droits de l’homme* is Morocco’s official human rights body. Established in 1990, the body is appointed by King Hassan II and plays an advisory role to the monarch.

Both responses mention that the CCDH has met to examine information on “disappearance” cases provided by various sources, including local and international human rights organizations, and that in October 1998 it made public the results of these findings in the form of a list of 112 cases which it had investigated. The CCDH response added that it was willing to receive further cases and to undertake the necessary investigations that these might entail. Amnesty International welcomes the CCDH’s stated commitment to examine other cases and hopes that it will consequently proceed to investigating the hundreds of unresolved Moroccan and Sahrawi “disappearance” cases which local and international human rights organizations have submitted to it over the last decade.

Amnesty International is concerned that investigations so far have been limited to 112 cases only. The Human Rights Ministry says that the CCDH has “investigated the majority of the cases which appear in the reports of human rights organizations, including Amnesty”.<sup>2</sup>

Both responses indicate that, following the recommendations of the CCDH, an arbitration commission will be set up to deal with the issue of compensation for “disappearances”. Amnesty International acknowledged in its report the CCDH’s proposal to establish an arbitration body to decide on compensation claims<sup>3</sup> and welcomes the fact that victims will have a chance to obtain redress for their ordeals. The organization regretted, however, the CCDH’s announcement that only the families of some of the individuals mentioned in the CCDH list of 112 names would be considered and that, consequently, hundreds of survivors of “disappearance” and families of those who died in secret detention had been denied the possibility of applying for compensation or rehabilitation care, despite their right to redress and adequate compensation under Article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance.<sup>4</sup>

The CCDH response comments on the fact that, although Amnesty International’s report is being published in 1999, the organization makes reference to some cases of people who “disappeared” up to 35 years ago, during periods when the situation in the country was fundamentally different to the present environment. Amnesty International, along with many other organizations and individuals inside and outside Morocco, continues to raise such cases because they have not been satisfactorily addressed and it will continue to raise them until they have been fully resolved.<sup>5</sup>

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<sup>2</sup> See *Morocco/Western Sahara: “Turning the page”: achievements and obstacles* (AI Index: MDE 29/01/99); pages 5-7.

<sup>3</sup> See *ibid*; page 5.

<sup>4</sup> Article 19 of the Declaration on Disappearance states:  
“The victims of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. 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.”

<sup>5</sup> See *Morocco/Western Sahara: “Turning the page”: achievements and obstacles* (AI Index: MDE 29/01/99); page 4.

“Disappearance” cases from as long ago as the 1960s are still relevant today because families of the “disappeared” are still tormented by the agony of not knowing the fate of their loved ones and because both the former “disappeared” and families of those who died in secret detention have until now obtained no redress. Moreover, those responsible for these grave human rights violations have been afforded total impunity.

The CCDH points out that Amnesty International highlights the case of Abdelhaq Rouissi, who “disappeared” in 1964, even though his name is mentioned on the CCDH list of October 1998 among those who “disappeared in unknown circumstances”. The reason for this is that the information provided consists solely of his name in a list. There are no accompanying details indicating a resolution of the case, even though it was previously confirmed that Rouissi was held in secret detention for more than 10 years after his arrest. The case of Abdelhaq Rouissi is clearly one where “facts remain unclarified” and therefore fits squarely within the provisions of Article 17 of the Declaration on Disappearance.

The Human Rights Ministry mentions that the Moroccan authorities have resolved dozens of Sahrawi “disappearance” cases in cooperation with both the Working Group on Enforced or Involuntary Disappearances (WGEID), an expert body established by the UN Commission on Human Rights to investigate “disappearance” cases, and the International Committee of the Red Cross (ICRC). The Ministry says that, during the period between 10 December 1994 and 20 November 1998, more than 70 per cent of the 242 “disappearance” cases presented to it by the WGEID were dealt with and concludes that “some are living a normal life in Morocco, some are in a state of detention as prisoners of war in the hands of the *Forces armées royales* [the Moroccan army] and are visited by the ICRC, and some died during military combat”.

The WGEID acknowledges in its reports to the UN Commission on Human Rights that some 130 of these 242 cases are clarified. These include, however, Moroccans who either died in Tazmamert or were released from the secret detention centre in 1991 after 16 years of “disappearance”. It also includes Sahrawis who were “disappeared” for varying periods of time but whose release Amnesty International has recognized.

Amnesty International is aware that a substantial proportion of the approximately 450 remaining “disappeared”<sup>6</sup> - mostly Sahrawi - do not figure among the 242 cases the WGEID have submitted to the Moroccan government. It should be noted, however, that the cases of many of the 320 or so Sahrawis who were released from the secret detention centres of Qal‘at M’gouna and Laayoune in June 1991 and whose cases Amnesty International had been raising since the 1970s were not taken up by the WGEID in 1986.

The Human Rights Ministry’s acknowledgement that some of the 242 “disappearance” cases submitted to it by the WGEID are still being held in detention by the Moroccan army as prisoners of war and receive regular visits from the ICRC is the first time the government has ever mentioned this. Amnesty International is seeking a list of the names of those still held as prisoners of war by Morocco.

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<sup>6</sup> See *ibid*; page 7.

Both the Human Rights Ministry and the CCDH argue that Amnesty International's statement that there are still hundreds of Sahrawi "disappeared" is not credible because these "disappearances" occurred mostly during the years (1975-87) of military conflict in Western Sahara and of "forced movement" of the Sahrawi population to the Polisario camps in Tindouf, thus suggesting that the "disappeared" either died in combat or are now living in the camps. This argument has been used by the Moroccan authorities for years to deny Sahrawi "disappearance" cases raised by Amnesty International and other non-governmental organizations. However, this argument is difficult to accept given that the secret detention and even existence of the 320 or so Sahrawis who were granted an amnesty in June 1991 had been repeatedly denied by the Moroccan authorities.

The CCDH claims that Amnesty International has tried to artificially swell the number of Sahrawis who are currently "disappeared" by adding the cases of former "disappeared" who had been released in previous years. In fact, the organization explains clearly in the report - and has previously provided the CCDH with lists containing their names - that some 450 people, most of them Sahrawis, are currently "disappeared" and that their fate remains unknown. In the report, Amnesty International mentions, in addition, the figure of some 70 Sahrawis who reportedly died during their "disappearance" in the secret detention centres of Agdz, Qal'at M'gouna and Laayoune between 1976 and 1991. Neither of these two figures include, of course, the 350 or so Moroccan and Sahrawi former "disappeared" who were released between 1984 and 1992 following up to 20 years of "disappearance". Nor do they include some 120 Sahrawis who were "disappeared" for varying periods of time during the last three decades and whose releases in previous years were only recently reported to Amnesty International.<sup>7</sup>

The CCDH also says that Amnesty International makes reference to the "disappearance" of elderly people, women and children from Western Sahara, but does not support this with figures or personal details of the cases. Amnesty International acknowledges that, in the report, of "disappeared" Sahrawis from these categories, it gives only the example of a 14-year-old boy arrested in 1976.<sup>8</sup> However, the CCDH is well aware of numerous other examples which the organization has provided them in recent years, by means of lists and case-studies of these victims. Due to the difficulty of collecting information on human rights violations in Western Sahara, Amnesty International does not have information about the dates of birth of many of the 470 or so Sahrawis who are either still "disappeared" or who were "disappeared" and reported subsequently to have died in secret detention between 1976 and 1991. However, at least 11 of them were aged 60 or over at the time of their "disappearance", at least eight of them were aged 18 or under, and some 70 were women.

### **3. HUMAN RIGHTS DEVELOPMENTS IN WESTERN SAHARA**

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<sup>7</sup> See *ibid*; page 7.

<sup>8</sup> See *ibid*; page 4.

The responses from the CCDH and from the Human Rights Ministry essentially make three points on issues raised by Amnesty International in its report relating to the situation in Western Sahara. They describe as exaggerated the organization's observations on past or present human rights violations and on remaining restrictions on freedom of expression, association and movement in Western Sahara. They argue that Amnesty International takes a position on the territorial dispute about the status of Western Sahara. And they claim that the organization has been silent about human rights abuses in the refugee camps administered by the Polisario Front in the Tindouf area of southern Algeria.

Amnesty International has acknowledged and welcomed the significant improvements in recent years in the human rights situation in Western Sahara, including the release of hundreds of "disappeared" in 1991, the release of prisoners of conscience in 1996 and the decrease in the incidence of arrests, secret detention and torture. However, certain concerns remain both about the current situation and about past cases which have so far not been addressed. The fact that not a single one of some 70 Sahrawi "disappeared" men and women who reportedly died in secret detention was included in the recent CCDH lists does not allay concerns about the discriminatory treatment to which Sahrawi victims are subjected. Both the CCDH and the Human Rights Ministry are aware of the cases of the Sahrawi former "disappeared", which have been brought to their attention by Amnesty International and others, and which were publicly announced by the Moroccan government at the time of the releases in June 1991 in a document entitled *List of the persons originating from the Sahara reprieved by His Majesty King Hassan II following the request of the members of the advisory council for the Saharan affairs*. Hence, the issue is not one of making any unnecessary distinction between Moroccans and Sahrawis but of highlighting the need for the cases of Sahrawi victims to be addressed along with the cases of other victims of human rights violations.

The improvements in recent years in the human rights situation in Western Sahara are indeed a welcome development but they do nonetheless fall short of improvements which have taken place in Morocco in the same period with regard to freedom of expression, association and movement. Many Sahrawis, notably former "disappeared" and those known or suspected of opposition to the Moroccan authorities, are not allowed to leave the country. It is true that since the autumn of 1998 a small group of Sahrawi former "disappeared" have been in Rabat seeking help and redress for the former "disappeared". However, it is also true that these men and women have at times been subjected to surveillance and intimidation by security forces in the capital and that other former "disappeared" and families of "disappeared" have been subjected to intimidation and harassment by the security forces in Western Sahara. Members of an Amnesty International delegation who briefly visited Western Sahara in May 1998 found that the surveillance was very perceptible and that former "disappeared" and relatives of "disappeared" expressed fear of being later harassed by security forces.

The CCDH indicates that by referring to the area as "Western Sahara", Amnesty International takes a position in favour of "separatism". The term "Western Sahara" is commonly used, including in the UN Settlement Plan, to which Morocco is a party,<sup>9</sup> and

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<sup>9</sup> The Settlement Plan was agreed to in 1988 by both the Moroccan authorities and the Polisario

Amnesty International takes no position on the status of Western Sahara - or of any other disputed territory - as such matters do not fall within the organization's mandate. The CCDH points out that "no one is allowed to question or to misrepresent" the "territorial integrity of the Kingdom within its authentic borders". Amnesty International believes that those wishing to peacefully express their views on the matter, whether in favour of independence or integration, should be able to do so without fearing or incurring prosecution, intimidation or harassment. This is a basic fundamental right to freedom of expression and as such is protected by the Universal Declaration of Human Rights and by international human rights treaties ratified by Morocco. Amnesty International considers as prisoners of conscience all those detained or imprisoned on account of the peaceful expression of their opinions, including on this issue.

Amnesty International's latest report does not include its concerns about human rights abuses in the Polisario camps as the aim of this report is to contribute to the ongoing human rights debate in Morocco - by the Moroccan government, non-governmental organizations, political parties and civil society at large - including the steps which the Moroccan authorities should take to really "turn the page" on certain practices which violate human rights.

The Human Rights Ministry and the CCDH conclude that the absence of a chapter on human rights abuses in the Polisario camps in Amnesty International's latest report indicate a bias of the organization in favour of Morocco's "enemy". It may be worth recalling that over the past two decades Amnesty International has raised on several occasions, both directly with the Polisario authorities and in public reports and statements, its concerns about abuses in the Polisario camps. The organization has gathered substantial information about these abuses, in spite of the stringent restrictions imposed by the Polisario authorities on freedom of expression, association and movement in the camps, as well as restrictions on communications between the population in the camps and the outside world, and on access by independent human rights organization to information about the human rights situation in the camps. The victims of human rights abuses in the Polisario camps whom Amnesty International delegates have met and interviewed include people who have fled the Polisario camps and who are now in Morocco or in other countries, as well as people who are still in the Polisario camps, which an Amnesty International delegation visited in December 1995.

The organization's concerns about abuses in the Polisario camps, including arbitrary and secret detention for prolonged periods, torture and ill-treatment, deaths in custody and deliberate and arbitrary killings, have been raised in previous reports, notably in the last report published by Amnesty International on Morocco/Western Sahara in 1996, *Morocco/Western Sahara: Human rights violations in Western Sahara* (AI Index: MDE 29/04/96). This report focused on human rights in the context of the

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Front and was approved by the UN Security Council in 1991. After more than a decade of conflict both parties agreed that a referendum in which the Sahrawi population would be asked to choose between independence and integration into Morocco would be organized and conducted by the UN Mission for the Referendum in Western Sahara (MINURSO). The referendum, originally set for 1992, has been repeatedly postponed and is now scheduled for July 2000.

Western Sahara conflict and contained the organization's concerns about the practices of both the Moroccan and Polisario authorities, as well as about MINURSO's failure to protect human rights in Western Sahara; the report contained recommendations addressed to the Moroccan government, the Polisario authorities and the UN.

Concerns about the human rights situation in the Polisario camps remain, even though in recent years there have been some improvements. Freedom of expression, association and movement remain restricted as not all those who wish to leave the camps are allowed to do so. Another concern relates to the impunity enjoyed by those who have been responsible for human rights abuses in the Polisario camps. To Amnesty International's knowledge none of those responsible for human rights abuses have been brought to justice and some remain currently in positions of authority. The Polisario authorities must ensure that these individuals are removed from positions of authority and brought to justice by the Algerian authorities. The Algerian authorities, for their part, should take the necessary measures to ensure that they are brought to justice in Algeria, in compliance with their obligations to international human rights treaties to which Algeria is a state party.

With regard to those who have been responsible for human rights abuses in the Polisario camps and who are now in Morocco, the Moroccan authorities should take the necessary measures to ensure that anyone present on its territory who has been responsible for human rights abuses - in Morocco or elsewhere - be brought to justice, in compliance with the country's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Morocco is a state party. In this context, Amnesty International has drawn the attention of the Moroccan authorities to the presence in Morocco of former Polisario figures who held positions of authority in the security apparatus in the Polisario camps during the period when human rights abuses, notably torture, were most widespread (up to the late 1980s and to a lesser extent to the early 1990s) and has called on the Moroccan authorities to ensure that these individuals be brought to justice.

#### **4. ACHIEVEMENTS AND REMAINING CONCERNS ON OTHER ISSUES**

The CCDH mentions in its response that Amnesty International's report "makes only disproportionately faint allusion to the large changes which Morocco has undergone as regards human rights". Similarly the Human Rights Ministry expresses disappointment that positive developments have not been sufficiently reflected in the report. While the report highlights in its introduction and elsewhere the "legislative and institutional measures... taken in Morocco which have resulted in significant improvements in the human rights situation",<sup>10</sup> Amnesty International accepts the observation made by both the CCDH and the Human Rights Ministry that recognition of these initiatives could be strengthened in the report. The fact remains, however, that there are still concerns on these issues and the report documents cases of victims and makes recommendations in order to contribute to further improvements.

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<sup>10</sup> See *Morocco/Western Sahara: "Turning the page": achievements and obstacles* (AI Index: MDE 29/01/99); page 1.

**Prisoners of conscience and legal concerns**

The Human Rights Ministry and the CCDH state that persons referred to in the report as prisoners of conscience have been sentenced for reasons other than their non-violent expression of opinion. Referring to Article 19 of the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Ministry concludes that “a person sentenced for insulting members of the royal family could never be considered a prisoner of conscience”. Article 19 (3) accepts certain restrictions on freedom of expression if they are “provided by the law and are necessary” for reasons of “(a) respect of the rights and reputations of others” and “(b) the protection of national security or of public order (*ordre public*), or of public health or morals”.

Furthermore, in its General Comments on Article 19 (3) the Human Rights Committee states that “when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself. Paragraph 3 lays down conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be ‘provided by law’; they may only be imposed for one of the purposes set out in subparagraphs (a) and (b) of paragraph 3; and they must be justified as being ‘necessary’ for that State party for one of those purposes.”

In fact the Human Rights Committee criticized the restrictions placed on the right to freedom of expression when it considered the report of Morocco under the ICCPR in November 1994. It stated: “The Committee expresses concern about the extent of the limitations to the freedom of expression, assembly and association under the Dahir of 1973 and especially limitations on the right to criticise the Government.”<sup>11</sup>

Amnesty International believes that Article 179 of the Penal Code, which prescribes prison sentences of up to five years for insulting members of the royal family, is vaguely worded. It has been used to imprison people who may have commented on the monarchy, but have not advocated violence or gone beyond acceptable criticism in line with the principles of freedom of expression.

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<sup>11</sup> CCPR/C/79/Add.44, Concluding Observations of the Human Rights Committee: Morocco. 23/11/94.



Referring to the case of Abderrahmane El-Ouadoudi, which is mentioned in the report,<sup>12</sup> the CCDH confirms that he was sentenced in 1995 in Marrakesh to five years' imprisonment for insulting members of the royal family and participation in an illegal demonstration. It should be emphasized that he was not accused of having used or advocated violence. The CCDH states that his case is presently under examination by the CCDH in view of a possible recommendation for a royal clemency.

The CCDH notes that Arslane Smouzi<sup>13</sup> was sentenced on 6 July 1997 for insulting members of the royal family (under Article 179 of the Penal Code) and violence against an official (*fonctionnaire public*). However, according to Amnesty International's information, the verdict of the Court of Appeal of 2 October 1997 revoked the conviction of the court of first instance with regard to the use of violence, but confirmed the sentence of five years' imprisonment for the offence under Article 179.

The Human Rights Ministry and the CCDH object to Amnesty International considering Mohamed Daddach a prisoner of conscience, while not disputing that he was sentenced for desertion. Amnesty International's definition of prisoners of conscience includes people detained "by reason of their ethnic origin, sex, colour, language, national or social origin, economic status, birth, or other similar status... or for their conscientious objection to military service". Mohamed Daddach, a Sahrawi, tried to desert the Moroccan security forces into which he had reportedly been forcibly recruited and is therefore considered a prisoner of conscience.

The CCDH emphasizes the necessary role of Article 90 of the Election Law of 1997 which prescribes imprisonment of between one and three months for the use of wrong information, false rumours and other fraudulent means in order to shift votes or to incite voters to abstain from voting. However, under that article more than one hundred political activists were convicted solely for having called for a boycott of municipal and legislative elections in 1997. The terms of Article 90 do not at first sight appear to be applicable to the peaceful call by a political party to boycott elections, and the fact that it was used so extensively in this way implicates not only the judiciary but also the authorities in their attitude to political opposition. Amnesty International considers any person imprisoned for taking a political position calling for the boycott of elections to be a prisoner of conscience.

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<sup>12</sup> See *ibid*; pages 12-13.

<sup>13</sup> See *ibid*; page 12.

In one of its more general remarks about the report, the CCDH objects to Amnesty International using the term unfair trial “without making the effort to distinguish between or to explain the different procedural steps which are in violation of international standards relating to fair trials”, yet Amnesty International’s report highlights insufficient legislative safeguards as well as concrete case examples. Amnesty International expressed particular concern that in conflict with Article 15 of the Convention against Torture<sup>14</sup>, Moroccan legislation does not prohibit a confession or statement obtained under torture or duress from being admitted as evidence in court.<sup>15</sup> The report gives examples of trials in which defendants who alleged that their statements were extracted under duress and torture have been sentenced to prison terms without investigations into their allegations having been conducted.

The Human Rights Ministry and the CCDH comment on the trial of 20 Sahrawis sentenced in 1998 in Agadir on the basis of the court’s verdict. However, neither responded to Amnesty International’s findings that defendants stated that they were tortured and had been forced to sign their interrogation records (*procès verbaux*) and that key witnesses for the prosecution withdrew their statements.<sup>16</sup>

The CCDH states that the cases of Abraham Serfaty and Abdesalam Yassine are both being sufficiently dealt with by the judiciary. However, the CCDH has failed to give a reasonable explanation why an appeal lodged in 1992 against the house arrest of Abdesalam Yassine has not yet received a response. The CCDH repeats the position of the Supreme Court of July 1998 that a ruling on Abraham Serfaty’s nationality is not within its competence and has, therefore, to be sought at the level of a court of first instance. However, it remains to be addressed on what grounds the Moroccan nationality of Abraham Serfaty had been questioned in the first place, when he was born in Morocco, worked for years as a high-ranking civil servant and lived there until his expulsion. He was not given the opportunity to legally challenge the expulsion decision before he was forced into exile.

### **Torture and deaths in custody**

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<sup>14</sup> Article 15 of the Convention against Torture states that:  
“Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings...”

<sup>15</sup> See *Morocco/Western Sahara: “Turning the page”: achievements and obstacles* (AI Index: MDE 29/01/99); page 21.

<sup>16</sup> See *ibid*; page 22.

The CCDH states, “The report raises several cases of torture; it highlights the incidents themselves rather than the relevant laws. In fact, Moroccan legislation provides for numerous guarantees against arbitrary actions and abuses.” Amnesty International’s report acknowledges and welcomes legal amendments in Morocco which have contributed to a significant decrease in reports of torture, in particular the limitation of the period of incommunicado detention in 1991 to a maximum period of 72 hours.<sup>17</sup> The report documents several cases where, on the basis of torture allegations, investigations or legal proceedings have been undertaken by the authorities, as well as citing other cases where no investigations are known to have been conducted. The report also expresses concerns regarding cases of torture where investigations appear not to have been conducted promptly, thoroughly and impartially.

The Human Rights Ministry and the CCDH refer to the rape of 17-year-old Hichem Chekroun<sup>18</sup> in Oukacha Prison in January 1999 noting that a trial against four defendants, including a prison warden, was opened.

The Human Rights Ministry cites statistical information on the number of cases in which policemen have been disciplined over the past years, but provides no details concerning the charges of which they were convicted. The Ministry further refers to one specific case in which a policeman was sentenced for participating in torture to 10 years’ imprisonment in 1999.

Following the latest examination of Morocco by the Committee against Torture in May 1999 the Committee expressed concerns “about certain shortcomings relating to the effectiveness of the preventive measures taken to combat torture, in particular the half-heartedness displayed in pursuing inquiries and bringing authors of acts of torture before the courts, whose independence must be preserved. This situation creates the impression that such offences can be committed with relative impunity..”

In reference to a list of 30 cases of death in custody presented to the Moroccan authorities by Amnesty International in 1998, the CCDH points out that legal proceedings have been opened in several cases, but does not challenge the conclusion that only in one case - a case which is also referred to by the Human Rights Ministry - did these lead to the conviction of members of the security forces.<sup>19</sup> The Human Rights Ministry refers in this context to a circular issued by the Minister of Justice to prosecutors instructing that “in cases of death an autopsy is to be conducted and an investigation be automatically opened”.

Concerning a recent case of death in custody mentioned in the report, the CCDH states that Jaouad Farihane “died of a serious illness from which he had been suffering for a long time” and refers to a medical report which concludes that the cause of death was natural. This explanation is in conflict with reports given by relatives of Jaouad

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<sup>17</sup> See *ibid*; footnote on page 21.

<sup>18</sup> See *ibid*; page 19.

<sup>19</sup> See *ibid*; page 20.

Farihane and eye-witnesses of his beating. The CCDH mentions that his relatives requested an autopsy report, but, according to Amnesty International's information, they have not yet received a copy of it. The CCDH further informed Amnesty International that the prosecution had decided to close the case.

### **The death penalty**

The CCDH provides some details concerning the use of the death penalty in Morocco: in 1994 all the country's 195 death sentences were commuted to prison terms; since 1979 three men have been executed; and no woman has been sentenced to death in Morocco since independence. Amnesty International's report mentions that more than 190 death sentences were commuted and that no death sentences have been carried out since 1994.<sup>20</sup> The CCDH response also points out that death sentences are commuted on a regular basis and that "judicial practice fosters an attitude disinclined to the death penalty".

## **5. OUTLOOK ON REFORM PROPOSALS**

The Human Rights Ministry emphasizes the importance of programs to reform the judiciary and the prison system. It refers to the latest examination of Morocco by the Committee against Torture in May 1999 and the Committee's acknowledgement of improvements in the country. The Committee indicated several positive developments, including "the manifest political will to establish in Morocco the genuine rule of law" and "the implementation of a substantial human rights education and awareness programme for law enforcement officials and indeed for other categories, such as school pupils".

The CCDH response refers to some of its recent initiatives aimed at further improving the human rights situation in Morocco and "its mission to promote and protect human rights as they are universally recognized" including the examination of "draft laws which would have a direct impact on human rights and on fundamental liberties".

A working group of the CCDH has conducted a series of prison visits and prepared a report on prison conditions which "is currently the subject of a specific study aimed at putting into practice the principles of an overall reform of the prison system in Morocco". According to the Human Rights Ministry an improvement in prison conditions has already been achieved. Amnesty International is aware that initiatives to reform the prison system are on the agenda of the government.

When the draft Criminal Procedure Code was being examined on its compliance with international human rights standards, the CCDH suggested "including an article which guarantees the principle of presumption of innocence and that any person being prosecuted has the right to be presumed innocent until their guilt has been legally established in a trial in which due hearing of the parties and all defence guarantees have been ensured". It also recommended the addition of an article stipulating "that the trial must take place within a reasonable time and without unjustified delay". Amnesty International welcomes these important initiatives.

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<sup>20</sup> See *ibid*; page 1.

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