



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
21 December 2011
English
Original: French

Committee against Torture

Forty-seventh session

31 October–25 November 2011

Consideration of reports submitted by States parties under article 19 of the Convention

Concluding observations of the Committee against Torture

Morocco

1. The Committee against Torture considered the fourth periodic report of Morocco (CAT/C/MAR/4) at its 1022nd and 1025th meetings (CAT/C/SR.1022 and 1025), held on 1 and 2 November 2011, and adopted the following concluding observations at its 1042nd, 1043rd and 1045th meetings (CAT/C/SR.1042, 1043 and 1045).

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Morocco, the written replies provided by the State party (CAT/C/MAR/Q/4/Add.1) to the list of issues (CAT/C/MAR/Q/4) and the supplementary information provided orally by the Moroccan delegation during the consideration of the report, although it regrets the delay of over two years in its submission. The Committee welcomes the constructive dialogue held with the delegation of experts sent by the State party and thanks it for its detailed responses to the questions raised, as well as the additional written replies which have been supplied.

B. Positive aspects

3. The Committee takes note with satisfaction of the action taken by the State party during the period under consideration regarding the following international human rights instruments:

(a) The ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, in April 2009;

(b) The ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, in April 2009;

(c) The ratification of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in April 2011;

(d) Recognition of the competence of the Committee to receive and consider individual communications under article 22 of the Convention; and

(e) The withdrawal of various reservations to a number of international conventions, including the State party's reservations to article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and to article 14 of the Convention on the Rights of the Child and all of its former reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

4. The Committee also takes note with satisfaction of the following measures:

(a) The adoption by referendum, on 1 July 2011, of a new Constitution which contains new provisions concerning the prohibition of torture and basic safeguards for persons who are arrested, detained, prosecuted or convicted;

(b) The reform of the legal system undertaken by the State party to adjust and amend laws and practices so as to bring them into line with the country's international obligations;

(c) The establishment on 1 March 2011 of the National Human Rights Council, which takes the place of the Consultative Council for Human Rights and which has broader powers than the Consultative Council did, and the establishment of regional offices for the protection of human rights;

(d) The establishment of a de facto moratorium on the enforcement of death sentences;

(e) The creation of the Equity and Reconciliation Commission as a transitional justice mechanism for determining the truth with regard to the human rights violations that occurred between 1956 and 1999 and paving the way for national reconciliation;

(f) The organization of a variety of human rights training and awareness-raising activities for justice officials and prison staff, among others.

C. Principal subjects of concern and recommendations

Definition and criminalization of torture

5. While aware that bills that would amend the Criminal Code are currently being processed, the Committee remains concerned by the fact that the definition of torture contained in article 231.1 of the current Criminal Code is not fully in conformity with article 1 of the Convention due to its restricted scope. The definition contained in article 231.1 of the Criminal Code encompasses the main elements of article 1 of the Convention, but does not cover complicity or explicit or tacit consent on the part of law enforcement or security personnel or any other person acting in an official capacity. The Committee also regrets to note that the Criminal Code does not establish the imprescriptibility of the crime of torture, its previous recommendations in that regard notwithstanding¹ (arts. 1 and 4).

The State party should ensure that the bills currently before Parliament extend the scope of the definition of torture to conform to article 1 of the Convention against Torture. The State party should also make certain that, in keeping with its

¹ CAT/C/CR/31/2, recommendation 6 (d).

international obligations, anyone who commits acts of torture, attempts to commit torture, or is complicit or otherwise participates in such acts is investigated, prosecuted and punished without the possibility of availing themselves of any statute of limitations.

6. The Committee is concerned by some of the existing legal provisions on torture, particularly those providing for the possibility of granting an amnesty or pardon to perpetrators of acts of torture. It is also concerned by the absence of a specific provision which clearly establishes that the order of a superior officer or of a public authority may not be invoked as a justification for torture and by the absence of a specific protection mechanism for subordinates who refuse to obey an order to torture a person who is in their custody (arts. 2 and 7).

The State party should ensure that its laws preclude any possibility of granting amnesty to any person convicted of the crime of torture or any kind of pardon that violates the Convention. The State party should also amend its laws in order to explicitly stipulate that an order from a superior officer or a public authority may not be invoked as a justification of torture. The State party should establish a mechanism for the protection of subordinates who refuse to obey such an order. The State party should ensure that all law enforcement officers are informed of the prohibition of obeying such an order and are made aware of the protective mechanisms that are in place.

Basic legal safeguards

7. The Committee notes that Moroccan law provides a number of basic safeguards for persons taken into custody which are designed to prevent torture. It also takes note of the existence of, among other important proposals, draft legislative amendments aimed at ensuring that a person taken into custody will have access to a lawyer more quickly. The Committee is nonetheless concerned by the restrictions placed on the application of some of those basic legal safeguards, both under existing statutory law and in practice. The Committee is particularly concerned about the fact that, at present, a lawyer may not see his or her client until the first hour after the person's period of detention has been extended, provided that authorization has been obtained from the Crown Prosecutor-General. It is also concerned by the fact that access to the legal aid office is limited to minors and cases in which the possible sentence for a crime exceeds five years. The Committee regrets the lack of information on the practical application of other basic safeguards such as examination by an independent physician and notification of the family (arts. 2 and 11).

The State party should make certain that the bills currently under consideration ensure that all suspects will have the right to enjoy, in practice, the basic safeguards provided for by law, which include their right to have access to counsel at the time of their arrest, to be examined by an independent physician, to contact a relative or friend and to be informed of their rights and the charges against them, and to be brought before a judge without delay. The State party should take the necessary steps to ensure that people have access to their lawyers as soon as they are taken into custody, without any need to obtain prior authorization, and to put in place a system for the provision of effective legal assistance free of charge, particularly in the case of persons at risk or who belong to vulnerable groups.

Anti-terrorism law

8. The Committee notes with concern that Anti-Terrorism Act No. 03-03 of 2003 does not set out a precise definition of terrorism, as required in order to uphold the principle that there can be no penalty for an offence except as prescribed by law. It is also concerned by the fact that the law in question defines advocacy of terrorism and incitement of terrorism

as offences, which can be defined as such even if they do not necessarily involve an actual risk of violent action. In addition, under this law, the period during which a person may be held in police custody is extended to 12 days, and access to a lawyer is not permitted until after the sixth day, which places suspects who are being held in custody at greater risk of torture. It is precisely while they cannot communicate with their families and lawyers that suspects are most vulnerable to torture (arts. 2 and 11).

The State party should revise Anti-Terrorism Act No. 03-03 in order to improve the definition of terrorism set forth therein, reduce the maximum amount of time during which a person can be held in police custody to the absolute minimum and permit access to counsel at the start of the period of detention. The Committee recalls that under the Convention no exceptional circumstance whatsoever may be invoked as a justification of torture and that, in accordance with various resolutions of the Security Council, notably Security Council resolutions 1456 (2003) and 1566 (2004), and other resolutions on the subject, any measure taken to combat terrorism must fully comply with international human rights law.

Non-refoulement and the risk of torture

9. The Committee is concerned by the fact that the State party's existing extradition and refoulement procedures and practices may put persons at risk of torture. The Committee recalls that it has received individual complaints against the State party under article 22 of the Convention regarding extradition requests and it is concerned by the decisions and action taken by the State party in these cases. The Committee is disturbed by the State party's current decision to do nothing more than "suspend" the extradition of Mr. Ktiti, given that the Committee has already decided that his extradition would also constitute a violation of article 3 of the Convention and that this final decision has been duly transmitted to the State party.² The Committee is also deeply concerned about the fact that Mr. Alexey Kalinichenko was extradited to his country of origin even though the Committee had requested that his extradition be temporarily suspended until it had issued its final decision, especially since his extradition was carried out solely on the basis of diplomatic assurances provided by Mr. Kalinichenko's country of origin (art. 3).

The State party should under no circumstance expel, return or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Committee recalls that it has adopted the position that under no circumstances should a State party regard diplomatic assurances as being a safeguard against torture or ill-treatment when there are substantial grounds for believing that a person would be in danger of being subjected to torture upon his or her return. In order to determine the applicability of the obligations that it has assumed under article 3 of the Convention, the State party should thoroughly examine the merits of each individual case, including the overall situation with regard to torture in the country concerned. It should also establish and apply well-defined procedures for eliciting diplomatic assurances, together with appropriate judicial oversight mechanisms and effective post-return monitoring arrangements for use in the event of refoulement.

Morocco should fulfil its international obligations and act in accordance with final and provisional decisions of the Committee concerning individual cases submitted to it under article 22 of the Convention. In the case of Mr. Ktiti, the State party should declare the extradition order to be permanently null and void in order to avoid acting in violation of article 3 of the Convention.

² Committee against Torture, decision No. 419/2010 of 26 May 2011.

Use of torture in cases involving security concerns

10. The Committee is concerned by numerous allegations regarding torture and ill-treatment committed by police officers, prison staff and, in particular, agents of the National Surveillance Directorate (DST) who are acting as members of the criminal investigation police force when people are deprived of basic legal safeguards, such as access to legal counsel, particularly in the case of people who are suspected of belonging to terrorist networks or of being supporters of independence for Western Sahara and in the course of interrogations carried out in order to extract confessions from persons suspected of terrorism (arts. 2, 4, 11 and 15).

The State party should immediately take substantive steps to investigate acts of torture and to prosecute and punish those who have committed such acts. The State party should ensure that law enforcement officers do not engage in torture through, inter alia, an unambiguous reaffirmation of the absolute prohibition of torture and a public condemnation of that practice by, in particular, the police, prison personnel and members of DST. It should also be made very clear that anyone who commits such acts or is complicit or otherwise participates in such acts will be held personally responsible before the law and will be subject to criminal prosecution and the appropriate penalties.

“Extraordinary renditions”

11. The Committee takes note of the State party’s statements that it was not involved in any extraordinary renditions undertaken as part of the international fight against terrorism. The Committee nevertheless remains concerned by allegations that Morocco has served as a departure point, a transit country and a destination for blatantly illegal “extraordinary renditions” in such cases as those of Binyam Mohamed, Ramzi bin al-Shib and Mohamed Gatit. It notes that the incomplete information furnished by the State party on the investigations conducted in that connection is not sufficient to refute those allegations. The Committee is gravely concerned by the allegations that all these “extraordinary renditions” are reported to have been accompanied by incommunicado detention and/or detention in secret places, acts of torture and ill-treatment, particularly during the interrogation of suspects, as well as the return of persons to countries where they may also have been subjected to torture (arts. 2, 3, 5, 11, 12 and 16).

The State party should ensure that no one who is at any time under its control becomes the object of an “extraordinary rendition”. The transfer, refoulement, detention or interrogation of persons under such circumstances is in itself a violation of the Convention. The State party should conduct effective, impartial investigations into any and all cases of “extraordinary rendition” in which it may have played a role and bring to light the facts surrounding such cases. The State party should prosecute and punish those responsible for such renditions.

Events involving Western Sahara

12. The Committee is concerned by the reports it has received regarding the alleged use by Moroccan law enforcement officers and security personnel of practices in Western Sahara such as arbitrary arrest and detention, incommunicado detention, detention in secret places, torture, ill-treatment, the extraction of confessions under torture and the excessive use of force.

The Committee recalls once more that, under the Convention, no exceptional circumstance whatsoever may be invoked as a justification of torture in territory that falls under the State party’s jurisdiction and that law enforcement measures and investigative procedures should be in full accord with international human rights law,

as well as the legal procedures and basic safeguards in effect in the State party. The State party should, as a matter of urgency, take substantive steps to prevent the aforementioned acts of torture and ill-treatment. It should also announce the introduction of a policy that will produce measurable progress towards the eradication of all torture and ill-treatment by State officials. The State party should put in place stronger measures for ensuring prompt, thorough, impartial and effective investigations into all allegations of torture or ill-treatment of prisoners and persons taken into custody or in any other situation.

The Gdeim Izik camp

13. The Committee is particularly concerned by the events surrounding the closure of the Gdeim Izik camp in November 2010, during which several persons were killed, including law enforcement officials, and hundreds of others were arrested. The Committee takes note that the vast majority of the persons who were arrested were later released while awaiting trial, but is gravely concerned by the fact that those trials are to be held in military courts even though the persons concerned are civilians. The Committee is also concerned by the fact that there has not been an impartial, effective investigation to ascertain exactly what occurred and to determine what responsibility may be borne by members of the police or security forces (arts. 2, 11, 12, 15 and 16).

The State party should put in place stronger measures for ensuring prompt, thorough, impartial and effective investigations into the violence and deaths that occurred during the dismantlement of the Gdeim Izik camp and ensure that those responsible are brought to justice. The State party should amend its laws to guarantee that all civilians will be tried only in civilian courts.

Secret arrests and detention in cases involving security concerns

14. The Committee is concerned by reports that, in cases involving terrorism, legal procedures for arresting, questioning and holding suspects in custody are not always followed in practice. The Committee is also concerned by information pointing to a consistent pattern whereby suspects are arrested by plain-clothes officers who do not clearly identify themselves, taken in for questioning and then held in secret detention facilities, which in practice amounts to incommunicado detention. The suspects are not officially registered and are subjected to torture and other cruel, inhuman or degrading treatment or punishment. They are held in these conditions for weeks at a time without being brought before a judge and without judicial supervision. Their families are not notified of their arrest, of their movements or of their whereabouts until such time as they are transferred to police custody in order to sign confessions that they have made under torture. It is only then that they are officially registered and their cases are processed through the regular justice system on the basis of falsified dates and information (arts. 2, 11, 12, 15 and 16).

15. The Committee takes note of the statements made by the State party during the interactive dialogue to the effect that there is no secret detention centre at DST headquarters in Témara, as confirmed by the three visits made by the Crown Prosecutor-General in 2004 and by several representatives of the National Human Rights Commission and Members of Parliament in 2011. However, the Committee regrets the lack of information on the way in which those visits were organized and the methodology used, since, in view of the many continuing allegations concerning the existence of such a secret detention centre, in the absence of such information, it is not possible to lay to rest the suspicion that such a centre may in fact exist. The matter thus continues to be a source of concern for the Committee. The Committee is also concerned by allegations that secret places of detention are also located within certain official detention facilities. According to allegations received by the

Committee, these secret detention centres are not monitored or inspected by any independent body. The Committee is concerned at reports that a new secret prison has been built in the vicinity of Ain Aouda, close to the capital city of Rabat, to hold persons suspected of having ties to terrorist movements (arts. 2, 11, 12, 15 and 16).

The State party should ensure that the proper legal procedures are followed in the case of all persons who are arrested and taken into custody and that the basic safeguards provided for by law are applied, such as access for detained persons to legal counsel and to an independent physician, notification of their family of the arrest and of the location where they are being held and their appearance before a judge.

The State party should take steps to ensure that all register entries, transcripts and statements, and all other official records concerning a person's arrest and detention are kept in the most rigorous manner possible and that all information regarding a person's arrest and remand custody is recorded and confirmed by both the investigative police officers and the person concerned. The State party should ensure that prompt, thorough, impartial and effective investigations are conducted into all allegations of arbitrary arrest and detention and should bring those responsible to justice.

The State party should ensure that no one is held in a secret detention facility under its de facto effective control. As often emphasized by the Committee, detaining persons under such conditions constitutes a violation of the Convention. The State party should open a credible, impartial, effective investigation in order to determine if such places of detention exist. All places of detention should be subject to regular monitoring and supervision.

Prosecution of perpetrators of acts of torture and ill-treatment

16. The Committee is particularly concerned that it has received no reports to date of any person being convicted under article 231.1 of the Criminal Code of having committed acts of torture. It notes with concern that police officers are, at the most, prosecuted for assault or assault and battery, but not for torture, and that the information provided by the State party indicates that the administrative and disciplinary penalties imposed on officers for such acts do not seem to be commensurate with their seriousness. The Committee observes with concern that allegations of torture, despite their number and frequency, rarely give rise to investigations and prosecution and that a climate of impunity appears to have taken hold, given the failure to impose genuine disciplinary measures or to bring any significant number of criminal cases against State officials accused of committing acts specified in the Convention, including the gross, large-scale human rights violations that took place between 1956 and 1999 (arts. 2, 4 and 12).

The State party should ensure that any and all allegations of torture and of ill-treatment are promptly, effectively and impartially investigated and that the persons who have committed such acts are prosecuted and are given sentences that are commensurate with the grave nature of their acts, as provided for in article 4 of the Convention. The State party should also amend its laws in order to explicitly stipulate that an order from a superior officer or a public authority may not be invoked as a justification of torture. The State party should also take steps to ensure that complainants and witnesses are effectively protected from any ill-treatment or act of intimidation related to their complaint or testimony.

Coerced confessions

17. The Committee is concerned by the fact that, under the State party's current system of investigation, confessions are commonly used as evidence for purposes of prosecution

and conviction. The Committee notes with concern that convictions in numerous criminal cases, including terrorism cases, are based on confessions, thus creating conditions that may provide more scope for the torture and ill-treatment of suspects (arts. 2 and 15).

The State party should take all steps necessary to ensure that criminal convictions are based on evidence other than the confession of the persons charged, especially when such persons retract their confessions during the trial, and to make certain that, except in cases involving charges of torture, statements made under torture are not invoked as evidence in any proceedings, in accordance with the Convention.

The State party is requested to review criminal convictions that have been based solely on confessions in order to identify cases in which the conviction was based on confessions obtained under torture or ill-treatment. The State party is also invited to take the appropriate remedial measures and to inform the Committee of its findings.

Monitoring and inspection of places of detention

18. The Committee takes note of the detailed information provided by the State party concerning the different types of visits paid to places of detention by the Crown Prosecutor, various judges, members of provincial prison oversight commissions and representatives of the National Human Rights Council. It also takes note of the draft amendments under which the National Human Rights Council would be designated as the country's national preventive mechanism in conjunction with the forthcoming accession by Morocco to the Optional Protocol to the Convention. The Committee is nonetheless concerned by the fact that several non-governmental organizations that wished to gain entry to prison facilities as observers were refused access to detention centres. It seems that, under article 620 of the Code of Criminal Procedure, such visits may be conducted only by the provincial commissions. It also regrets the lack of information about the follow-up to and results of the visits that have been conducted (arts. 11 and 16).

The State party should ensure that the national mechanism for monitoring places of detention is capable of carrying out effective inspections and oversight of all places of detention and should ensure that action is taken to follow up on the results of that monitoring process. This mechanism should provide for regular and unannounced visits by national and international observers in order to prevent torture and other cruel, inhuman or degrading forms of treatment or punishment. The State party should also ensure that forensic doctors trained to detect signs of torture are present during those visits. In addition, the State party should amend its laws so that non-governmental organizations may also make unrestricted, regular, independent, unannounced visits to places of detention.

Prison conditions

19. The Committee takes note with satisfaction of the information provided by the State party concerning its plan for building and renovating prison facilities, which is likely to have led to some improvement in prison conditions. The Committee nonetheless remains concerned about the fact that, according to the information in its possession, conditions in most prisons are still alarming owing to overcrowding, ill-treatment and the disciplinary measures employed (including long periods of incommunicado detention), unsanitary conditions, inadequate food and limited access to medical care. The Committee is concerned about the fact that these conditions have prompted some prisoners to hold hunger strikes and others to rebel and stage protests that are violently suppressed by prison guards (arts. 11 and 16).

In order to bring prison conditions throughout Morocco into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners,³ the State party should continue its efforts to build new prison facilities and to renovate existing ones and should continue to increase its budget allocations for running the country's prisons, particularly for food and medical care. In order to reduce overcrowding, which is largely due to the fact that half of all the people being held in Moroccan prisons have yet to be tried, the State party should amend its laws to permit the use of alternatives to pretrial detention in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).⁴ A system could be devised for arranging bail and making more frequent use of non-custodial penalties in the case of less serious offences.

Prison deaths

20. The Committee takes note of the detailed information provided on the number of deaths that have occurred in Moroccan prisons and the officially recorded causes of death. It nonetheless regrets the lack of information on the mechanisms in place for conducting systematic and independent investigations into the causes of prison deaths, notwithstanding the fact that suicides are routinely investigated (arts. 11, 12 and 16).

The State party should promptly conduct a thorough, impartial investigation whenever a person dies in prison and should prosecute those responsible, if any, for the death. It should provide the Committee with information on all deaths occurring in prison as a result of acts of torture, ill-treatment or wilful negligence. The State party should also ensure that independent forensic doctors examine the corpse in each case and that their findings are admissible as evidence in criminal and civil trials.

Prisoners on death row

21. The Committee takes note of the de facto moratorium on the enforcement of the death penalty that has existed since 1993. It also takes note of the bill under which the number of crimes punishable by the death penalty would be significantly reduced and under which such sentences would have to be made by unanimous decision. The Committee is concerned by the conditions under which prisoners are held on death row. These conditions in themselves could constitute cruel, inhuman or degrading treatment. This is particularly the case in view of the length of time that prisoners are held there and their uncertainty about their fate, especially given the absence of any prospect that their sentences will be commuted (arts. 2, 11 and 16).

The Committee recommends that the State party consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights with a view to the abolition of the death penalty. In the meanwhile, the State party should maintain its de facto moratorium on the enforcement of the death penalty, ensure that its laws provide for the possibility of commuting death sentences and ensure that all death row prisoners are protected in accordance with the Convention. The State party should also ensure that all death row prisoners are treated humanely, and that, in particular, they are able to receive visits from their families and their attorneys.

³ Economic and Social Council resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

⁴ General Assembly resolution 45/110 of 14 December 1990.

Psychiatric hospitals

22. The Committee takes note of the supplementary written information provided by the State party regarding its plans for preventing the ill-treatment of patients in psychiatric hospitals and the new framework law of 2011 on the health system. The Committee is still, however, concerned about the lack of information on the system for monitoring and inspecting psychiatric hospitals that offer inpatient facilities and on the results of such monitoring arrangements and inspections (art. 16).

The State party should ensure that the national mechanism for monitoring and overseeing places of detention, which is to be put in place soon, has the authority to inspect other types of facilities where people are deprived of their liberty as well, such as psychiatric hospitals. The State party should ensure that the results of such monitoring processes are duly acted upon. The mechanism in question should provide for regular and unannounced visits as a means of preventing torture and other cruel, inhuman or degrading treatment or punishment. The State party should also ensure that forensic doctors trained to detect signs of torture are present during those visits. It should also ensure that patients detained in psychiatric hospitals against their will are able to appeal against the corresponding internment order and have access to a physician of their choice.

Violence against women

23. In view of the scale of violence against women in Morocco, the Committee is deeply concerned by the absence of a specific, comprehensive legal framework for the prevention of violence against women, for the criminal prosecution of persons who commit such acts and for the protection of victims and witnesses. The Committee is also concerned by the fact that so few complaints have been filed by victims, that the prosecution service has not initiated criminal proceedings in such cases, that the complaints which are filed are not systematically investigated, even in rape cases, and that the burden of proof is excessive and is borne entirely by the victim in a society where the risk of stigmatization of such victims is high. The Committee is concerned by the absence of any specific law that makes marital rape a criminal offence. In addition, the Committee is deeply concerned by the fact that, under Moroccan law, the rapist of a minor can avoid criminal responsibility by marrying the victim. The Committee regrets the lack of information about the number of cases in which victims have married their rapists or have refused to do so (arts. 2, 12, 13 and 16).

The Committee urges the State party to enact a law as soon as possible on violence against women and girls in order to ensure that any form of violence against women constitutes a criminal offence. The Committee also urges the State party to ensure that women and girls who are victims of violence have immediate access to means of protection, including shelters, and to redress, and that perpetrators are prosecuted and suitably punished. The Committee reiterates the recommendations made in that regard by the Committee on the Elimination of Discrimination against Women.⁵ The State party should amend its Criminal Code without delay to ensure that marital rape is criminalized and that criminal proceedings against rapists are not terminated if they marry their victims. The State party should also conduct studies on the causes and extent of violence, including sexual and domestic violence, against women and girls. The State party should present information in its next report to the Committee on the laws and policies in place to combat violence against women and on the impact of the measures taken.

⁵ CEDAW/C/MAR/CO/4, para. 21.

Corporal punishment

24. The Committee notes with concern that there is no law in Morocco that prohibits the use of corporal punishment within the home, at school or in institutions that provide child protection services (art. 16).

The State party should amend its laws in order to prohibit the use of corporal punishment in schools, in the home and in centres that provide child protection services. It should also raise public awareness of positive, participatory and non-violent forms of discipline.

Treatment of refugees and asylum-seekers

25. The Committee takes note of the information furnished by the State party concerning its increased cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), which has included capacity-building activities with regard to the admission, identification and protection of asylum-seekers and refugees by the State party. It is nonetheless disturbed by the absence of a specific legal framework for refugees and asylum-seekers that would differentiate them from undocumented migrants. The Committee is concerned by the fact that, as things now stand, asylum-seekers are not always in a position to file their request for asylum with the proper authorities. This is particularly the case at points of entry into Moroccan territory, where asylum-seekers are often treated as if they were undocumented immigrants. The Committee is also concerned by the absence of a specific office for the efficient processing of applications for asylum from refugees and stateless persons and of safeguards for all the rights of refugees while on Moroccan territory (arts. 2, 3 and 16).

The State party should establish a legal framework to safeguard the rights of refugees and asylum-seekers and should develop institutional and administrative instruments for their protection by, inter alia, increasing its cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and allowing UNHCR to take part in the reform of the asylum system as an observer. The State party should see to it that procedures and mechanisms are put in place for the systematic identification of potential asylum-seekers at all points of entry into Moroccan territory. The State party should allow such persons to submit applications for asylum. These mechanisms should also ensure that decisions concerning asylum requests are subject to appeal, that such appeals have suspensive effect, and that no one is returned to a country where there is a risk of torture.

The State party should consider becoming a party to the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

Treatment of migrants and foreign nationals

26. The Committee takes note of the information supplied by the State party regarding the legal provisions governing the expulsion of undocumented migrants, particularly Act No. 02-03 on the entry and residence of foreign nationals in Morocco, and the examples it has provided of instances in which foreign nationals have been expelled in accordance with the provisions of that law. It is nevertheless concerned by reports that undocumented migrants have been escorted to the border or otherwise expelled in violation of Moroccan law without having been given the opportunity to exercise their rights. Several allegations have been made that hundreds of migrants have been abandoned in the desert without food or water. The Committee deeply regrets the State party's failure to provide information about these events or about the places and regimes of detention used for foreign nationals awaiting deportation that do not come under the authority of the Prison Service. The

Committee also deeply regrets the lack of information about any inquiries that may have been made into the violence committed by law enforcement personnel against undocumented migrants in the vicinity of the Ceuta and Melilla enclaves in 2005 (arts. 3, 12, 13 and 16).

The State party should take steps to ensure that the legal safeguards governing the practice of escorting undocumented migrants to the border and the expulsion of foreign nationals are effectively enforced and that such practices and expulsions are carried out in accordance with Moroccan law. It should undertake impartial, effective investigations into allegations that, during expulsions, migrants have been subjected to ill-treatment or excessive use of force. It should also ensure that those responsible are brought to justice and receive sentences that are commensurate with the seriousness of their acts.

The State party is requested to furnish detailed information in its next report on the places and regimes of detention used for foreign nationals awaiting deportation, together with data disaggregated by year, sex, place, length of detention and the reason for detention and expulsion.

Human trafficking

27. The Committee is concerned by the general lack of information about the trafficking of women and children for purposes of sexual or other forms of exploitation and about the scale of trafficking in the State party, particularly with regard to the number of complaints, investigations, prosecutions and convictions and the steps taken to prevent and combat human trafficking (arts. 2, 4, 12, 13 and 16).

The State party should step up its efforts to prevent and combat the trafficking of women and children. Those efforts should include the passage of a specific law on the prevention and suppression of trafficking and the provision of protection and access for victims to rehabilitation services, as well as medical, social, legal and counselling services, as needed. The State party should also make sure that victims are able to exercise their right to lodge a complaint. It should promptly conduct impartial, effective inquiries into all reports of trafficking and ensure that those responsible are brought to justice and receive sentences that are commensurate with the seriousness of their acts.

Training

28. The Committee takes note of the information that it has received regarding the training activities, seminars and courses on human rights that have been organized for justice officials, police officers and prison staff. It is concerned, however, by the lack of targeted training activities for personnel of the National Surveillance Directorate (DST), members of the Armed Forces, and forensic doctors and other medical personnel who deal with persons held in places of detention or patients in psychiatric hospitals and particularly the lack of training in proper methods for detecting the physical and psychological after-effects of torture (art. 10).

The State party should continue to design and reinforce training programmes for all staff — law enforcement officers, members of intelligence services, members of security forces, military personnel, prison staff and medical personnel employed in prisons or psychiatric hospitals — to ensure that they are well acquainted with the provisions of the Convention and that they know that violations of the Convention will not be tolerated and will be investigated and that the persons who commit violations will be prosecuted. In addition, the State party should ensure that all relevant staff, including members of the medical corps, are specifically trained to detect signs of

torture and ill-treatment in accordance with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). The State party should also evaluate the effectiveness and impact of such training.

The Equity and Reconciliation Commission and the question of reparations

29. The Committee takes note of the information provided by the State party on the considerable amount of work that was done between 2003 and 2005 by the transitional justice mechanism, the Equity and Reconciliation Commission, to investigate the gross, large-scale and systematic human rights violations that took place in Morocco between 1956 and 1999. The investigations have clarified the circumstances surrounding many of these violations, including numerous cases of enforced disappearance. They have also led to the award of compensation in various forms to many of the victims. The Committee remains, however, concerned by the fact that the Commission's work was incomplete, inasmuch as it did not encompass the violations that took place in Western Sahara, and that some cases of enforced disappearance had yet to be resolved when the Commission brought its work to a close in 2005. In addition, the Committee is concerned by the fact that the work of the Commission may have led to the de facto impunity of the perpetrators of violations of the Convention committed during that period, since none of them has been prosecuted to date. Finally, the Committee is concerned by reports that not all the victims or families of victims have received compensation and that in some cases the compensation awarded has been neither equitably distributed nor adequate or effective (arts. 12, 13 and 14).

The State party should ensure that the National Human Rights Council, which has been assigned the task of completing the Commission's work, continues with its efforts to establish the facts surrounding the cases of enforced disappearance between 1956 and 1999 that have not yet been resolved, including those connected with the situation in Western Sahara. The State party should also step up its efforts to ensure that victims of torture and ill-treatment receive redress in the form of equitable, sufficient compensation and support for as full a rehabilitation as possible. To that end, it should introduce legal provisions to protect the right of torture victims to equitable compensation that is commensurate with the harm suffered.

Cooperation with United Nations mechanisms

30. **The Committee recommends that the State party increase its cooperation with United Nations human rights mechanisms by, inter alia, authorizing visits on the part of such mechanisms as the Working Group on Arbitrary Detention, the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.**

31. **The Committee invites the State party to consider acceding to the main human rights instruments to which it is not yet a party, including the Optional Protocol to the Convention against Torture, and to the Rome Statute of the International Criminal Court.**

32. **The State party is encouraged to ensure the broad circulation of the reports that it submits to the Committee and the Committee's concluding observations through official websites, the media and non-governmental organizations.**

33. **The Committee requests the State party to provide it, before 25 November 2012, with information on the measures undertaken in response to its recommendations on: (1) providing or strengthening legal safeguards for detainees; (2) conducting prompt, impartial and effective inquiries; (3) prosecuting suspects and**

sentencing those found guilty of torture or ill-treatment; and (4) making the reparations referred to in paragraphs 7, 11, 15 and 28 herein. The Committee also requests the State party to provide it with information on the measures undertaken in response to the recommendations made in paragraph 8 herein regarding the Anti-Terrorism Act.

34. The Committee invites the State party to update its common core document of 15 April 2002 (HRI/CORE/1/Add.23/Rev.1 and Corr.1), as necessary, in accordance with the instructions concerning the common core document contained in the harmonized guidelines on reporting to the bodies established under international human rights treaties (HRI/GEN/2/Rev.6).

35. The Committee invites the State party to submit its fifth periodic report by 25 November 2015 at the latest. The Committee also invites the State party to agree, before 25 November 2012, to submit that report under the optional procedure which involves the transmission, by the Committee to the State party, of a list of issues prior to the submission of its periodic report. The reply of the State party to that prior list of issues would constitute its next periodic report under article 19 of the Convention.
