



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

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COMMITTEE AGAINST TORTURE

Thirty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 577th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 November 2003, at 10.05 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.577/Add.1.

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of Morocco (CAT/C/66/Add.1 and Corr.1;
HRI/CORE/1/Add.23/Rev.1 and Corr.1)

1. At the invitation of the Chairperson, Mr. Amzazi, Mr. Benhaddou, Ms. Ayoubi Idrissi, Mr. Dahbi, Mr. Farhane, Mr. Hilale and Ms. Hoummane (Morocco) took places at the Committee table.
2. Mr. HILALE (Morocco), introducing the third periodic report of Morocco (CAT/C/66/Add.1 and Corr.1), said that his country continued to make ever greater efforts at the legislative, institutional and practical levels to promote and protect human rights and fundamental freedoms. In an official statement delivered in 2002, King Mohammed VI had highlighted the need to increase the financial and human resources allocated to the Department of Justice with a view to expediting the process of judicial reform. The draft reform of the Criminal Code and the adoption of a new Code of Criminal Procedure constituted the cornerstone of the reform of the criminal justice system, which would result, inter alia, in a strengthening of the presumption of innocence, a close relationship between sentencing and a fair trial, the creation of police custody monitoring mechanisms, institution of the function of a visiting magistrate and the reorganization of juvenile justice.
3. In order to bring Morocco's domestic legislation into line with the country's international human rights commitments, a major legislative reform had been under way since the 1990s which had resulted in a full revision of the Mudawwanah or personal status code, with a view to ensuring greater equality between spouses and promoting the rights of family members. The scope of liberties had also been broadened through the adoption of a new Code of Public Liberties.
4. A series of measures relating to custody, interrogation and detention conditions had been adopted under the new Prisons Act. The new measures sought to enhance monitoring, improve prison conditions and classify acts of torture, attempts to commit torture and complicity in torture as criminal offences. In addition, the adoption in June 2003 of legislation relating to the entry and stay of aliens and illegal immigration was intended to regulate expulsion, refoulement and extradition. Circulars had been sent to the ministries concerned regarding the strict observance of provisions relating to time limits and conditions of police custody, and legal action and sanctions had recently been taken against a number of judges in that connection.
5. In keeping with the new concept of authority advocated by King Mohammed VI, institutional reforms had been introduced which included the establishment of a Grievances Board or Diwan al-Madhalim. That institution would not only be a flexible and efficient tool for mediating between the general public and the authorities and for addressing complaints, but would also act as a driving force for legislative, administrative and judicial reform. The Board would submit an annual report on its activities to the King as well as periodic reports, remarks and recommendations to the Prime Minister and the Consultative Council on Human Rights (CCDH). In cooperation with the latter, the Grievances Board would also be

concerned with the rights of the Moroccans illegally confined in Tindouf, in violation of the provisions of international humanitarian law and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and would seek to preserve the dignity of Moroccan nationals residing abroad.

6. Two new mechanisms which would play a vital role in the effort to consolidate human rights and implement the provisions of the Convention had recently been established. On 6 November 2003 King Mohammed VI had approved the establishment of an equity and reconciliation commission pursuant to a recommendation by CCDH, which would shortly submit proposals relating to the commission's composition and terms of reference. The commission would be responsible for addressing human rights violations relating to enforced disappearances and arbitrary detention and for ensuring the fair and equitable rehabilitation of victims.

7. The second mechanism was the independent arbitration commission for compensation for material damage and moral injury suffered by the victims of disappearance and arbitrary detention and their next of kin. Its task was to establish appropriate compensation while upholding the principles of justice and equity and the right to a fair hearing. The total amount of compensation that had been awarded was approximately US\$ 94 million. At the same time the Government and CCDH were endeavouring to find solutions to the health and reintegration problems faced by the victims of disappearance or detention and members of their families.

8. One practical measure that had been introduced to strengthen the human rights culture in Morocco was the human rights education programme that the country was carrying out in cooperation with the Office of the United Nations High Commissioner for Human Rights. Under the programme some 10,000 educators had already been trained and school textbooks had been purged of anything that might be inconsistent with human rights principles. In view of the importance attached to human rights education for all categories of employees, a Human Rights Documentation, Information and Training Centre had been set up in April 2000 with the assistance of the High Commissioner's Office and the United Nations Development Programme (UNDP). The Centre had already organized several training sessions and disseminated information on international human rights instruments.

9. Cooperation with civil society and international organizations had also made a positive contribution, in particular the partnership agreement concluded with Amnesty International to promote human rights education for law enforcement officials. In 2002 Morocco had been selected by the International Rehabilitation Council for Torture Victims (IRCT) as a venue for the celebration of United Nations International Day in Support of Victims of Torture, during which talks had been held with representatives of the Government and civil society. The Government and IRCT were also cooperating on a project to implement the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Such efforts enjoyed the support of the Mohammed VI Foundation for the reintegration of prisoners, which sought to detect mismanagement in detention and juvenile rehabilitation centres, promote more effective application of the law, improve the prison environment and promote training for the reintegration of detainees and resident juveniles.

10. The terrorist attacks which had taken place in Morocco on 16 May 2003 had merely strengthened the country's determination to build a nation based on the rule of law. The legitimate fight against terrorism would not overshadow its respect of fundamental human rights principles.

11. While it was difficult to assess accurately the extent to which torture occurred in Morocco, the Moroccan authorities would do their utmost to combat all forms of torture, inhuman or degrading treatment. Torture was a problem found in most countries which was fostered by an ignorance of human rights; it must therefore be dealt with courageously and systematically. Although Morocco's progress in promoting human rights was encouraging, there was no room for complacency, and the Moroccan authorities were more determined than ever to step up their efforts to achieve a modern democratic society and strengthen the rule of law. He looked forward to a constructive dialogue with the Committee and wished to assure its members that their observations and recommendations would be brought to the attention of the competent authorities.

12. Mr. CAMARA, Country Rapporteur, said that the State party's dialogue with the Committee had started on a positive note, given the significant progress made by Morocco since the submission of its initial report and the frankness of the delegation's introductory statement. The third periodic report had been submitted slightly late, but was in keeping with the Committee's guidelines. More important was the political will shown at all levels of Moroccan society to move forward. Clearly, a major effort was being made in the area of legislation, without which the authorities could not assess what was being achieved. However, he would have welcomed at least one section in the report on follow-up to the comments and recommendations made by the Committee in connection with the second periodic report.

13. Articles 1 and 4 of the Convention were closely related, yet he noted that there had been no change with regard to article 4. It did not suffice to say that all acts of violence, assault and battery were classified as a criminal offence: torture was a special type of offence because it demolished the principle of equality before the law at all stages of the judicial process, in particular where the collection of testimony was concerned. It was essential that the State party's legislation should cover all aspects of torture as defined in article 1. He hoped that the reform of the Criminal Code would remedy the situation. Moreover, given that the Convention had formed part of Moroccan legislation since 1996, he wondered whether there had been any court decisions which defined acts of torture as offences in accordance with article 1 of the Convention.

14. The information provided with respect to article 2 did not cover paragraphs 2 and 3 of that article, according to which exceptional circumstances and orders from a superior officer or public authority could not be invoked as justification for torture. He wished to know whether under Moroccan law those grounds could justify the offence of torture.

15. The information provided in connection with article 3 seemed to be confined to the question of extradition. He sought clarification regarding the situation of persons subject to refoulement and expulsion. Article 3 was very explicit on State parties' obligations with respect to the refoulement and expulsion of persons at the risk of torture; there was no scope for interpretation.

16. Article 7 raised the question of universal jurisdiction. There was no direct link between an individual's nationality and a State party's jurisdiction over that individual, yet the report seemed to refer only to Moroccan nationals, and not to foreigners being tried for offences committed on Moroccan territory. More detailed information would be welcome.

17. Referring to articles 20 to 22, he said that many allegations of torture in Morocco had been reported to the Committee, yet it was not competent to examine them properly because Morocco had not made the declarations under those articles that would allow it to do so. Thus despite the major legislative reform under way and the great political will shown there was still something amiss in the country. He had the impression that it was a problem shared by many countries in transition from a situation of non-observance of the law to the establishment of the rule of law: attitudes could not be changed as swiftly as norms. He therefore urged the State party to reconsider its position vis-à-vis those articles lest doubt should be cast on its good faith.

18. He commended the State party for the progress made in respect of articles 5, 6, 8 and 9. His overall assessment of Morocco's third periodic report was positive, and he was confident that the country's dialogue with the committee would help to resolve any remaining problems.

19. Ms. GAER, Alternate Country Rapporteur, said that, although she was encouraged by many of the recent developments that had taken place in Morocco, she found some of them to be seriously troubling. In 1999, when the Committee had considered Morocco's second periodic report (CAT/C/43/Add.2), there had clearly been a sense of optimism: the State party had informed the Committee of the efforts that were being made to reform the legal system and to release political prisoners, and it had taken steps to establish human rights training programmes, provide compensation to victims of disappearances and strengthen national human rights mechanisms. However, the Government had not made as much progress as had been hoped. While the second periodic report had indicated a steady decline in cases of torture, the third revealed a sharp increase in the number of allegations of torture from independent sources. Furthermore, not all political prisoners had been released.

20. Although the new Prisons Act incorporated many modern legal concepts, she had a number of concerns about the safeguards in place to protect individuals who were being interrogated or detained by the police, particularly as a significant number of persons had been brought to justice or were under investigation in connection with the recent terrorist attacks. One of the concerns raised during consideration of the second periodic report had been the extension of the pre-trial detention period to a maximum of 96 hours. She had been alarmed to learn that, with the adoption of new legislation in May 2003, that duration had been doubled.

21. She enquired whether individuals in pre-trial detention had access to a doctor, lawyer or family member. Although she understood that judges in Morocco had a responsibility to order medical examinations for pre-trial detainees, it appeared that such examinations were not being ordered as a matter of routine, even in the presence of visible signs of torture, and individuals were being kept in pre-trial detention until such signs had disappeared. She wished to know what measures had been taken by the judicial authorities to ensure that all persons in pre-trial detention were able to undergo a medical examination.

22. It was undeniable that Morocco had made excellent progress in providing general human rights education and training. It would be useful to receive updated information on any recent

training initiatives that focused specifically on torture, particularly those aimed at law enforcement officials and medical personnel. She would be interested in knowing, for example, whether doctors were taught to recognize the symptoms and sequelae of torture.

23. One particularly positive development had been the establishment of an active and robust non-governmental community in Morocco. She would therefore be interested in knowing whether the State authorities had conducted any investigations into the allegations of torture and ill-treatment contained in reports submitted by non-governmental organizations (NGOs). She wished to know in particular whether the Government had taken any action to investigate the case of the human rights defender Mohamed Rashid Chrii. She wondered also whether any efforts had been made to investigate the alleged torture and ill-treatment of 14 individuals who had been arrested in 2001 for taking part in a demonstration in Smara, and whether any State officials had been charged in connection with either of those cases.

24. More specific information should be provided about the number of prison deaths, as the Government's statistics were much lower than those provided by Amnesty International. She welcomed the fact that the Government had introduced a mechanism to investigate prison deaths and the fact that steps had been taken to allow NGOs to monitor the situation inside prisons. She would like to know whether all prison deaths were investigated, whether an autopsy was conducted in all cases and whether the persons conducting the autopsy were independent.

25. According to the report, proceedings had been initiated against two prison officers in connection with the death of a prisoner in Meknès Prison in 1998 and against three prison officers in connection with the death of a prisoner in Errachidia Prison in 2001. She would be interested in knowing the outcome of those proceedings. She would also like to know whether there had ever been any deaths in the detention centres administered by the Direction de la Surveillance du Territoire (DST).

26. The Committee had received some very positive information about the efforts made to strengthen the national human rights complaints mechanisms. She welcomed in particular the decision to establish the Consultative Council on Human Rights and the Grievances Board. It seemed as if real efforts were being made to ensure that the members of those bodies were independent and impartial and to encourage the participation of NGOs in the processing of complaints. However, the Grievances Board had opened very few investigations into allegations of torture, and many of those had been dismissed prematurely. She would like to know the nature of the complaints and the outcome of the investigations; in particular, she wished to know how many members of the DST had been convicted.

27. The Government had taken steps towards acknowledging that it had a responsibility to address past human rights abuses, including the question of disappearances. Its candour in that respect was unparalleled in the region. She welcomed the establishment of the Independent Arbitration Commission, but believed that much more could be done to address the continuing lack of accountability, particularly with regard to disappearances of Saharans. She would be interested in knowing whether any investigations had been initiated into allegations of torture and ill-treatment and the circumstances surrounding the deaths of persons formerly held in secret detention. She wondered whether any officials had been brought to justice for involvement in an

act of disappearance. She would also like to know whether any investigations had been conducted into the alleged disappearance in 1965 of Moroccan opposition leader Mehdi Ben Barka and, if so, what the outcome had been.

28. Further information should be supplied about the nature of the support provided by the Reception and Guidance Centre for Victims of Torture.

29. As there was no official process for appealing the decisions of the Independent Arbitration Commission, it would be useful to know whether there were any other forms of recourse available to individuals whose complaints were rejected by the Commission.

30. There was some dissonance in the descriptions provided of the different legal mechanisms in place to ensure compliance with article 15 of the Convention. The report indicated that, under the Code of Criminal Procedure, judicial police officers were required to prepare a report of their operations and inform the Crown Procurator of the crimes and offences brought to their attention. The Code also stipulated that such reports only had value as evidence when they were regular in form and could only be used in criminal matters as information. If it emerged that a report contained a confession that had been obtained under duress, it was simply rejected and proceedings were initiated against its authors. Under the new Criminal Code, no confession that had been obtained as a result of violence or duress could be relied on in court. It was unclear whether those provisions of Moroccan law met the standards set by article 15 of the Convention, as it appeared to be up to individual judges to decide whether or not to make use of any such information. She would welcome some clarification on the matter.

31. Amnesty International had received a number of complaints indicating that the security forces had used excessive force against persons taking part in demonstrations. The delegation should indicate whether any investigations had been initiated as a result of those complaints.

32. According to one report, 12 per cent of the prison population in Morocco was under the age of 18. Information should be provided about the legislation governing the treatment of minors in prison. In particular, she wished to know whether minors were incarcerated separately or placed with adults and whether first-time offenders were placed with repeat offenders. She would also like to hear the delegation's views on recent allegations by NGOs that pre-trial detainees were not separated from convicted prisoners. The delegation should indicate how the Government monitored the situation in prisons and how it addressed complaints. For example, what safeguards were in place to protect prisoners - and particularly minors - from violence and sexual abuse?

33. Mr. RASMUSSEN said he had been pleased to learn that the Government had been working with the International Rehabilitation Council for Torture Victims to promote the Istanbul Protocol. He would be interested in knowing whether persons in police custody in Morocco had access to a doctor of their choice within 24 hours. He would also be interested in knowing whether the doctors who examined detainees were bound by the rules of medical confidentiality and whether detainees were entitled to receive a copy of the medical report from their exam.

34. The report contained a detailed account of the causes of death recorded in its penitentiaries from 1998 to 2001. He was rather puzzled, however, by the category “death by natural causes”, considering that other causes of death, such as death by cancer, HIV or lung disease, had also been listed. What was meant by “natural”?
35. A number of NGOs had indicated that there was a problem of overcrowding in Moroccan prisons. He would appreciate additional information about the situation.
36. Paragraph 96 of the report described procedures for disciplining unruly inmates. He urged the State party to reduce the 45-day maximum period of solitary confinement and asked whether it could be renewed. Were juveniles placed in solitary confinement and, if so, for how long?
37. It had been reported to the Committee that a 17-year-old minor, prisoner No. 29952 in Kenitra Central Prison, had been subjected to multiple rape attacks by a prison guard on 5 September 2002. Had the guard in question been suspended as soon as the complaint had been brought and had legal proceedings been taken against him?
38. Mr. MARIÑO MENÉNDEZ welcomed Morocco’s efforts to develop laws and standards aimed at countering practices that were contrary to the Convention.
39. He asked whether the prohibition in article 3 of the Convention of the expulsion or refoulement of foreigners to a country where they would risk being tortured had ever been directly invoked in a Moroccan court. Would the law of 23 June 2003 on the entry and stay of aliens and illegal immigration, which contained provisions regulating refoulement and extradition, promote full compliance with article 3?
40. He would welcome more information about the Grievance Board, or Diwan al-Madhalim. If the Board found that an individual complaint was admissible on the grounds that the complainant had suffered some form of torture or ill-treatment, would the complaint be brought before the courts or dealt with in another way?
41. He noted that the Government had introduced measures to combat trafficking in persons, which was an acute problem in the Strait of Gibraltar and frequently involved ill-treatment, especially of minors. He would appreciate more information about the new initiatives.
42. The Committee had received reports of the existence of private prisons, such as that in the Rabat suburb of Témara, which apparently had no identifiable legal status and was under the control of the DST. Visits to Témara were not authorized. He wished to know whether such detention centres were controlled by the judicial authorities, whether they kept public registers of detainees and whether they were subject to any oversight mechanism.
43. Morocco had shown an interest in the establishment of the International Criminal Court, and he encouraged the State party to consider ratifying the Rome Statute. He also encouraged the Moroccan authorities to accept the procedure under article 20 of the Convention and to make the declarations under articles 21 and 22.

44. He noted that certain guarantees had been restricted under the new anti-terrorist legislation of 28 May 2003. He therefore wished to know how long detainees could be deprived of access to counsel under the legislation.
45. Mr. YU Mengjia inquired about the special functions assigned to the DST. How did they differ from those of the police and the gendarmerie? He wondered whether its activities were supervised and whether its members would be brought to justice and punished if they committed acts of torture or ill-treatment.
46. He would welcome any statistics that the State party could provide on the cases referred to in paragraphs 130 and 136 of the report.
47. The CHAIRMAN said that, taken in conjunction with article 7, article 5 of the Convention imposed a positive obligation on States parties to assume universal jurisdiction over perpetrators of torture where they were unable to assume territorial or national jurisdiction. A State such as Morocco was thus obliged to assume jurisdiction for the prosecution of torturers who were not Moroccan nationals, whose victims were not Moroccan nationals and who had committed the acts of torture outside Moroccan territory. Had the Ministry of Justice given any thought to the adoption of such jurisdiction, for example by the enactment of legislation?
48. Most cases of torture occurred within the first 24 hours of police custody. The Committee therefore noted with concern that Morocco had extended the length of pre-trial detention under its anti-terrorism legislation. He wished to know whether there were any built-in safeguards to ensure that detainees were not ill-treated during that period. Would they have access to a lawyer, a doctor and a relative as a matter of right? If they did not have access to a lawyer, what safeguards had been put in place to ensure that their interrogation did not violate the provisions of article 16, or even article 1, of the Convention?
49. Ms. GAER asked what sanctions would be applied to a judge or police officer who denied an arrested person access to a lawyer or doctor or failed to order a medical examination of a person with visible signs of torture or ill-treatment.
50. The CHAIRMAN invited the delegation to respond to the Committee's questions at its 580th meeting.
51. Mr. HILALE (Morocco) said that the terrorist attacks in Casablanca had been a traumatic experience because they were alien to Morocco's tradition of openness, religious tolerance and cultural dialogue. The authorities' response had been sober and reasonable. The King had visited the sites the following day, and there had been a public demonstration of sorrow and outrage. The State was under an obligation to protect its citizens, but it remained committed to democracy and human rights. Indeed, the incident had increased rather than diminished its determination to develop a flourishing human rights culture.
52. Reaffirming Morocco's political will to eradicate torture completely, he urged the Committee to judge the State party in the light of its own culture, its genuine political commitment and its vibrant civil society rather than by Western standards.

The public part of the meeting rose at 11.50 a.m.