

EMOROCCO @A PATTERN OF POLITICAL IMPRISONMENT, "DISAPPEARANCES" AND TORTURE

INTRODUCTION

Amnesty International's concerns in Morocco

Widespread human rights violations, including the imprisonment of prisoners of conscience, unfair trials, torture and "disappearances", have been common in Morocco since Amnesty International started working on the country in the early 1960s. Compared to the 1970s, when some political prisoners were held for up to five years before being brought to trial, and when hundreds of people reportedly "disappeared", the 1980s have seen some improvement. No death sentences, for example, are known to have been carried out since 1982. However, welcome though such improvements are, they should not mask the fact that in Morocco today there are still over 350 political prisoners, including many who are or appear likely to be prisoners of conscience, that torture of prisoners is common, and that hundreds of "disappeared" people, Moroccans and Western Saharans alike, remain unaccounted for. Real and suspected political opponents of the government continue to be held incommunicado in prolonged garde à vue detention and to be jailed after unfair trials. Military personnel sentenced in 1972 remain imprisoned at a remote fort, years after most of them completed their prison terms. They are held incommunicado in life-threatening conditions - at least 24 out of a total of 61 are already said to have died in detention, although the government has not confirmed this or, indeed, disclosed any details of these prisoners and the reasons for their ill-treatment. At least 147 other prisoners, including 15 sentenced for political offences, remain under sentence of death.

International human rights standards

Morocco ratified the International Covenant on Civil and Political Rights (ICCPR) on 3 May 1979, but has not ratified its First Optional Protocol which allows an individual to bring a complaint before the United Nations (UN) Human Rights Committee that the rights guaranteed under the covenant have been violated. Nor has Morocco ratified the Second Optional Protocol of the ICCPR aiming at the abolition of the death penalty. Morocco's second periodic report to the UN Human Rights Committee on its implementation of the covenant was due in 1986 but was not submitted until March 1990. At its session in November 1990, the Human Rights Committee did not complete its examination of Morocco and postponed further discussion to a later meeting in 1991.

Morocco has ratified the International Covenant on Economic, Social and Cultural Rights (also on 3 May 1979) and the International Convention on the Elimination of all Forms of Racial Discrimination (on 18 December 1970). Morocco signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 8 January 1986 but has yet to ratify it. As a member of the United Nations, Morocco is bound by the human rights standards adopted by the UN General Assembly.

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They include the Universal Declaration of Human Rights, the Standard Minimum Rules for the Treatment of Prisoners and Procedures for the Effective Implementation of the Rules, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).

Morocco has neither signed nor ratified the African Charter on Human and Peoples' Rights which entered into force on 21 October 1986. Morocco withdrew from the Organization of African Unity (OAU) in 1984 in protest at the admission of the Saharan Arab Democratic Republic (SADR) as the representative of the Western Sahara.

Morocco acceded to the Geneva Conventions on 26 July 1956; the country has signed but not ratified the Second Protocol to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts.

Amnesty International's work on Morocco

Amnesty International has worked for the release of prisoners of conscience in Morocco since the large-scale arrests of the early 1960s. Amnesty International observers attended the trials of members of the Union nationale des forces populaires (UNFP), National Union of Popular Forces, in 1963 and 1972, and other political trials in later years. Such observers have repeatedly drawn attention to the unfairness of trial procedures and the use of state security laws against prisoners for nothing more than the non-violent expression of their political beliefs. They have also repeatedly drawn attention to allegations that detainees were tortured in pre-trial custody, and to the courts' failure to investigate such allegations and ensure that confessions entered as evidence were not obtained under torture.

Amnesty International representatives have visited Morocco on a number of occasions to discuss the organization's concerns with the government. The most recent such visit took place in February 1990 and provided an opportunity for Amnesty International to discuss its concerns directly with the Head of State, King Hassan II. The Amnesty International delegation also had a meeting with a newly formed Commission pour le dialogue avec Amnesty International, Committee for Dialogue with Amnesty International, set up by the King, and discussed with its members human rights violations associated with the use of garde à vue detention. Before visiting Morocco, Amnesty International had submitted a detailed analysis of such violations which was subsequently published in February 1990 as Morocco: Human Rights Violations in Garde à Vue Detention. In response to this, the Moroccan Government issued a lengthy document entitled "Réponse aux points soulevés par Amnesty International", Reply to the points raised by Amnesty International. However, neither in meetings during the February 1990 visit nor in its written response did the government commit itself to reforming the penal system and ending the widespread and serious violations which the organization had documented.

In April 1990, however, after Amnesty International's report was published, King Hassan II announced that a Conseil consultatif des droits de l'homme (CCDH), Human Rights Advisory Council, was to be established. Its members, drawn from various organizations, including political parties and trade unions, were appointed by the King. In July the CCDH set up one working group to review the use of garde à vue detention in the light of Amnesty International's criticisms and another to examine prison conditions. A third working group was established to take responsibility for contact with international human rights organizations, such as Amnesty International. However, the weight and influence of the CCDH, and the

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progress of its work, is still to be seen. It formally has no more than an advisory role and its sessions are conducted in camera. According to a statement published in July 1990, some of its members called for an amnesty for all prisoners held for offences against internal state security.

While publicly stressing its willingness to discuss human rights with Amnesty International, the government took steps in 1990 to deny Amnesty International research access to Morocco. The line taken by the government was that Amnesty International should not undertake research in Morocco while it was still engaging in a dialogue with the authorities. As a result of this, two Amnesty International representatives who visited Morocco for research purposes in March 1990 were asked to leave, and subsequent requests for research access made by Amnesty International have not received a positive response. In September Amnesty International criticized this policy of the government in a letter addressed to the Minister of the Interior, and commented that it was "difficult to reconcile your stress on the openness of Morocco with your unwillingness to allow our delegates to carry out research".

The political system

The 1972 Constitution states that Morocco is a "democratic and constitutional monarchy" (Article 1). "Islam is the state religion which guarantees to all free exercise of their faith" (Article 6). It ensures political and legal equality between the sexes (Article 8) and guarantees freedom of opinion, expression and association, including to belong to any political organization or trade union, "limited only by law" (Article 9), and the freedom to strike (Article 14) "in accordance with the limitations to be imposed by law". Article 10 states that "no one can be arrested, detained or punished except in the cases and forms set forth by law".

The King has a leading role, and is empowered to appoint and dismiss the Prime Minister and other ministers (Article 24); to dissolve parliament by decree (Article 27); to act as commander-in-chief of the armed forces (Article 30); to sign and ratify treaties (Article 31); to appoint all judges (Article 33) on the recommendation of the Supreme Council of the Judiciary, over which he presides (Articles 78 and 80); to grant pardons (Article 34); and to declare a "state of exception" (state of emergency) and exercise all powers of government while it is in force (Article 35).

Members of parliament are granted immunity except where "the opinions expressed challenge the monarchical system, Islam, or constitute an insult to the King" (Article 37). Two thirds of the members of parliament are elected by universal direct suffrage and one third indirectly by community councils, trade unions and professional groups (Article 43). The parliament's life is set at six years. General elections have been held under the 1972 Constitution in 1977 and in 1984 (postponed for a year from 1983 on the grounds that a referendum was expected on the Western Sahara question). The September 1984 elections, with a turnout of 67 percent of those eligible to vote, resulted in the Chamber of Representatives again being dominated by centre-right parties, which between them hold 215 of the 306 seats. The Union socialiste des forces populaires (USFP), Socialist Union of Popular Forces, (36 seats) and Istiqlal, Independence, (41 seats) form the opposition; the Organisation de l'action démocratique populaire (OADP), Organization of Popular Democratic Action, formed in 1983 by former members of 23 mars, 23 March, (an illegal Marxist grouping allowed to form a legal party because of its support for the government's position on the Western Sahara) also won one seat in 1984, held by its leader Mohammed

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Bensaid.

The next legislative elections, due in 1990, have also been postponed because of a proposed referendum in the Western Sahara which is scheduled to take place in 1991.

The Moroccan political system allows considerable political freedom but only within very clearly defined limits. A Moroccan Government representative appearing before the UN Human Rights Committee in November 1990 referred to what he termed the "national consensus", which is underlined by the limitations on parliamentary immunity set forth in Article 37 of the Constitution (see above). Free expression is permitted so long as it does not touch the institution of the monarchy (for instance, by calling for a republican system of government or by publicly criticizing the King), the integrity of the nation (for instance, by suggesting that the Western Sahara should be offered self-determination), or Islam. Consequently, those imprisoned as prisoners of conscience or possible prisoners of conscience have included Marxists charged with internal security offences for allegedly trying to change the system of government or for advocating independence for the Western Sahara. They have also included Islamists, Muslims calling for an Islamic state and a return to pure Islam, whose views and activities are held by the authorities to undermine both Islam as practised in Morocco and the King's position as supreme Islamic leader, and real and suspected advocates of independence for the Western Saharans, particularly people suspected of supporting the Polisario Front.

Over the years a number of political prisoners have been released as a result of amnesties granted by the King. These have generally been given to mark various important national dates such as 3 March, la Fête du Trône, the anniversary of the King's accession; 9 July, King Hassan's birthday; and the two main Muslim festivals, Id al-Fitr, the end of the Ramadan fast; and Id al-Adha, the feast of sacrifice. Amnesties granted to mark such occasions often benefit only criminal prisoners, but in May 1989, 50 political prisoners were released during an amnesty to mark Id al-Fitr. It was not clear, however, on what basis it was decided who should benefit as some of those released were serving longer sentences than others who did not benefit at all. Some of those released, however, had publicly renounced their former beliefs and had petitioned the King for pardon.

Political background

Conquered by France in 1912, Morocco won independence in 1956. The enclaves of Ceuta and Melilla remain under Spanish rule. The reigning Alaouite dynasty, like most of its predecessors, claims descent from the Prophet Mohammed. The King is Imam, the religious leader of the country, and amir al-mu'minin, Commander of the Faithful. When, in 1953, Sultan Mohammed V (later King) was exiled by the French, he also became the symbol of Morocco's independence. With independence, Morocco became a constitutional monarchy. The elections of 1963 resulted in a government composed of a coalition of royalist parties; Istiqlal, the party which had led the independence struggle, and the Union nationale des forces populaires (UNFP later the USFP), led by Mehdi Ben Barka, formed the opposition.

The 1960s were marked by repeated spells of unrest and hundreds of opposition party supporters were jailed after unfair trials. They included 102 members of the UNFP (among them members of parliament) who were convicted in 1964 of conspiracy against the state. Eleven of them were sentenced to death; their death sentences, however, were commuted by the King. Further unrest began in March 1965, when

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student protests against new education regulations were joined by workers protesting against rising prices and unemployment. For three days demonstrations and riots took place in Casablanca and other cities. The King, unable to obtain the support of political parties for his policies, dissolved the parliament and, in June 1965, proclaimed a state of emergency. The King himself acted as Prime Minister until 1970.

The early 1970s saw two attempted coups by members of the armed forces, more than a thousand of whom were subsequently brought to trial. Ten were summarily executed after the first coup attempt in 1971. Eleven others were sentenced to death in 1972 and executed two months later.

Large-scale arrests, particularly of members of illegal Marxist organizations and students, continued throughout the 1970s. Three banned opposition groups, including the two Marxist groups Ila'l-Amam, Forward, and 23 mars, formed a united front for the 1972 student elections. Arrests of the Frontistes, as they became known, began in 1974 and continued until January 1977, when 178 of them (39 in absentia) were brought to trial on charges of belonging to an illegal association and plotting against the internal security of the state. As Amnesty International noted at the time in a Briefing on Morocco published in 1977:

"During the trial of the Frontistes in January-February 1977 before the Criminal Court of Appeal in Casablanca, the rights of political prisoners to defend themselves and be defended by their lawyers, were restricted in a manner which exceeded all previous deviations from standard trial procedure in Morocco".

Eight of those convicted and sentenced to prison terms at this trial are still imprisoned; others were freed after amnesties granted by the King or after completing their sentences.

In 1975 Morocco took possession of the former Spanish territory of the Western Sahara after the "Green March" of 350,000 Moroccan civilians who, with military support, marched to the territory to claim it for their country. Soon after, the first reports of "disappearances" of Western Saharans began to be received.

There were further disturbances and political trials in the 1980s. A one-day general strike in 1981 led to clashes between police and demonstrators and numerous deaths, injuries and arrests in Casablanca. In January 1984 widespread demonstrations, triggered off by educational changes and the announcement of price rises in staple foodstuffs, led to the arrest of hundreds of students and suspected political opponents of the government. Many were allegedly tortured and those suspected of membership of Marxist groups received sentences of up to 20 years' imprisonment.

Islamists were even more harshly treated. By the early 1980s the movement for a radicalized, reforming Islam (Islamism) was gaining support and began to come into conflict with the government. Members of different Islamic groups were subjected to short term detention. Some 71 others were tried (20 in absentia) in July 1984 for allegedly plotting against the monarchy; 13 of the defendants (seven in absentia) were sentenced to death. None has yet been executed.

The last 30 years have witnessed a continuing pattern of imprisonment of alleged political opponents of the government. This has remained the picture in both 1989 and 1990, when those most liable to arrest and imprisonment as prisoners of conscience included students suspected of supporting the Union nationale des étudiants marocains (UNEM), National Union of Moroccan students; Islamists; and poor shanty-town dwellers demonstrating against the local authority's destruction of their homes. Journalists

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and editors have also been arrested, convicted and sentenced to prison terms for writing articles considered critical of government policy or the social and legal systems.

Moroccan human rights groups

Three human rights organizations are active in Morocco: the Association marocaine des droits de l'homme (AMDH), founded in 1979; the Ligue marocaine de la défense des droits de l'homme (LMDDH), founded in 1972, which frequently works in unison with the AMDH; and the Organisation marocaine des droits de l'homme (OMDH), founded in 1988. All have obtained official recognition by the Moroccan Government and legal status, though only after considerable delay.

These three domestic human rights organizations have helped to increase public awareness of human rights within the country and seem likely to be able to make a major contribution to the future protection of human rights in Morocco.

The three human rights groups, together with the Association des barreaux du Maroc, Moroccan Bar Association, and the Association des juristes marocains, Moroccan Jurists' Association), made public a draft National Human Rights Charter in February 1990. This Charter was finalized and issued at a public meeting on 10 December 1990.

VIOLATIONS IN ARREST AND PRE-TRIAL DETENTION

The Moroccan authorities have for decades routinely practised a system of garde à vue detention where a detainee can be completely cut off from the outside world. This system of indefinite incommunicado detention disregards the most basic safeguards for detainees against torture and denies them the chance to consult their lawyers, see their families or challenge the legality of their detention before an independent judicial authority. Morocco ratified the ICCPR on 3 May 1979 but the authorities have consistently failed to apply the safeguards which it guarantees.

Arrest

International human rights standards set out clear guidelines on arrest procedures which provide safeguards against arbitrary arrest. Yet, although Morocco is bound as a state party to the ICCPR to build such safeguards into its own law and practice, widespread abuses continue. Political arrests are commonly made by security agents who have no legal authority to do so and provide no written warrant, as required by law, and who apparently are not held accountable for their actions. Detainees are often held under procedures for cases of flagrant délit (flagrante delicto - in the act of committing the crime), even when arrested days or weeks after the alleged offence, allowing their rights to be severely curtailed. Detainees are routinely not informed of the charges against them nor of their rights. Families are frequently not notified when a relative has been arrested.

International standards on arrest and pre-trial detention

International standards require that arrests be made only by authorized persons in accordance with the law. Detainees should be informed immediately of the reasons for arrest and the charges against them, and the relevant authorities are required to provide immediate notice of their whereabouts to their families.

Article 9 of the ICCPR states that, on arrest:

"1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

"2. Anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."

Principle 2 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted by consensus by the UN General Assembly on 9 December 1988, requires that:

"Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of Amnesty International 20 March 1991AI Index: MDE 29/01/91

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the law and by competent officials or persons authorized for that purpose".

It is vital that those arrested be informed promptly of their rights. Principle 13 of the Body of Principles states:

"Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights."

Similarly, Principle 16(1) provides that detainees are entitled to notify members of their families about their detention promptly after they are placed in custody. Even in exceptional circumstances, Principle 16(4) and 15 make clear, notice may not be delayed more than a matter of days.

Arbitrary and illegal arrests

The right to freedom from arbitrary arrest is guaranteed by Article 10 of the Moroccan Constitution:

"No one may be arrested, detained or punished except on occasions and under forms prescribed by law".

Only the police judiciaire, judicial police, and its agents are formally empowered to make arrests and then only by warrant issued by the procureur du Roi (public prosecutor). Articles 139 and 147 of the Code de procédure pénal (CPP), criminal procedure code, stipulate that an arrest warrant must be shown and a copy given to the suspect. Arrests in cases of flagrant délit, however, do not require warrants.

According to the Code pénal (CP), penal code, it is illegal for a government official acting without the orders of the properly constituted authorities to arrest anyone and this carries a penalty of between five and 10 years' imprisonment (CP Article 436).

Despite this, in only a minority of the scores of prisoner cases reported to Amnesty International over the past 30 years were warrants produced at the time of arrest. In even fewer cases did the arresting officer, usually in plainclothes, identify himself or the service to which he belonged.

Arrests are frequently carried out by bodies without a legal right to do so. One of them is the Direction de la surveillance du territoire (DST), Office of Territorial Surveillance, an autonomous intelligence unit set up in 1973. Since then it has been the principal actor in many cases of human rights violations reported to Amnesty International. The head of the DST is appointed by the King and based at the Ministry of the Interior in Rabat. DST officials, who do not wear uniforms, compile information on political activists and senior government officials and conduct interrogations. Numerous reports received by Amnesty International indicate clearly that they have also in the past arrested political suspects and still do so. This is despite a statement by the Director of the Direction générale de la sûreté nationale (DGSN), General Directorate for National Security, that only members of the police judiciaire and other authorized officials, such as members of the gendarmerie, were entitled to make arrests. He told an Amnesty International delegation visiting Morocco in January 1988 that members of the DST were not entitled to make arrests.

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In 1989, at a time of widespread unrest at universities in Morocco, many people were arrested by the so-called "AWACS", a specifically university guard with no legal right to make arrests. In one case, 12 students at Meknes university were arrested by university guards who, they alleged, violently broke up a peaceful demonstration on the campus. The students were subsequently tried in June 1989 before the tribunal de première instance, court of first instance, on charges of disturbing public order in May. Two were acquitted, but the 10 others were convicted and sentenced to up to three years' imprisonment.

Arrests of suspects' relatives

Arrests are frequently carried out in a hostile and menacing manner towards both suspects and their relatives. Moreover, when the authorities have been unable to find political suspects, they have sometimes detained their relatives instead to put pressure on the suspects to give themselves up.

In early 1981, for example, during a crackdown on USFP and trade union leaders, the authorities detained the father of one of the those being sought in his place. The wanted person, Ali Rabbah, then gave himself up and was reportedly beaten in his father's presence while in police custody. Relatives of political suspects were also arrested in their place on various occasions in 1983 and 1984: in some cases, the wanted person's father, mother or spouse; in others, a younger brother or sister who was still at school. In 1984 the police seeking to arrest Mustapha Belhouari reportedly searched his house and assaulted a young woman relative, who protested. They returned later and arrested and assaulted Abdellilah Belhouari, younger brother of the wanted man. Later, they again returned to the family home and arrested Mustapha Belhouari's parents, allegedly threatening to strip and beat them. Mustapha Belhouari gave himself up that afternoon. He was tried in Marrakech in May 1984 and died three months later in hospital on the 59th day of a hunger-strike against poor prison conditions.

In another case, a student from Casablanca who was arrested in October 1985 described how the police put his family under pressure when they could not find him:

"At that time [of the police searching for him], I was in hiding ... So the police began to ill-treat my family. They threatened them with arrest ... forced their entry into the house, especially at night and terrified ... members of my family and also friends and neighbours who were there by chance ... They arrested my mother as a hostage and ... stayed at home for two days terrifying my brothers and sisters (aged eight months, three, four and eight years) ... So I came back home to find the police waiting for me and to spend one and a half months in jail."

More cases like these were reported at the time of student demonstrations in mid-1989. Police searching for Abderrazak Hafidi, a student at Meknes who was subsequently arrested on 12 June, held his mother for five days and his brother for two days in Meknes Police Station and allegedly ill-treated them.

Flagrant délit

The procedures governing flagrant délit, when no warrant is needed, widen the arresting powers of the police judiciaire. According to CPP Article 58, flagrant délit occurs when an offender is caught actually

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committing an offence or shortly afterwards, when he or she is chased by members of the public or is observed in circumstances suggesting that he or she committed it. In such cases, the police judiciaire may arrest the suspect without warrant but, having done so, they are required by law to inform the procureur "immediately" (CPP, Article 59). In 1962 the flagrant délit procedure was extended to cases in which the procureur is concerned that a suspect may escape and avoid prosecution if other arrest procedures are followed. The use of the flagrant délit procedure, however, curtails suspects' rights in a number of ways.

First, it removes the requirement for a separate pre-trial investigation by the juge d'instruction (examining magistrate); the trial judges themselves exercise the powers of the juge d'instruction. Thus, if a suspect has been arrested under flagrant délit, the case may proceed directly to trial from the stage of police detention and inquiry (CPP Article 395). This has the effect of eliminating a stage of the investigation process at which defence lawyers may be present. However, in such cases, the judge must notify the accused of his or her right to request a postponement of the trial; a minimum of three days must be granted (CPP Article 396).

In practice, the police have sometimes invoked the flagrant délit procedure to arrest large numbers of suspected political opponents, as they did after demonstrations in 1984. Some of those arrested were held in garde à vue for days and even weeks, the true duration being concealed by falsification of their arrest dates on official documentation by the police responsible. When brought before the courts, the prisoners were said to have been arrested under the flagrant délit procedure.

Police claimed that 94 people tried in Rabat on 14 and 15 February 1984 had been arrested between 4 and 10 February - when they had actually been arrested in January. Of the 94, 86 were then convicted of participating in anti-government demonstrations in January - as if they had been properly arrested in flagrant délit, and without eyewitness testimony of their guilt.

Notification of arrests, charges and rights

International standards require that arrested persons should be informed immediately of the charges against them and of their rights in law; also that the families of those arrested should be informed as soon as possible after arrest.

Under Moroccan law, however, the police are not required to inform suspects of the reasons for their arrest or of their rights as arrested persons. In practice, political detainees complain that they are never informed of their rights. Many have also said that they were informed of the reasons for arrest and of the charges against them only after they had been interrogated by the police judiciaire. Islamist activists, for example, who were arrested in mid-1983, stated that they were not told of the charges against them until they were brought before a juge d'instruction several months later, on 13 February 1984.

Moroccan law also makes no requirement that the police should inform a suspect's family of the arrest. Consequently, relatives have frequently complained of the difficulties they face in finding out about someone's arrest and then locating him or her: this often entails asking individual police officers to make inquiries of their colleagues or checking at various police stations. Sometimes, even this proves unsuccessful as officials are sometimes uncooperative or hostile. Then, the relatives may learn of the arrest only when a juge d'instruction becomes involved in the case and the arrested person is taken to

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prison. In some cases, this may be several weeks later.

In one case, relatives of a group of prisoners who were sentenced to prison terms in May 1984 in Marrakech were unable to find out where they were detained for at least five weeks. The prisoners were held incommunicado in garde à vue during this period. At first, when relatives made inquiries, the procureur reportedly denied all knowledge of the prisoners, although he was required by law to approve any arrest warrant in advance or, in cases of flagrant délit, to be informed immediately after any arrest was made. In another case, relatives of Mohammed Ait al-Jaid, a student at Fes University who was arrested at his family's shop in Fes by three members of the Service des renseignements généraux (SRG or RG), General Information Services, a political police force who work with the police judiciaire, on 10 July 1990, asked the authorities for information about him for 10 days without success. Meanwhile he was reportedly held in Fes Police Station and tortured.

The question of informing detainees' families of their arrest was raised with the authorities by Amnesty International's delegation visiting Morocco in January 1988. The Director of the DGSN assured Amnesty International's delegates that the police routinely notified families of an arrest, unless it was made at an individual's home or place of work, in which case the authorities presumed that official notification would be unnecessary. During the same Amnesty International visit, however, Ministry of the Interior officials stated that the authorities were under no legal obligation to inform an arrested person's family of his or her arrest.

Pre-trial garde à vue detention

Many suspected political opponents of the government have been subjected to prolonged incommunicado detention before being brought to trial. Garde à vue detention allows the police to detain suspects for interrogation without referring their cases to the judiciary.

In practice, legal time limits on garde à vue are often exceeded in political cases and detainees are denied access to lawyers, relatives or independent medical examination for even longer periods and are exposed further to the risk of torture and ill-treatment. It appears in such cases that superiors allow the police to flout the requirements of the CPP with virtual impunity. Moreover, when they do actually seek higher authorization to prolong a suspect's detention, this appears to be given automatically and without any consideration of representations that the detainee or his or her lawyer may wish to make. Dates of arrest are frequently falsified on official documents by police - notably, the procès verbal (police statement), which detainees are required to sign and which is used as evidence in any subsequent trial. Many prisoners have alleged that they were made to sign such documents while blindfold, after torture or under threat of torture.

The legal provisions for garde à vue, and the common abuse of even these provisions, have for many years facilitated violations of human rights in Morocco. In particular, garde à vue has provided a context in which political detainees have been tortured or ill-treated, and have been forced to make "confessions" on the basis of which they were subsequently tried and convicted of political offences, often receiving long prison sentences. It has also facilitated the temporary, and in some cases continuing "disappearance" of real or alleged opponents of the government and certain of their relatives.

International standards

Incommunicado detention is an important precondition for torture, which most frequently takes place during the period of pre-trial garde à vue detention. International standards require detainees to be given prompt access to their lawyers, families and doctors, and to be brought promptly before a judge.

Article 9(3) of the ICCPR states that:

"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment".

General Comment 8 [16] of the UN Human Rights Committee on the definition of "promptly" states that "delays must not exceed a few days".

Rule 92 of the Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) provides:

"An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution".

In addition, the Standard Minimum Rules and the Body of Principles provide that pre-trial detainees must have access to a doctor promptly after they have been detained. Rule 24 of the Standard Minimum Rules provides that the detention facility's "medical officer shall see and examine every prisoner promptly after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures". Rule 91 provides that detainees in pre-trial detention are entitled to see their own doctors and dentists. Principle 24 of the Body of Principles requires that a "proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary".

Garde à vue detention: the legal and administrative framework

The Moroccan judicial system follows French criminal procedure by instituting a period of pre-trial detention during which the suspect is held under the control of the police judiciaire, who are also in charge of the interrogation.

In theory, this period - garde à vue, during which the detainee is held incommunicado - is limited. Initially, Articles 68, 82 and 169 of the CPP allowed an arrested person to be held garde à vue by the police for up to 48 hours, with a further extension up to 24 hours being permitted if authorized by a

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procureur du Roi or juge d'instruction. Both periods, however, could be doubled if the detainee was accused of endangering state security. These limits were subsequently relaxed, however, when the CPP was amended under a 1962 dahir (decree). This increased the initial period of garde à vue to up to four days, with an extension of up to 48 hours, in ordinary criminal cases; or eight days, with four days' extension in state security cases. The same dahir also extended garde à vue, previously related to cases of flagrant délit, to other cases where the juge d'instruction feared that the accused might escape.

Following an attempted coup in July 1971, Law 2-71 of 26 July 1971 was passed. This deals with offences against state security committed by members of the armed forces and offences against external state security committed by civilians. The authorities were empowered to transfer such cases to a military tribunal and the period of garde à vue was set at 10 days, though this limit had little effect as the procureur du Roi was empowered by the same law to renew the period of garde à vue on expiry and therefore extend it indefinitely in such cases.

The procuracy's power to authorize the indefinite garde à vue detention of those accused of state security offences was also established in two important court cases. The first was in 1969, when a judge in a political trial in Marrakech ruled that Article 68 of the CPP allowed the procureur du Roi or juge d'instruction to grant as many extensions to the initial detention period as he should consider necessary in cases affecting state security. A similar ruling was made in 1976 by the Cour de cassation, court of cassation, in Agadir when it rejected an appeal lodged by Naayit al-Ashkar Abdallah, who had been arrested on alleged state security grounds and held for a total of 50 weeks. He had at no time appeared before a procureur du Roi and no reasons had been given for repeatedly extending his garde à vue detention. In dismissing the case, the Cour de cassation ruled that Article 82 of the CPP did not apply to cases involving alleged breaches of state security.

The normal procedure after a suspect has been interrogated is for him or her to be brought before the parquet (the procureur's department) in order to sign a procès verbal. This document must include such details as the date of arrest and the dates of each interrogation, and must be signed on each page by the prisoner and by the interrogating officer of the police judiciaire. If an accused refuses to sign, this is to be specifically stated on the procès verbal (CPP Articles 69, 70 and 71). The procès verbal is, in fact, a crucial document: it often forms the basis of the case against an accused person both before the juge d'instruction and later, if he or she is brought to trial. However, it is only after signing the procès verbal, that a suspect appears before a juge d'instruction; and it is only then that he or she has right of access to relatives and a lawyer.

In theory, various administrative regulations as well as articles of the code pénal (CP) and the CPP are intended to safeguard the rights of the accused. Article 82 of the CPP, for example, requires that a detainee must be brought before the procureur du Roi before any extension of the garde à vue period may be authorized, although in "exceptional cases" an extension may be granted without the detainee being produced. In such cases, however, the law requires that the procureur du Roi should give reasons for any extension in writing. In practice, however, this virtually never happens in cases of political suspects.

In carrying out the initial investigation, the police judiciaire act under the direct supervision of the procuracy. The task of ensuring that the law is properly upheld and administered is the responsibility of the Ministry of Justice, the procureur général (Attorney-General - who is charged with ensuring the uniform application of criminal law throughout the country) and the procureur du Roi, who is directly

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responsible to the procureur général. The Minister of Justice is empowered to order the prosecution of anyone who breaks the law (CPP Article 48), and the procureur du Roi may prosecute members of the police judiciaire who break the law or abuse their authority (CPP, Article 44). Several articles of the CP regulate the actions of state officials and provide for long prison terms for abuses of authority: of these, Articles 224-32 of the CP prohibit abuse of authority by state employees; CP Article 231 doubles normal penalties (in some cases providing for life imprisonment or death) for acts of violence leading to injuries or death, committed under CP Articles 401-3.

In January 1988 the Amnesty International delegation which visited Morocco was assured by Ministry of Interior officials that the police maintain a register of detainees and that inspections are made periodically by the chef de service (head of unit) and the chef de sûreté (head of security) of the police judiciaire as well as by the procureur du Roi. They said that detainees who wished to make complaints directed them either to the procureur du Roi or straight to the DGSN. Any such complaints, they said, were then investigated by the procuracy and, if found to be valid, disciplinary proceedings were initiated against the officials responsible for abusing their authority.

The paucity of suspects' basic rights means that it is vital for the procureur du Roi to fulfil the task of supervising garde à vue detention properly. In its response to Amnesty International's 1990 report, Morocco: Human Rights Violations in Garde à Vue Detention, the government included copies of four circulars which had been issued by the DGSN between 1977 and 1988 to those in charge of police stations in which they were instructed to ensure strict adherence to the law.

Welcome though such initiatives are, however, it is clear from the information which Amnesty International continues to receive from former detainees and others that the time limits and other legal requirements relating to garde à vue are widely ignored or circumvented by the police in cases involving real or suspected critics and opponents of the government.

Garde à vue detention in practice

The few safeguards existing under Moroccan law regarding garde à vue detention are frequently disregarded in practice. Until the period of incommunicado garde à vue detention is over, the detainee does not have the right of access to any judicial authority in order to challenge the legality of his or her detention.

Prolonged garde à vue detention and falsified procès verbaux

The widespread abuse of garde à vue in political cases has been a longstanding problem. In the 1970s some political suspects were held in garde à vue for over a year before being brought to trial. Since then, examples of abuse have been somewhat less flagrant but cases of garde à vue detention lasting over a month have been noted. International human rights standards require that an accused be brought promptly before a judicial authority - that is, within a few days of arrest.

Various cases can be cited of prolonged detention of political suspects in garde à vue. For example, members of Islamic groups who were arrested between June and September 1983 were held garde à vue

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for periods of over six months at Derb Moulay Cherif detention centre in Casablanca before being brought before a juge d'instruction in February 1984.

Students arrested after university demonstrations in mid-1989 were also held incommunicado in prolonged garde à vue detention before being taken before a juge d'instruction. Five of those arrested in Fes - Said Abbou, Hassan Kartit, Mohammedine Lahbib, Farid Amghar and Houcine El-Azizi - were each held garde à vue for a total of 47 days, while others spent between 28 and 49 days in garde à vue.

Despite the latitude permitted to the police by judicial and other decisions in administering garde à vue, there is strong evidence to suggest that the police judiciaire resort to widespread falsification in order to maintain the fiction that garde à vue is subject to strict legal time limits of 48 or 96 hours. Thus, many former detainees have alleged in court and elsewhere that false dates of arrest were entered by the police on their procès verbaux to suggest that the police had complied fully with the law and to conceal the real length of time that the detainees had been held incommunicado. Such deception is alleged to have been used by the police in some cases to cover up the torture or ill-treatment of untried detainees in garde à vue.

People arrested for participating in anti-government demonstrations in 1984 were among those whose dates of arrest were falsified on their procès verbaux. Similar cases occurred in early 1988 when five activists of the Union nationale des étudiants marocains (UNEM), National Union of Moroccan Students, were secretly detained for periods of up to two months. Ali Belmeziane, Mustapha Mrizek, Ali Belcaidi, Abdelhabib Azeriah and Driss El-Jouni were arrested in February and March, but 23 April was given as their arrest date on their procès verbaux. More recently, seven Oujda University students who were actually arrested between 5 and 7 June 1989, were said on their procès verbaux to have been arrested some three weeks later, when they were brought before the tribunal de première instance, Court of First Instance, on 17 August 1989. They were convicted of disturbing public order and holding illegal demonstrations and sentenced to 18 months' imprisonment. Similarly, 24 Fes University students were officially said to have been arrested on 9 July, according to their procès verbaux, although they had actually been in detention since 23-24 June, the days the examinations were due to have been held. They were charged with "boycotting examinations".

On occasions, this falsification of arrest dates has assumed blatant proportions, as in January 1990 when six leading members of the Islamic al-'Adl wa'l- Ihsan organization were arrested in Salé. Their arrests occurred on 13 January and were reported in the French newspapers Le Monde and Le Figaro on 16 January. Nevertheless, the date of arrest given on their procès verbaux was 22 January. They had been arrested at the home of the Islamic group's leader, Abdessalam Yassine. At their trial in February 1990, defence lawyers urged the court to call witnesses, including Abdessalam Yassine, then under house arrest, to confirm that they had been arrested on 13 January. In doing so, they reminded the court that falsification of official documents is a criminal offence under Moroccan law. They also urged it to declare the prisoners' procès verbaux invalid. The court refused to allow such witnesses to be called and accepted the procès verbaux, which were used as a basis to convict and imprison the six defendants.

The signing of the procès verbal

Detainees are required by law to sign procès verbaux before the period of garde à vue comes to an end

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and they are allowed access to the outside world. Often these procès verbaux contain what amounts to written confessions which may then be used, in accordance with Article 291 of the CPP, as a basis for the prosecution and conviction of the accused. This article of the CPP permits individuals charged with felonies (délits) and misdemeanours (infractions) to be convicted on the basis of information contained in the procès verbal without any other corroborating evidence. As such, it effectively acts as an inducement to police officers to bring pressure to bear on suspects to provide or sign written confessions in the form of procès verbaux. In many cases, such pressure is alleged to have involved torture, or threats of torture. In 1989, for example, lawyers representing students accused of involvement in anti-government protests alleged that those who had been prepared to sign statements incriminating themselves were less likely to be tortured, but those who refused had usually been tortured.

In January 1984, 61 people arrested in Rabat were said to have been held in garde à vue for several weeks and then led barefoot during the night, in pairs, and forced to sign their procès verbaux. Those who asked to read the procès verbaux were allegedly tortured. Only the next day, when for the first time they were brought into contact with the procureur du Roi, were they informed of the charges against them - which they claimed bore no relation to the questions they had been asked during their interrogation by the police.

In some cases, prisoners' procès verbaux have been signed with their thumbprints, although this is illegal unless the individual in question is unable to write. Cases known to Amnesty International in which thumbprints were used include some of a group of alleged members of Ila'l-Amam, who were jailed after a trial in Casablanca in February 1986. All were able to write their names. One, a student, arrested in June 1985, whose procès verbal bears a thumbprint instead of a signature, wrote:

"On 19 November '85 I was taken from prison and back into the secret police station [where he had previously been tortured] to sign, with my eyes blindfold and hands bound, reports I had never seen and whose contents I was totally ignorant of. I signed them under torture".

Similarly, seven students tried at Oujda in August 1989 also "signed" their procès verbaux with thumbprints. All seven alleged they had been tortured.

Pre-trial detention in détention préventive

After an accused person has seen the juge d'instruction he or she may continue to be remanded in custody (détention préventive) until brought for trial. During this period, the accused has access to a lawyer and may receive family visits.

The legal period of détention préventive was, like the legal period of garde à vue detention, doubled by the 1962 amendments to the CPP. For crimes, the period of détention préventive under CPP Article 154 is set at four months but this period is indefinitely renewable on the sole order of the juge d'instruction. Originally related, by CPP Article 76, to cases of flagrant délit, it can now be invoked for any case where the juge d'instruction considers that the accused cannot offer sufficient guarantees of attendance at the forthcoming trial.

According to Article 152 of the CPP, détention préventive is considered as an "exceptional measure".

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The "Réponse aux points soulevés par Amnesty International" stated that détention préventive was exceptional and that the Ministry of Justice reminded the parquet that it should only be used in the "most serious" cases.

However, détention préventive, which was used widely in political trials in the 1970s where excessive delays were a feature, has recently been used for the pre-trial detention of a number of students from Fes: Abdallah Abinarh, tried in April 1989, Abdallah El-Jarid, tried in June 1989 and Ali Belmeziane and five other students tried in July 1989 had all spent between 15 and 17 months in détention préventive before trial. They were sentenced to between two and 10 years' imprisonment. Said Abbou and eight other students sentenced to between one year's and five years' imprisonment in July 1990 had all been held for over 12 months in détention préventive before trial.

TORTURE AND HARSH CONDITIONS OF DETENTION

Torture

Torture and ill-treatment are widely used in Morocco against both political detainees and criminal suspects. The main purposes appear to be to obtain information, extract confessions or generally to punish or intimidate those in custody. Torture mostly occurs during the period of garde à vue, when detainees are held incommunicado and are subject to interrogation. It is widely alleged that the police judiciaire torture detainees in order to extract signed confessions which are then used as a basis to obtain their conviction and imprisonment by the courts.

Over the years, Amnesty International has obtained numerous testimonies and other evidence of torture of detainees in Morocco, both from former prisoners and from individuals, including foreign nationals, who allege that they themselves either suffered or witnessed torture while in detention. One notable feature of such testimonies -- which date back as far as the 1960s -- is that the methods of torture employed in Morocco have remained remarkably similar over the last 30 years.

Methods of torture

Detainees are often subject to both physical and psychological methods of torture. The most common, according to the information provided to Amnesty International by prisoners and former prisoners and their relatives, lawyers and human rights activists include:

Beatings. Prisoners are beaten all over the body and on the head, legs and genitals. Prisoners have been slapped, punched and kicked, struck with stones, whips, chains, sticks, plastic hoses, metal rods and other hard objects, often while being made to lie on the floor or in contorted positions.

One former detainee described how he was assaulted by interrogators at Derb Moulay Cherif in 1988:

"I began to swear again, weeping, that I had no relations with the so-called secret organization Ila'l-Amam. That was the simple truth. No sooner had I mentioned the word when I was surrounded by a dozen people, all talking at once and shouting; one pulled my ear, another kicked me from behind, a third hit me; the blows came from every side; a man with a riding crop was hitting me on the head...I cowered on the ground, covering my face with my hands, while the torturer was hitting me hard..."

Falaqa. Victims are struck on the soles of the feet, usually with a stick while the prisoner is suspended.

An Islamist detained in 1984:

"I was taken to Derb Moulay Cherif; still blindfold I was put into a room, given a khaki uniform and a number. A quarter of an hour later the first torture session began. I was hung up and beaten on the soles of my feet ... this interrogation lasted the whole weekend, my feet were so swollen I couldn't move".

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Partial Suffocation. This is also a common method: either rags soaked in dirty water, strong detergent or bleach are thrust into the victim's mouth or nose to prevent breathing or the head is forcibly immersed in a bucket of water, urine or excrement.

The "aeroplane" (L'avion, al-tayyara). Here, the victim, with hands and feet tied behind the back, is suspended from a pole, which is usually held between two trestles. Victims invariably are also beaten simultaneously on the wrists, body or soles of the feet, or partially smothered. Sometimes, the victim's pain is increased by having a heavy object placed on the back, adding to the pressure on the lungs.

A teacher who experienced the "aeroplane":

"As I still would not talk the torture started all over again, this time with me being in the avion position. I was placed on the floor on my stomach. My hands and feet were tied together behind my back and an iron bar inserted between them which was then raised so that I was upside-down with my back arched backwards. Then they used another sort of iron bar called a crique which was used to increase the pressure on my back, then on my chest. This made breathing extremely difficult. I was kept in this position for about an hour. When I felt that I was nearly suffocating, my head was immersed in a bucket of water to increase the feeling...

The "parrot" (Le perroquet) also known as the "roast chicken" (poulet rôti, al-farrukh). Here, the victim is tied with hands and feet in front of the body and the head hanging back. Again, this form of torture often is also combined with beating, falaqa or partial suffocation.

A criminal suspect detained in 1989:

"My feet were tied as well as my hands, palms turned to the side, and I was blindfold. I felt that an iron bar was pushed under my knees and that I was lifted from the floor. Later I saw two trestles on which the bar, apparently was put. Hanging on the bar, I was beaten on the soles of my feet and ankles. I was also kicked and beaten on my back and in the face. This lasted 15 minutes. Then I was untied and the blindfold taken away. I couldn't discover who was torturing me. I was bleeding and unable to stand on my feet".

Suspension. Victims are suspended from the ceiling by the hands, with just the toes touching the ground; or by the feet, causing hands and feet to swell up and making walking extremely painful.

A student, arrested in 1985, who was held at the Hay Hassani-Ain Chock police station in Casablanca:

"[I was] handcuffed and suspended from the ceiling so that only my toes touched the ground, then whipped on the back..."

Detainees have also been given repeated electric shocks to various parts of the body and have been

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manacled or chained for long periods.

Many detainees have also complained that while in custody they were subjected to severe psychological stress by being verbally humiliated and insulted, and having death and other threats made against them or their relatives.

One prisoner held at Derb Moulay Cherif in 1988:

"After a week they brought in my brother and asked him if he knew me. Immediately after this they took me back to the torture chamber and started psychological tortures, threatening to bring over another of my brothers, who was a university student; they said 'You know, we can bring up the whole family'. They pushed me though I could hardly walk, then they tortured me [using the parrot method]. They left me there an hour without beating me as my feet were already swollen. I lost consciousness ..."

Psychological stress to detainees has also been caused by sensory deprivation, isolation, blindfolding, sleep deprivation, and being kept in continuously lit cells for long periods.

A student who was tortured in a Casablanca police station in 1985:

"Then I was sent to Derb Moulay Cherif. Because of the state I was in after my stay in the police station they could not torture me in 'sophisticated' ways. But throughout my time in Derb Moulay Cherif, I was handcuffed and blindfold, and I could hear my comrades under torture screaming. The lights were always left on..."

Torturers have used a variety of these methods on some detainees, as one victim who was held at Oujda Police Station in 1986 later testified:

"I was handcuffed and had my feet bound. I was blindfold and put in the 'parrot' position. Then they tortured me in three ways: giving me electric shocks on the sensitive parts of my body; with falaqa and blows with a special hose; and by being choked and having dirty water poured in my mouth and up my nose. After each session I was put in solitary confinement, threatened, insulted and 'punished'. I had nothing but a very hard piece of bread to eat each evening".

Another prisoner, an Islamist sentenced to death in 1984, was held in:

"a secret prison where I was locked up for three months, my eyes kept covered, and handcuffed, forbidden to speak or move day and night... I was subject to all kinds of psychological and corporal tortures (abuse, insults, first position, second position). The stages of torture exceed the number of seven passing through the use of electricity on the most sensitive organs and asphyxiation with cloths soaked in soap and chemical products."

Threats against his family as well as other methods of torture were used against a detainee held at Derb

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Moulay Cherif in 1985:

"When I arrived... they started off with psychological torture ('you will talk even if we have to kill you to get you to do so'). They slapped and kicked me all over while I was blindfold. Next day I experienced my first physical torture (the 'aeroplane') for about 30 minutes. Then I was questioned... That evening, they tried another torture (the 'parrot')... and they stifled me with rags and their hands until I nearly passed out...At the end of each torture session (lasting about 30 to 45 minutes) my arms and legs were numb... This lasted 14 days, morning and evening...As psychological torture they threatened to arrest my wife and son and bring them here. They also threatened me with electric shocks and I was forced to listen to other detainees being tortured".

Detention and torture in garde à vue

Political suspects have been ill-treated from the moment of their arrest, such arrests often being carried out in a harsh and brutal manner, involving house-searches, aggressive behaviour to family members, and threats.

One alleged member of Ila 'l-Amam:

"As soon as I was arrested at the school where I was teaching I was driven to an unknown destination. In the car I was blindfolded, handcuffed and punched, and this went on in the police station for an hour. Afterwards I was taken to Derb Moulay Cherif where the torture was more systematic."

Initially, political detainees are usually taken first to a local police station or, in rural areas, are held under the local qa'id (district governor). Beatings of detainees at this stage are reportedly common. Detainees are then generally taken to detention centres or police stations under the control of the police judiciaire in the main towns such as Casablanca, Marrakech, Fes, Meknes, Tanger and Agadir.

There is substantial evidence - obtained by Amnesty International from victims' or eye-witnesses' testimonies, from lawyers and even from local press reports - that torture is widely used by the police. Moreover, there is evidence to suggest that torture or the threat of torture is systematically used in police stations throughout Morocco to extract confessions from and intimidate detainees.

One prisoner in August 1983:

"On the day of my arrest and during my stay in Mohammedia Police Station I was subject to various tortures: beatings, suspension by my feet and wrists; falaqa, smothering by rags soaked in detergents... torture here was savage, brutal and arbitrary without any desire to extract confessions as they already had all the information about me, but just for vengeance and repression for its own sake".

During the garde à vue detention of more than 205 students arrested in various towns throughout Morocco in 1989, torture or physical ill-treatment appeared to have been used selectively. In some centres it was routine and virtually all the student detainees were tortured; in others students were tortured only if they were suspected members of an illegal Marxist organization or if they refused to sign the procès verbaux. Some of these students were taken to Derb Moulay Cherif to be tortured.

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Derb Moulay Cherif

Derb Moulay Cherif in Casablanca has been frequently cited as one of a number of secret detention centres in which political prisoners, mostly suspected members of illegal groupings of Marxists or Islamists, have been incarcerated and tortured.

According to many testimonies received by Amnesty International from former detainees, torture is systematically used against those held at Derb Moulay Cherif. On arrival, detainees are ordered to undress and put on a special uniform, before being sent for questioning to the office of the commissaire (superintendent). Here, they may be slapped, punched, kicked, insulted, or threatened, and told to reveal the information sought by their interrogators or admit to allegations levelled against them. If they do not, further more prolonged torture may be inflicted.

Although torture is used in other detention centres, it appears mostly to be linked to the willingness of detainees to sign procès verbaux containing information desired by the authorities. In Derb Moulay Cherif, however, torture appears to be used systematically against political detainees, both as a means of obtaining information about the activities of illegal opposition groups and generally to punish and intimidate those suspected of holding dissident views.

The torture methods described above are all said to be used on detainees at Derb Moulay Cherif; some detainees have been repeatedly tortured. In between interrogation sessions, detainees are reportedly kept lying down, blindfold and tied together, usually back to back, for up to 24 hours a day. Some of the cells are below ground level and are dirty and stuffy. Inmates complain of the severe cold and damp, and say they are not given enough blankets. Cells generally are said to be overcrowded, although some prisoners are held in solitary confinement.

According to a teacher who was detained at Derb Moulay Cherif in 1985:

"It is a sort of cellar and it is very cold. We lie on our backs for 24 hours a day and are always blindfold and handcuffed, even when asleep or going to the toilet. Getting to go to the toilet is difficult. You must expect insults, slaps and all manner of abuse. Sometimes, even, the 'hajj' [a term of respect which prisoners are requested to use when addressing the guard] pretend not to hear you calling - with disastrous consequences. Several of my friends have got haemorrhoids, rheumatism and stomach complaints. There is no exercise. We are not even allowed to move about when lying down, or to talk. The 'hajj' never stop watching us, day or night. If someone just coughs, the furious 'hajj' is likely to insult, hit and spit on us. No one is allowed to complain"

A student from Fes University, arrested in 1988 and tried in 1989 wrote:

"With my four companions I spent 75 days in Derb Moulay Cherif. I was blindfold the whole time, we weren't allowed to talk to each other, and they used different kinds of tortures (partial suffocation - "aeroplane" - falaqa...); the last day at Derb Moulay Cherif I signed a procès verbal with my eyes blindfold. We were brought back to Fes; after three days we saw the jugé d'instruction"

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Nine students, also from Fes University, arrested in June 1989 stated that they were held for up to 49 days in Derb Moulay Cherif and tortured by beatings, kicks, falaqa, the "aeroplane", the "parrot", cloths soaked in detergent, and electric shocks.

Within Derb Moulay Cherif, there are said to be certain cells which are used to accommodate victims of secret, unacknowledged detentions. These cells are alleged to have been used to hold some of the "disappeared", although it is unclear whether any such prisoners are held there in secret today. Two Moroccans, arrested in 1976, were seen in Derb Moulay Cherif in 1977, at a time when the government was denying all knowledge of their existence. They were not released until 1984. The two were apparently being held by the Brigade nationale de la police judiciaire (BNPJ), National Brigade of Criminal Police. BNPJ officers and other security force personnel, such as members of the Direction de la surveillance du territoire (DST), Office of Territorial Surveillance, security police, and the Service des renseignements généraux (RG), General Information Service, apparently have ready access to prisoners in Derb Moulay Cherif.

In 1988 Amnesty International delegates visiting Morocco were told by the Director General of the Direction générale de la sûreté nationale that Derb Moulay Cherif was an ordinary police station and not a detention centre. This statement was repeated by the Moroccan delegation to the UN Human Rights Committee in November 1990. However, Amnesty International's delegates were told in 1988 personally by the Premier substitut du procureur général de Casablanca, First Deputy of the Casablanca Attorney General, that he had no knowledge of Derb Moulay Cherif. In a memorandum presented to the government in the same year Amnesty International said this statement "appeared particularly significant in the light of such allegations [of Derb Moulay Cherif as a secret torture centre] and having regard to the specific, important role assigned to the procureur du Roi in supervising the police within their districts".

Torture has also been reported at other police stations and detention centres, especially during periods of large-scale arrests, as in 1984. A teacher held in Salé police station in February 1984 wrote:

"We were kept blindfold and handcuffed throughout, forbidden to utter a word and under guard the whole time. We couldn't move without permission. When we wanted to go to the toilet they either kept us waiting for ages until we couldn't wait any longer or else they took us there blindfold making us walk through all the excrement piled up in the toilets. We slept on the floor without blankets".

The following is from a prisoner accused of apostasy, and arrested in March 1989; he was held in Nador Police Station and released in April without having been brought to trial:

"The following day I was handed over to the RG (Renseignements généraux) which is the political police. I was interrogated in minute detail by them about my life story, my friendships and my studies. From approximately 8.30am to noon and 2pm to 6pm each day I was questioned while the police slapped my face and spat at me. On the fourth day I was tortured ... During the torture known as the "airplane" ... I was blindfold, a cloth was tied over my mouth, my hands were tied around my knees with a stick between my forearms and knees and I was hung upside down while water and urine were poured through the cloth into my mouth. When I lost consciousness I was released. This torture was repeated at least five more times during the next three days. It resulted in extreme pain throughout my body, disorientation, and the coughing up of blood... The cell where I was held was underground and without light... Every day, prisoners were called out for questioning, during which they were severely beaten or tortured, and then

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returned to our cell, to repeat the experience the following day. Of course, no one ever received any medical attention for his wounds".

Action by the Moroccan authorities

King Hassan II told Amnesty International delegates in February 1990 that confessions should be freely given and torture was an abuse which was against his wishes. The Moroccan authorities have also frequently pointed out that abuse of power or violence by civil servants or government officials is severely punishable according to the Moroccan Code pénal Articles 231 and 392-414. In its "Réponse aux points soulevés par Amnesty International", the Moroccan Government listed 21 cases where members of the security forces had been found guilty of "abuses of power and professional faults" between 1984 and 1989. Previously, Ministry of Justice officials who met Amnesty International delegates in 1988 stated categorically that detainees were not tortured in Morocco and that no torture complaints had been reported to the procureur's office.

If a complaint of torture is raised before the procureur or the juge d'instruction these officials are required under CPP Article 89 to summon medical aid if a suspect so requests. The Ministry of Justice, the juges d'instruction and the prosecutor's office are legally required to oversee detention centres to ensure that no violations of the law take place. However, of the hundreds of testimonies gathered by Amnesty International not one has mentioned any intervention by the procureur or the juge d'instruction in this regard. Moroccan defence lawyers have frequently placed allegations of torture before the courts; however, their requests for medical reports and investigations of these allegations have been virtually always refused by judges.

Numerous and consistent allegations of torture have continued to be received from Morocco over three decades. Nevertheless, even the most basic safeguards against torture have been ignored suggesting that the use of torture is effectively condoned by the Moroccan authorities.

Deaths in custody

In some cases torture of suspects held in garde à vue detention has reportedly been so severe as to result in death. Amnesty International delegates visiting Morocco in 1988 raised with the government the cases of two detainees, Abdelmoumen Bouztati and Amine Tahani, who had died in custody in 1985 and 1987.

Amine Tahani, a 29-year-old engineer and an official of the National Union of Engineers, was arrested on 27 October 1985 together with more than 20 other alleged members of Ila'l-Amam. He was held at Derb Moulay Cherif where he and two other detainees, considered leading members of the group, were kept in close proximity. All reportedly had their hands continuously bound, even when eating, were blindfolded and forbidden to communicate with each other. Nevertheless, his fellow-detainees reported that they were aware that he was constantly interrogated between 28 and 30 October, and needed to be supported by two guards on his return. His head was said to be hanging down as though he was unconscious. He was alleged by fellow-detainees to have been tortured by the "aeroplane" method, with electric shocks to his genitals and by having his head plunged into a bucket of water, which apparently contained bleach.

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On 4 November he reportedly experienced difficulty breathing and was heard to ask the guards to give him a pullover and change the blindfold which was soaked with sweat. He was given a sweatshirt. He reportedly asked to be moved from his cell, which was humid and airless, to be with other detainees, but this was refused. Later he was taken to be interrogated and returned unconscious at 7pm. Two hours later, still in a coma, he was taken to Averroes Hospital, where he was apparently admitted under a false name to conceal his identity. He died on 6 November, according to his hospital records as a result of a severe asthma attack. His family was not informed of his death until 11 November. No autopsy, public inquest or inquiry into his reported ill-treatment and the circumstances surrounding his death is known to have been carried out.

Abdelmoumen Bouztati died on 1 May 1987 allegedly as a result of ill-treatment while in police custody in Tetouan. He had been arrested on 28 April at Martil. The day after his arrest he was admitted to hospital in a coma from which he never regained consciousness. His family were at first prevented from seeing him in hospital; when they were allowed to see him after his death they were not permitted to examine his body. At the request of the procureur général du Roi an autopsy was performed by a doctor at the civil hospital of Tetouan in the presence of another physician. The cause of death was given as an acute lung infection. The autopsy mentions without offering any explanation, an ecchymosis (bruising) on the frontal region and "multiple warts on both hands, four of which showed recent signs of burning". Again, no formal inquiry or inquest is known to have been carried out to clarify the precise cause and circumstances surrounding his death.

A number of cases of death allegedly resulting from torture or ill-treatment are generally recorded each year. Among those said to have died in such circumstances in 1989 were Abdeljalil Yakouti, who died within hours of his arrest in February at Ouarzazate and whose body was said by eyewitnesses to show signs of torture. The authorities said he had hanged himself.

Similar allegations were also made in connection with the deaths of Abdeslam Ouahabi, who died at Larache police station on 10 August, having been arrested the previous day, and Larbi Charrat, aged about 60, a welder and member of the Parti du progrès et socialisme (PPS), Party of Progress and Socialism, who died at Sidi Slimane Police Station three days after his arrest on 25 August. Both were officially said to have hanged themselves in police custody but no independent investigations or inquests are known to have been carried out.

In one case, the Moroccan authorities announced that two auxiliary policemen had been arrested and sentenced to five and 15 years in prison respectively for assault and battery of a prisoner who had died in police custody. Abderrahmane Ben Khalifa, the victim of the assault, had been arrested on 24 August and had died in custody the following day.

Further deaths in custody in suspicious circumstances occurred in 1990. Saida Habiba, a 26-year-old woman, died in Azilal Police Station two days after her arrest in January. Mohammed Hirchi, a 17-year-old criminal suspect, died in hospital in Oujda on 8 July 1990, 12 days after his arrest. In both cases there were reports suggesting that these prisoners had been tortured or ill-treated in garde à vue detention prior to their deaths. In January 1990 the Moroccan Government said an inquiry would be held into Saida Habiba's death, but Amnesty International has received no information since then to indicate whether any such inquiry was established. Following Mohammed Hirchi's death his lawyer pressed for a judicial investigation into the cause and circumstances of his death but it is not known whether any such inquiry

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has been held. The lack of any full public inquiry or inquest following deaths in custody remains a cause for particular concern. In the absence of such inquiries, allegations that torture or ill-treatment may have contributed to detainees' deaths often can neither be substantiated nor rejected.

Prison Conditions

Those held in garde à vue detention are, from the moment of arrest, cut off from access to family and lawyers and kept in overcrowded and dehumanizing conditions. Generally, however, conditions improve when individuals who have been convicted of offences are transferred to prisons: such prisoners have access to their family, receive better food and are usually allowed to receive books or magazines. Students and others may be allowed to carry on with their studies.

Prison organization in Morocco is still regulated by the ordinances of 1915 and 1930. Prisons are reportedly seriously overcrowded. According to officially-cited statistics some 36,000 inmates are now said to be confined in prisons built to hold 7,000.

Amnesty International has been and continues to be concerned about various aspects of the treatment of inmates in Morocco's prisons. These include reports of prisoners being tortured or subjected to cruel, inhuman or degrading treatment. Some prisoners have been subjected to prolonged solitary confinement, some have been held in cachots or dungeons (small, windowless cells, usually below ground level). Overcrowding and lack of access to medical care have also been particularly reported.

A woman imprisoned for political reasons at Kenitra Civil Prison alleged in 1990 in a letter sent to Amnesty International that political prisoners there had been subjected to collective punishment by being denied exercise or being denied light, and that some prisoners had been singled out for punishment by guards acting under the supervision of senior prison officials. She alleged that prisoners had been subjected to falaga, blows on their feet and hands inflicted with a palm branch, random blows to various parts of the body, slaps, hair-pulling and being forced to walk about naked. One common-law prisoner who asked to see the prison director was reportedly kicked and tortured with falaga in February 1990, then put in an isolation cell and subjected again to falaga; she was then brought before a doctor as mentally disturbed and put into a straitjacket. The next day she was allowed to rejoin the common law prisoners.

Morocco's political prisoners have undertaken a long series of hunger strikes in order to draw attention to their grievances and seek improved conditions. One group of Islamist prisoners in Safi prison have held no less than 18 hunger-strikes since 1984 to protest against their confinement at a place so far from their homes as to render it extremely difficult for their families to visit them with any regularity. They allege also that they have been subject to brutality and ill-treatment by their guards. Other prisoners sentenced to jail terms after the 1984 riots launched an unlimited hunger-strike at Casablanca Prison in 1985. This followed a series of earlier hunger-strikes (during which two prisoners died) to protest against harsh conditions and lack of medical attention after torture. Two prisoners, Nouredine Jouhari and Hassan Aharrat, were still on hunger-strike over five years later at the end of 1990. They are currently held incommunicado and are said to be tied to their beds in separate rooms at Averroes Hospital in Casablanca: they are fed directly to the stomach by gastric tubes. Amnesty International considers that they should be given immediate access to their families and to medical practitioners of their choice.

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Another hunger-strike started by four prisoners at Laalou prison, Rabat, ended eight months later in February 1990. They had launched the hunger-strike to protest against an official failure to investigate their alleged torture in pre-trial garde à vue detention and ill-treatment at Laalou Prison. One of the four, Abdelhaq Chbada, died as a result of the hunger-strike in August 1989. The other three agreed to give up their protest when they and two other political prisoners were transferred to Kenitra Prison.

"DISAPPEARANCES"

The "disappeared" in Morocco are those reportedly arrested over the years by the military or the security forces whose detention has not been acknowledged by the government. Although there have been reports of extrajudicial executions and deaths under torture, the evidence suggests that some, perhaps many, of the "disappeared" may still be alive and confined in secret detention centres. Over one hundred Moroccans are reported to have "disappeared" between 1963 and 1985. About 30 of them are known to have been later released after being held in secret and unacknowledged detention for between two and eight years.

The vast majority of those reported to have "disappeared" are people of Western Saharan origin who were apparently suspected of advocating independence for Western Sahara or were related by family ties to such advocates. The first reports of "disappearances" occurred soon after Morocco took possession of the former Spanish Sahara in 1975, but further cases were reported during the 1980s. Some of the victims are known to have been released, often after long periods of secret detention, but as many as several hundred others remain unaccounted for. Various sources have suggested that some or all of these are still being held in secret detention camps or centres in Morocco and the Western Sahara (see Morocco: "Disappearances" of People of Western Saharan Origin AI Index: MDE 29/17/90).

International standards

International standards clearly prohibit the "disappearance" of prisoners. For example, Article 9 of the ICCPR lays down the right of everyone to liberty and freedom from arbitrary arrest. It stipulates that everyone arrested should be brought promptly before a judge.

In its General Comment 6 (16) d/4 the Human Rights Committee of the United Nations has stated that:

"States parties should also take specific and effective measures to prevent the disappearance of individuals, something which unfortunately has become all too frequent and leads too often to arbitrary deprivation of life. Furthermore, States should establish effective facilities and procedures to investigate thoroughly cases of missing and disappeared persons in circumstances which may involve a violation of the right to life".

At its 90th plenary meeting the 1978 UN General Assembly passed a Resolution on Disappeared Persons. Clause 1 of the Resolution (33/173) calls upon governments:

"(a) In the event of reports of enforced or involuntary disappearances, to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations."

Temporary "disappearance" in garde à vue detention

Amnesty International has long been concerned that garde à vue detention as practised in Morocco, under AI Index: MDE 29/01/91 Amnesty International 20 March 1991

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which any newly-arrested person may legally be held incommunicado, facilitates "disappearance". Usually these "disappearances" are of a temporary nature; in some cases, however, the victims remain unaccounted for.

Certain suspected opponents of the government have "disappeared" usually in an arbitrary fashion. "Disappearances" were more common in the 1970s and early 1980s at a time when garde à vue was often allowed to exceed a year in political cases. Those who were taken were held in secret centres without charge or trial and the authorities denied any knowledge of their whereabouts. After months or years they were suddenly released and told to say nothing of what had happened.

In one case eight students and others arrested in 1976 and 1977 in connection with the Frontistes, (a Marxist front of the 1970s), "disappeared" for seven years before they were eventually released in 1984. They were not among those brought to trial and their families received no word from them. It is not clear why prisoners whose detention and whereabouts the authorities had failed to acknowledge for several years should then suddenly have reappeared after being released from detention. They were apparently held with others, Moroccans and Western Saharans, who had also "disappeared". For a time they were kept in the qsar (fort) at Agdz, where conditions were harsh, particularly for the Western Saharans. They were then moved to another qsar, whose name they were not given. They were not told where it was but said that on Wednesdays they had heard the sounds of a market.

Mohammed Rafik, a Moroccan studying in France and a leading member of the Union nationale des étudiants marocains, (UNEM) National Union of Moroccan Students, "disappeared" soon after he returned to Casablanca for a holiday in June 1981. His friends lost all trace of him and feared that he might be dead; they were unable to obtain any information about him from Moroccan authorities. Eventually word came that he had been seen by another detainee in custody at Derb Moulay Cherif. He was eventually released in December 1984.

In May 1983 12 university and secondary school students "disappeared" from the Central Police Station in Casablanca. They had been arrested in January and February but were not permitted access to their families or lawyers. Some families, however, were apparently allowed to bring food to the police station once a week to pass on to the detainees. This was abruptly stopped on 5 May 1983 when the detainees were apparently moved elsewhere. Their families raised their cases with the procureur général and the Minister of Justice, and they also publicized the "disappearances" in the local media. An international campaign of protest was initiated and eventually, in 1984 and 1985, most of the students were released. However, one "disappeared" secondary school student, Abderrazak Nouhaili, continued to be held in secret detention for reasons that are unclear until he was released in 1986.

The students had reportedly been held in Derb Moulay Cherif or "Le Complex", a Casablanca police station where they were apparently kept blindfold and handcuffed for much of their period in detention without charge or trial.

Continuing "disappearances"

It is not clear in some of the cases which remain unresolved why the individuals should have "disappeared". Usually those who have "disappeared" have been political opponents of the government.

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However, sometimes private jealousies may have been involved.

In other cases of "disappearance", however, the victims are known to have threatened or to have been suspected of threatening the personal safety of the King through their alleged involvement in attempted coups; or the territorial integrity of the country through their alleged support for the Polisario Front. Such cases seem to be a taboo topic in Morocco itself. Whether for fear of arrest or persecution, as if by tacit agreement these "disappearances" are not discussed openly within the country by local human rights groups, parliament or the press. Outspoken as such groups and institutions often are about human rights, their silence on the subject of these "disappearances" has meant that they have been veiled in secrecy.

Mohammed Ben Ali Boulahia Tati, a political activist who before independence participated in the resistance movement against the French, was arrested by police in Casablanca early in 1963. He was seen in Dar al-Mokri, a secret detention centre, by a fellow detainee in April 1963. For 27 years his wife has continued to seek information about her husband from the Moroccan authorities but they have denied any knowledge of him and he remains "disappeared".

Houcine Ben Ali El-Manouzi "disappeared" in 1972. A trade union activist in the Union marocaine du travail (UMT), Moroccan Labour Union, and a member of a family with a history of political opposition to the government, he was sentenced to death in absentia in 1971 in a major political trial in Marrakech after conviction on charges of plotting against the internal security of the state. The trial was condemned as grossly unfair by Amnesty International observers, who concluded that the majority of the accused could not be associated with the crimes for which they were tried.

The following year, while on a trip to Tunis, Houcine El-Manouzi "disappeared". There were allegations that he had been kidnapped by Moroccan agents and returned to Morocco. For three years nothing more was heard of him. Then, suddenly, in July 1975 his picture appeared on "wanted" posters displayed in Moroccan police stations and police raided houses of members of his family. It transpired that he had indeed been held in secret detention and had escaped with other "disappeared" detainees. A week later he was apparently recaptured. Since then there has been no definite news of him, although unofficial sources suggested that he was being held in Dar al-Mokri and, more recently, in Tazmamert. Since 1975 Amnesty International groups have sought news of him from Moroccan prisons and government authorities, but without success.

The extent to which the Moroccan Government has been prepared to go to exact vengeance on its opponents is clearly exemplified by what has become known as the "Oufkir case". Eight members of the Oufkir family have been in virtually continuous imprisonment since 1972 solely because of their relationship to General Mohammed Oufkir, who died in suspicious circumstances shortly after he reportedly led an abortive coup attempt against the King in 1972. After that his widow and six children - the youngest of whom was no more than three years old - abruptly "disappeared". A cousin suffered a similar fate. For years they remained unaccounted for with no word of their fate or whereabouts forthcoming from the Moroccan authorities. It was as if they had ceased to exist.

Then, in 1987, four of the children, now grown to adulthood, escaped and were able to contact a French lawyer, who alerted the world to the family's plight. But the four Oufkirs were soon rearrested and returned to their place of imprisonment. All eight members of the family were still held at the end of 1990. They were virtually incommunicado - only the parents of General Oufkir's widow and a military

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doctor have been permitted to visit them. How long they must remain incarcerated to pay for General Oufkir's apparent crime has never been made clear by King Hassan II or his government.

"Disappearance" of Western Saharans (Sahrawis)

"Disappearances" of people of Western Saharan origin (Sahrawis) began in 1975 and continued certainly until 1987. It seems that virtually all Sahrawis detained for political reasons have been excluded from the normal legal processes. Only those known as the "Meknes Group"¹ - 26 people, mostly students - are known to have been brought to trial for allegedly supporting the Polisario Front (Frente Popular para la Liberación de Saguia el-Hamra y Rio de Oro), the Western Saharan pro-independence resistance movement. Hundreds of other Sahrawis are reported to have "disappeared" because they or their relatives were known or suspected supporters of the Polisario Front. They have included people from all groups, among them children and elderly people, with students and better educated Sahrawis being particularly targeted. Amnesty International has not been able to verify the figures for the "disappeared" as investigation of reported "disappearances" is especially difficult because relatives and other sources fear for their own safety. Many of those who "disappeared" did so only temporarily and were later released. However, hundreds are believed to be unaccounted for. There is evidence to suggest that many of these may still be alive in certain detention centres in Morocco.

Whole families, as well as individuals have been victims of the Sahrawi "disappearances". In some instances "disappearances" followed the arrest of dozens of people after demonstrations or before important visits. After each wave of arrests some of those seized were released but others have never been seen again. In March 1985 a number of people, many of them women, were arrested in Laayoune just before a visit by the King. In November 1987 over 300 people in Laayoune were reported to have been arrested. But the largest number of arrests, numbering many hundreds, took place in the years immediately after Morocco took possession of the territory of the Western Sahara in 1975. Eighty-eight of these cases were investigated by Amnesty International groups and have been raised countless times with Moroccan authorities without receiving any substantive reply.

Among the early "disappeared" were four brothers from the Mayara family; Ali-Bouya (born 1910), Cheikh, Seidah and Heiba. Originally nomads, they fought in the 1957-8 movement against Spanish colonial rule known as the Jaysh al-Tahrir, liberation army. Then they moved north to Tan Tan and joined the Royal Moroccan Army. By 1975 they had all retired. Towards the end of 1975 Ali-Bouya's son Omar was asked to join in the Green March. He declined on the grounds of old age and ill-health. On 17 November 1975, within days of the marchers' return and the signing of the Madrid Accords, a Land Rover appeared outside his house in Tan Tan and three uniformed gendarmes entered. Ali-Bouya's small daughter, Mahjouba, met them and said that her father was at evening prayer. Ali-Bouya was told that he and his brothers were wanted by the Governor. He was taken away leaving four of his five daughters and his pregnant wife alone in the house. Cheikh, Seidah and Heiba's son Omar was arrested at the same time.

¹The "Meknes Group" illustrates the difference between the long-term "disappeared" and those who "disappear" temporarily in garde à vue detention. Arrested between April and December 1977 they were reported as "disappeared" until, after being held incommunicado in secret detention centres for six months, they were brought before the juge d'instruction.

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"Disappearances" have continued to be recorded during the 1980s. Five women were said to have been among many people arrested in Laayoune on 3 March 1985, less than two weeks before the visit of the King. One of the women was 40-year-old Salka ment Najem oudl Omar Lahsen, born in Guelta-Zemmour in 1946 and living in the Quartier Rahma in Laayoune. On the morning of 3 March the police judiciaire came to the house, broke down the door and entered. Salka ment Najem was taken away on suspicion of distributing pro-Polisario Front leaflets. She has not been seen since. Her young children were left to fend for themselves.

The most recent wave of "disappearances" took place in Laayoune in November 1987, when over 300 were said to have been arrested as they were gathering to hold a protest demonstration just before the visit of a UN technical mission. Around 50 are still unaccounted for. Among those arrested then was Ghaliat ment Abdallahi oudl Mohammed. Her grandmother, Fatimatou ment Baad, had been arrested in April 1984 and no news of her has been received since. Ghaliat ment Abdallahi, an agricultural engineer, was taken away by three members of the police judiciaire on 20 November 1987. According to friends, the police claimed that she was one of the protesters.

Between 1987 and 1990 about 70 people of Western Saharan origin were arrested and held for weeks or months in garde à vue detention without charge or trial before reportedly being released. In many cases they were reported to have "disappeared" before their release.

Detention centres

"Disappeared" Moroccans and Sahrawis have reportedly been confined, handcuffed and blindfold, in secret detention centres such as Derb Moulay Cherif in Casablanca. There are also said to be secret detention centres in certain villas in districts of Casablanca, Fes and Rabat. Cells in some police stations or military barracks are also alleged to be used to hide the "disappeared".

Sahrawis and Moroccans were said to be confined in the late 1970s and early 1980s in deserted forts or qsour such as Agdz; since 1983 there have also been reports that "disappeared" Western Saharans and Moroccans are being confined in Qal'at M'gouna, 40km north-east of Ouarzazate. Some Moroccan and Sahrawi "disappeared" are among those said to be confined in a secret camp in Tazmamert, in the same place as a number of former army officers allegedly involved in coup attempts in 1971 and 1972. The two groups are said to be detained separately, both in harsh and grossly inadequate conditions. Other secret detention centres are said to be located in isolated farms, where detainees are allegedly put to work and cautioned not to talk.

A prison guard who had worked at Agdz and Qal'at M'gouna up until 1983 said in an interview in 1989:

"Conditions are tough in these places ... They got given vegetables, lentils and beans, but they weren't properly cooked. Squashes too. There were guard dogs too at the qsar. They gave the same things to the prisoners as to the dogs, exactly the same thing, the same mess-tin. Most of them had nothing to wear. When they went to the latrines they wrapped blankets around them out of modesty... During the years I was there, they stayed like that. No visits, no books, no radio, waiting for death ... I stayed until 1983. I met [a brigadier] not long ago who said it was still the same except that some were dead..."

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The more recent Sahrawi "disappeared" are believed to be held in better conditions in secret detention centres in the main towns of the Western Sahara. Letters are occasionally smuggled out of such centres but not publicized for fear that such channels would be closed down.

INCOMMUNICADO DETENTION IN LIFE-THREATENING CONDITIONS

For certain prisoners indefinite detention in conditions so harsh as to hasten death appears to be considered an intrinsic part of the punishment. This form of imprisonment is often associated with "disappearance" (see previous section) and always with incommunicado detention.

One group of prisoners - all members of the armed forces - continues to be detained after the expiry of prison sentences imposed on them by military courts in 1972. This followed attempted coups against the King in 1971 and 1972. Ten officers were summarily executed after the first coup attempt, and others were brought to trial in Kenitra in 1972.

In the first trial, the "Skhirat Trial", in February 1972, 1,081 members of the armed forces were tried for allegedly participating in an attack on the royal palace of Skhirat on 10 July 1971 during celebrations for the King's birthday. Seventy-four of those convicted were sentenced to prison terms ranging from one year to life imprisonment and one cadet was sentenced to death (the sentenced was later commuted); the rest, all cadets, were acquitted.

The second trial in November 1972, known as "the Kenitra Trial", involved 220 defendants. They were accused of attempting to kill the King by firing at his aircraft in August 1972. Eleven of the defendants were sentenced to death and were executed two months later; 32 others were sentenced to between three years' and life imprisonment; the rest were acquitted.

Those sentenced from both groups were first held in Kenitra Military Prison, then moved to Kenitra Central Prison. However, 61 of these prisoners, apparently those sentenced to three or more years' imprisonment - were transferred to an old fort in Tazmamert, a remote settlement in the Atlas mountains in south-eastern Morocco, where those who have survived have been held ever since. They are reportedly held incommunicado and are subject to particularly harsh conditions. More than once prisoners have managed to smuggle out letters to give details of their plight. One letter smuggled out in 1980 indicated that the prisoners were badly fed and held in single cells measuring four square metres, with little ventilation or light. The cells were freezing in winter and like ovens in summer, according to the letter, which continued:

"The prisoner's life is a constant struggle. Struggle against the cold: winter is fierce, it snows in Tazmamert. The prisoner wakes up shivering in the middle of the night, numb with cold, shaking all over in a crazy dance...

"In July 1974, two comrades finished their sentence and when they were not released as expected, one of them complained. 'How long did you get?' the jailer asked him. 'Three years'. 'Don't say three, say forever'. One after the other falls ill, one after the other is kept in detention...

"A comrade who was in excellent health told us that his nose was bleeding heavily; later he told us that his legs could not support him. Left on his own, he could not go to the door to take his food any more and was relieving himself in his rags. The jailers only opened and closed the door, they did not care if he was eating or not. The comrade was brave and every day kept us informed about the state he was in, his morale was good. He became partially then totally paralysed, later his delirium made us share with him

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nightmarish nights. When he no longer spoke, they wrapped him in his blankets and took him out. A few minutes later, they brought him back and left him on the freezing floor of his cell; 'we gave him an injection' they said hypocritically. The next day, the comrade breathed his last. They came with masks on (because of the smell) and took his rags off and buried him without any religious ceremony in the yard. We learned later that it was 25 October 1977. Through the unexpected transfer of some of the comrades to the other building we learned that by that date six people had already died. And also that there was an enormous pit in the middle of the yard. This was certainly the communal grave where they buried all the dead. This unhappy event changed our method of action. Every time there was a festival, we asked to write to His Majesty, may God protect him; the reply was negative. Things are speeding up, we are getting weaker and the food is getting worse. On 2 January 1980, a second comrade died of a rectal haemorrhage. Same ritual as for the first comrade. A third is agonizing, three others are gravely ill and semi-paralysed, the rest of us have at least three diseases (digestive system, various bleedings, sight problems, psychopathy, scurvy, etc.). Such is our present situation; the spectre of death haunts us day and night, an ambiguous silence reigns over the building and sometimes one of us rebels against the situation. He is immediately put down with punches and blows. Those who remain are on the verge of insanity - the director and his henchmen are watching. This letter is an accurate testimony. Through it I want to make you realize the urgency of the situation."

In another letter smuggled out nine years later, in 1989, a prisoner wrote of his 16 years at "the infernal prison of Tazmamert", where he and others had "been buried up to now, without even the rights enjoyed by beasts, totally isolated from each other and from the external world".

The most recent message to have been smuggled out which has reached Amnesty International provided graphic evidence to suggest that the torment of those still surviving at Tazmamert continues undiminished:

"...The detainee is subject to the worst forms of torture and privation, so that he should die very slowly and terribly ... The prison is made up of two buildings each with 29 cells. The cell is a tiny gloomy box, with a toilet but no water. Polluted air comes in from an airhole into a passage, washed once every six months ...

"For the first five years we had no change of clothes. Now we have one shirt and one pair of trousers per year...

"The guards are sadists... the Governor... was given the job because he hates the human race... As a result of the number of deaths we have suffered, two military commissions came to the camp to see our situation. He sent them away, arguing that he could only agree if he had a signed order by higher authorities...

"As long as the detainee can stay upright it is still bearable. When he can't, it's practically a death warrant. He stays lying down ... he doesn't receive any care. The jailers don't go near him and forbid us to help him. They just leave his meagre diet and water ration in his cell and shut the door. The days pass while he slowly sinks into death ... the horror gets worse when he starts to fulfil his needs just where he is on himself, and falls into a delirium, as terrible for him as it is for us, lasting days or weeks till he gives up the ghost.

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"Then the jailers go in, pick him up in his blanket full of faeces, put him in the yard while they complete some administrative formalities, and then take him to one of the walls where the graves are already dug to receive us. They throw on lime, then earth and water.

"Those who are still alive are in a very serious state. Some lost their reason years ago".

Amnesty International has repeatedly expressed grave concern to the Moroccan Government about the plight of the Tazmamert prisoners, and has sought information about the reasons and the legal basis for their continuing imprisonment in what are clearly life-threatening conditions. The government, however, has consistently failed over at least 10 years to provide any substantive response or to take any action to halt the gross violations of these prisoners' human rights.

The situation of the Tazmamert prisoners was directly raised by Amnesty International in discussions with government officials as long ago as 1981, when an Amnesty International delegation was able to visit Morocco. A list of 15 of the prisoners was handed to officials of the Ministries of Justice and the Interior, who were asked why the prisoners were still being held although the sentences imposed at their trial had long since expired. The officials were asked also to explain why the whereabouts of those whose sentences had not been completed had not been made known by the authorities and why none of the prisoners were being allowed any contact with their families or the outside world.

In response to these questions the Ministry officials denied all responsibility for the Tazmamert prisoners who, they said, were under the authority of the Ministry of Defence. They said, however, that the reason the prisoners were being held en forteresse (in a military prison), outside the normal prison system must be because they had not been deprived of their military officer status. The Ministry of Justice officials undertook to inquire into the 15 specific cases raised by Amnesty International and provide further information in due course, but no such information was ever forthcoming.

During a further visit to Morocco in 1988, Amnesty International again pressed the government about the cases of the Tazmamert prisoners. Again, Justice and Interior Ministry officials said that these cases were not within their competence and that only the Ministry of Defence could comment. No meetings with officials of that ministry, however, could be arranged.

Amnesty International sent a third delegation to Morocco in February 1990 at the express invitation of King Hassan II. During an audience with the King himself Amnesty International was told that the prisoners were actually under house arrest (résidence surveillée) for their own protection but no other information was provided. In a subsequent meeting with the Minister of the Interior, Amnesty International sought an assurance that its representatives would be permitted on a future visit to meet certain of the prisoners in order to check on their situation. The Minister promised to pass on the request.

The UN Working Group on Enforced or Involuntary Disappearances has also inquired of the Moroccan Government about the Tazmamert prisoners but it too has received no response. Indeed, Moroccan officials have on occasions even denied any knowledge about a prison in Tazmamert. For example, Moroccan delegates appearing before the UN Human Rights Committee during consideration of Morocco's second periodic report on the implementation of the ICCPR, said they knew of no prison in Tazmamert and that it was not under the jurisdiction of the administration pénitentiaire, Prison Administration, in the Ministry of the Interior.

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This lack of response on the part of the Moroccan Government has been all the more disturbing in view of the graphic accounts of deaths and inhuman conditions detailed in letters smuggled out, undoubtedly at great risk, by prisoners at Tazmamert.

By late 1990 Amnesty International had obtained the names of 24, out of a total of 61 prisoners held, who are reported to have died during their imprisonment in Tazmamert.

In November 1990 Amnesty International sent this list to the Moroccan Government and called for the situation of all the prisoners known to have been taken to Tazmamert to be urgently clarified, not least so that their relatives should know whether they are alive or dead. However, there was no response from the Moroccan Government. Of those believed to be still alive, all but six have completed their sentences, in some cases no less than 17 years ago.

The treatment of the Tazmamert prisoners has left an ugly stain on Morocco's human rights record. The government's complacency when confronted with international concern over the plight of the prisoners has put its commitment to human rights - often recited and symbolized by its ratification of the ICCPR - starkly into question. At the very least, the treatment of those at Tazmamert constitutes a flagrant violation of both Article 7 of the ICCPR, which states that:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment..."

and Article 10(1):

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"

LAWS LEADING TO THE IMPRISONMENT OF PRISONERS OF CONSCIENCE

In political cases, charges are frequently brought under broadly-framed legislation, including dahirs (decrees) dating back to the French colonial period, under which people can be sentenced to terms of imprisonment on charges such as disturbing public order (Article 1, 29 June 1935 dahir). Sometimes defendants have been sentenced although they have not been convicted of committing a specific act at any particular time or place. Articles of the CP and the CPP define "complicity" very broadly and prescribe the same punishment for those who attend unlawful gatherings or who have assisted a suspect as they do for the organizer or founder of an illegal organization.

Other articles prescribe equally heavy sentences even when no criminal act has been committed. Unsubstantiated confessions of participation in discussions about overthrowing the state (allegedly extracted under torture) have been used as the basis for sentencing many people although they were never proved to have committed any specific act. Among them are 26 alleged members of Ila'l-Amam sentenced in Casablanca in 1986.

A number of offences are defined by royal dahir. The most frequently applied dahirs in political cases are the 1935 dahir on disturbing public order, the 1939 dahir on the distributing of leaflets liable to disturb order and three dahirs of 1958, amended in 1973, restricting the rights of assembly, association and expression.

Significantly, nearly every modification of the law - the amendments of the CPP in 1962 and 1966, or of the three 1958 dahirs by the amending dahirs of 1973, has introduced harsher punishment and/or more restrictive regulations. In addition, though many of the articles in the CP among them Articles 169-79 relating to offences against the monarchy, and Articles 201-204 relating to offences against internal state security, parallel articles of the French Code pénal, in Morocco they have commonly been given an extremely broad interpretation by the courts and used to give heavy penalties to non-violent opponents of the government and alleged members of illegal groups. Those currently serving sentences imposed under these provisions include eight prisoners of conscience arrested between 1974 and 1976, among them Mohammed Srfi and Driss Benzekri, both of whom are serving 30-year prison terms. They were tried and convicted in 1977 and are in Kenitra Central Prison.

Restrictions on freedom of assembly, expression and association

Freedom of expression, peaceful assembly and association are guaranteed by Articles 19, 21 and 22 of the ICCPR. Article 9 of the Moroccan Constitution guarantees:

"freedom of movement and residence in any part of the kingdom;
- freedom of opinion and expression in all forms and freedom of assembly;
- freedom of association and affiliation to any trade union or political organization of [the citizens'] choice.

"The exercise of these freedoms can only be limited by law".

Two dahirs of 1935 and 1939 dating from the French colonial period and three royal dahirs of 1958 have seriously limited the exercise of these human rights. The provisions of the dahirs of 1958 were made more restrictive, new punishments were added and existing ones increased by an amending dahir of 10 April 1973.

These dahirs have been applied for more than 30 years as the legal basis for the imprisonment of people considered by Amnesty International to be prisoners of conscience.

1935 dahir: The dahir issued on 29 June 1935 (modified by the dahir of 26 September 1969) concerns the control of demonstrations. It provides for a sentence of up to two years' imprisonment for anyone convicted of "provoking active or passive resistance, wherever or by whatever means, against the application of any laws, decrees, rulings or orders of the public authority; anyone inciting or provoking disorder or demonstrations; or anyone carrying out an action tending to disturb order, peace or security". The penalty is doubled if the defendant is a civil servant. This dahir remains in force and continues to be used against people involved in non-violent protests, despite calls for its abolition by Moroccan human rights groups, bar associations and others. Prisoners of conscience imprisoned under the provisions of this dahir have included those sentenced in connection with anti-government demonstrations in 1984 and students sentenced in 1989 to prison terms ranging from four months to three years for their alleged involvement in anti-government protests on university campuses.

1939 dahir: The dahir of 26 July 1939 which provides for punishment of six months' to 5 years' imprisonment for the production, distribution or sale of leaflets "of a nature to disturb order, tranquillity or security" was applied to many of those arrested in June 1981 for distributing leaflets calling for a one-day general strike, and in the trials in January 1989, of four Jerrada miners for distributing trade union leaflets.

Dahir 1-58-378 issued on 15 November 1958 and amended by five subsequent dahirs, forms the Moroccan Press Code. Articles 38, 39, 41, 42 and 45 have often been used to prosecute people for the non-violent exercise of their right to free expression. Article 38 states that

"anyone who, by speech, cries or threats voiced in public places or meetings, by means of written or printed material for sale or distribution or exposed in public places or meetings, or by placards or posters

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exposed to the public eye, directly incites any person to perform a crime or felony is punishable as an accomplice"

whether or not the "incitement" resulted in an offence or in any attempted offence.

The courts have given a broad interpretation to Article 39, which provides for punishment of up to five years' imprisonment for anyone who has directly provoked any theft, murder, arson, pillage, destruction by explosive substances or crime or felony against external state security or who has, by any of the means mentioned in Article 38, justified crimes of murder, theft or arson, in cases where this provocation did not result in any offence. In 1984 a number of people were jailed under this decree in Tetouan on charges of inciting riots by issuing leaflets critical of government policy.

Article 41 prescribes imprisonment or a fine for the commission of any offence under Article 38 against the King or royal family; this article also was strengthened by the dahir of 10 April 1973, which made imprisonment mandatory and increased the maximum penalty from five to 20 years' imprisonment and the minimum from one to five years.

Article 42 states that the "publication, distribution or reproduction by whatever means of false news, fabricated, falsified or untrue information attributed to third parties which has or is likely to disturb public order" is punishable by up to five years' imprisonment and/or a fine; in this article the 10 April 1973 dahir deleted the qualifying phrase "carried out in bad faith (faite de mauvaise foi)" before the last relative clause. It was under this article that Mohammed Idrissi Kaitouni, director of the newspaper L'Opinion, an organ of the opposition Istiqlal party, was tried for reprinting in September 1989 a public statement about four deaths in custody which had been issued by two Moroccan human rights groups. He was convicted in November 1989 and sentenced to two years' imprisonment, but was then immediately pardoned by the King and released.

Article 44 relates to defamation of character; Article 45 lays down penalties of up to three years' imprisonment (raised in 1973 from one year) and/or a fine for "defamation committed by any of the means listed in Article 38 against the courts, army, navy, air force, official bodies or public administration in Morocco". In October 1989 Ahmed Benjelloun, director of al-Tariq (The Way) newspaper, was brought to trial because of an article which he had published in April 1989 about a dispute with the public administration. The article was alleged to infringe Articles 38, 44 and 45 of the Press Code. In May 1990 he was sentenced to four months' imprisonment. Mohammed El-Brini, the director, and Abdelkader Himer, journalist on the daily newspaper al-Ittihad al-Ishtiraki (The Socialist Union), were brought to trial under Article 45 in October 1990 because of an article which criticized delays and corruption in the courts.

Dahir 1-58-377 issued on 15 November 1958 on Public Assemblies states that persons holding a public meeting (apart from artistic, cultural or sports gatherings) must notify the authorities in advance of the details of the meeting (date, time, location, purpose), receiving from them a written authorization to this effect (Article 3); an administrative officer (fonctionnaire de l'ordre administratif) may be present and may dissolve the meeting if the official feels that it is likely to disturb public order (Article 7, amended by dahir 1-73-284). Demonstrations can also be banned if they are likely to disturb public order (Article 13) and there is provision for a penalty of up to three years' imprisonment for anyone who holds an illegal meeting or who does not obey the rules governing the prior declaration of meetings or demonstrations

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(Article 14, also amended by dahir 1-73-284).

Since government authorities often refuse authorization under Article 3, planned meetings are either cancelled or, if held, considered by the authorities to be illegal. The public meeting called to constitute the Organisation marocaine des droits de l'homme (OMDH), Moroccan Human Rights Organization, was postponed three times in 1988 because the authorities failed to give the organizers a written authorization of prior notification. The dahir has been applied to charge numerous people attending non-violent demonstrations or meetings. It was frequently applied to demonstrators in 1984 and to those involved in student protests in 1989, resulting in prison terms of up to three years. Some demonstrators have been tried several years after the demonstrations in question. Ahmed Sekkaki, a student at Oujda University, was arrested in July 1989 and sentenced in the following month to 18 months' imprisonment under the 1935 and 1958 dahirs - the procès verbal, referred to his alleged participation in a demonstration against the US bombings of Libya which had taken place in 1986.

Article 3 of dahir 1-58-376, also issued on 15 November 1958, on the Right of Association states that any association "founded for an illegal cause or object, contrary to laws, good morals, or with the aim of attacking the integrity of the national territory or the monarchical form of state is null and void". Article 5 set down detailed rules for registering an association, and Article 8 (as amended by the dahir of 10 April 1973, which doubled the term of imprisonment provided for by the original Article 8), prescribes up to two years' imprisonment and a 50,000 dirham fine for infringement of these rules. Article 20 was amended by the dahir of 10 April 1973 to provide for the imprisonment for up to two years of anybody convicted of being a member of an illegal political party or association.

Many people have been sentenced to terms of imprisonment after conviction on charges of belonging to unlawful organizations. In particular, many have been imprisoned for their alleged membership of radical organizations such as Ila'l-Amam, Forward, 23 mars or the Qa'idiyyin, a radical group within the students' movement, and Islamist associations such as al-Jam'iat al-Khayriyya, the Charitable Association, or al-'Adl wa'l-Ihsan, Justice and Charity, despite the authorities' failure to provide convincing evidence that they had used or advocated violence. In March 1990 a number of Muslim reformists were sentenced after conviction on charges connected with membership of al-'Adl wa'l-Ihsan. According to Amnesty International's information, no evidence was produced in court that they had used or advocated violence. They had -unsuccessfully- requested authorization to form a political party in 1981, and at the time of their arrest a further request was outstanding.

Penal Code articles invoked against political offenders

Among the articles most frequently invoked against political offenders are Articles 163-80, which deal with offences or plots against the monarchy and carry the heaviest penalties. Any offence against the life or person of the King is punishable by death (Article 163). If it has not harmed his life or liberty it is punishable by life imprisonment (Article 164). Similar penalties are laid down for crimes against the royal family. Article 169 prescribes life imprisonment for any attempt to change the monarchical system by force or cause others to take up arms against royal authority. An offence exists as soon as it is attempted (Article 170); anyone who attended the meeting of a group apprehended while committing such an offence, or even any recognizable member of the group not present, is liable to the same penalties (Article 171). Articles 174 and 175 prescribe 10 to 30 years' imprisonment for conspiracy to change the

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government; if not followed by any act the punishment is five to 10 years' imprisonment. Conspiracy exists as soon as the resolution to act is agreed between two or more people (Article 175). Offences against the King or royal family under the Press Code are punishable by up to five years' imprisonment (Article 179).

Most of the 350-plus current political prisoners have been charged under one or more of Articles 201-7, which relate to offences against internal state security. In July 1990 certain members of the Conseil consultatif des droits de l'homme, Human Rights Advisory Council, asked for an amnesty for all those sentenced for offences against internal state security.

Article 201 prescribes death for the instigator of any attempt to "cause civil war, to incite people to arm against others or to carry out devastation, massacre or pillage in one or several localities". Participation in such a conspiracy is punishable by from five to 20 years' imprisonment, or between one and five years if no action has been taken. Article 203 prescribes death for anyone who leads or has any authority over an armed group in order to "seize public funds or to invade domains, properties, squares, towns, forts, posts, stores, arsenals, ports, vessels or buildings belonging to the state, or to pillage and distribute public properties belonging to the nation or the generality of citizens, or to cause attacks on or resistance to authorities charged with public order acting against those who have committed crimes". Article 204 makes any member of such a group liable to the same penalty as its leader, while Article 205 prescribes sentences of between five and 20 years' imprisonment for anyone who attends a meeting of a group having such objectives.

About 600 of the approximately 1,800 people arrested after demonstrations which often turned into riots in 1984 were sentenced under various of these articles of the penal code. They were very rarely accused of any specific illegal act.

Amnesty International believes that many of the laws and articles of the penal code described above are unjust and discriminatory both in the way they are framed and in their application. Such laws have made it possible to convict and imprison hundreds of people for nothing more than the non-violent exercise of their conscientiously-held political beliefs. As long as they remain on the statute book the question of the fairness of trial procedures in Morocco is not the primary issue; what is more pertinent is that unfair laws make it impossible for anyone to be tried fairly.

UNFAIR TRIALS OF POLITICAL DETAINEES

Over the last three decades a distinct pattern has emerged in the conduct of political trials in Morocco. Following prolonged garde à vue detention in police custody, during which detainees are held incommunicado and often apparently coerced into signing false confessions, they appear before a procureur du Roi or a juge d'instruction and only then may learn of the charges against them. Such charges, in political cases, are frequently brought under broadly-worded dahirs or widely-interpreted articles of the Code pénal, which permit the imprisonment of individuals for the non-violent exercise of their fundamental human rights (see previous chapter).

Courts frequently convict and sentence prisoners solely on the basis of uncorroborated statements drawn up by the police (procès verbaux) in the absence of any other witness. Such a degree of emphasis on the procès verbal as sole evidence is disturbing, particularly in the absence of basic safeguards such as judicial control over pre-trial garde à vue detention and access to lawyers, relatives and doctors. In such circumstances it is imperative that a court should take pains to establish that any statements made by an accused were given freely and not as a result of torture or physical or psychological coercion. It is clear from the records of a number of political trials, however, that the courts have shown an unmistakable reluctance to allow witnesses to be called when it appears they could cast doubt on the contents of a procès verbal, or to order an accused to be medically examined in order to assess whether there is any substance to allegations of torture in garde à vue made by the defendant. The courts have consistently failed to ensure that all possible measures are taken to protect detainees in garde à vue from possible torture or ill-treatment and to satisfy themselves that any confessions given to the police were made without coercion. This failure on the part of the courts has had the effect of raising serious questions about their impartiality and their commitment to the presumption of innocence enshrined in the preamble to the CPP.

Many political trials have taken place in a markedly oppressive atmosphere: relatives and friends of defendants have been harassed and intimidated when seeking to attend particular trials, or have been refused entry to the courtroom.

International standards for fair trial

The basic standards for fair trial have been set forth in Articles 9, 14 and 15 of the ICCPR, which Morocco ratified in 1979; Article 15 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which Morocco signed in 1986 but has not yet ratified; the UN Basic Principles on the Independence of the Judiciary; the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment; and the Safeguards guaranteeing protection of the rights of those facing the death penalty (1984/50).

In the preamble to the Moroccan CPP, which was first promulgated in 1959, it is stated that "Only a penal procedure which presumes the innocence of a suspect, fixes unbreachable limits to arrest and detention, guarantees the inviolability of the home, respects the right of property, which, in one word, protects citizens from errors or abuses committed in the name of society, is worthy of a free country". However, as was noted by the UN Human Rights Committee in November 1990, when reviewing Morocco's second

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periodic report on its implementation of the ICCPR, the right to fair trial is not guaranteed under any article of the Moroccan Constitution.

The conduct of political trials in Morocco continues to give considerable cause for concern, both because certain articles of the CPP contravene international standards and because the legal safeguards which do exist are often breached in practice.

The Moroccan legal system

According to the Constitution, once appointed, a judge may not be dismissed (Article 79). Judges are nominated by dahir on the recommendation of the Conseil supérieur de la magistrature, Supreme Council of the Judiciary, (Constitution, Article 78). This 10-member Council, which includes representatives from the different branches of the judiciary, and the Minister of Justice, is appointed and presided over by the King. Also, although the Moroccan Constitution guarantees the immovability of judges, the Minister of Justice has the power to transfer a judge for three months - a period which may be renewed indefinitely. Competition for posts is said to be extreme, with over 500 judges competing for fewer than 100 positions.

The organization of trial procedures in Morocco was laid down in the 1959 CPP. Most of this code is based on the system of French criminal justice with little input from the pre-protectorate or Islamic legal systems. The Moroccan Code pénal, promulgated in 1962, while it is also based on the French Code pénal, reflects more strongly the Islamic character of Morocco and, especially, its monarchical character.

The modifications to the CPP by amending dahirs of 1962, 1966 and 1974 have generally further restricted the system and removed safeguards. The length of garde à vue detention was increased by the 1962 dahir and certain safeguards were removed. A 1974 dahir (1-74-338) made examination by a juge d'instruction obligatory only for those accused of crimes punishable by death or life imprisonment; all others can be brought straight from police interrogation to the procureur du Roi and the court.

Offences

Moroccan criminal law defines four categories of offence (CP, Article 111):

- 1 - misdemeanours (contraventions), offences punishable by up to one month in prison or small fines;
- 2 - police felonies (délits de police), those punishable by up to two years in prison and fines;
- 3 - correctional felonies (délits correctionnels), offences carrying a maximum penalty of from two to five years' imprisonment;
- 4 - crimes (crimes), all offences punishable by over five years' imprisonment, including life imprisonment and death, house arrest (résidence forcée, résidence surveillée), and civic degradation (dégradation civique), the loss of employment by a government official found guilty of abuse of authority or other administrative crimes.

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Most political prisoners have faced charges falling within the last three categories.

Morocco's court system

The criminal court system in Morocco, based on the 1959 CPP, as modified by the dahirs of 26 January 1965 and 15 and 28 September 1974, is organized within a framework of four criminal jurisdictions:

1 - communal and district courts, which deal with minor offences punishable by fines and are not empowered to pass custodial sentences;

2 - tribunaux de première instance, courts of first instance, (through the 28 September 1974 dahir, they replaced the regional courts) which judge all felonies and misdemeanours punishable by prison terms of up to five years;

3 - cours d'appel, (appeal courts), which deal with crimes punishable by over five years' imprisonment, that are tried in the chambre criminelle, Criminal Chamber, (which replaced the former tribunal criminel, Criminal Tribunal, by the 28 September 1974 dahir) and the chambre correctionnelle which hears appeals from courts of first instance;

4 - la Cour suprême, the Supreme Court. There is no appeal against the judgments of the appeal courts, but appeals for abrogation (cassation) of the verdict may be put before the Supreme Court as the Cour de cassation, court of cassation; this does not reexamine the evidence in a case, but may abrogate the verdict on the basis of improper procedure.

In the courts of first instance cases are tried by a single judge. The chambre criminelle is composed of five judges and the chambre correctionnelle of three judges.

Military courts are governed by the Code de justice militaire, Military Justice Code, promulgated on 13 May 1958. Their jurisdiction includes civilians accused of offences against external state security and military personnel accused of any offence in the penal code, as well as specifically military offences such as desertion. Three major trials of military personnel accused of involvement in attempted coups against the King took place between 1971 and 1973. Other political trials of civilians have involved charges against external state security, some of which provide for the death penalty. Any appeal from a military court to the Supreme Court for cassation of the verdict must be made within eight days.

The trial process

Basic procedures

The case dossier prepared by the procureur du Roi or the juge d'instruction serves as a basis for the trial. According to the law, except in the case of flagrant délit, the lawyer charged with the defence, designated by the judge, président du tribunal, or the juge d'instruction if the accused does not do so or has insufficient financial means (1974 dahir Article 2; CPP Article 127), has access to all the case dossiers (CPP Article 132) as well as all items to be produced as evidence for the prosecution's case. However,

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since the 1974 reform of the court system, the right of the accused to be examined by the juge d'instruction is only guaranteed to those accused of crimes carrying life imprisonment or the death penalty. The case for the prosecution is conducted by the procureur du Roi, but the trial judge also questions the prosecution and defence witnesses as well as the accused.

Presumption of innocence

Article 14(2) of the ICCPR states:

"Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law".

According to General Comment 13 (21) d para 7 of the UN Human Rights Committee, "by reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of the doubt... No guilt can be presumed until the charge has been proved beyond reasonable doubt".

According to the Moroccan Government's "Réponse aux points soulevés par Amnesty International" (p.4) Moroccan law "assumes that every accused person is innocent until guilt is established by a final judgment". The principle of presumption of innocence is mentioned in the preamble to the CPP. In addition, Article 288 of the CPP states that any infraction of the law must be proved and, "if [the judge] considers that proof has not been established", he must "declare the accused not guilty and order his acquittal".

Article 291 of the CPP states that "police statements or reports drawn up by police officers or members of the gendarmerie recording felonies or misdemeanours are to be accepted as evidence [font foi] unless there is proof to the contrary". Such provisions place a burden on the court to determine whether any confession is freely given, a task which, in Amnesty International's experience, has rarely been accomplished by courts hearing the case of alleged political offenders in Morocco. Accused persons have frequently been convicted solely on the basis of an uncorroborated confession contained in a procès verbal, with insufficient effort made by the courts to ensure that the statement is given freely. Trial documentation gathered over 30 years shows a consistent pattern of allegations by the accused that procès verbaux were signed under duress and a consistent failure by the prosecuting authorities to produce substantive supporting evidence. Although Article 291 is limited to felonies and misdemeanours, that is, offences carrying penalties of less than five years' imprisonment, in practice political prisoners accused of crimes punishable by penalties over five years have consistently been convicted on the basis of uncorroborated procès verbaux.

Amnesty International believes that Article 291 of the CPP encourages abuses such as torture to extract procès verbaux and violates the presumption of innocence guaranteed in Articles 14(2) and 14(3)(g) of the ICCPR. Under Article 15 of the Convention against Torture

"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked in any proceedings, except against a person accused of torture as evidence

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that the statement was made".

In a number of trials, including that of 51 suspected members of Islamic groups, most of whom alleged torture, in July 1984 and of six alleged members of the Islamic organization al-'Adl wa'l-Ihsan in March 1990, the accused maintained that the procès verbaux bore no relation to the questions asked or the answers given while they were in police custody.

Amnesty International believes that uncorroborated confessions made in the absence of witnesses during incommunicado detention should not be admissible as sole evidence. The burden is on the prosecution to prove guilt by producing clear and convincing evidence.

Rights of defence

The right of the accused to have access to legal counsel and adequate time to prepare the defence, as expressed in Article 14(3)(b) of the ICCPR, is crucial to a fair trial and is frequently violated during political trials in Morocco. The accused has no access to a lawyer during the entire period of police interrogation under garde à vue detention, frequently prolonged beyond the legal maximum of 12 days in cases involving state security. A lawyer is not even present during the first meeting before the juge d'instruction which, though officially purely formal unless the accused "immediately" makes confessions (CPP Article 127), is reportedly often used to interrogate the accused on his procès verbal. The first moment an accused person is allowed to see a lawyer is at the second meeting with the juge d'instruction when the period of examination is taking place.

Lawyers frequently are not allowed enough time or facilities to prepare their clients' cases. Following the civil disturbances of 1984, when hundreds of alleged demonstrators were tried in various cities between February and May, a number of defence lawyers complained that they were not given sufficient time in which to study the dossiers. In one case, for example, 10 lawyers engaged to defend a total of 94 accused in Salé and Rabat in February 1984 asked for more time to prepare their case; they were given two more days and the cases were tried on 14 and 15 February. Some of 36 accused tried in Marrakech in May 1984 appeared before the juge d'instruction without the assistance of a lawyer as the bâtonnier (President of the Bar) had not been able to find defence lawyers to represent them in the 48 hours allowed him; those lawyers who were present during the pre-trial investigation complained that they were not given full access to the dossiers. While Amnesty International understands that, in normal circumstances, defence lawyers seeking additional time to prepare their case are often granted their request, this is not always the case.

Defence lawyers' right to defend their clients in court has frequently been infringed. Complaints of torture have been dismissed by trial judges without investigation and lawyers' requests in political cases to call defence witnesses have on occasions been disallowed. In the 1977 trial of 178 Frontistes defence lawyers were said to have been frequently harassed outside the court by police. Inside the courtroom they were prevented by the Court President from intervening during cross-examination of the defendants, although the prosecution were permitted constantly to do so. Nor were defence lawyers allowed to communicate with their clients in court during the hearing. They therefore ended by remaining silent in protest.

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In contravention of Article 14(3)(d) of the ICCPR, courts have frequently rejected requests by the defence to call witnesses and convicted political prisoners, even when charged with crimes, on the basis of unsubstantiated procès verbaux. For example, 31 defendants, mainly students brought to trial in May 1984 at Marrakech on charges of conspiring against the state and other offences, including participation in violent demonstrations, were denied permission to call witnesses to testify that the dates of arrest had been falsified or that they were elsewhere at the time of the demonstrations. They were sentenced to up to 15 years' imprisonment.

In another case in 1986 in which 27 alleged members of Ila'l-Amam were brought to trial in Casablanca, the court refused a defence request to permit expert testimony in response to prosecution claims that one defendant's typewriter had been used to produce certain documents for which the accused denied responsibility.

In the trial of alleged leaders of the Islamic movement al-'Adl wa'l-Ihsan in March 1990 defence counsel were not allowed to call witnesses to testify to the real date of arrest, which had been falsified on the procès verbaux, nor were they given access to the whole dossier of the six defendants, including the materials seized by the police. Eventually the defendants decided to remain silent and the defence lawyers walked out in protest at the conduct of the trial. In June 1990 defence lawyers walked out of the tribunal de première instance in Rabat after being refused permission to call witnesses in the trial of Mustapha Alaoui, the director of a weekly journal al-Ushbu' al-Sahafi (Newsweek) who was being tried for defamation.

Independence of the judiciary

Article 14 of the ICCPR sets down the right of everyone to be heard before a "competent, independent and impartial tribunal". Principle 6 of the Basic Principles on the Independence of the Judiciary provides that:

"The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected".

Article 76 of Morocco's Constitution similarly guarantees the independence of the judicial authorities from the executive and legislative authorities.

Amnesty International is concerned at the apparent unwillingness of judges to adopt a position which may be seen to be independent of the findings of the security services. Many political trials have been characterized by the court's lack of impartiality in its conduct towards the accused. This is often demonstrated in a refusal to address breaches of pre-trial procedural requirements and to ensure that the same rights enjoyed by the prosecution are enjoyed by the defence.

In one case in January 1989, when six coal-miners were brought to trial following a labour dispute about working conditions, they were reportedly required by the judge to remain standing and to go without food for the full 11 hours of their hearing. A defence request that the six be allowed to be seated was said by

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an international observer from the International Centre for Trade Union Rights, who attended the trial, to have been expressly refused by the trial judge.

In many political trials the atmosphere in the tribunal, often marked by the presence of security guards both inside and outside the court, is reported to have been so oppressive from the outset as to raise grave doubts on the part of the accused and their defence lawyers that they would receive a fair trial. Such doubts have been given added weight by the courts' demonstrable unwillingness to inquire into torture allegations and the treatment of detainees in pre-trial custody and by their readiness to convict and sentence alleged opponents of the government to long prison terms on the basis of broad interpretations of the law, confessions signed under duress and, in a number of cases, a complete lack of substantive evidence that any crimes had been committed by those appearing before them.

Judges in political cases have often been described by legal observers, including Amnesty International delegates, as behaving towards the accused as though their guilt was already established. This appears to have been the case particularly in the trial of the 178 Frontistes in Casablanca in January and February 1977. Although the evidence against most of those tried in 1984 for incitement or participation in disturbances was often weak, nearly all the defendants were convicted. In many political cases, such as in the case of 17 students tried at Salé in February 1984 and of 71 Islamists tried in Casablanca in June and July 1984, the presiding judge was said to have showed open antagonism towards the defence, repeatedly preventing defence lawyers from speaking on their clients' behalf and limiting the accused to answer "yes" or "no" to any question put to them.

Defence requests for medical examinations following accusations of torture have often been ignored or refused. At the trial held in Tiznit in February 1981 of 11 USFP members the judge refused to examine medical evidence of torture. In the 1983 trial of Me Abderrahmane Ben Ameer, Vice-President of the AMDH, the judge refused his request for medical examination although he alleged that he had been tortured. In most of the political trials of 1984, complaints of torture were set before the court but not accepted by the judges. When Hassan Aharrat and 30 others, mostly teachers and students, were brought to trial in Marrakech in May 1984, the judges in the case heard in the chambre criminelle refused to let Hassan Aharrat be examined although he clearly had marks on his body consistent with his allegations of torture. Similarly, judges refused to order medical examinations of certain students brought to trial in 1989 despite requests by their lawyers and allegations that the students had been tortured.

The high incidence of cases where judges have summarily dismissed allegations of falsified procès verbaux or denied the right of the defence to call or cross-examine witnesses has created an impression that the judiciary is neither independent nor impartial. Defence lawyers have frequently sought court access to police registers to validate allegations that dates of arrest given in the defendants' statements were false, but in no known case did any judge permit this. Such refusals have continued to the present day.

Appeals

Defendants in cases tried in a tribunal de première instance have the right of appeal to the chambre correctionnelle. Cases tried in the chambre criminelle and the chambre correctionnelle, which are themselves branches of the Cour d'appel may be brought before the Cour de cassation which examines

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the case on matters of procedure but is not allowed to consider questions of substance.

Delays in the Cour de cassation are also excessive. This court, which reviews the application of the law, may take 10 years or more to rule on a case; an Amnesty International delegation visiting Morocco in 1990 met a former political prisoner who had been sentenced with two others to three years' imprisonment before the tribunal de première instance in 1980; his case was reviewed by the Cour de cassation in January 1990 after one of the accused had died and all had already served their sentences.

Five people, who may be prisoners of conscience, were tried before the chambre criminelle of Rabat on 13 August 1984. Hassan Alami Bouti, Abdelillah Benabdessalam, Abdelfattah Boukourou, Omar Fahli and Abdelghani Kabbaj were convicted of membership of an illegal organization (forbidden by dahir 1-58-376, Articles 5 and 20), distribution of leaflets likely to disturb public order (1939 dahir) and offences against the King under the press code (dahir 1-58-378, Article 41) and sentenced to eight years' imprisonment. However, their case was not referred to the Cour de cassation until three of them had started an unlimited hunger-strike over other matters, including their alleged ill-treatment in prison. The hearing of this case was then repeatedly postponed; it had still not been resolved by the end of November 1990.

DEATH PENALTY

The death penalty is retained in law for at least 30 crimes although no execution is known to have been officially carried out since 1982. It is currently retained as a punishment for various crimes against the person, including premeditated murder (CP Article 393), murder or violence committed in the course of other crimes (CP Articles 392, 399) and arson (Article 580). It may be also be used to punish offences against external state security, such as disclosing state secrets to a foreign power (CP Articles 181, 182, 185, 190), and certain offences against internal state security such as "attempts to incite civil war", in which case the same penalty may be imposed on any member of a group involved as on its leaders (CP Articles 201, 202, 203). The death sentence is mandatory for attempts on the life of the King (CP Articles 163, 165, 167)². The death sentence is also provided for under the Code of Military Justice for crimes such as desertion to the enemy.

The execution of a pregnant woman may not take place until 40 days after she has given birth. Children under 16 may not be executed. The last death sentence for political offences was imposed in 1985. At least 12 other people were sentenced to death between 1986 and the end of 1990; in most cases they were convicted of murder committed in the course of other crimes.

Capital cases are tried in the chambre criminelle, criminal chamber, and the military courts. Military Courts try military personnel and anyone accused of offences against external state security (see Chapter VI). Judgments are subject to review by the Cour de cassation, court of cassation, which, as in other cases, may only quash a sentence on a point of procedure. After a death sentence is confirmed, the procureur général, attorney general, is required to report it immediately to the Minister of Justice and present a petition for clemency. No death sentence may be carried out until clemency has been refused. The right of clemency is the prerogative of the King, who may commute a sentence to life imprisonment or grant an absolute pardon.

Execution is carried out in the prison where the prisoner is detained or in any other designated place. Executions are not public unless otherwise decided by the Minister of Justice.

In late 1990, 147 prisoners under sentence of death were reported to be held in Kenitra Central Prison, including two who had been there since the 1960s. Of the total, 15 are believed to have been sentenced for political offences, in some cases after trials which failed to satisfy international standards for fair trial guaranteed in the ICCPR. Some of the 15 may be prisoners of conscience.

The 147 prisoners under sentence of death are held in two wings (B and D) of Kenitra Central Prison. B-Wing has 50 individual cells, about five square metres in size, each of which now reportedly holds three

²Other capital crimes under the Code Pénal are: premeditated murder of parents, grandparents, great grandparents (CP Article 396); premeditated infanticide, except by the mother (CP Article 397); taking life by poisoning (Article 398); torture or violence in the course of detention of another (CP Article 439); use of violence leading to the death of a public official (CP Article 267); violence against children under 12 with the intention of causing death (Article 410); involuntary homicide as a result of violence to children, kidnapping minors or arson (Articles 411, 474, 584).

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or four prisoners. D-Wing has cells for prisoners kept in isolation.

Two prisoners, Mohammed Boucetta and Mohammed Khatib, are said to have been held in the prison under sentence of death since the 1960s and two other common law prisoners are now reported to be over 70 years old. According to information from others held at the prison, at least 10 per cent of those on death row have become mentally unstable, many others suffer from tuberculosis and more than 60 receive no visits at all.

One of the 15 political prisoners, Ahmed Khiari, has been under sentence of death since 1972, when he was convicted of involvement in the murder of Monadi Brahim, a police witness in the 1971 trial of UNFP leaders. Another, Mohammed Daddach, was sentenced to death for desertion to the enemy in 1979. A former member of Polisario, he was reportedly taken prisoner by the Moroccan forces during fighting at Amgala but then integrated into the Moroccan gendarmerie after a period of "re-education". In 1979, however, he reportedly attempted to rejoin the Polisario Front together with 14 other gendarmes, but he was wounded and recaptured.

Thirteen alleged members of Islamic groups are also currently held under sentence of death. Two of them, Mustapha Khazzar and Ahmed Saad, were convicted of involvement in the 1975 murder of Omar Benjelloun, the newspaper editor and USFP leader. After arrest, the two men were held incommunicado at Derb Moulay Cherif for almost five years and reportedly tortured. They undertook a succession of hunger-strikes there to demand that they be brought to trial. They were eventually tried, with 10 others, in 1980.

Six other prisoners on death row, four of whom may be prisoners of conscience, were among 71 alleged members of Islamic groups brought to trial in July 1984. The defendants were charged with attempting to change the political system (CP Articles 169-71); conspiracy (CPP Article 129); and offences against internal state security, (CP Article 201, which carries the death penalty). Most of the defendants were allegedly tortured while held in garde à vue detention at Derb Moulay Cherif for up to seven months. At their trial, the defendants said they had been made to sign police confessions while blindfold and under threat but the court refused to investigate their alleged torture and accepted the confessions obtained by the police as evidence. One of the six sentenced to death subsequently noted that when one defence lawyer "explained to the procureur that an attack required munitions and arms, while the accused had nothing but leaflets, banners and journals, the avocat général replied that such opinions could overthrow a system when firearms failed".

Five other prisoners under sentence of death, all alleged members of the Jihad Islamic group, were convicted in September 1985 of various state security offences, including transporting arms and munitions across to Polisario camps in Algeria. At this trial too, torture in pre-trial detention was alleged.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and as a cruel, inhuman or degrading punishment. The imposition of the death penalty is a denial of the right to life enshrined in the Universal Declaration of Human Rights and Article 6 of the ICCPR.

Amnesty International welcomes the fact that no death sentences are known to have been carried out in Morocco since 1982 but remains concerned at the government's retention of the death penalty and the large number of crimes under the code pénal for which it may be imposed. In this connection it may be

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noted that Article 6 (2) of the ICCPR states:

"In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes..."

The UN Human Rights Committee, in its General Comment 6(7), explained that this requirement "must be read restrictively to mean that the death penalty should be a quite exceptional measure". Article 6(2) of the ICCPR provides that a sentence of death may not be imposed "contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide". Thus, it may not be imposed where individuals were carrying out activities protected by the Covenant such as the peaceful exercise of their rights to freedom of thought, conscience or religion and to freedom of expression or peaceful assembly.

CONCLUSIONS AND RECOMMENDATIONS

Violations of human rights in Morocco, including long-term imprisonment of prisoners of conscience, routine use of torture, unfair trials of political opponents and "disappearances", have continued for three decades. Reports and delegations from Amnesty International over the years and thousands of letters from Amnesty International members, as well as representations from many other human rights bodies and inter-governmental organizations, have consistently drawn the attention of the Moroccan authorities to these abuses.

The Moroccan Government has demonstrated considerable concern for its reputation in the international community and the media but has been unwilling to take substantive measures to reform the system which has permitted the serious human rights violations described in this report. Amnesty International has repeatedly been assured by the government that reforms are under consideration. But these have so far failed to materialize.

Amnesty International calls on the Moroccan Government now to take certain practical and concrete steps to put an end to the longstanding serious abuses of human rights described in this report. The following are the minimum measures required to safeguard human rights in Morocco.

1. Release all Prisoners of Conscience

Morocco's prisoners of conscience include those serving long prison sentences for their non-violent opposition to the government, victims of "disappearances" and former members of the armed forces who have been arbitrarily detained for many years after completing prison sentences imposed by the courts.

* All prisoners of conscience - those imprisoned on account of the non-violent exercise of their fundamental human rights or because of their colour, sex, ethnic origin, language or religion - should be released immediately and unconditionally. This includes all prisoners of conscience reported to have "disappeared" who may be held in secret detention.

* An urgent and comprehensive review should be undertaken leading to the withdrawal or amendment of all laws whose provisions may be used to imprison prisoners of conscience, and in order to bring Morocco's laws fully into line with international human rights standards.

2. Halt Arbitrary Arrests

Arbitrary arrest is not only a violation of human rights; it has also allowed people to be taken out of the system and made to "disappear". Arbitrary arrests carried out with unprovoked violence have contributed to an atmosphere in which arbitrary action, violence against the person and lack of respect for legal rights is common. It also facilitates the incommunicado detention of political suspects beyond legal limits, "disappearances" and torture.

* In order to ensure respect for the dignity and integrity of the person arrested and international instruments governing arrest procedures, arrest and detention should be subject to strict judicial control and arrests should only be carried out by authorized personnel.

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* The arrest of relatives in place of a wanted person is unacceptable: this should be made clear by the government to all law enforcement personnel, who should be brought to account for any contraventions of this requirement.

* All persons should be informed immediately of the reasons for their arrest and of any charges against them.

* All arrested persons should be formally notified of their rights at the time of their arrest.

* The relevant authorities should ensure that detainees' families are notified of their arrest, legal status and place of detention.

3. Safeguard Detainees

The practice of prolonged garde à vue detention before trial violates international standards and facilitates torture and ill-treatment of prisoners.

* Untried detainees should not be held incommunicado: they should be granted immediate and regular access to their lawyer, their family and an independent medical doctor.

* Following arrest, detainees should be brought promptly before a judge so that the lawfulness of their detention may be examined and their physical integrity ensured.

* The requirement on the part of the authorities to log dates and times of arrest and the movement of prisoners, as set forth in CPP Article 69, should be strictly applied. The date and time and duration of each period of interrogation should also be clearly recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and inspection by lawyers and relatives of prisoners.

* Untried detainees and other prisoners should be held only in officially recognized places of detention or imprisonment.

* An independent body should be established to carry out visits of inspection, without advance warning, to places of detention. Its representatives should have unrestricted access to all relevant records and be authorized to receive and deal with prisoners' complaints in the course of frequent unannounced visits. Any detained or imprisoned person should have the right to communicate freely and in full confidentiality with the inspectors. The inspection body should also be charged specifically with the task of putting forward recommendations for improving prison conditions in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners.

* The government should also invite an international humanitarian organization with appropriate expertise to carry out regular inspections of all institutions in which political detainees or prisoners are held.

4. Stop Torture and Ill-treatment

Torture and ill-treatment of political detainees and criminal suspects in Morocco has constituted one of the most common and persistent forms of human rights abuse in Morocco over many years.

* The government should state publicly and unequivocally that torture and ill-treatment of prisoners will not be tolerated, and that those responsible for such abuses will be brought to justice.

* An independent and impartial commission of inquiry should be established to investigate all allegations of torture or ill-treatment of prisoners, and to propose changes in law, administrative practice, and training of personnel necessary to prevent the recurrence of such abuses. This commission should be composed of persons whose impartiality, independence and competence is widely acknowledged. The findings of the inquiry should be published in full at the earliest opportunity and all officials found to have used or condoned the torture of prisoners should be brought to justice. Victims of torture or ill-treatment should receive appropriate medical treatment and compensation.

* Any future allegations of torture or ill-treatment of prisoners should, without delay, be subjected to rigorous and impartial investigation, and any officials accused of torturing prisoners should be brought to justice.

* An immediate investigation should be initiated into the conditions and treatment of prisoners held at the Tazmamert detention camp in view of reports of a very high incidence of deaths among such prisoners. The authorities should publicly clarify the identities of those currently held at Tazmamert and allow them immediate access to their families, legal representatives and medical practitioners of their choice. The authorities should also disclose publicly the names of all prisoners who died during their imprisonment at Tazmamert, together with the dates of their deaths and details of any inquiries undertaken to establish the cause of death in each case.

* All law-enforcement personnel should be informed clearly as part of their training that torture and ill-treatment of prisoners will not be tolerated under any circumstances and that anyone acting in contravention of such orders will be brought to justice.

* There should be a clear and complete separation between the authorities responsible for the detention and interrogation of prisoners. Detaining and interrogating officials should be required to apply international human rights standards, including those contained in the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and should be held accountable for any contravention of such standards.

* No confession or other statement should be admissible as evidence in court if it was obtained under torture or duress.

5. End "Disappearances"

Many Moroccans and people of Western Saharan origin have "disappeared" in Morocco. The misuse of garde à vue detention has facilitated such abuse.

* An independent and impartial inquiry should be established without delay to investigate all cases of alleged "disappearance". This inquiry, which should be composed of persons whose competence, independence and impartiality are widely acknowledged, should be empowered to examine all relevant official records and to visit without advance notice any detention centre or other place in which the "disappeared" are alleged to be, or to have been held. As its primary task, the inquiry should seek to clarify the fate or whereabouts of all those alleged to have "disappeared", but it should also recommend safeguards to prevent further "disappearances" occurring in future. Its findings should be made public at the earliest opportunity.

* Any officials found to have been responsible for the "disappearance" of prisoners or related human rights violations should be brought to justice.

6. Ensure Fair Trial

The minimum safeguards for fair trials as set forth in the ICCPR, to which Morocco is committed by treaty to implement, have frequently been violated when individuals accused of political offences have been brought to trial in Morocco.

* All those imprisoned for political offences whose trials failed to satisfy international fair trial standards should either receive a re-trial which is fully in accordance with such standards or be released. A judicial commission - to which such prisoners, their families or legal representatives may apply - should be established to review all cases in which there are grounds to believe that defendants were sentenced to prison terms after unfair trials. This commission should be empowered to recommend to the government in each case whether a prisoner whose trial was unfair should be retried or released.

* The independence of the judiciary from executive control or interference should be made absolute, in accordance with the UN Basic Principles on the Independence of the Judiciary. The courts should ensure that allegations of violations of pre-trial procedures are promptly and thoroughly investigated in order to safeguard the rights of accused persons and other detainees.

* All detainees should have prompt and regular access to legal counsel of their choice; defence lawyers should enjoy the same rights as the prosecution, including adequate time and facilities to prepare their case, the right to call or cross-examine witnesses and the right to present their case without restrictions.

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7. Abolish the Death Penalty

Amnesty International opposes all executions as a violation of the right to life and as the ultimate form of cruel, inhuman or degrading punishment. It welcomes the fact that no execution is known to have taken place in Morocco since 1982.

- * All prisoners under sentence of death should have their sentences commuted.
- * The government should take steps to abolish the death penalty in law at the earliest opportunity.

8. Ratify International Instruments

The Moroccan Government should commit itself to the protection of human rights by taking immediate steps to:

- * ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was signed by Morocco on 8 January 1986.
- * ratify the First Optional Protocol to the ICCPR which permits individuals whose rights under the covenant are violated to bring their complaints before the UN Human Rights Committee.
- * bring Moroccan law and practice into full conformity with these and other international standards, such as the ICCPR, to which Morocco is already a state party.

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GLOSSARY

al-'Adl wa'l-Ihsan"Justice and Charity", Islamist group

avocat généralassistant public prosecutor

AWACSuniversity guard

cachotsmall, windowless cell

Code de procédure pénalecode of criminal procedure

Code pénalpenal code

commissairessuperintendent

dahirRoyal decree with the power of law

détention préventivepreventive custody

Derb Moulay Cherifsecret detention centre in Casablanca where torture is systematically used

flagrant délitcaught in the act of committing a crime

Frontistescoalition of three leftist student groups in the early 1970s

garde à vueperiod of incommunicado police detention

hajj used as a term of respect (also one who has carried out the pilgrimage to Mecca)

Ila'l-Amam"Forward", illegal Marxist organization

IslamistRadical Muslim, calling for a return to pure Islam and an Islamic State

Istiqlal"Independence", opposition party, founded in 1944

al-Jam'ia al-Khayriyya"The Charitable Association", former Islamist association led by Abdessalam Yassine

Jaysh al-TahrirLiberation Army

jihād"Holy War"; also the name of an Islamic group

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juge d'instructionexamining magistrate, investigating judge

Mujahidin"Fighters", breakaway movement of "Al-Shabiba al-Islamiyya", an Islamist group

al-Muharrir"The Liberator", USFP Arabic daily newspaper, ceased publication in 1981

parquetpublic prosecutor's department

police judiciairejudicial or criminal police

procès verbal, procès verbauxpolice statement

procureur du Roipublic prosecutor

procureur généralattorney general

qa'iddistrict governor

al-Shabiba al-Islamiyya"Islamic Youth", Islamist youth association

ABBREVIATIONS

AMDHAssociation marocaine des droits de l'homme, Moroccan Human Rights Association

BNPJBrigade nationale de la police judiciaire, national brigade of judicial police

CPCCode pénal, penal code

CCDHConseil consultatif des droits de l'homme, Human Rights Advisory Council

CPPCode de procédure pénale, code of criminal procedure

DMCDerb Moulay Cherif

DGSNDirection générale de la sûreté nationale, General Directorate for National Security

DSTDirection de la surveillance du territoire, Office of Territorial Surveillance

ICCPRInternational Covenant on Civil and Political Rights

LMDDHLigue marocaine de la défense des droits de l'homme, Moroccan League for the Defence of Human Rights

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OADPOrganisation de l'action démocratique populaire, Organization of democratic popular action

OAUOrganization of African Unity

OMDHOrganisation marocaine des droits de l'homme, Moroccan Human Rights Organization

POLISARIOFrente Popular para la liberación de Saguia el-Hamra y Rio de Oro, Popular Front for the Liberation of Saguia el Hamra and Rio de Oro, Polisario Front

PPSParti du progrès et du socialisme, Party of Progress and Socialism

SNESyndicat national des étudiants, National Union of Students

SRGService des renseignements généraux (RG, renseignements généraux), General Information Service

UMAUnion Maghreb Arabe, Maghreb Arab Union

UNEMUnion nationale des étudiants marocains, National Union of Moroccan Students

UNFPUnion nationale des forces populaires, National Union of Popular Forces

USFPUnion socialiste des forces populaires, Socialist Union of Popular Forces

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