



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

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Committee against Torture

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

**Fourth periodic reports of States parties due in 2006**

**Addendum**

**Morocco\* \*\***

[27 April 2009]

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\* For the third report of Morocco, see document CAT/C/66/Add.1.

\*\* In accordance with the information transmitted to States parties regarding the processing of their report, the present document was not formally edited before being sent to the United Nations translation services.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
Part I. Introduction .....	1–13	4
Part II. Information concerning the Articles of the Convention.....	14–163	6
Article 1. Definition of torture .....	14–22	6
Article 2. Legal, judicial and administrative measures for the prohibition of acts of torture.....	23–34	7
Article 3. Prohibition of the return or refoulement of a non-national to another State where he might be in danger of being subjected to torture.....	35–47	9
Article 4. Acts of torture as a crime.....	48–58	11
Article 5. Extension of jurisdiction to cases of torture.....	59–62	13
Article 6. Special requirements relating to the arrest of persons involved in acts of torture .....	63–66	13
Article 7. Punishment of persons involved in acts of torture .....	67–72	14
Article 8. Extradition of persons involved in acts of torture.....	73–78	15
Article 9. Assistance regarding crimes of torture within the framework of international judicial cooperation.....	79–83	16
Article 10. Training and information regarding the prohibition of torture .....	84–95	17
Article 11. Measures to prohibit torture in places of detention.....	96–104	19
Article 12. Investigation into the commission of an act of torture .....	105–115	20
Article 13. Right of victims to lodge complaints with the competent authorities ...	116–120	21
Article 14. Right of victims to compensation.....	121–141	22
Article 15. Non-recognition of confession made under torture .....	142–149	24
Article 16. Prohibition of cruel, inhuman and degrading treatment .....	150–163	25
Part III. Measures taken by Morocco in response to concerns raised by the Committee and implementation of its recommendations.....	164–177	28
 Annexes		
1. (a) Agreement between the Kingdom of Morocco and the Republic of Egypt on judicial cooperation in criminal cases and the extradition of criminals .....		30
(b) Agreement between the Kingdom of Morocco and the Kingdom of Belgium on the extradition of criminals.....		30
2. Action regarding acts violence by police officers and officials .....		31
3. Visits to prison establishments in 2006, 2007 and 2008 .....		32
4. Figures for prison cases, 2007-8 .....		35
5. Figures for persons undergoing medical examination in accordance with articles 73, 74 and 134 of the Criminal Code of 2008 .....		36
6. Information on the implementation of the recommendations of the Committee on Equity and Reconciliation.....		41

7. List of measures taken regarding deaths while in police and gendarmerie custody..... 43

## **Part I**

### **Introduction**

1. The Kingdom of Morocco has the honour to submit to the Committee against Torture its fourth periodic report under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Morocco ratified on 14 June 1993. The report outlines the efforts made and measures taken by Morocco, since the previous presentation, in combating all forms of torture. Morocco views the presentation of this report to the Committee as an opportunity to reassert its commitment to the values of human rights and the desire to continue to work with the relevant international and United Nations bodies.

2. This fourth periodic report highlights the continued efforts by Morocco to implement the provisions of the Convention. The report is the outcome of the contributions made by governmental bodies represented by the various ministries and national institutions, active in the field of human rights.

3. This report was the subject of discussion in a meeting with representatives of a number of associations active in legal issues. They were made aware of the main components of the report and had the opportunity to make their written and oral observations on its content, when possible. Their observations included the special emphasis on taking on board the recommendations of the Committee and the strengthening of partnerships with the Ministry of Justice, as well as consolidating the role of monitoring by the prosecution and investigation bodies.

4. The participation by all these segments provided an opportunity to further joint action, which led to the compilation of this report. The Kingdom of Morocco presents this report to the Committee taking into account the guidance and the observations made by the committee during the presentation of the previous report. The current report reflects the important achievements realised in the endeavour to eliminate all forms of torture using a realistic approach and building on what has been achieved so far while bearing in mind the need for further efforts.

5. The Kingdom of Morocco, while firmly believes in the universality of the principles of human rights and all related international norms, continues to adopt all legal and institutional measures aimed at upholding the culture of human rights and the elimination of all forms of torture. This commitment has manifested itself in the efforts made and measures taken to promote human rights in all the territories of the Kingdom. One such measure is the initiative on the autonomy for the Sahara region, a step described by circles within the international community as a just and realistic solution for an equitable and peaceful settlement of the Sahara dispute taking into account the Kingdom's sovereignty and territorial integrity.

6. In this regard, Morocco has embarked on a review of the situation of human rights to pinpoint shortcomings and to determine what measures need to be taken to deal with them. For this purpose, the Kingdom has drawn up a chronology of serious human rights violations and a commission for equity and reconciliation was set up to receive complaints by victims. The committee looked into these complaints and held public hearings giving the victims the opportunity to recount the violations they were subjected to. The body also reviewed cases of serious human rights violations, identified the victims and determined appropriate compensation. It prepared a full report on these cases and included in this report a number of recommendations and proposals with a view to the introduction of a legislative mechanism and other practical measures to prevent the perpetration of such violations in future. The committee's report also dealt with educating future generations in human rights.

7. The work of this body constituted an extension of the work started by the Independent Arbitration Committee, set up to compensate victims of disappearances and abductions from 1956 to 1999. The said committee adopted a special approach in contacting victims and claimants, listened to their cases, determined the fate of others and awarded generous compensation to them or to their next of kin. It also introduced programmes for institutional memory when it comes to determining material and in-kind compensation to individuals and groups. These programmes are in the process of being implemented.

8. Along the same lines, and in conformity with the recommendation made by the Equity and Reconciliation Commission aimed at a national strategy to deal with impunity, a draft law on crimes on involuntary disappearances has been introduced and Law No. 04.43 on crimes of torture has come into force. Also, the draft Criminal Code makes reference to the commutation of the death penalty following the recommendations made by the Meknes seminar on criminal policies.

9. To accompany these reforms, a strategy to align national legislation with international human rights provisions was adopted. Steps undertaken included:

- A review of the Code of Criminal Procedure with the aim of reinforcing human rights mechanisms to guarantee the principle of the presumption of innocence, a fair trial and the precedence of international conventions over national legislation.
- The abolition of the Special Justice Court.
- A review of the Code of Liberties and the law on the freedom of the press and publication.
- Organising workshops on the review of criminal law to strengthen the principles of legitimacy and equality, and to reinforce international instruments through the inclusion of a raft of the provisions in international conventions in the said law. The review also aims at including other acts such as genocide and crimes against humanity. It also envisages a strengthening of individuals' rights vis-a-vis the public system as a whole, taking into account that such reforms run parallel to a review of the Code of Criminal Procedure.

10. Morocco has also withdrawn some of the reservations, formerly expressed, to some of the provisions of international conventions which it had ratified. Reservations to article 14 of the International Convention on the Elimination of All Forms of Racial, article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 14 of the Convention on the Rights of the Child have been withdrawn, as well as reservations to the Convention on the Elimination of All Forms of Discrimination against Women as was announced by His Majesty in his royal speech, on the 50<sup>th</sup> anniversary of the International Human Rights Day, in which he declared that such reservations were no longer valid in view of the advanced legislation already adopted

11. Morocco has also conducted a number of consultative meetings to finalise the lifting of remaining reservations to provisions in other international conventions. Steps to withdraw these reservations are already underway in line with measures stipulated by the law. It is worth noting that such steps are part of the process of aligning national legislation with international instruments, and as part of the process of formulating a national strategy on democracy and human rights.

12. Morocco remains committed to involvement in international conventions on human rights and combating all forms of torture. It reiterates its determination to continue to cooperate with the Committee against Torture and to implement the Committee's recommendations. Morocco has already responded to the Committee's observations

following the presentation of the third periodic report (CAT/C/CR/31/2/Add.1). Responses were also provided to the letter of the Special Rapporteur on the question of torture.

13. This report will provide responses to the recommendations of the Committee when dealing with the articles of the Convention, while Part III will provide an overview of the efforts made by Morocco, to address the concerns expressed by the Committee, and outline measures put in place, to implement these recommendations in the wake of the discussion of the third periodic report.

## **Part II**

### **Information concerning the articles of the Convention**

#### **Article 1**

##### **Definition of torture**

14. Morocco has a deep-seated conviction in the need to strengthen human rights and to protect human dignity. This is clearly reflected in the determination to combat and prohibit torture in all its forms through its commitment to all international instruments, in particular article 5 of the Universal Declaration on Human Rights and article 7 of the International Covenant on Civil and Political Rights, which underline the prohibition of subjecting any person to torture and cruel, inhuman and degrading treatment.

15. In line with Morocco's policy of prohibiting and rejecting torture, and in conformity with the recommendations of the Committee against Torture on the third periodic report (CAT/C/CR/31/2), to which Morocco has responded as a first step (CAT/C/CR/31/2/Add.1), the national legislature, as a second step, opted for organising workshops to review the Criminal Code adopting a clear definition of torture that is compatible with the definition in article 1 of the Convention against Torture.

16. The amendment of article 1-231 of the Criminal Code by Law No. 04.43 of 14 February 2006 is in response to the Committee's recommendation (CAT/C/CR/31/2). Paragraph 6(a) of the Law defines torture as any "act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

17. The definition in article 1-231 of the Moroccan Criminal Code is an attempt at aligning the text with that of the Convention through the inclusion of all the elements, human, material or physical, constituting an act of torture.

18. It is worth noting here that the new draft Criminal Code expanded the text of the definition to include all acts of torture committed by all persons and not public officials only.

19. The human element of a crime of torture manifests itself in the capacity of the persons perpetrating such acts or crimes. The Convention against Torture stipulates that such acts must be committed or instigated by a public official or any other person acting upon the instruction of a public official. This element has been emphasised by the Moroccan legislator, who went further in expanding the notion of a public official committing a crime of torture to include all persons acting in an official capacity.

20. The material element of crimes of torture in Moroccan law coincides largely with the definition used in the Convention against Torture. The similarities relate to the nature or the purpose of committing the act. The Moroccan definition considers as torture any act causing severe pain or suffering whether inflicted physically directly on the victim through violent acts such as burning or electrocuting, indirectly through negligence or depriving the victim of basic requirements aimed at protecting his dignity or through psychological pressure intended to terrorise or instil fear in the victim.

21. For an act of torture to be committed, it suffices to inflict mental or physical pain on the person directly or on a third party to obtain information, statement or confession to punish the person for acts committed or allegedly committed.

22. In addition to the provisions relating to torture as a crime in its own right and as mentioned above, the criminal law contains other provisions extending the protection given to individuals against acts of torture. Such provisions provide for the punishment of public officials, in charge of enforcing the laws, for abuse of their powers, resorting to violence, ordering the use of violence without legal grounds or detaining persons arbitrarily. The Criminal Code prohibits officials from over-stepping their authority or ordering the use of force without legal grounds. Such acts are severely punished under the Criminal Code and through disciplinary measures, all of which are intended to ensure the physical safety of individuals.

## **Article 2**

### **Legal, judicial and administrative measures for the prohibition of acts of torture**

23. In accordance with article 2 of the Convention against Torture on taking effective measures to prevent acts of torture and in response to the concerns expressed by the Committee following the presentation of the third periodic report (CAT/C/CR/31/2), in particular the observation in paragraph 5 (a), Moroccan law provides for a set of legal, judicial and administrative measures intended to prohibit torture on Moroccan territory. Prominent among such measures is the rights guaranteed under the constitution that no person shall be arrested or punished except in the circumstances and forms provided for by law.

24. Moroccan law does not recognise any justification for resorting to torture and prohibits its use even when ordered by a high-ranking official or a public authority, being an illegal act. In addition to criminal punishment, disciplinary measures may be taken against senior officials who violate their authority. Such measures range from temporary suspension from duty to sacking.

25. Legislation in Morocco does not provide for any justification, under the Criminal Code or special criminal law, for the use of torture. The application of all forms of criminal law is general and covers all Moroccan soil without time or place exemptions.

26. Under Moroccan law no orders from a higher authority, exceptional circumstances, state of war or the threat of war, threat to national security, internal political instability or any emergency situation could be used as justification for the use of torture or any other form of cruel, inhuman or degrading treatment. This provides a response to the concerns expressed by the Committee in paragraph 5 (a).

27. In compliance with article 2 paragraph 1 of the Convention against Torture and to further enhance judicial protection against acts of torture, Moroccan law provides for guarantees that underscore such protection. The judiciary, in this regard, plays a monitoring role when it comes to overseeing the work of the judicial police. This involves weekly

visits to police stations by the public prosecution service to scrutinise the legitimacy and conditions of detention. Prisons are also the subject of periodic visits by judges charged with the cases of detained persons.

28. To reinforce judicial measures aimed at ensuring the prohibition of torture, Moroccan law provides for a set of practical steps to ensure the physical safety of individuals. They include the possibility of requesting the judiciary to appoint an expert to investigate violence or torture marks on the body of the accused, a right readily available. An example of the exercise of such a right is case number N321/2006 at the Casablanca Court of Appeal. A Moroccan citizen filed a complaint against police officers at Fida' security, alleging being subjected to violence and torture. The prosecution ordered a medical examination of the complainant. Similar measures were ordered by the prosecution in other cases, such as case number 139/05 before the Marrakesh Court of Appeal.

29. The representative of the King is also authorised to conduct random visits if he decided that a case warranted such a visit. Defence lawyers are also entitled to contact their clients at the preliminary stage of investigation and in particular during the extension of remand in custody. This process provides an additional means of monitoring the work of law enforcement agencies when having custody of the suspect. Similarly, the judicial police is bound by informing the family of the detainee, a measure which comes under the scrutiny of public prosecution. Under this arrangement, law enforcement agencies keep a record of notifications to the families of detainees as was recommended by the committee (CAT/C/CR/31/2) in paragraph 6 (c).

30. A law enforcement agent must ensure that detention requirements are met, whereby a detention order must fulfil the conditions stipulated in the Code of Criminal procedure. He is also bound to inform every detainee held of his right to give the names and addresses of persons to be contacted.

31. In the case of provisions governing the treatment of juveniles, which are compatible with international standards, Moroccan law makes it mandatory, when it comes to holding a juvenile, that the official in charge of the holding institution clearly specifies the name, address and telephone number of a parent, custodian or carer of the juvenile. Judges are authorised, by law, to conduct periodic monthly visits to institutions responsible for holding juveniles, those who are in difficult circumstances or the victims of a criminal act.

32. To further strengthen legislative and judicial measures intended to protect persons against torture, Morocco has adopted a series of other administrative procedures to ensure the physical protection of individuals. They include entrusting a local administrative committee, headed by the Mayor, to visit prisons periodically to inspect the conditions of inmates and to provide them with security, health and nutrition requirements. The committee reports to the competent authorities.

33. The Equity and Reconciliation Commission was set up to be a national mechanism of transitional justice. It is one the outcomes of the gradual evolution Morocco has been undergoing to find solutions to problems and past cases linked to serious violations of human rights, and to provide redress to individuals and groups. The body is the resultant of discussions and interaction among the political components and active players in civil society. Its role is to find the most suitable means to deal with past serious human rights violations, while ensuring a fair and equitable solution to them.

34. This body has conducted an evaluation of the series of processes of settling cases of involuntary disappearances and arbitrary detentions through the partnership with and cooperation of the government, public authorities, competent administrations, juridical organisations, the victims and their families, and their representatives. These efforts led to determining the fate of 742 persons reported missing or whose whereabouts are unknown and have their families compensated as part of the redress process. The Moroccan



authorities were also able to resolve 190 cases of disappearances out of 248 reported to it by the Working Group on Enforced or Involuntary Disappearances. These efforts were described by the Working Group as an example to be followed.

### **Article 3**

#### **Prohibition of the return or refoulement of a non-national to another State where he might be in danger of being subjected to torture**

35. The Kingdom of Morocco, in manifesting its respect for human rights and human dignity, does not make a distinction between persons based on their nationality. Rather, it is committed to respecting human rights in their universality and as stipulated in article 2 of the Declaration. It is in this light that Morocco ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 1993. While working on drafting a new law on asylum, Morocco has embarked on aligning national legislation with the provisions of the above convention through the promulgation of Law No. 02-03 of 2003 on the entry of aliens into and their residence the Kingdom, and on illegal migration. The law is compatible with international undertakings made to protect immigrants from violent acts, deprivation and arbitrary expulsion. It also prohibits discrimination against aliens in Morocco regardless of their legal status, and recognises their right to equality before the law as a constitutional principle (article 5 of the constitution).

36. Article 29 (c) of the said law, in conformity with the spirit of the Convention against Torture, prohibits “the deportation of pregnant alien females, alien minors, or any alien to a country where they can demonstrate that their life or liberty would be at risk or that they would be subject to inhuman, cruel or degrading treatment”.

37. Although Law No. 02-03 does not make a specific reference to torture, however, it considers the deportation, expulsion or refoulement of an alien where his life and liberty would be at risk or where they would be subject to inhuman, cruel or degrading treatment, a threat to life which constitutes a form of torture as outlined in the text of the Convention.

38. While extradition, in principle, is the norm in all ordinary crimes, if the Moroccan authorities has reason to believe that a request for extradition lacks objective grounds, and that the request has to do with the person of the individual himself for considerations relating to his ethnicity, race, nationality, or religious or political beliefs, and that such considerations would put his life or liberty at risk or may lead to torture, extradition is denied (article 721 of the Code of Criminal Procedure). A number of bilateral agreements concluded between Morocco and some European and Arab countries take into account such considerations. A case in point is the agreement with the Arab Republic of Egypt (chapter 22) and the agreement with the Kingdom of Belgium (chapter 3) (see Annex 1).

39. Law No. 02-03 guarantees immigrants the basic rights during their stay on Moroccan soil. Article 26 prohibits the expulsion of pregnant alien females or alien minors. Equally, administrative authorities are required to explain their decision to deny a person entry into Morocco and the decision to return an individual. The same law provides for the right to appeal such administrative decisions. Other categories of persons exempt from deportation orders include:

- Aliens who can demonstrate by any means that they have been normally resident in Morocco since their sixth birthday at the latest;
- Aliens who can demonstrate by any means that they have been normally resident in Morocco;
- Aliens who have been married for at least one year to a Moroccan spouse;

- Aliens who are father or mother to a child who is resident in Morocco and has obtained Moroccan nationality, providing that they are in practice the child's statutory guardians and provide for its needs;
- Aliens normally resident in Morocco who hold one of the residence permits provided for by Moroccan law or international conventions and have not been sentenced by a confirmed judgement to at least one year's imprisonment, unsuspended;
- Female aliens who are pregnant;
- Alien minors.

40. As an exception, aliens may be expelled if their presence poses a threat to public order, general security or state security, as granted by international instruments such as article 13 of the International Covenant on Civil and Political Rights and article 32 of the Convention relating to the Status of Refugees.

41. It is worth noting that if a person is expelled and is unable, for exceptional circumstances, to leave Morocco immediately, this person may be kept at a location not affiliated to the prison services until such time he is able to leave the country. A written explanation for not enforcing the expulsion decision must be provided by the competent authority. The decision not to expel the person is subject to appeal. The enforcement of the expulsion order, in such cases, is suspended until a final decision is made. It is prohibited to expel an alien if he is recognised as a refugee, or if his request for asylum has not been examined.

42. Within the framework of providing protection for asylum seekers and following the conclusion of an agreement for the creation of an office for the United Nations High Commissioner for Refugees (UNHCR) in Morocco in July 2007, the Kingdom entered into a cooperation programme with UNHCR to prepare a study on the situation of refugees and to determine the best possible way of providing them with protection in accordance with the international instruments relating to human rights, in general, and the rights of refugees, in particular. This has led to the Ministry of Justice setting up a committee which, as a follow up to the programme, organised a number of awareness and training courses for judges. This same committee, in coordination with a joint governmental committee, was set up by the Ministry of Foreign Affairs and Cooperation. This coordination is intended to deal with or avert any functional shortcomings or confusion in dealing with cases of refugees. The process also has the aim of determining the causes of such confusion such as the need for awareness and training, or the need for a legislative review. Another committee comprising the various governmental sectors organised meetings with a number of refugees with a view to resolving their status.

43. When drafting the law on aliens' entry and residence and illegal immigration, The status of refugees was not overlooked. The law provides for the granting of a residence card to aliens who obtain refugee status (article 17). Aliens refused refugee status have the right to appeal the decision before the president of the Administrative Tribunal who, as a judge, has the authority to deal with cases expeditiously (article 20).

44. An alien granted a residence permit under the law may not be expelled unless he has been sentenced to a minimum of one year and has served that sentence (article 26). An alien in possession of a refugee document or has his case pending with UNHCR may not be expelled. A case in point is an Iraqi national who tried to leave Morocco using a forged passport. When arrested, he was tried and given a one month suspended sentence. As a result, the administrative authorities ordered his deportation to his country. He then declared that he had applied to UNHCR asking for asylum. The administrative authority

reversed the deportation order and the person was released from custody in accordance with articles 31, 32 and 33 of the Convention relating to the Status of Refugees.

45. With the special status of immigrants in mind, a special immigration directorate is created at the Ministry of the Interior, as well as a national observatory charged with the development of a national strategy on migration. Morocco continues its efforts to ensure that immigrants enjoy their rights including a fair trial, the presence of a defence lawyer at hearings, the use of an interpreter during questioning and respect for detention hours as provided for by law.

46. Morocco's geographical position makes it a departure point for a large number of emigrants as well as a transit post for immigrants from neighbouring countries. For these reasons, Morocco has signed a Memorandum of Understanding (MoU) with the Italian authorities in this regard. Also, as part of agreements concluded with other African countries, Morocco provides assistance to help them implement economic, social and cultural projects in the health and agricultural sectors to stem the tide of immigrants into the southern Sahara region.

47. With illegal migration and the smuggling of persons assuming new dimensions, economic and social policies in the host countries have become an imperative. Equally, governments and international organisations need to intensify cooperation if they were to deal with clandestine migration.

#### **Article 4** **Acts of torture as a crime**

48. Under Moroccan law, torture is considered as a crime in its own right and is treated under provisions different from those governing battery or violence committed by law enforcement officials.

49. Punishment of crimes of torture vary in length and nature depending on the form and seriousness of the act committed. A public official who tortures another person is punished with imprisonment ranging from five to 15 years and a fine ranging from 1,000 to 30,000 Dirhams (1 Euro = 10 Dirhams).

50. In cases of torture committed by a group of persons, as perpetrators or accomplices, or acts committed with the use of arms or the threat to use arms, punishment may reach 20 years of imprisonment and a fine of 20,000-50,000 Dirhams. The same punishment may also be imposed if the same crime is committed against a witness, a victim or a civil party for giving a statement, lodging a complaint, filing a case or is prevented from doing so.

51. To protect more vulnerable groups such as minors, persons with special needs and elderly and pregnant women from acts of torture by public officials, the threshold is raised to life imprisonment.

52. Taking into account the consequences of serious forms of torture, Moroccan legislation imposes harsher punishment for acts of torture leading to grievous harm on the victim. Punishment may reach 20 years imprisonment for acts leading to the loss or amputation of a limb, loss of sight in one eye or blindness, or to permanent disability. Punishment may increase from 20 to 30 years in prison if premeditation is established or the use of arms is involved.

53. Moroccan legislation takes into account a number of basic principles aimed at the restitution of the dignity of the victim. It has also extended the scope of accountability for those involved directly or indirectly in acts of torture. Under Moroccan law, courts meting out punishment to a public official for committing an act of torture are required to publish

the sentence handed down in one or more local newspaper or to have the sentence placed in certain locations to put torture commission to shame and to warn of the severity of the punishment for those who commit torture.

54. In line with Article 4 of the Convention against Torture, Moroccan legislation has extended the scope of responsibility to include the accomplice who is subject to the same punishment imposed on the perpetrator. Any person who, knowingly, aids and abets a perpetrator of an act of torture in any form is considered an accessory and is treated as a perpetrator. A public official privy to an act of torture and turns a blind eye to its commission is treated as a perpetrator. The multiplicity of perpetrators is considered as a compounding factor raising the threshold of imprisonment to 20 years.

55. To ensure that there is no impunity for perpetrators of acts of torture, national legislation, in accordance with article 4 of the Convention, considers the attempted commission of an act of torture a crime that has effectively taken place. The offence of torture is considered a crime as long as the perpetrator has initiated the act.

56. Crimes of torture are subject to the same general rules of the prescription period provided for in the criminal law and the Code of Criminal Procedure, which is 20 years. This is considered sufficient to prevent impunity. In response to the Committee's concerns in paragraph 5 (f) of document (CAT/C/CR/31/2), this provision in the general rules may be invoked by any party. As regards the recommendation by the Equity and Reconciliation Commission for compensation, Morocco is yet to make a decision to grant a general amnesty.

57. In response to the Committee's recommendation in 6 (e) of document (CAT/C/CR/31/2), and in the context of strengthening legal protection for individuals against any arbitrary actions taken by public officials in the course of exercising their functions, the Moroccan judiciary has launched inquiries into the actions of a number of public officials. In 2003 and 2004 there were 14 inquiries. In 2005, 20 inquiries were initiated, compared to 17 cases in 2006 and another 17 in 2007.

58. Moroccan courts have handed down varied sentences to a number of public officials for assault charges. In one case brought before Al-Ouyoun Appeals Court, two public officials, a security officer and a police lieutenant-colonel charged with battery and the use of a weapon, were sentenced to 10 years imprisonment for manslaughter (appeals case No. 7/165). In another case, six guards at the agriculture prison in Meknes, were charged with committing acts of torture, sexual assault and the use of violence (case No. 2006/248). Below is a table showing number of cases brought against police officers for the period 2007-8.

<i>Year</i>	<i>Category</i>	<i>No. of cases</i>
2003	Police officer	14
	Person vested with authority	20
2004	Police officer	6
	Person vested with authority	8
2005	Police officer	8
	Person vested with authority	12
2006	Police officer	10
	Person vested with authority	7
2007	Police officer	3
	Person vested with authority	3
2008	Police officer	4
	Person vested with authority	3

## **Article 5**

### **Extension of jurisdiction to cases of torture**

59. Under article 5 of the Convention against Torture, each State Party is required to take the necessary measures to establish its jurisdiction over crimes of torture. To that end, Moroccan law has set out a number of provisions prescribing the role of the state in pursuing the perpetrators of crimes of torture. Chapter 10 of the Criminal Code stipulates that Moroccan criminal legislation applies to all nationals, aliens and stateless persons who reside on Moroccan territory, taking into account the exemptions stated in domestic public law and in international law. Moroccan criminal legislation also applies to offences committed outside Morocco, if they fall under the jurisdiction of Moroccan courts.

60. Moroccan territory is not confined to land, air space and territorial waters. It includes Moroccan vessels and aircraft, owned by Morocco or by others, flying the Moroccan flag. Article 704 of the Code of Criminal Procedure provides for the jurisdiction of Moroccan courts to hear cases of offences committed on Moroccan territory regardless of the nationality of the perpetrator. The article also stipulates that the jurisdiction of Moroccan courts extends to any offence, one of the elements of which was committed in Morocco. This jurisdiction also extends to acts of complicity even if the main offence is committed outside Morocco by non-nationals.

61. The Code of Criminal Procedure has jurisdiction on all persons holding Moroccan nationality even if they commit an offence outside Moroccan territory. The same principle applies to non-Moroccan nationals who commit a crime against a Moroccan national on the territory of another state.

62. All legal provisions under Moroccan law aims to ensure that perpetrators of crimes of torture are held accountable for their acts through the extension of jurisdiction to all crimes against the safety of individuals.

## **Article 6**

### **Special requirements relating the arrest of persons involved in acts of torture**

63. The Code of Criminal Procedure, in conformity with article 6 of the Convention against Torture, provides arrested persons a number of guarantees compatible with the internationally-recognised basic principles of a fair trial. They include, according to Moroccan law, the immediate notification of the family of the detainee by the judicial police. This notification may be by telephone, orally or in writing, by a member of the police force. The records must make reference to the name of the person notified, the method, and the place and time of notification.

64. By law, a detained person whose detention has been extended, has the right to request that a judicial police officer contact a lawyer. The lawyer, having agreed to represent the detained person, has the right to ask the public prosecution to see his client within the first hour of the extension of detention. First contact between lawyer and client is limited to 30 minutes under the supervision of a judicial police officer in conditions that guarantee the confidentiality of the supervision. If the lawyer, because of distance, in particular, or for other reasons, is not able to obtain the authorisation to see his client, the officer is to exceptionally allow the lawyer to contact the detained person and present a report on the matter to the public prosecution.

65. The appointed lawyer may, within the extension period, present documents and written observations to the judicial police or to the public prosecution to be included in the

case file against an attestation that he has done so. This is in response to the concerns raised by the Committee in paragraph 5 (c) of document (CAT/C/CR/31/2). The representative of the King, or an appointed aide, may order the arrest of the alien implicated in the case when an extradition request for persons suspected of involvement in a crime of torture is issued. He should immediately inform the minister of justice and the King's private secretary at the Higher Council of the arrest. He, then must question the detainee within 24 hours following the arrest to establish the detainee's identity and to inform him of the charges brought against him.

66. Persons arrested on charges of having committed an act of torture are placed in one of the state prisons. A detainee may be visited by members of his family and by the lawyer taking up his case. In the latter case, the visit is private and for an unlimited period. If the detainee is an alien, he has access to a representative of the consular service or diplomatic legation of the country of his nationality. Morocco abides by the provisions of the Vienna Convention on Consular Relations of 1963. A detained alien also has the right to contact the diplomatic representation of the country of his nationality or the country under the jurisdiction of which he falls. Under this provision, the Moroccan judicial authorities have made 748 notifications to foreign diplomatic missions in 2008.

## **Article 7**

### **Punishment of persons involved in acts of torture**

67. In compliance with articles 6-9 of the Convention against Torture, the Kingdom of Morocco has adopted a number of legislative, institutional and practical measures aimed at strengthening the guarantees afforded to persons suspected of having committed acts referred to in article 4 of the Convention. They are the same guarantees afforded to all suspects under the provisions of the Criminal Code.

68. The new Code of Criminal Procedure of 2003 has introduced a series of the aforementioned measures. The presumption of innocence has been introduced for the first time into Moroccan legislation in conformity with the rights guaranteed under chapter 10 of the constitution. The Code of Criminal Procedure outlines the procedure of detention and the period for holding a suspect in detention or in custody. The Code also provides for procedures of preliminary investigation, which is subject to the monitoring of the public prosecution service under the powers given to it by law, to supervise the work of the judicial police, to inspect places of detention and to order a medical examination of a suspect to ascertain the infliction of torture. A request for a medical examination may be made by the suspect himself, the public prosecution or the investigating judge if his suspicion is aroused about marks on the body of the suspect.

69. To step up legal guarantees for the physical protection of persons as provided for in the legislation, article 446 of the Criminal Code was amended to give doctors and their assistants an exemption from professional secrecy to allow them to report any acts of violence or mistreatment inflicted on children and women within or outside the family home. Medical expertise is used as proof in a criminal case especially when combined with statements by witnesses of other evidence connected to the case.

70. The courts use such expertise to identify the perpetrators of acts of violence and torture. An example of such procedure is decision No. 20.82 by the Tangier Court of Appeal in case No. 13/99/369. Elements of the case relate to events leading to the arrest of an individual and a search of his vehicle. The search did not reveal any incriminating evidence, yet the owner of the vehicle was tortured to the point of losing consciousness. He was transported to hospital where he was pronounced dead. The version of events by the police officers involved in the incident was that the victim was suffering from ill health as a

result of using hallucinogen tablets. The judicial bodies, however, decided to widen the investigation and took statements from eyewitnesses and an autopsy was ordered to ascertain if the victim was under the influence of drugs. The course of events was summed up in the decision by the Tangier Court of Appeal as follows: "Based on the testimony of an eyewitness, the testimony of other witnesses acknowledging hearing the cries of the deceased before being transferred to hospital, the autopsy carried out by the toxins service confirming the absence of any toxic or prohibited substances, the examination of the body of the deceased by a doctor who confirmed the presence of violence marks before death and that death was caused by blows to the victim, the fact that the accused have tried to hide the identity of the victim and that they have visited the hospital two times to ensure that the victim has died, is sufficient proof that the accused have resorted to violence against the deceased causing his death involuntarily. The fact that death was caused by violent acts as confirmed by the autopsy, the criminal court finds the accused guilty of using violence leading to involuntary death. The accused are hereby sentenced to 10 years imprisonment".

71. Another case is No. 98/192 at the Criminal Court at the Chamber of Appeal in Taza. Five police officers were charged with battery leading to involuntary death. The incident took place during a raid against a group trading in alcohol where one person was arrested and held at a police station. The detainee was under the influence of alcohol and was transferred to hospital where he was pronounced dead. During the hearing, the court examined the evidence including witness statements and the result of the autopsy, and upheld the charges of battery and the use of arms to cause injury. The accused were found guilty and were sentenced to one year imprisonment. The judgement in this case is an example of Morocco's response to the Committee's recommendation in Paragraph 6 (k) in document (CAT/C/CR/31/2).

72. After sentencing, the offender is transferred to prison that comes under the supervision of a judge to serve the sentence handed down in accordance with the provisions of the Code of Criminal Procedure. Prisoners rights are guaranteed to ensure their reintegration into society. Legislation, such as articles 596 and 616 of the Code of Criminal Procedure, grant the supervising judge wide-ranging powers to inspect prisons whereby he is required to conduct monthly visits to prisons under his jurisdiction, monitor respect for prisoners' rights as stipulated in the articles of the law governing prisons, ensure the legality of detention measures and oversee the implementation of disciplinary procedures. The judge is also required to report on his visits to the minister of justice and to the public prosecution having checked the prison logbook and followed up on the conditions of inmates using a special card (see Annex 3).

## **Article 8**

### **Extradition of persons involved in acts of torture**

73. In accordance with article 8 of the Convention against Torture, Moroccan law contains a series of legal provisions relating to crimes of torture or the attempt to use torture when dealing with extradition mechanisms as part of international judicial cooperation.

74. While provisions under Moroccan law governing the extradition of criminals do not make a specific reference to the crime of torture because the Code of Criminal procedure does not enumerate in detail the offences that may be the subject of extradition, the Code does, however, recognise the offences and acts punishable under the laws of the requesting state.

75. As such, perpetrators of crimes of torture, under Moroccan law, are subject to extradition in accordance with article 4, paragraph 1, of the Convention.

76. The same principle applies to the bilateral agreements Morocco has entered into with other states. Moroccan law, does not exclude perpetrators of crimes of torture from extradition when a state with which Morocco has entered into a bilateral agreement with, makes such a request. Exclusions only apply to political, military and customs offences.

77. Morocco has received and responded to a number of requests for extradition, some of which relate to acts of assault and violence, from a number of states. One example is the request in 2008 by the French judicial authorities to their Moroccan counterparts to hand over a Dutch national accused of committing acts of violence and assault. The request was granted.

78. Under bilateral extradition agreements, there is no prohibition on the handing over of perpetrators of acts of torture except when it comes to observing the provisions of international conventions. Moroccan law gives the application of international instruments precedence over domestic law when it comes to international judicial cooperation, having ascertained that persons extradited would not be tortured in the requesting state. This reflects Morocco's commitment to extend judicial cooperation in fighting crime, especially acts of torture that may be committed by public officials entrusted with enforcing the law.

## **Article 9**

### **Assistance regarding crimes of torture within the framework of international judicial cooperation**

79. Morocco, under its international obligations, is committed to providing adequate assistance to other states in dealing with the offences prescribed by this Convention. For this purpose, national legislation has included provisions in domestic law to facilitate judicial assistance to foreign authorities. With this in mind, a number of international agreements, bilateral and multilateral, have been concluded with the aim of fighting all forms of crime, including torture, and to facilitate judicial assistance among states.

80. Provisions of the Code of Criminal Procedure regulate judicial relations with other foreign authorities (article 713 et seq.). They give the application of international conventions priority over national laws when it comes to international judicial assistance. International requests may include the collection of evidence connected with a crime of torture such as taking witness statements, inspecting sites or confiscating material connected to the crime. Judicial requests are normally passed through the diplomatic channels. But in urgent cases, they may be addressed directly to the competent judges.

81. Moroccan law, upon a request by another state, provides for the seizure of all items that may have been used in the commission of a crime of torture whether found in the possession of the person whose extradition is requested or at a later stage. It is also permitted to handover such items to the requesting state even when the person himself is not extradited for reasons such as death or escape.

82. Morocco also accepts summons by other states for witnesses living on its territory to testify in criminal cases. It is also permitted to temporarily transfer such a person, even when held in a Moroccan prison, to testify or to be questioned in person on condition that such a person is returned to Moroccan custody within a period of time set by the Moroccan authorities and after receiving guarantees for the safety of the witness including protection from physical harm. Morocco also accepts official complaints submitted by other states against Moroccan nationals responsible for crimes of torture or other crimes, inside or outside Morocco. The accused would be investigated and tried in Morocco in accordance with national legislation.



83. The Kingdom of Morocco is bound by a number of international bilateral and multilateral agreements in connection with international judicial assistance when it comes to such cases. This is an indication of Morocco's determination to cooperate in a positive manner with other states in combating torture and other forms of cruel, inhuman and degrading treatment. Such agreements are mentioned in page 12 and page 13 of the Kingdom's previous reports (CAT/C/66/Add.1) and (CAT/C/24/Add.2), respectively.

## **Article 10**

### **Training and information regarding the prohibition of torture**

84. In accordance with article 10 of the Convention against Torture, and in accordance with the general guidelines for reporting by State Parties (CAT/C/4/Rev.3), Morocco has taken a number of measures aimed at the dissemination of the culture of human rights, being universal human principles applicable to mankind. Morocco has played, from the start, an active role in the process. This was manifested in the Kingdom's initiative, in cooperation with the Swiss Confederation, to call on the Human Rights Council to adopt a universal declaration for education and training in the field of human rights. This drive stems from the firm belief in the importance of such education to persons vested with powers to enforce the law.

85. On the national level, Morocco is implementing a national programme for human rights education with the objective of integrating the principles of human rights into the syllabus of primary and secondary schools, and universities. The main purpose of the programme is to entrench the culture of human rights among the young through the educational system. The programme was launched in 1995 to coincide with the United Nations Decade for human rights education (1995-2004) and was continued within the Open Universal Programme of 2005-7 and the following years.

86. To ensure the widest possible dissemination of human rights education, especially among those who have daily dealings with the implementation and the enforcement of the law, the subject of human rights education has been included in training programmes designed for the police, the gendarmerie and persons vested with authority. Also, a review of other training programmes, from a human rights perspective, has been undertaken through a partnership agreement between the Ministry of the Interior and the Consultative Council with the same objective in mind.

87. From the early 90's, human rights education was included in the syllabus of training judges at the Higher Judicial Institute. A similar approach was introduced to field programmes for prison officers to develop in them a sense of understanding of how to deal with those under their supervision. The process was accompanied by a media and culture campaign to raise the level of awareness of respect of human rights and other values such as tolerance, justice, equality and dignity. The Ifrane Centre for Frameworks Development, which is part of the prison administration, on its part, organised a number of human rights training courses involving 2700 prison directors and staff.

88. As part of a wider scheme to involve the various segments of society including the government, national institutions, civil society organisations and activists in the juridical field, a number of seminars and training courses for law enforcement officers have been organised by the Ministry of Justice, in conjunction with International Association for the Prevention of Torture. Two training courses have involved prosecution judges, investigating judges, police officers, members of the Royal Gendarmerie, prison directors and other supporting services. The courses took place in December 2007 and the same month of 2008 to deal with the topic of "The legal framework and the judicial interpretation of torture as a crime". The Consultative Council for Human Rights organised a study day in

cooperation with Association on the Optional Protocol to the Convention. The event was attended by the chairperson of the United Nations Working Group on the Optional Protocol, a number of international and local experts, a number of government sectors, societies, the International Institute for Human Rights in Strasbourg and the Centre of Human Rights in Geneva.

89. The main objective of these courses was to raise the level of awareness among the segments responsible for applying the law. It goes without saying that raising the awareness of and laying emphasis on the respect of human rights and rejection of inhuman treatment would have a positive impact on the behaviour of those officials when it comes to protecting the liberties and dignity of individuals.

90. In an effort to further strengthen legal guarantees in police work, the supervisory body of this service has developed scientific methods to prevent any practices that may lead to infringements on the liberties and the rights of suspects. Equally, a code of conduct for the Arab police officer has been developed to govern their conduct with emphasis on human rights and the prohibition of torture.

91. In order to avoid any violations that may be committed by security units while on duty to disperse demonstrations and when dealing with sit-ins and riots, such units have adopted intervention methods and techniques that are compatible with international standards. Theoretical and practical training for such forces take into account respect for human rights instruments along the lines of what is practiced in a number of European countries. Moreover, the Moroccan government has embarked on a policy of drafting a law that regulates the right to protest and to demonstrate.

92. As for respect for prisoners' dignity, the Moroccan prisons law contains a set of commitments to be observed by prison staff, or face punishment. They include the prohibition to use violence against detainees, the use of abusive language or the use cuffs and chains.

93. To that end, awareness campaigns for prison staff include respect for the rights of inmates and human dignity. Prison directors and staff are enrolled in courses and participate in seminars dealing with the prohibition of torture and respect for human rights. This programme was launched a few years back and continues to be used.

94. As part of the efforts by the Kingdom to bolster human rights education and culture, a joint project involving national institutions, government sectors, civil society organisations and bodies, and jurists was launched in April 2006. The project has led to a national work plan to promote the culture of human rights. "The role of citizenry in promoting human rights" has the objective of inducting society to develop common values, at the epicentre of which are the principles of dignity, liberty, equality solidarity, tolerance and accepting diversity, in private and public life as well as the conduct of public institutions towards individuals. Over a period of five years the work plan concentrates on three main areas linked to each other: education, awareness and professional training. All three are intended to inject dynamism into society to enable its components —individuals, groups and institutions— to acquire the values and culture of human rights.

95. Morocco, in cooperation with the European Union and the United Nations Programme for Development (UNDP), also adopted a national plan for democracy and human rights based on the joint participation of all sectors. The plan was set in motion under the supervision of a committee representing a number of government sectors, national institutions and civil society organisations

## **Article 11**

### **Measures to prohibit torture in places of detention**

96. Morocco firmly believes in the need to have adequate measures in place to prohibit torture in places of detention. Moroccan law, in accordance with article 11 of the Convention against torture, provides for a series of procedures and measures that govern the rules and methods of interrogation. They also regulate the arrangements for detention and for the treatment of persons imprisoned, held in detention or in custody.

97. Under Moroccan law, a number of legal and judicial assurances are given and in particular those relating to contacting, in the earliest opportunity, a lawyer, a doctor and a family member. These assurances are meant to guarantee a detained person a humane treatment and protection against any physical harm regardless of the place of detention.

98. Moroccan law empowers prosecution judges to oversee the procedures, the duration and the commencement of custody in the places designated for such purposes. By law, the representative of the King is required to visit places of detention once a week and to inspect the records of persons held in custody and to see the conditions of detention. During these visits, the King's representative is authorised to take statements on the conditions of detention, rest periods and nutrition (see annexes 3 and 4).

99. In addition to the periodic visits conducted by the King's representative to detention centres, he, or one of his deputies, carry out surprise visits to such centres to verify that detention conditions are within the law and that the treatment of detainees is humane. The Consultative Council for Human Right, civil society organisations and members of Mohammed V Foundation carry out visits to a number of police stations and penitentiary establishments.

100. The public prosecution, when informed of cases of inhuman treatment, does not hesitate to conduct inspection visits to detention centre to prepare a report documenting the violations and make observations on failings. When such failings are reported, the King's representative orders a judicial investigation, according to which those responsible appear before a court.

101. As part of the supervisory mechanism of detention centres and the human conditions of detainees, Moroccan law has granted the judicial authorities powers to ensure that detention conditions are humane, and to prevent the commission any act of torture or degrading treatment.

102. In the same context, the King's representative conducts regular visits to penitentiary establishments in line with the authority given by law to the prosecution when it comes to ensuring the humane conditions of detention.

103. The Consultative Council for Human Rights has prepared a special guidebook on visits to detention centres, largely based on the Articles of the First Protocol.

104. Aware of the need to improve inmates' conditions and the state of penitentiary establishments as part of the drive to ensure humane conditions and to prohibit torture, Morocco has set up a new commission charged with the administration of prisons and the reintegration of prisoners. The commission's task is to ensure conditions compatible with international standards, prevent any violations by those responsible for enforcing the law in such establishments, guarantee the physical safety of inmates, provide better conditions for inmates to help them reintegrate, to oversee the construction of new prisons meeting international standards, and increase the budget of nutrition and medical services, all of which provide a response to the concerns expressed by the Committee in paragraph 6 (i) of document (CAT/C/CR/31/2).

## **Article 12**

### **Investigation into the commission of an act of torture**

105. In accordance with article 12 of the Convention against Torture whereby each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction, Morocco has brought its national legislation in line with this requirement. The Moroccan judicial authorities are bound by law to initiate an investigation when informed of or allegations are made into the commission of acts of torture.

106. In order to ensure that the authorities carry out their functions of investigating such cases, Moroccan law does not limit such action to the judicial authority only, but also grants the person subjected to acts of torture the right to request these authorities to medically examine him to determine the need for opening an investigation.

107. The Code of Criminal Procedure, in article 74, makes it mandatory for the King's representative, when requested to look into or when he has become aware of acts of violence, to order a medical examination by a medical expert.

108. To further reinforce such measure, Moroccan law also obliges public prosecution judges, in cases involving minors, to order a medical examination. In fact, by law all minors who make allegations about having been subjected to violence must be given a medical examination.

109. Under Moroccan law, the protection of persons against acts of torture is not limited to the victim himself. A third party has the right to take action, as the case is with minors suspected of having been subjected to torture. A lawyer acting on behalf of a minor can request the judicial authority looking into the case of a minor to order a medical examination.

110. The medical examination must lead to a medical report by a sworn doctor detailing the nature of violence or torture inflicted on the claimant, the level of physical disability and the extent of psychological trauma caused by the acts. The report is then referred to the public prosecution which would bring charges against those involved, leading eventually to bringing the suspect or suspects before a court. A number of sentences have been handed down in cases brought against police, gendarmerie and prison officers (see annex 2).

111. Moroccan law has expanded the scope of cases that may come under the requirements of a medical examination. Such requirements are not only mandatory for a prosecution judge and the law enforcement agency under his authority, but also for the investigating judge, who must order a medical examination upon the request of a person held in custody, or his counsel, for allegations of torture.

112. While a judge remains the first guarantor of the liberties of persons and is responsible for their protection against assault and physical harm, article 134 of the Code of Criminal Procedure obliges an investigating judge to order a medical examination on the person immediately, if signs of torture were detected (see annex 5).

113. In cases of this nature, the judicial authorities make every endeavour to unveil the truth in a thorough investigation. The prosecution, on its part, launches an independent and fair investigation expeditiously, and brings suspected perpetrators to justice.

114. The state's determination to stamp out any act that contravenes the applicable law and poses a threat to the physical safety of individuals is demonstrated by the number of judicial inquiries against law enforcement officials. In 17 cases brought against police officers in 2006 for cases relating to the implementation of the Convention against Torture,

sentences ranged from transfer, reprimand, warning and sacking to prison sentences. In 2008, only six cases were recorded.

115. In dealing with recent events in the town of Sidi Ifni where claims of the use of degrading methods, the Moroccan judiciary's demonstrated the importance of the respect for human rights regardless of ethnic, political or religious affiliation. The public prosecution launched an investigation into the claims by victims. All those responsible for the acts committed were brought to justice in accordance with the law. A fact-finding parliamentary committee conducted its own enquiry into the violations that took place during the events. Government officials, representatives of the civil society and citizens appeared before the committee, while members of the committee visited the scene of events. The report concluded that rape did not take place and that no deaths were caused, as was alleged by some organisations. The committee issued a number of recommendations including one regarding holding those responsible for the events accountable. It also recommended improvements to the economic and social infrastructure, calling on all political entities and civil society organisations to restrain their members. Another recommendation urged the media to cover events responsibly and to show respect for the ethics of the profession and for the law.

### **Article 13**

#### **Right of victims to lodge complaints with the competent authorities**

116. In accordance with article 13 of the Convention against Torture, The Code of Criminal Procedure provides for the rule of law and equality before it. Guarantees to protect the rights of the accused are enshrined in the procedures in place regarding persons held in custody and the supervision by the prosecution service on law enforcement agencies. Under this procedure, the health and the physical condition of the person in custody, his rest periods and questioning times, are taken into consideration in line with the Committee's recommendation in paragraph 5 (e) of document (CAT/C/CR/31/2).

117. In response to the Committee's recommendations and concerns when reviewing Morocco's third report, the Kingdom has taken a number of institutional measures to investigate cases of torture and the violation of individual's rights. They include the creation of a special unit within the Ministry of Justice dealing with grievances by victims in relation to judicial and procedural measures. The unit analyses the claims and refers them to the competent bodies which in turn refer them to the courts for the appropriate action.

118. A communications cell has been also created to ensure a channel of contacts between the government and Consultative Council for Human Rights. The cell is charged with looking into complaints by civil society organisations and the families of prisoners and victims. Investigations into such complaints are carried out in coordination with the prosecution service rapidly and effectively. Statements are heard from all parties, including the complainant, and evidence is gathered to build a case. When necessary, a medical examination is carried out on the victim before the prosecution service decides on a course of action.

119. To further bolster the rights of individuals, a victim may lodge a direct complaint with the presiding judge or with the investigating judge. He may also act as a civil party to demand compensation for damage caused.

120. As regards the recommendations of the Committee in relation to a number of complaints, investigation has led to solving some of the crimes and bringing the perpetrators to justice. Among them:

- The death of Al-Harithi Al-Tijanias caused by a round fired from the rifle of the company commander of the royal gendarmerie in Berkane when the latter was laying chase to the victim for the smuggling of fuel. The prosecution service at the Court of Appeal in Wajda ordered an inquiry into the incident under No. 07/282. Preliminary investigation No. 1 dated 2 March, 2007, and the autopsy report No. 07/50 of 3 July, 2007, has led the prosecution service to order an investigation into the conduct of the company commander for wrongful killing. A case file was opened under No. 07/252 and is now before the investigating magistrate.
- The death of a person in a Marrakesh police station as requested by the Committee in paragraph 5 (h) of document (CAT/C/CR/31/2). After appeal in 2008, an officer of the judicial police was charged and sentenced to 10 years imprisonment.

## **Article 14**

### **Right of victims to compensation**

121. Under Moroccan law, and in compliance with article 14 of the Convention Against Torture, the right of victims to compensation is one of main legal principles. Victims, a natural or moral entity, has the right to compensation regardless of the nature or source of the injury caused. Compensation is commensurate with the extent of injury regardless of whether the injury has been caused by a criminal act or otherwise.

122. These general principles apply to persons subjected to acts of torture committed by public officials or by individuals, or by criminal gangs. The right of victims of acts of torture to compensation is absolute.

123. One of the legal mechanisms in Moroccan law having a bearing on the rights of torture victims and is compliant with article 14 of the Convention, is the principle of double jeopardy which is intended to provide the added protection for the victim whereby the perpetrator of torture is personally responsible for the act.

124. Moreover, victims of torture have the right to seek compensation from the state for injury sustained as a result of the actions of public officials. The Moroccan judiciary has confirmed this principle in a number of cases including decision No. 94/33 of 19 June, 1996, by the Fez Administrative Tribunal. The responsibility of the security facility was upheld regardless of the responsibility of individuals for acts they committed. Similar decisions were taken by the same tribunal such as decision No. 128 of November 2002. The security facility, where an officer subjected a victim to battery, was not exonerated from responsibility.

125. Moroccan law provides for a number of assurances for compensation commensurate with the degree of injury caused including the full rehabilitation, physical and mental, of the victim.

126. In accordance with article 76 of the Code of Criminal Procedure, the Crown Prosecutor, when so requested or on his own initiative when he is presented with evidence justifying an examination, must require the person charged to undergo a medical examination to be carried out by a medical expert.

127. Similarly, the right of a torture victim to obtain compensation within a reasonable period of time is recognised by law which provides for simple procedures ensuring that victims can claim compensation without unnecessary delays affecting their rights.

128. The Code of Criminal Procedure, in accordance with article 14, paragraph 1, of the Guidelines on the Form and Content of Initial Reports (CAT/C/4/Rev.3), provides for procedures allowing the victim recourse to justice to seek compensation for acts of torture

he was subjected to. Article 2 of the Code stipulates that each person has the right to bring a case under public law for all crimes to ensure the application of the prescribed punishment, and the right to bring a civil suit to seek compensation for injury sustained as a result of the commission of the crime.

129. The right of a victim to compensation covers all forms of injury resulting from torture. They include, under article 7 of the Code of Criminal Procedure, compensation for physical or moral injuries, and material damage. Under Moroccan law, the victim is afforded various legal channels to obtain compensation as expeditiously as possible. A victim may, simultaneously, bring a case for compensation and a case under public law before a criminal court. He may also bring a civil suit before a civil court.

130. In order to preserve the right of victims to adequate compensation, Moroccan law guarantees that the collapse of a case under public law does not render a claim for compensation invalid. Moreover, the statutes of limitation that apply to cases under public law do not apply to the right of victims of acts of torture before civil courts.

131. To facilitate the process of individuals obtaining compensation, the Code of Criminal procedure sets out simplified legal measures to enable victims to claim compensation taking into account the degree of injury suffered and sparing them complex procedures. Accordingly, a victim may bring a claim of compensation at all phases of the procedure, during investigation, judgment or separately before a civil court. Moroccan law has dispensed with the formalities of bringing a case for compensation before a court. It suffices for a victim to submit a written request or make an oral plea.

132. The Moroccan judiciary, in a number of judgements, has found in favour of victims against police and gendarmerie officers in cases of battery and causing injury. The officers were given prison sentences and the victims were awarded compensation. An example of such cases is the decision by the Tetouan Court of Appeal on 23 March 2008. A police inspector was ordered to serve one year in prison and the victim be given 15,000 Dirhams in compensation.

133. Based on the above, it is clear that Moroccan law contains provisions intended to uphold the rights of individuals who have been victims of acts of torture and provide them with the following guarantees: first, the right to compensation; second, the extension of the scope of the right to do so; and third, simplifying the judicial measures to receive compensation. The main objective of these measures is to ensure full and adequate compensation for the victims for the consequences of the crimes committed against them. This is a principle clearly articulated in Chapter 8 of the Criminal Code. All the legal measures afforded to torture victims under Moroccan law are in unison with article 14 of the Convention against Torture.

134. For victims to obtain adequate compensation, their rehabilitation is borne in mind. The same applies to members of a family the bread-winner of which has died as result of acts of torture. Moroccan law provides for compensation commensurate with such circumstances through legal mechanisms incorporated into the Criminal code and the Code of Criminal Procedure.

135. Morocco has witnessed a unique experience as a result of the creation of the Equity and Reconciliation Commission. This body was set up following a recommendation by the Consultative Council for Human Rights and tasked with finding remedies for Morocco's past of serious human rights violations.

136. The Commission embarked on fulfilling its mandate by shedding light on the violations of human rights and acts of torture committed by public officials or their auxiliaries.

137. Terms of reference granted to the Commission have included unearthing the truth about the violations, conducting inquiries into their perpetration, receiving statements, accessing official archives and gathering information and inputs to help get to the truth from any available source.

138. The Commission has resorted to legal research and has pored over various reports, has conducted field investigations and hearings to listen to accounts by victims, witnesses and law enforcement officials. It has also visited locations known to have been the scene of human rights violations. Nearly 17,000 files have been revisited and 10,000 persons have received compensation as a result of the Commission's work which included 3500 hearings to record testimonies and verify information related to the violations.

139. In addition to the compensation awarded to the victims or their next of kin, the Commission has submitted proposals and recommendations on how to deal with the psychological and health rehabilitation as well as the social integration for eligible victims. It has also provided solutions to legal, administrative and professional problems affecting them. Up to 3 December 2008, a total of 16892 persons have benefited from the measures at a cost of 665, 942, 395.00 Dirhams (see annex 6).

140. Due to considerations relating to the fact that some parties or groups have struggled with collective suffering as a result of political violence and the ensued violations, the Commission has attached special importance to social diversity in dealing with victims cases and receiving and complaints. It has also paid special attention to collective compensation by recommending the adoption of a programme to support social, economic and cultural development in some towns and villages. The Commission has recommended the transformation of former and notorious detention centres into relics of institutional memory and a reminder of the need to develop the education of human rights.

141. Victims of serious human rights violation benefit from a health insurance cover which is intended to complement the compulsory cover. The arrangement is put in place by the National Fund for Social Security. The state takes full charge of the supplementary cover. The table below shows that 12,000 victims benefited from the scheme.

**Figures on the implementation of the recommendations by the Commission on Equity and Reconciliation**

<i>Health cover</i>	<i>Social integration</i>	<i>Administrative redress</i>	<i>Number of compensation cases</i>
3 087	770	90	16 892
702 under review	247 under review	247 under review	

**Article 15  
Value of confessions obtained under torture**

142. Article 293 of the Code of Criminal Procedure stipulates that confessions, like other forms of evidence, are subject to the discretion of judges. Any confession obtained through the use of violence or by coercion is considered null and void, and the perpetrator of acts of violence and coercion is punished in accordance with the provisions of the Criminal Code.

143. In response to the concerns expressed by the Committee in Paragraph 5 (g) in document (CAT/C/CR/31/2) following the discussion of Morocco's latest report, Moroccan law stipulates that any confession obtained under torture is considered null and void. This is intended to protect the public interest and not the interest of the individual only. Legislation goes even further by incriminating those who resort to coercion to obtain confessions as a deterrent to committing acts violating human rights.



144. The Higher Council considers any “confession obtained under torture renders the case file null and void” (decision No. 631 of December 1973 and decision No. 955 of 3 June, 1961). For the purposes of the two decisions, coercion and violence includes the moral element.

145. It should be noted that article 294 of the Code states that “written communication between the accused and his counsel may not be admitted as evidence”. This provision is intended to protect the client-counsel confidentiality and to discount any written communication from the accused to his counsel admitting to the occurrence of a specific crime. This represents protection and immunity when defending a client while aiming to get to the truth, which is the ultimate goal of judicial work.

146. The new Code of Criminal Procedure does not rely on a case file by a law enforcement agency in serious offences. In lesser offences, however, the case file is recognised.

147. The Higher Council’s decision of 25 December, 1963, states that “if the police case file contains a confession by the accused, the sitting judges have the full authority to assess the value of the confession, taking into account the circumstances in which the confession was obtained. If the judges return a not-guilty verdict, the police case file remains valid having been examined by them”. The judges, however, are willing to consider any other valid evidence to counter what is in case file applying the general principle of the discretion of the judge. A decision by the Rabat Court of Appeal dated 15 January, 1992, has considered the non-compliance with the legal procedure of preparing case files of serious offences rendered the case files inadmissible and could only be used for information purposes (see Morocco’s report to the Committee on Human Rights CCPR/C/MAR/2204/5).

148. For a confession to be valid as a piece of evidence, the judiciary set a number of conditions to be met. They stipulate that the confession is:

- Made by the accused personally and referring to himself;
- Related to the acts committed and the events of the incident;
- Explicit, clear and with no ambiguities;
- Made by a person enjoying his full faculties;
- Made by the accused voluntarily.

Confession obtained through the use of violence, coercion or torture has no value. Any confession where a causal link between obtaining it and the use of such methods has been established must be excluded. A court must look for such a link to reach a decision on the inadmissibility of the confession.

149. A court may only take a decision after hearing arguments presented during the sittings in the court (article 287) because an accused person is considered innocent until proven guilty by law in a fair trial (article 1). The accused has the right to have legal assistance, free of charge, throughout the trial.

## **Article 16**

### **Prohibition of cruel, inhuman and degrading treatment**

150. Morocco considers the protection of human dignity, and the physical and psychological safety of a person, an indivisible and an inalienable right afforded to all individuals in the face of repression and cruelty regardless of their degree. The Kingdom, in its entirety, prohibits all inhuman and degrading acts. The law guarantees every individual

protection from any injustice, infringing on his dignity and safety, that may be committed by a public official or a law enforcement officer, even if such injustice does not amount to acts of torture.

151. The criminal law prescribes punishment for any public official for ordering or committing an act that infringes on the personal liberty, or national rights of individuals. It also prohibits public officials, law enforcement offices and persons vested with authority from the use of violence, without legal justification, while in the line of duty. If convicted for the commission of such acts, they face double the punishment for the same acts committed by ordinary individuals. In cases of serious violence, punishment may reach 30 years imprisonment (Chapters 225 and 231 of the Criminal Code). Any person convicted for inciting or aiding and abetting the commission of such offences is considered an accomplice and faces the same punishment.

152. The state of Morocco is responsible for compensation awarded, under civil law, to victims of arbitrary acts committed by public officials. This provides guarantees of compensation to any person subjected to inhuman, cruel or degrading treatment as well as the punishment of the perpetrators.

153. The scope of protection, under domestic law, extends to all elements of human dignity and personal privacy. Any public official showing no respect for the sanctity of abode may be punished by up to one year imprisonment (Chapter 230 of the Criminal Code). Arbitrary detention is prohibited under the law. Its perpetrators are punished by imprisonment in proportion to the gravity of the act. All individuals have the right to have their honour, dignity and liberty respected, and any discrimination in treatment constitutes a separate offence (Chapters 1-431 and 4-431 of the Criminal Code).

154. It must be noted that provisions of this convention apply in the same way to all forms of inhuman acts. Morocco considers the dignity of individuals and their right to physical and psychological safety indivisible and require protection under all circumstances and in the face of all forms of injustice be they torture, or other forms of inhuman, cruel or degrading treatment.

155. To ensure the protection of all individuals from degrading acts, Morocco has introduced a series of wide-ranging and fundamental reforms. The Code of Criminal Procedure was amended to regulate the procedures of detention of individuals by the judicial police. The period of custody was reduced to 48 hours with an extension of another 24 hours under exceptional circumstances. The conditions of detention were improved, whereby it is compulsory to segregate men from women and adults from minors. The family of a person in custody is to be informed by a police officer. All these reforms are in line with the recommendation of the Committee in paragraph 5 (d) of document (CAT/C/CR/31/4).

156. Law No. 98-23 on the administration of prisons, and the decree regulating its application, provides inmates with the basic guarantees which are compatible with the minimum standard requirements. Inmates rights are also guaranteed under the United Nations General Assembly resolution 169/34 of 17 December, 1979, on the Code of Conduct for Law Enforcement Officials. It is prohibited to commit inhuman or degrading acts against inmates. Prison officials and any other person authorised access to detention places are strictly prohibited from the use of violence and abusive language, and are required to treat inmates humanely, equitably and without discrimination.

157. In order to protect the human dignity of inmates, any type of work they are engaged in must not cause pain. It is also prohibited to use hand-cuffs, chains or straightjackets except in extraordinary circumstances and periods not exceeding the time required, and upon the orders of the director of the prison or the doctor when there seems to be no other

means of restraining the detainee and preventing him from causing injury to himself or to others.

158. Disciplinary measures for inmates prohibit the use of cruel punishment. It is also prohibited to place minors in solitary confinement. When appearing before a disciplinary panel, inmates have the right to be accompanied by a person of their choice to be present at the hearing. They also have the right to submit grievances to the director of the prison, the representative of the prisons administration, the judicial authorities or the regional supervisory body. To coincide with entry into force of the new law against torture, the prisons administration issued a memorandum to all prison penitentiary establishments urging them to adhere to the legal requirements for the use of solitary confinement as a disciplinary measure. The administration also organised a number of meetings with the directors and staff members to raise the level of awareness regarding the developments in the law against torture, and to urge them to ensure that the human dignity of inmates is respected and to bring solitary confinement cells to the required standards.

159. Women inmates, in addition to the guarantees provided to all prisoners in general, enjoy special protection that takes into account the special needs of women. If a penitentiary establishment has to accommodate inmates from both sexes, a separate wing is designated for women, and female guards are assigned to the wing. No men or male staff members including the director of the establishment, are allowed into the women's wing except in the specific cases outlined in administrative directives and in the company of a female staff member.

160. It is worth noting in this regard, the role of collective work of civil society organisations and the Mohammed VI Foundation in the effort to reintegrate inmates. A number of societies organise various social and reintegration activities on the premises of the penitentiary establishment. The aforementioned organisation has set up a number of pedagogical centres within prison establishments.

161. In order to deal with the problem of prison overcrowding, Morocco has adopted a two-pronged policy to deal with the issue. The first involves a drive to rationalise decisions to detain individuals. Judicial officials have been trained and inducted on refraining from the excessive use of preventive detention. More efficient procedures and alternative methods of punishment such as reconciliation, bail and suspended fines and sentences are also being relied on. The draft Criminal Code, which is under consideration, paves the way for alternative punishment such as community work or the denial of certain rights in lieu of imprisonment.

162. The second policy aims at expanding the capacity of prison establishments through a programme for building new institutions to cover the needs of all courts of first instance. The objective is to build prisons that meet the standards where every inmate would have three square metres. Eight new prison compounds have been constructed since 2001 with a total surface of 27,000 square metres. Other establishments were rehabilitated and expanded. It must be noted here that there is 59 prison establishments in Morocco with a total surface of 81,338 square metres. Greater emphasis has been given to areas with higher levels of overcrowding like Agadir, where three more prisons have been built, in Ait Melloul, Tiznit and Taroudant, in line with the recommendation by the Committee in paragraph 5 (i) of document (CAT/C/CR/31/2).

163. It is important to underscore the financial and human resources constraints Morocco is facing in ensuring optimal prison standards in line with international norms. However, the desire for reform and to provide protection for all prisoners against degrading treatment remains at the centre of Morocco's policy to build a democratic society. A society where the dignity of all human beings is respected, and where public officials are at the service of individuals under the rule of law.

### **Part III**

## **Measures taken by Morocco in response to concerns raised by the committee and implementation of its recommendations since the third report**

164. In accordance with recommendation 6 (j) in document (CAT/C/CR/31/2) requesting the designation of part of the report to responding to the concerns expressed by the Committee, it is worth noting that Morocco has and continues to cooperate positively with the Committee and takes the opportunity of presenting the current report to provide detailed information.

165. With respect to recommendation 6 (a) regarding a definition of torture in the Criminal Code, Moroccan legislation provides such a definition under Chapter 1-231 of the Code in line with Article 1 of the Convention.

166. In conformity with recommendation 5 (b), and in response to the concerns expressed in paragraph 5 (a) relating to the provision of information on the prohibition of torture under all conditions notably in exceptional circumstances, the Committee's attention is drawn to Article 2 of this report. Under Moroccan law, all acts constituting an offence, torture or otherwise, are prohibited. No circumstances, exceptional or not, may be used as justification for acting in contravention of the law

167. As regards the concerns of the Committee in paragraph 5 (c), it must be noted that according to the Code of Criminal Procedure the period of custody is 48 hours, and that the 24 hours extension is a mere exception and is strictly regulated by conditions and guarantees provided for in the Code.

168. In the case of the prohibition of impunity for perpetrators of acts of torture, Paragraph 5 (g) refers to concerns expressed by the Committee on the statutes of limitation applicable to crimes of torture. It must be noted that although Moroccan law does not make a specific reference to the application of the statutes of limitation to crimes of torture, the law provides for such a provision without listing all offences. But a general rule, the statutes of limitation is 20 years, and may be even longer depending on the length of the legal procedures stipulated. Effectively, the case remains open and the victim has the opportunity to lodge a complaint with the competent authorities.

169. As regards the right of a person to have a lawyer, to be examined by a doctor and inform his family of the arrest, all of which concerns raised by the Committee in paragraph 6 (h), The Code of Criminal Procedure provides for these rights.

170. Regarding concerns mentioned in paragraph 5 (g) the value of a confession made under torture, article 15 of this report addresses this concern. Moroccan law does not recognise a confession made through the use of force or coercion, in line with the recommendation made by the Committee in Paragraph 6 (h).

171. In response to the concerns of the Committee in paragraph 5 (i) on prison overcrowding, the Committee's attention is drawn to article 16 of this report. The prisons administration has taken a series of measures to improve the conditions of inmates and penitentiary establishments with an increased budget.

172. In paragraph 5 (e) the Committee expresses concern for the lack of information about measures taken after allegations of torture have been made. Morocco has put in place a strategy to deal with impunity, leading to proceedings against and convictions for a number of judicial police officers (see annex 7).

173. As for concerns mentioned in paragraph 5 (h) about the number of deaths in prisons, 148 cases were recorded in 2008, the majority of which were due to natural causes, suicides or deaths caused by other inmates. In 2009, 40 death cases were recorded.

174. With regard to the concerns raised by the Committee on additional information for compensation given to victims of past serious human rights violations, article 14 of this report details the damages paid out for material loss and moral injury (see annex 6).

175. In paragraph 5 (d), the Committee expresses concerns about the role of the National Surveillance Directorate (DST). It must be noted that staff members of this agency are not Judicial police officers and do not act as such. The King's representative conducted a visit to the headquarters of the DST and reported on the visit. No detention unit was found at the premises.

176. In line with the Committee's recommendation in paragraph 6 (i) for the withdrawal of reservations, Morocco has already withdrawn its reservation to article 22, while discussions are ongoing to consider a similar move on article 20.

177. As regards recommendation 6 (k) on statistics on crimes of torture, inquiries and criminal proceedings, this report tries to provide as much information as possible by including statistical data in the body of the text as well as in the annexes.

## **Annex 1**

### **(a) Agreement on judicial cooperation, fighting crime and extradition between the Kingdom of Morocco and the Arab Republic of Egypt**

“Article 22

Extradition requests shall not be granted if the requested state has reason to believe that the request for extradition is, although warranted because of the commission of an offence under public law, based on considerations of race, religion, nationality, political opinion or have his life in danger for any of these consideration.”

### **(b) Agreement between the Kingdom of Morocco and the Kingdom of Belgium on extradition**

“Article 3

1. Extradition requests shall not be granted if the offence for which the request is made is political or of a political nature in the requesting country.
2. The same rule shall apply if the requested state has reason to believe that the extradition request is, although purports an ordinary crime, to prosecute a person on the basis of his ethnic origin, religion, nationality, political opinion or have his life in danger for any of these considerations

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**Annex 2****Criminal proceedings for acts of violence by police officers  
and officials vested with authority**

<i>Year</i>	<i>Category</i>	<i>No. of cases</i>
2003	Police officer	14
	Person vested with authority	20
2004	Police officer	6
	Person vested with authority	8
2005	Police officer	8
	Person vested with authority	12
2006	Police officer	10
	Person vested with authority	7
2007	Police officer	3
	Person vested with authority	3
2008	Police officer	4
	Person vested with authority	3

## Annex 3

### Visits to prison establishments in 2006, 2007 and 2008

#### 2006

<i>Judicial District</i>	<i>Instructing judge</i>	<i>Public prosecution</i>	<i>Investigating judge</i>	<i>Juvenile judge</i>	<i>Rehabilitation Institution</i>	<i>Regional Committee</i>
Fez	30	35		3		
Safi	31	23		11		
Marrakesh	32	16				1
Rabat	13			1		
Casablanca	7	3				
Al-Rashidiya	1	1		1		
Agadir	14	32				2
Ouarzazate	12	6				1
El-Ayoun	12	4				
Oujda	7	13				1
El-El-Jadida	19	3		1		1
Meknas	29	18				3
Khouribga		3				
Taza	17	6				
Nador	9	3				
Beni Mellal	12	5				5
Settat	22	26				
Tangier	24	20				1
Tetouan	9	3				
Al-Hoceima		13				
Kenitra	32	32		6		2
<b>Total</b>						



**2007**

<i>Judicial District</i>	<i>Instructing judge</i>	<i>Public prosecution</i>	<i>Investigating judge</i>	<i>Juvenile judge</i>	<i>Rehabilitation Institution</i>	<i>Regional Committee</i>
Fez	13	17				1
Safi	16	10		2		
Marrakesh	14	6				
Rabat	5					1
Casablanca	2	1				1
Al-Rashidiya	2	1				
Agadir	6	7				
Ouarzazate	6	3				
El-Ayoun	3	3				
Oujda	1	3				
El-El-Jadida	4	12		2		
Meknas	12	9				1
Khouribga						
Taza		7		1		
Nador	1					
Beni Mellal	6	4				1
Settat	6	9				
Tangier	9	10				
Tetouan	3	7				
Al-Hoceima		1				
Kenitra	12	5				
<b>Total</b>	<b>121</b>	<b>115</b>		<b>5</b>		<b>8</b>

**2008**

<i>Judicial District</i>	<i>Instructing judge</i>	<i>Public prosecution</i>	<i>Investigating judge</i>	<i>Juvenile judge</i>	<i>Rehabilitation Institution</i>	<i>Regional Committee</i>
Fez	8	18	4	2	1	
Safi	15	20		5		
Marrakesh	24	9				
Rabat	10	1				
Casablanca	12	1				1
Al-Rashidiya	3					
Agadir	10	13				
Ouarzazate	8	4				1
El-Ayoun	5	2				
Oujda	2	1			1	
El-El-Jadida	5	5				
Meknas	17	5				
Khouribga			1			
Taza	5	10	1		1	
Nador		3				
Beni Mellal	5	2				
Settat	2	17				
Tangier	15	19				
Tetouan	2	1				
Al-Hoceima	2	2				
Kenitra	31	19				2
<b>Total</b>	<b>281</b>	<b>151</b>	<b>7</b>	<b>7</b>	<b>3</b>	<b>4</b>

## Annex 4

### Figures for prison cases, 2007-8

<i>Case</i>	<i>2007</i>	<i>2008</i>
Complaints by inmates	855	604
Hunger strike	821	627
Offences	378	267
Deaths	124	134
Escapes	44	55
Visits by instructing judges	125	195
Visits by prosecution service	117	162
Visits by regional committee	8	4
Visits to mental institutions	5	13
Visits by investigating judges	1	7
Visits by juvenile judges	5	8
Visits by Chambers' judges		3
Miscellaneous	64	156
<b>Total</b>	<b>2 169</b>	<b>2 235</b>

## Annex 5

**Figures for medical examinations carried out on persons in accordance with articles 73, 74 and 134 of the code of Criminal Procedure of 2008**

<i>Judicial district</i>	<i>Instructing authority</i>		<i>Result of examination</i>		<i>Judicial action</i>	
	<i>Prosecution</i>	<i>Investigating judge</i>	<i>Prosecution</i>	<i>Investigating magistrate</i>	<i>Prosecution</i>	<i>Investigating judge</i>
El-Ayoun Court of Appeals		9				
El-Ayoun Court of First Instance	1		Fall as result of escape attempt		No action for lack of evidence	
Es-Semara Court of First Instance						
Wadi El-Dahab Court of First Instance						
Taza Court of Appeal						
Taza Court of First Instance						
Guercif Court of First Instance						
Al-Hoceima Court of Appeal		1		Simple bruises to the skin		Request by the defence of the accused to declare inquiry report null and void dismissed
Ouarzazate Court of Appeal						
Ouarzazate Court of First Instance						
Tetouan Court of Appeal						
Chefchaouen Court of First Instance						
Tetouan Court of First Instance	1				Examination refused by judges	
		1	Injured ankle as a result of fall			
Settat Court of Appeal						
Birchide Court of First Instance						
Bin Ahmed Court of First Instance						

<i>Judicial district</i>	<i>Instructing authority</i>		<i>Result of examination</i>		<i>Judicial action</i>	
	<i>Prosecution</i>	<i>Investigating judge</i>	<i>Prosecution</i>	<i>Investigating magistrate</i>	<i>Prosecution</i>	<i>Investigating judge</i>
Khouribga Court of Appeal		1		Negative		No action for lack of evidence
Khouribga Court of First Instance	2	1	Negative	Negative	No action taken for lack of evidence	Awaiting examination results
Oued Zem Court of First Instance	1		Awaiting result			
Abi Gied Court of First Instance						
Agadier Court of First Instance						
Inezgane Court of First Instance						
Taroudant Court of First Instance						
Kalmin Court of First Instance						
Tiznit Court of First Instance						
Tan Tan Court of First Instance						
Tata Court of First Instance						
Tangier Court of Appeal	1		25% disability		Copy of case file referred to the representative of the King at the Court of First Instance, Ksar el-Kbier	
Tangier Court of First Instance						
Court of first Instance, Ksar el-Kbier	1	1	Negative	Immobility for 15 days	No action taken	No action taken
		1		Immobility for 18 days		No action taken
El-Araich Court of First Instance						
Assila Court of First Instance						
Er Rachidia Court of Appeal						
Er Rachidia Court of First Instance						
El-El-Jadida Court of Appeal	1		Victim is pregnant		Accused referred to criminal court and sentenced to three years imprisonment	

<i>Judicial district</i>	<i>Instructing authority</i>		<i>Result of examination</i>		<i>Judicial action</i>	
	<i>Prosecution</i>	<i>Investigating judge</i>	<i>Prosecution</i>	<i>Investigating magistrate</i>	<i>Prosecution</i>	<i>Investigating judge</i>
El-Jadida Court of First Instance						
Sidi Noor Court of First Instance	1		Victim sustained scratches and injuries as a result of collision with hard surface		Case referred to the prosecutor at El-Jadida Court of Appeal	
Kinetra Court of Appeal		1		Positive		Case file returned to the police for further investigation
Kinetra Court of First Instance	1	1	Injuries compatible with beating	Injuries compatible with beating	Yet to be referred to the prosecution service	No action taken. Awaiting completion of questioning
Sidi Slimane Court of First Instance						
Sidi Qacem Court of First Instance						
Souq Arabi el-gharb Court of First Instance						
Wazan Court of First Instance						
Fez Court of Appeal		1		Juvenile suffered from cardiac hypertrophy, exacerbated by detention		Juvenile transferred to El-Zayat Centre
		1		Victim suffering from schizo-phrenia		Decision to be made based on expert opinion
		1		Injuries sustained do not warrant granting total disability		Decision to be made based on expert opinion
		1		Injuries sustained do not warrant granting total disability		Decision to be made based on expert opinion
		1		Total immobility for 20 days, temporary partial disability		Decision to be made based on expert opinion
		1		Total immobility for 20 days, temporary partial disability		Decision to be made based on expert opinion

<i>Judicial district</i>	<i>Instructing authority</i>		<i>Result of examination</i>		<i>Judicial action</i>	
	<i>Prosecution</i>	<i>Investigating judge</i>	<i>Prosecution</i>	<i>Investigating magistrate</i>	<i>Prosecution</i>	<i>Investigating judge</i>
		1		Suspect suffers from chronic mental illness		Report included in case file pending decision
		4		Pending		
		1		No signs of violence on suspect		Awaiting appointment of defence counsel
		1		Positive		Pending
Fez Court of First Instance						
Sefrou Court of First Instance						
Bowman Maysor Court of First Instance						
Taounate Court of First Instance						
Rabat Court of Appeal						
Rabat Court of First Instance						
Tamara Court of First Instance						
Sella Court of First Instance						
El-khmisat Court of First Instance						
El-Roumani Court of First Instance						
Asfi Court of Appeal						
Asfi Court of First Instance						
Sawira Court of First Instance	1		Immobility for 20 days		Examination kept pending by the prosecution awaiting notification of the person concerned	
Youssoufia Court of First Instance						
Miknas Court of Appeal						
Miknas Court of First Instance						
Khenifra Court of First Instance						
Midelt Court of First Instance						
Wajda Court of Appeal						

<i>Judicial district</i>	<i>Instructing authority</i>		<i>Result of examination</i>		<i>Judicial action</i>	
	<i>Prosecution</i>	<i>Investigating judge</i>	<i>Prosecution</i>	<i>Investigating magistrate</i>	<i>Prosecution</i>	<i>Investigating judge</i>
Wajda Court of First Instance						
Berkan Court of First Instance						
Jaij Bouarfa Court of First Instance	3		No signs of violence		Under investigation	
Beni Mellal Court of Appeal						
Beni Mellal Court of First Instance						
Azillal Court of First Instance						
Belfqih Bin Salih Court of First Instance	1		No signs of violence		No action taken for lack of evidence of assault	
	1		No signs of violence		No action taken for lack of evidence and complainant retracting charges	
	1		Immobility for three days		Case file referred to the prosecutor at Beni Mellal Court of Appeal	
Kasabat Tadla Court of First Instance						



## Annex 6

### Data on the implementation of the recommendations of the Equity and Reconciliation Commission

#### Financial compensation:

- Total beneficiaries: 16,892
- Total amount paid out up to 30 December, 2008: 665,942,395.00 Dirham
- Amount transferred by the prime minister's office to victims up to 10 December, 2008: 598,849,759.00 Dirham
- Total amount paid out up to 19 April, 2008: 538,648,827.00
- Reminder of funds allocated by the independent arbitration commission for compensating victims of involuntary disappearances and arbitrary detention: 1,000,000,000.00 Dirham

#### Health coverage:

- Number of cases: 4,175
- Cases referred to the National Fund for Social Security: 3,292
- Cards issued: 3,087
- Cards distributed: 2,385
- Cards to be distributed: 702
- Cases under consideration by the National Fund: 205

#### Social Integration:

Number of cases sent to the prime minister's office of beneficiaries of social integration	770	75.71%
Number of cases to be sent to the prime minister's office	247	24.29%
<b>Total</b>	<b>1 017</b>	<b>100%</b>

**Administrative settlement:**

<i>Sector</i>	<i>Cases sent</i>	<i>Cases pending</i>	<i>Cases considered</i>	<i>Cases decided</i>
Ministry of the Interior	104	59	45	8
Ministry of Health	21		21	5
Ministry of Agriculture	14	12	2	2
Ministry of Finance	4		4	2
Ministry of Youth and Sport	7		7	4
Ministry of Justice	10	8	2	2
Sector	Cases sent	Cases pending	Cases considered	Cases decided
Postal service	2		2	1
Ministry of Education	126	2	124	32
National Defence Administration	17	17		
Royal Air Maroc	3	3		
El-Cherif Phosphate Bureau	45	45		
National Railways Administration	8	8		
National Electricity board	4	4		
Ministry of Supplies	13	13		
Ministry of Housing and Reconstruction	1	1		
Ministry of Planning	3	3		
Ministry of Labour	2	2		
Royal Court	6	6		
Ministry of Foreign Affairs and Cooperation	1	1		
Savings Fund	1	1		
The Independent Water and Electricity Distribution Agency	6	6		
Ministry of Energy, Minerals, Water and the Environment	1	1		
Al-Magrib Al-Arabi News Agency	2	1	1	1
Ministry of Industry, Trade and Modern Technology	3		3	1
National Drinking Water Board	2	2		
National Tea and Sugar Board	2	2		
Ministry of Transport	2	2		
Ministry of Public Works and Training	4	4		
<b>Total</b>	<b>414</b>	<b>203</b>	<b>211</b>	<b>58</b>

## Annex 7

### List of measures taken regarding deaths in police and gendarmerie stations

<i>Full Name</i>	<i>Date and place of death</i>	<i>Decision</i>	<i>Court/Case No.</i>	<i>Remarks</i>
Al-Mukhtari Abdelquadir	29 November, 2003 in Wajda	The deceased was arrested while under the heavy influence of alcohol and having sustained a gash above the left eyebrow. He was transported to hospital for treatment. When questioned, it transpired that he was the subject of an arrest warrant for battery and causing injury. He was kept in remand where his condition deteriorated. He was transferred to the Intensive Care Unit. He was pronounced dead on 10 December, 2003. The inquiry into the cause of death established that the deceased was beaten by Yahiya Belhafidh who was charged with battery and grievous bodily harm leading to involuntary death as outlined in case file No. 98/2004. Belhafidh was sentence to eight years imprisonment. The judgement was upheld by the Court of Appeal.		
Toufic Nasser	On 9 June, 2003, Toufic Nasser died while in custody at a police station. Testimony from other individuals in custody with the deceased confirmed that at 4.30 Nasser asked the guards for medication but died shortly after.	The deceased, as a result of a dispute with Ameen Betrahra, stabbed the latter. The victim was taken to hospital and Nasser was arrested but died while in custody.  The autopsy showed that Nasser died as a result of pulmonary problems and a heart condition.  Having examined the case file, the prosecution questioned Betrahra and charged him with involuntary homicide. The criminal court acquitted the accused. The decision was upheld by the Court of Appeal.	Rabat, MC 04/804 and MCA 26/05/240	The appeal decision was not contested

<i>Full Name</i>	<i>Date and place of death</i>	<i>Decision</i>	<i>Court/Case No.</i>	<i>Remarks</i>
Mohamed Jahoun	Police station	<p>While under the influence of alcohol, the deceased attacked the home of Hameed Al-Moumini. A fight ensued and Al-Moumini stabbed the deceased several times in the head and other parts of the body. The deceased sustained serious injuries as a result of which he was taken to hospital for treatment.</p> <p>The police inspected the location and established that the deceased smelt of alcohol and that he was wanted in connection with battery, theft and causing material damage and injury with a knife. He was remanded in custody. When a roll call for detainees was conducted, the deceased did not respond. He was found dead.</p> <p>The cause of death was established as being the wounds sustained in the altercation with Hameed Al-Moumini. Al-Moumini was charged with premeditated murder and his parents with complicity. On 2 October 2003, Al-Moumini was sentenced to 15 years in prison for involuntary homicide.</p>	Fez Court of Appeal	

<i>Full Name</i>	<i>Date and place of death</i>	<i>Decision</i>	<i>Court/Case No.</i>	<i>Remarks</i>
Mustafa Bounawara	On 20 February 2001, Mustafa Bounawara attacked Saeed Lbeetchet with an iron bar. The latter responded by stabbing Bounawara with a knife in the back before escaping. Bounawara reported to the police station with blood gushing from his back. He was agitated and uncontrollable. He fled the station and was pursued by police officer Ayat Abdelkebir and two other officers. He was brought back to El-Daymouma police station. As his condition deteriorated, he was taken to hospital before being returned to the same station. However, on 21 February 2001, his condition worsened and he was taken to hospital where he died.	<p>The autopsy concluded that the cause of death was the stab wound to the back. The knife penetrated the body of the deceased eight centimetres puncturing one of the lungs.</p> <p>Having examined the police report No.395 of 23 February 2001, Saeed Lbeetchet was brought before the investigating magistrate and was charged with battery and causing injury leading to involuntary death. Ayat Abdelkebir (policeman) also appeared before the judge for the illegitimate use of force. The judge ordered proceedings against the two under case file No. 22/2001/426.</p> <p>On 19 February 2002, the criminal court sentenced Lbeetchet to 15 years and the payment of 50,000 Dirhams in damages, and acquitted Abdelkebir.</p>	Rabat Court of Appeal	