



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

Distr.  
GENERAL

CAT/C/66/Add.1  
21 May 2003

ENGLISH  
Original: FRENCH

---

COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Third periodic reports of States parties due in 2002**

**Addendum**

**MOROCCO\***

[23 March 2003]

---

\* The information submitted by Morocco in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in document HRI/CORE/1/Add.23/Rev.1.

The initial report submitted by the Government of Morocco is contained in document CAT/C/24/Add.2; for its consideration by the Committee, see documents CAT/C/SR.203 and 204 and *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 44 (A/50/44)*, paragraphs 105-115.

The second periodic report is contained in document CAT/C/43/Add.2; for its consideration by the Committee, see documents CAT/C/SR.380, 383 and 387 and *Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/54/44)*, paragraphs 190-196.

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1 - 19	3
Article 1 .....	20 - 25	5
Article 2 .....	26 - 27	6
Article 3 .....	28 - 32	6
Article 4 .....	33 - 40	7
Article 5 .....	41 - 49	8
Article 6 .....	50 - 51	9
Article 7 .....	52 - 54	10
Article 8 .....	55 - 60	10
Article 9 .....	61	12
Article 10 .....	62 - 79	13
Article 11 .....	80 - 125	16
Article 12 .....	126 - 131	25
Article 13 .....	132 - 136	25
Article 14 .....	137 - 160	26
Article 15 .....	161 - 170	28
Article 16 .....	171	29

## Introduction

1. The Kingdom of Morocco has the honour to submit to the Committee against Torture its third 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, and to extend to the Committee its heartfelt thanks for the care with which it considers its reports.
2. This third periodic report takes account of the conclusions and recommendations adopted by the Committee (CAT/C/SR.380, 383 and 387 and A/54/44, paras. 190-196) during its consideration of Morocco's second periodic report (CAT/C/43/Add.2).
3. The Kingdom of Morocco takes this opportunity to draw the Committee's attention to a number of omissions from its fourteenth, fifteenth and sixteenth periodic reports on the elimination of racial discrimination (CERD/C/430/Add.1) and its core document (HRI/CORE/1/Add.23/Rev.1) of 15 April 2002 as regards the dates on which Morocco ratified the following conventions:
  - The Convention on the Elimination of All Forms of Discrimination against Women (21 June 1993);
  - The Convention on the Rights of the Child (21 June 1993);
  - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (21 June 1993);
  - The International Convention on the Elimination of All Forms of Racial Discrimination (18 December 1970).
4. The Kingdom of Morocco also takes this opportunity to draw the Committee's attention to the measures Morocco has taken to strengthen the promotion of human rights and consolidate the establishment of the rule of law. These primarily consist in the appointment of members to and the inauguration of the Consultative Council on Human Rights (CCDH) and the Diwan al-Madhalim (Grievances Board), at a ceremony held on 10 December 2002 to mark Human Rights Day.
5. The pluralist composition of the Consultative Council, which mainly comprises representatives of civil society and political life with the requisite qualifications and which functions as a deliberative body, guarantees its independence and enables it to help widen the scope of dialogue among the different partners.
6. The Council's established purpose is to ensure full recognition of human rights.
7. The Council brings together eminent personalities who are nominated and selected on the basis of their impartiality, moral probity, abilities, sincere devotion to human rights and tangible contribution to the consolidation of those rights.
8. Morocco's commitments to the protection of human rights, as reinforced by the broad composition of the Consultative Council, the expansion of the Council's powers and terms of reference, the strengthening of its independence and administrative and financial autonomy, the

rationalization of its management and methods of work, the publication of its proceedings and the granting of advisory member status to representatives of the executive, make the Council the guarantor of the inviolability of human rights in the country.

9. As part of its new functions, the Consultative Council is required to produce an annual report on the human rights situation, to furnish an annual account of its activities and to offer an opinion on the annual report produced by the Diwan Al Madhalim.

10. It is also expected to consider cases of human rights violations submitted to it, to make appropriate proposals and recommendations to the competent authorities, and to study and give an opinion on draft legislation and regulations put before it.

11. The creation of an annual human rights prize to be awarded, on the Consultative Council's recommendation, to the most deserving Moroccan or foreign personality or organization, is an illustration of the royal will to encourage initiative and enterprise in this field.

12. On Human Rights Day the King also announced the appointment of a *wali* (prefect) to head the Diwan Al Madhalim. This non-judicial body will remedy injustices in the provision of public services that are prejudicial to the users of such services.

13. The Diwan al-Madhalim will consider all grievances fairly and strengthen the synergy between the authorities and citizens, ensuring full respect for the rules guaranteeing the rule of law and equity.

#### **A. Public liberties**

14. King Mohammed VI has given equal priority to widening the scope of liberties, as seen in the reform and updating of that part of the Code of Public Liberties that deals with the establishment of associations, public gatherings and the press.

15. Act No. 76-00, amending *dahir* (Royal Decree) No. 1-58-377 of 3 Jumada I A.H. 1378 (15 November A.D. 1958), concerning public gatherings, aims in particular at bolstering freedom of association, freedom of assembly and freedom of expression, and at simplifying administrative procedures and abolishing or reducing custodial sentences in favour of fines. It also seeks to create new rules to ensure transparency, honesty and legality in the diversification of the internal and external financial resources of associations with a view to strengthening the power of the judiciary to monitor the legality of administrative decisions.

16. While preserving hallowed national values and ensuring that action taken with respect to public liberties is consistent with the Kingdom's religious and cultural traditions, this reform aims to bring the national heritage into line with the provisions of international human rights instruments with a view to banishing racism, hatred, violence, religious or ethnic discrimination and encroachments on the freedoms of others.

#### **B. Voting age**

17. The voting age has been reduced to 18 years pursuant to a decision of the King announced on 10 December 2002.

### **C. Electoral Code**

18. The Cabinet has approved the wording of amendments to the electoral laws. These amendments include a number of new features, namely the use of a single ballot paper and the elimination of colour, which has been replaced with symbols.

19. A new community charter has also been adopted.

#### **Article 1**

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

20. In spite of the absence of a precise definition of torture, there exist various legislative provisions prohibiting torture.

21. The Draft submitted by the Ministry of Justice in the context of reform of the Criminal Code is an important step in the development of the judicial system and reform of the system of justice. It aims at remedying shortcomings and supporting change so as to consolidate the rule of law and human rights and harmonize domestic legislation with the international instruments Morocco has ratified. Torture will be given a wider definition, in keeping with article 1 of the Convention against Torture.

22. On 3 March 2002, on the occasion of the Festival of the Throne, King Mohammed VI delivered an address, from which the following extract is taken:

“... democratic competition is, of course, necessary. It must end, however, at whatever point is dictated by the higher interest of the nation. This is why we have been anxious to ensure that our efforts to expand the scope of public freedoms and human rights are shored up by the establishment of bodies responsible for the protection of those freedoms and rights and by the promotion of conditions for the exercise of such rights and freedoms and associated means and guarantees. It is in this context that we intend, if God wills it, to proceed with the inauguration of the new Consultative Council on Human Rights and the Diwan al-Madhalim in the next few weeks.

“We are equally determined to increase the citizens’ sense of security by strengthening the authority of State institutions, based on the nation’s immutable values and within the framework of a strong State that is committed to strict compliance with the law, the rule of law and the equality of all before the law.

“Moreover, the reform of the justice system, a key component of this endeavour, creates a climate of confidence, which is the prime factor in encouraging investment.

“If the process of judicial reform is to be implemented as expeditiously as possible, the financial and human resources allocated to the Department of Justice must be increased to allow the justice system to be revitalized, modernized and improved, the better to discharge the noble, wide-ranging and increasingly numerous functions required of it.”

23. On 25 June 2002, the Chamber of Representatives unanimously adopted the new draft Code of Criminal Procedure.

24. This revision is the cornerstone of criminal justice reform, insofar as it serves to meet the challenge of balancing collective rights, meaning protection of society through, inter alia, the establishment of a vital criminal justice system, the simplification of procedures and expansion of the powers of the public prosecutor, with individual rights, focusing in particular on the presumption of innocence, the right to a fair trial, a wider remit for the investigative function, judicial supervision, the right of appeal and reorganization of juvenile justice through the setting up of various institutions.

25. The benefits of this reform include the strengthening of the presumption of innocence, the close relationship between sentencing and a fair trial, the creation of police custody monitoring mechanisms, the institution of the function of visiting magistrate, and the reorganization of juvenile justice.

## **Article 2**

### **Prohibition of acts of torture**

26. “No one may be arrested, detained or punished except in the circumstances and forms provided for by law”; it is in these terms that torture is prohibited by the Constitution (art. 10), which, by making the procedures pertaining to arrest, detention and punishment subject to the provisions of the Criminal Code and the Code of Criminal Procedure, upholds the principle of the prohibition of torture.

27. The Criminal Code prescribes various penalties for violations of the physical integrity of the person and stipulates more severe penalties whenever such violations are committed by government agents or officials and involve, inter alia:

Crimes and offences that infringe the freedoms and rights guaranteed to citizens;

Abuses of authority committed by public officials against individuals;

Crimes and offences against persons; or

Offences against the honour and good name of persons, and breaches of confidence.

## **Article 3**

### **Prohibition of the return, refoulement or extradition of the person to another State where he might be in danger of being subjected to torture**

28. Extradition and refoulement are regulated by the provisions of the Code of Criminal Procedure. The grounds for extradition and related procedures are set forth in *dahir* No. 1-58-057 of 25 Rabi` II A.H. 1378 (8 November 1958), concerning the extradition of aliens.

29. Although the *dahir* does not specifically refer to torture, the practice in Morocco is to take it into account.
30. Extradition does not apply in the case of political offences, other than in a context of odious barbarity or civil war.
31. Under no circumstances can a request be made for the extradition of a criminal who is a Moroccan national. Where a person is a non-national of the requesting State and has committed the offence in a third State, Morocco grants extradition only if the offence prejudiced the security or monetary legislation of the requesting State.
32. If extradition is requested by several States, Morocco grants it either to the State which applies the most correct procedure or that which it regards as having suffered the greatest harm.

#### **Article 4**

##### **Classification of acts of torture, attempts to commit torture and complicity in torture as crimes**

###### **(a) Classification of torture as a crime**

33. All acts of violence and assault and battery perpetrated against the person are forbidden under the Moroccan Criminal Code, in particular article 399, which specifically refers to torture. Anyone who engages in torture or acts of barbarity in committing an act classified as a criminal offence is liable to capital punishment.
34. Premeditated murder, violence and assault and battery are dealt with in articles 392 to 424 of the Criminal Code.
35. Articles 225 to 232 deal with abuse of authority by a judge or public official who orders or commits any arbitrary act against the individual freedom or civil rights of one or more citizens. The penalty for the perpetrator is loss of civil rights. These matters are also referred to in articles 264 to 268 of the draft Code of Criminal Procedure.

###### **(b) Attempt**

36. In order to be prosecuted, attempts to commit torture must satisfy three conditions simultaneously: they must pertain to a crime or an offence for which penalties are expressly stipulated in law; they must consist in the commencement of the commission of an offence which is interrupted for reasons beyond the perpetrator's control; they must entail culpable intent. Article 116 of the Criminal Code stipulates that attempt to commit torture is never punishable in the case of a minor offence. Attempted acts of torture are punished on the basis of the penalties prescribed in the Criminal Code for various forms of violence and assault. Attempted assault and battery can always be punished as an act of violence which has not caused incapacity (Criminal Code, art. 400). Punishable violence and assault include not only physical violence directly inflicted on the victim without causing incapacity, but also acts which, without any physical contact, are likely to impair the victim's physical integrity because of the emotional or psychological shock experienced.

**(c) Complicity**

37. Under the Moroccan Criminal Code, complicity in both offences and crimes is always punishable, as is complicity in assault and battery and common assault.

38. The punishment for complicity is stipulated in articles 128 to 131 of the Criminal Code, which provide that an accomplice to a crime or an offence is liable to the penalty prescribed for the crime or offence itself (art. 131).

39. Under the Criminal Code all those who have personally taken part in an offence are considered to be co-perpetrators. All those who, without participating directly in an offence, deliberately caused it to be committed or provided means or assistance for it are considered to be accessories.

40. It is clear from the foregoing that acts of torture as well as attempted torture and complicity are classified as criminal offences in Moroccan law.

**Article 5**

**Extension of Moroccan jurisdiction**

41. The rules of territorial jurisdiction, unlike those of personal jurisdiction, can be directly explained by the need for proper administration of justice. The 1959 Code of Criminal Procedure establishes three criteria for territorial jurisdiction, namely, where the offence was committed, where the criminal resides and where he was arrested.

42. The breach of the law must correspond to a crime or an offence under Moroccan legislation. The person concerned must neither be in the situation of having already been convicted and punished under the jurisdiction of the country in which the breach was committed nor have benefited from an excuse, an amnesty, a pardon or a prescription.

43. The same provisions govern aliens who commit an offence in Morocco or are accomplices to it and are sentenced and punished abroad, or aliens whose conviction has been overturned as a result of an excuse, a pardon or a prescription.

44. Any alien who commits an offence against the internal or external security of the Moroccan State, or an offence in respect of Moroccan currency, is subject to the same regulations even if the act was committed abroad. The sanction applies as soon as the offender returns or on entry following extradition.

45. According to the *dahir* of 1958 and unless international conventions stipulate otherwise, the offence must be a common-law offence classified in and punished by the legislation of the requesting State and of Morocco.

46. When certain officials from the executive and the judiciary are tried, the criminal chamber of the Supreme Court orders, on the application of the Attorney-General, where



appropriate, that the investigation should be carried out by one or more judges of that Court. Subsequently, all the chambers of the Court together hand down their judgement following the investigation. The articles concerning the jurisdiction of Moroccan courts can be found in the following paragraphs.

47. For jurisdiction concerning offences committed on national territory, the Criminal Code in articles 10, 11 and 12 specifies that all persons in the territory of the Kingdom, whether nationals, aliens or stateless persons, are subject to Moroccan criminal law, except as otherwise provided by internal public law or by international law. Moroccan territory includes Moroccan ships and aircraft, wherever they may be, except if they are subject to the law of another country in accordance with international law.

48. Articles 749 and 750 of the Code of Criminal Procedure stipulate that the courts of the Kingdom are also competent to try crimes or offences committed on the high seas on vessels sailing under the Moroccan flag, regardless of the nationality of the perpetrators. The same is true of crimes or offences committed in a Moroccan port on board a foreign merchant vessel. Unless international conventions provide otherwise, the courts of the Kingdom are competent to try crimes or offences committed on board Moroccan aircraft, regardless of the nationality of the perpetrator. They are also competent to try crimes or offences committed on board foreign aircraft if the perpetrator or the victim is Moroccan or if the aircraft lands in Morocco following the crime or offence. The competent courts are those of the place of landing in the event of an arrest at that moment, and those of the place of arrest when the perpetrator of the offence is subsequently arrested in Morocco.

49. With reference to jurisdiction concerning offences committed abroad, the Code of Criminal Procedure (art. 751 et seq.) stipulates that all acts classified as crimes under Moroccan law and committed outside the Kingdom by a Moroccan may be prosecuted and tried in Morocco. Prosecution and trial, however, may take place only where the offender has returned to Morocco and if he cannot prove that he has irrevocably been tried abroad and, if he has been convicted, that he has served his sentence, that his sentence is time-barred or that he has been pardoned.

## **Article 6**

### **Arrest and detention of any person suspected of having committed an act of torture**

50. In accordance with the provisions of Moroccan law, any act of torture committed on Moroccan territory or abroad by a Moroccan, provided that he was not the subject of a final judgement, may be prosecuted (Criminal Code, art. 10; Code of Criminal Procedure, art. 751 et seq.). In both cases the person under suspicion is entitled to all the guarantees for which the law provides.

51. If the act of torture is committed abroad by an alien, in accordance with the *dahir* of 5 November 1958 concerning extradition the alien is arrested as soon as the application has been transmitted to the Moroccan authorities and is transferred as rapidly as possible to Rabat prison for detention for the duration of the extradition proceedings. Meanwhile, he may request release on bail and is entitled to the guarantees laid down by the *dahir* on extradition.

## Article 7

### **Trial or extradition of any person suspected of an act of torture**

52. Article 748 of the Code of Criminal Procedure stipulates that the courts of the Kingdom are competent to try any offence committed on Moroccan territory regardless of the nationality of the perpetrator. Compliance with the Code of Criminal Procedure is ensured and the individual prosecuted is entitled to all the guarantees for which Moroccan law provides both in the police inquiry and in the investigation and trial.

53. A judicial investigation is mandatory for the most serious offences if the applicable penalties are death or life imprisonment. It is optional if the applicable penalty is less severe.

54. The Code of Criminal Procedure provides that the forms of evidence are the same, regardless of the offence being tried. Article 288, in providing that a judge's decision is based on his personal conviction, confirms the principle of his freedom of decision. Article 289 of the Code of Criminal Procedure takes account only of the forms of evidence used and debated in adversary proceedings before the judge. If the latter considers that adequate evidence has not been produced, he refuses to hand down a sentence and acquits the accused. The accused is presumed innocent until proved guilty.

## Article 8

### **Classification of acts of torture as crimes in extradition treaties**

55. *Dahir* No. 1-58-057 of 25 Rabi` II A.H.1378 (8 November 1958) concerning the extradition of aliens stipulates that the Government of Morocco may, at the request of foreign Governments, hand over any non-Moroccan found on Moroccan territory who is the subject of proceedings in the requesting State. Extradition, however, may only be granted if the offence has been committed:

On the territory of the requesting State by one of its subjects or by an alien;

Outside its territory by a subject of that State;

Outside its territory by a non-national of that State when the offence is included among those subject to proceedings in Morocco under Moroccan law, even when committed abroad by an alien.

56. Extradition, however, may not be granted when:

The subject is Moroccan;

The crime or offence is political;

The crime or offence was committed on Moroccan territory;

The crimes or offences have been the object of a final judgement.

57. As regards the extradition procedure, it should be noted that all requests are addressed to Morocco through the diplomatic channel accompanied by a judgement or sentence. In the 24 hours following arrest, the alien is questioned on his personal particulars and is informed of the reasons for the extradition request and the evidence on which it is based before being transferred to Rabat prison for extradition.

58. The Moroccan authorities may release a foreign national when there are no further grounds for detaining him, or if the request for extradition has not been filed within the required deadline. Similarly, if within one month of the notification of the diplomatic representative of the requesting country the person subject to extradition has not been handed over to that country's agents, he is released and may not be prosecuted on the same grounds. This period of one month is extended to 90 days if the territory of the requesting country does not border on Morocco.

59. During detention, it is a fundamental principle that there should be no violation of the detainee's person or dignity; only the restrictions required to prevent his escape or any act which may be detrimental to the course of proceedings should apply.

60. Bilateral extradition agreements have been concluded and are in force between Morocco and:

(a) Belgium: Convention concerning extradition and judicial assistance in criminal matters of 27 February 1959;

(b) Egypt: Agreement on judicial cooperation in criminal matters and extradition of 22 March 1989;

(c) United Arab Emirates: Agreement concerning notifications, letters rogatory, execution of judgements and extradition of 18 January 1978;

(d) Spain: Agreement on extradition of 30 May 1997;

(e) France: Convention concerning reciprocal legal assistance, grant of execution of judgements and extradition of 5 October 1957;

(f) Gabon: Agreement on mutual legal assistance, exchange of judicial information, mutual assistance in judgements and extradition of 27 February 1989;

(g) Italy: Agreement on mutual legal assistance, grant of execution of judgements and extradition of 12 February 1971;

(h) Libyan Arab Jamahiriya: Agreement concerning notifications, letters rogatory, execution of judgements and extradition of 27 December 1962;

(i) Mauritania: Agreement on judicial cooperation and extradition of 20 September 1972;

(j) Senegal: Agreement on judicial cooperation, execution of judgements and extradition of 3 July 1967;

(k) Tunisia: Agreement on judicial cooperation, execution of judgements and extradition of 9 December 1964;

(l) Turkey: Agreement concerning mutual legal assistance in criminal matters and extradition of 15 May 1989.

## Article 9

### **Mutual legal assistance between States parties in any proceedings relating to acts of torture**

61. Bilateral treaties, conventions and agreements on mutual legal assistance have been concluded between Morocco and the following countries:

(a) Algeria: Agreement concerning mutual legal assistance of 15 March 1963;

(b) Federal Republic of Germany: Treaty concerning mutual assistance and information in civil and commercial matters of 29 October 1985;

(c) Bahrain: Agreement on mutual legal and judicial assistance in civil, commercial and personal status matters of 29 November 1997;

(d) Belgium:

Agreement concerning mutual legal assistance and the recognition and execution of judicial decisions concerning custody and visiting rights of 15 July 1991;

Agreement concerning mutual legal assistance in civil, commercial and administrative matters and with regard to information of 30 April 1981;

(e) Egypt: Protocol on mutual legal assistance in the training of judges of 14 May 1997;

(f) United Arab Emirates: Judicial cooperation agreement of 18 September 1978;

(g) Spain:

Agreement amending the provisions of the judicial Agreement of 6 October 1965;

Agreement on mutual legal assistance in criminal matters of 30 May 1997;

Agreement concerning mutual legal assistance, and the recognition and execution of judicial decisions concerning right of custody, right of visit and return of children of 30 May 1997;

Agreement on assistance to detainees and transfer of convicted persons of 30 May 1997;

(h) United States of America: Agreement on mutual legal assistance in criminal matters of 17 October 1983;

- (i) France: Agreement concerning the status of individuals and the family and judicial cooperation of 10 August 1981;
- (j) Kuwait: Agreement on mutual legal assistance in civil, commercial and personal status matters of 10 December 1996;
- (k) Poland: Agreement concerning mutual legal assistance in criminal matters of 21 May 1979;
- (l) Romania: Agreement concerning mutual legal assistance in civil and criminal matters of 30 August 1972;
- (m) Turkey: Agreement on the transfer of convicted persons of 15 May 1989.

## **Article 10**

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

62. In Morocco, the dissemination of a human rights culture has been given a nationwide impetus which goes beyond the various national, regional or international manifestations and seeks to inculcate this culture in the active everyday existence of every citizen.
63. Morocco's efforts in this sphere are reflected in the large-scale participation of active civil society in human rights issues. It should be stressed that the extensive and close-knit fabric of society contributes very considerably to the interest in human rights education and in spreading this culture.
64. The main achievements in education and the promotion of human rights - the best defence against torture and other violations of human rights - are the establishment of the Human Rights Documentation, Information and Training Centre and the introduction of human rights in the school curriculum through the national programme of human rights education.
- (a) Human Rights Documentation, Information and Training Centre**
65. To help promote human rights and entrench the rule of law, on 15 April 2000 the Ministry of Human Rights, in cooperation with the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP), set up the Human Rights Documentation, Information and Training Centre.
66. The main purpose of the Centre is to follow up on the human rights reforms currently under way in various sectors of Moroccan society. It arranges for exchanges and cooperation with human rights bodies and institutions at the national and international levels.
67. The Centre has laid on a number of training sessions and seminars for a wide audience (State officials, prison administration staff, legal experts, representatives of civil society, etc.), which have included the following:

A training session in collaboration with the prison administration on new Moroccan prison legislation and international standards on the treatment of detainees (Rabat, 22-24 January 2001);

A training session on international mechanisms for the protection of human rights (Casablanca, 1-3 November 2001);

A training session on audio-visual media and human rights, arranged in cooperation with the British Council (Marrakesh, 2-4 April 2001);

A seminar on international conventions and domestic law: readings in Moroccan case law, in cooperation with the Ministry of Justice (Rabat, 19-21 October 2001);

A training session on the media and human rights, arranged in cooperation with the Arab Institute of Human Rights (Casablanca, 8-14 November 2001);

A training session on the principal techniques for mediating in and settling social conflicts, arranged in cooperation with Search for Common Ground (Rabat, 18-20 January 2002);

A training session on documentation and information on human rights, arranged in cooperation with the Arab Institute of Human Rights (Rabat, 11-13 February 2002);

A seminar on prison medicine and human rights, arranged in cooperation with Amnesty International (Rabat, 6 April 2002);

A training session on the Arab countries and international mechanisms for the protection of human rights, organized in cooperation with the Arab Institute of Human Rights (June 2002);

A seminar on The role of Parliament in protecting human rights (July 2002);

A study day on forensic medicine and human rights (October 2002); and

A seminar on the magistracy and the media (December 2002).

68. The Human Rights Documentation, Information and Training Centre has also made a major contribution in terms of publications. The following may be mentioned:

International standards governing the treatment of detainees (December 2000);

Morocco and international human rights agreements (December 2000);

The publication and distribution of several United Nations conventions ratified by Morocco, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture.

**(b) Human rights education**

69. The Kingdom of Morocco has stepped up its efforts to promote a culture of human rights. A national human rights education programme has been devised with a view to introducing human rights into the school syllabus. This choice can be explained by the conviction that education is an ideal means of achieving a better dissemination of human rights culture. To this end, the Ministry of Human Rights has, in cooperation with the Ministry of National Education, supervised implementation of the programme in several stages.

70. First, over 120 schoolbooks were revised: ideas, strategies and clichés inimical to human rights were purged, and ideas designed to strengthen the human rights culture were introduced.

71. Training was an important aspect of the programme. Between 1999 and 2002 a mixed commission comprising members of the Ministry of Human Rights and Ministry of National Education held over 100 training sessions with backing from the United Nations Centre for Human Rights.

72. Initially these training sessions covered four academies, before gradually spreading to cover all 16 academies in the Kingdom.

73. The national programme was tested on a representative sample of school establishments throughout the country during the academic year 2000/01. It began to be applied generally as of the academic year 2002/03 following the signature of an agreement between the Ministry of Human Rights and the Ministry of National Education on 10 December 2001, to mark Human Rights Day.

74. For that purpose, teaching files were produced on the five main subjects, namely Arabic and French, history and geography, civics and Islamic thought.

75. In collaboration with the Ministry of Higher Education and the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Ministry of Human Rights established a UNESCO chair in human rights at Mohammed V University in Rabat and a chair in peace studies at Mohammed I University in Oujda. A partnership agreement was also signed between the Ministry of Human Rights and the UNESCO chair in women and women's rights, co-managed by the Souissi Faculty of Legal, Economic and Social Sciences in Rabat and the Ibn-Tofail Faculty of Literature and Human Science in Kénitra.

76. Morocco's efforts to consolidate the rule of law have been favourably received in numerous international circles. Amnesty International's decision to hold its international conference in Morocco and the staging, in cooperation with UNESCO and UNDP, of the regional conference on human rights education in Arab countries sent very strong signals.

77. These intensive efforts in human rights education have been backed up by the signature of partnership agreements with non-governmental organizations and foreign centres active in the field of human rights, for example, between the Ministry of Human Rights and the Democratic Association of Moroccan Women and with Amnesty International.

78. All the above activities support the efforts that Morocco has been making to spread a culture of human rights since the early 1990s. Mention may be made of instruction in human

rights in law-enforcement staff colleges such as the National Institute of Judicial Studies, the Ministry of the Interior's Advanced Training College, the Royal Gendarmerie Advanced Training College, the Royal Military Academy and the Royal Police Institute.

79. The celebration of United Nations International Day in Support of Victims of Torture on 26 June provides an occasion to stage scientific and media encounters on the imperative need to combat torture as a breach of human rights. On 26 June 2002, a delegation from the International Rehabilitation Council for Torture Victims (IRCT), headed by its secretary-general, Dr. Inge Genefke, participated in the celebration and took the opportunity to hold talks with the Government and representatives of civil society.

## **Article 11**

### **Measures to prevent acts of torture during interrogation, detention and imprisonment**

80. In order to prevent acts of torture, the Government of Morocco has adopted a series of important measures concerning both interrogation and places of detention.

#### **(a) Reinforcement of monitoring**

81. In order to reinforce monitoring of police and gendarmerie facilities and prison establishments throughout Morocco, various circulars have been addressed to public prosecutors urging them to ensure compliance with the legislative provisions concerning the duration and conditions of police custody.

82. In the event of a detainee's death, the family is informed and a representative of the prosecution service is dispatched immediately to carry out investigations, collect the evidence required to establish the truth and prepare a report which must be an objective description of the facts observed, the operations conducted and/or the statements taken.

83. The public prosecutor also instructs the judicial police to open inquiries and carry out the necessary investigations to determine the causes and circumstances of the death.

84. In addition, an autopsy conducted by a forensic physician or a medical commission generally determines the cause of death.

85. If no trace of obvious violence or torture is detected on the body, laboratory analyses are performed on samples taken from the victim's organs.

86. In the light of the results obtained, the public prosecutor opens an inquiry, particularly if there is reason to presume that the death was not natural.



**(b) Improvement of conditions of detention**

87. This improvement concerned standards, institutions and structures.

*Adoption of new prison legislation<sup>1</sup>*

88. The new measures taken by Morocco in implementation of the Convention include the recent adoption of a Prisons Act.

89. The new legislation on the organization and operation of prison establishments, the purpose of which is to rationalize the organization of prison facilities, change the traditional conception of the prison and protect prison security while ensuring the rights and dignity of the detainees, is a complete overhaul of the legislative framework for these institutions.

90. This measure has taken the form of the establishment of infrastructures, guaranteed medical care and balanced diet, increased numbers of study programmes and the adoption of initiatives with a social and educational content aimed at the better reintegration of prisoners following release and an opening-up to all elements of civil society concerned with prison issues.

91. In order to achieve its objectives, the new legislation is based on a very solid frame of reference, the main components of which are:

The Muslim religion, the teachings of which revolve around the preservation of human dignity;

The guidelines contained in the King's speech of 1990 on the occasion of the establishment of the Consultative Council on Human Rights;

The Standard Minimum Rules for the Treatment of Prisoners and those contained in the international conventions and treaties ratified by Morocco;

Comparative law and experience abroad.

92. With input in the form of proposals from civil society and the Consultative Council and unanimously adopted by the two houses of Parliament, the aim of the new Act is to strike a balance between the security imperative stemming from the need to ensure that sentences are carried out and the imperative of the rights and dignity of prisoners as persons. The reform adds an educational, humane and civilized dimension to the punishment inherent in any imprisonment.

93. It should be mentioned that, as a result of the new provisions, the prisoner benefits from almost permanent contact with the outside world since he is allowed to receive newspapers, have access to audio-visual media and use a mobile phone. Visits from prisoners' families are facilitated and made more personal by means of a system of direct visits and the introduction of permits for exceptional remand periods of between 1 and 10 days on the occasion of religious festivals and national days for all prisoners who have served half their sentence and whose behaviour has been exemplary (article 46 of the Prisons Act of December 2000). Approximately 76 exceptional permits have been granted for religious festivals and national days and a further 97 for family reasons (marriages, deaths, births, etc.).

94. Prisons also give detainees the possibility of time alone with their spouses with some degree of privacy in premises organized for the purpose, on presentation of a marriage certificate. In 2001, 190 applications out of 200 were approved. In March 2002, one prisoner was granted conditional release.

95. The punishments applied have changed radically; punishments deemed cruel, inhuman or degrading are no longer used.

96. The only penalties permitted are restricted to the following:

The prisoner is deprived of direct family visits;

A written warning is entered in his personal file;

He is forbidden to make certain internal purchases for a period not exceeding 45 days;

He is deprived of television and radio;

He is required to perform cleaning tasks for a period not exceeding five days;

He is required to repair the damage caused;

Solitary confinement is imposed as a punishment under medical supervision for a period not exceeding 45 days.

97. It should be noted that the punishment cannot be inflicted without the consent of the disciplinary council.

98. The media and NGOs have permission to visit penitentiary establishments in order to investigate the situation of prisoners. Some national and international NGOs are permitted to organize activities such as theatre, music, drawing and painting, pottery and mini-football tournaments. Some human rights, charitable, educational, cultural and feminist associations visit the prisons and organize numerous events, furnishing the necessary equipment where necessary. A Moroccan prisons Observatory monitors the situation in all the prisons. The reports of this NGO are taken into consideration in studies for the improvement of penitentiary establishments.

99. In order to facilitate the reintegration of prisoners into society, the prisons provide education and vocational training:

### Education and vocational training in prisons

School year	Literacy training		Primary		Secondary		Private		University		Vocational training	
	Enrolment	Success rate	Enrolment	Success rate	Enrolment	Success rate	Enrolment	Success rate	Enrolment	Success rate	Enrolment	Success rate
1998-1999	2 606	1 707	1 027	738	225	100	228	94	155	73	339	237
1999-2000	2 144	1 530	978	266	166	77	272	93	140	74	275	191
2000-2001	2 660	1 957	971	747	167	59	278	109	136	79	209	169
Total	7 410	5 194	2 976	1 751	558	236	778	296	431	226	823	597

100. The higher education subjects taught to prisoners include law and economics, sciences, languages and theology.

101. Vocational training for the prison population is built around the following specializations: modern dressmaking, electrical systems for buildings, carpentry, plumbing, shoemaking, leather industry.

102. In its concern to improve conditions of detention for prisoners, Morocco has established a training centre for penitentiary establishment personnel in Ifrane. The training programme incorporates the following disciplines: the civil service regulations; the Standard Minimum Rules for the Treatment of Prisoners; the new prison legislation; internal prison regulations; paramilitary training (use and cleaning of weapons); rights of prisoners; enforcement of sentences.

*Establishment of a new institution*

103. King Mohammed VI, who is deeply interested in the social reintegration of the prison population, has given instructions that a specific institution should be established for that purpose. This is the Mohammed VI Foundation for the reintegration of prisoners.

104. The institution held its constituent assembly in mid-January 2002, presided over by the King, and was recognized as a public service on 12 March 2002.

105. The aims of the Foundation, of which the King is President and which is administered by one of its 12 members, are:

To promote and implement, in and out of prisons, training and reintegration programmes for detainees so as to prepare for their return to family and professional life;

To implement programmes to assist families in the reintegration of prisoners and to help associations and institutions with the same goals;

To contribute to all activities by the authorities or civil society with the same aims.

106. The Foundation's assistance, which is humanitarian and social in intent, extends to Moroccans held in prisons abroad and to the inmates of the child protection centres; these are minors who have committed an offence but are not of an age to serve prison sentences.

107. In order to carry out its functions, the Foundation concludes partnership agreements with the administrations concerned, or national and foreign associations with the same objectives, and establishes or participates in the establishment of reintegration or training centres for prisoners and the inmates of the child protection centres or manages or participate in their management.

*Activities of the Foundation on behalf of the child protection centres*

108. The target population is made up of the inmates of the 16 child protection centres of the Ministry of Youth and Sports, who vary in age from 7 to 18. The aims are the reorganization of the premises, development, rehabilitation, training and follow-up for successful reintegration. The following tables illustrate the Foundation's activities in three centres:

**Temara Child Protection Centre**

Capacity	No. of inmates	Branches of training	Foundation activities		
			Donations	Reorganization (in dirhams)	Equipment
120	80 boys	Electricity Ironwork Carpentry	60 480	269 850	420 584

**Benslimane Child Protection Centre**

Capacity	No. of inmates	Branches of training	Foundation activities	
			Reorganization (in dirhams)	Equipment
120	96 boys	Schooling	1 500 000	425 000

**Abdesslam Bennani Child Protection Centre, Casablanca**

Capacity	No. of inmates	Branches of training	Foundation activities	
			Reorganization	Equipment (in dirhams)
140	205 girls	Hairdressing Domestic science Embroidery Computing		968 200

*Foundation activities on behalf of the victims of the fire at the civilian prison of Souk Larbaâ*

109. Following the fire which broke out on 16 August 2002 in a cell of the Souk Larbaâ civilian prison for minors (province of Kenitra), causing the death of five prisoners, the King visited the Mohammed V Hospital in Casablanca to enquire about the state of the victims; he gave the Foundation instructions to assist the victims, provide them with the necessary medicines and assist the next of kin of the deceased.

110. Members of the Foundation visited the above-mentioned prison and hospital and made available to the medical team a first instalment of medicines (antibiotics, analgesics, anti-ulcer treatments) and local treatment to a value of 300,000 dirhams.

111. The Minister of Justice, who supervised the evacuation of the injured and also visited the victims in hospital, ordered the opening of an inquiry to determine the causes of the disaster and prosecute those potentially responsible.

**(c) Reinforcing the prison infrastructure**

*Health and hygiene services*

112. Despite the constant increase in the prison population from 46,853 in 1996 to 57,308 in 2001, the Moroccan authorities are actively engaged in improving conditions in prisons and in particular health and hygiene services for prisoners.

113. This has initially taken the form of an increase in the health-care budget from 2.7 million dirhams in 1992 to 12.3 million in 2000.

114. Doctors now number 127, including 15 dentists and 70 contract workers, while there are 244 nurses; this is an average of one doctor for every 450 prisoners, the national average being one doctor for every 4,968 persons.

115. According to the statistics supplied by the Department of Penitentiaries, the following medical personnel were available as at 31 December 2001:

	Doctors	
	Permanent	Contract workers
Pulmonary illnesses	-	10
Psychiatric illnesses	1	7
Cardio-vascular illnesses	-	4
Ophthalmology	-	2
Dermatology	-	3
Gastroenterology	1	2
Sports medicine	-	1
Occupational health	1	1
General surgery	-	1
General medicine	40	-
Dentist	13	-

116. In 2000 prisoners attended 227,231 consultations, and 223,310 in 2001. In 2001, 1,522 prisoners were hospitalized in public hospitals, while 1,391 patients were taken into the 28 clinics of the penitentiary establishments.

117. In addition, 21,269 prisoners were vaccinated against meningitis, and 916 (832 women and 84 men) against tetanus.

118. In addition to 4,568 X-rays of prisoners, 11,224 laboratory analyses were performed as part of the national anti-tuberculosis programme. This led to the detection of 745 cases of tuberculosis in 2001 and enabled appropriate measures to be taken in time.

119. The health personnel of the prison administration are involved in continuing training programmes intended to improve the quality of services to prisoners.

120. Inspections are organized by the regional health authorities to monitor conditions of hygiene inside penitentiaries.

121. The missions of the medical team assigned to penitentiaries consist in:

Providing consultations and health care to prisoners;

Combating epidemics and infectious diseases;

Hospitalizing the sick;

Performing laboratory analyses as part of the national anti-tuberculosis programme;

Ensuring a medical presence during holidays and outside working hours;

Monitoring hygiene inside prisons;

Monitoring the meals served to prisoners;

Creating awareness of the elementary rules of preventive health care.

122. The following causes of death have been recorded in penitentiaries:

Cause of death	1998	1999	2000	2001
Lung disease	41	32	21	38
Heart disease	20	27	28	29
Natural death	-	14	18	17
Cancer	7	16	13	16
Suicide	2	7	6	7
Infection of the liver	3	1	4	6
Peritonitis	3	2	-	5
HIV	3	1	2	4
Asthma	2	7	3	4
Meningitis	3	1	2	3
Kidney disease	2	7	5	2
Multivisceral failure	-	-	-	2
Stroke	-	8	2	1
Septicaemia	2	1	1	1
Electrocution	-	-	-	1
Head injury	1	-	1	1
Cause not determined	19	8	-	-
Road accident	-	-	2	-
Assault	-	2	1	-
Digestive disease	5	10	8	1
Diabetes	2	4	6	-

Cause of death	1998	1999	2000	2001
Dehydration	-	-	2	-
Epileptic attack	2	1	-	-
Food poisoning	-	2	-	-
Typhoid	2	-	-	-
Syphilis	1	-	-	-
Cerebral haemorrhage	1	-	-	-
<b>Total</b>	<b>121</b>	<b>151</b>	<b>125</b>	<b>138</b>

123. Proceedings have been initiated against certain prison officers on account of deaths in prison:

Meknès Prison: proceedings against two prison officers concerning the death of a prisoner in 1998;

Errachidia Prison: proceedings against three prison officers concerning the death of a prisoner in 2001.

124. In order to help prison personnel to carry out their tasks, a Government council decided in January 2002 to increase their allowances.

#### **Place of death (1998-2001)**

	1998	1999	2000	2001	Total
Hospital	84	99	92	88	363
Prison penitentiary	17	31	14	14	76
Prison cell	23	20	24	35	102
Road accident on the way to hospital or court	2	1	3	1	7
<b>Total</b>	<b>126</b>	<b>151</b>	<b>133</b>	<b>138</b>	<b>548</b>

#### *Reception capacity*

125. At the present time there are 45 penitentiaries and 3 correctional prisons, at Aïn Sebàà, Ali Moumen and Salé. It is planned to set up 26 new penitentiaries under the five-year plan 2000-2004 in order to remedy the problem of overcrowding in the prisons.

#### **Distribution of prisoners in Morocco by age and sex**

Detainees	Men	Women	Total/age
Up to 19	2 846	73	2 919
From 20 to 24	7 179	158	7 337
From 25 to 34	10 968	270	11 238
From 35 to 39	4 786	158	4 944
From 40 to 49	3 378	152	3 530
50 and over	1 394	94	1 488



## **Article 12**

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

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, article 127 of the Code of Criminal Procedure (amended in 1991) stipulates that, on a first appearance by the accused, the investigating magistrate should record his identity and prescribe, if appropriate, any investigations needed to check his identity by ordering an examination by the criminal records service or a medical examination.

128. Article 10 of the *dahir* concerning the organization of the judiciary of 20 September 1974 provides for the establishment, at the seat of the appeal courts, of a criminal court composed of a presiding judge and two advisers. This court hears appeals against judgements handed down by courts of first instance in respect of offences and minor offences. It also hears appeals against the decisions of investigating magistrates.

129. Where the medical examination confirms that violence has occurred, the criminal court is seized of the case so that proceedings can be initiated against the officer of the judicial police implicated.

130. Once the indictment division is seized of the case, it opens an inquiry and may, without prejudice to such disciplinary sanctions as may be applied by the officer's hierarchical superiors, address its observations to the officer, decide his temporary suspension from his duties as an officer of the judicial police, or dismiss him definitively.

131. In order to avoid lax or lenient investigations or judgements, articles 266 to 270 of the Code of Criminal Procedure define criteria of competence both for the investigation and for the trial of alleged violations by certain judges or officials.

## **Article 13**

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

132. Except for cases of *flagrante delicto*, it is rare for the judicial authorities and their auxiliaries to observe the commission of an offence directly.

133. In practice they are informed either by a complaint or by a report.

134. It is the complaint which is of interest here, namely, the guarantees the Code of Criminal Procedure provides for a victim of torture.

135. Two cases are possible:

The victim is released: he has two means of bringing proceedings against the perpetrator of the offence, namely, a direct summons (arts. 366-370, 393, 394 and 419), or a complaint submitted with a claim for criminal indemnification (arts. 333-337).

The victim is maintained in detention: he may request the medical examination for which articles 76 and 127 of the Code of Criminal Procedure provide.

136. The Ministry of Human Rights and the Consultative Council on Human Rights continue to receive complaints from victims of torture and endeavour to re-establish them in their rights.

## **Article 14**

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

137. Two mechanisms of capital importance have extended the institutional framework of human rights in Morocco, enabling the Convention to be implemented in practical terms. The aim of the first is the compensation of victims of human rights violations while the second endeavours to rehabilitate them.

#### **(a) Establishment of compensation machinery**

138. In accordance with the royal directives contained in the speech by the late King Hassan II to Parliament on the occasion of the opening of the first session of the second legislative year, an independent arbitration commission for compensation for material damage and moral injury suffered by the victims of disappearance or arbitrary detention and their next of kin was set up within the Consultative Council on Human Rights in order to close human rights files still pending.

139. The Commission is composed of three Supreme Court judges, including the presiding judge, four members of the Consultative Council (three former presidents of the Bar and a lawyer), a representative of the Ministry of the Interior (university professor and governor) and a representative of the Ministry of Justice (divisional president of the Supreme Court). Its task is to set compensation for material damage and moral injury suffered by the victims of disappearances or arbitrary detention and their next of kin.

140. In order to do so, it has recourse to the administrative division of the Supreme Court to establish the forms, methods and legal grounds for the compensation.

141. After an inventory of all the cases was made using various government and non-governmental sources (national and international NGOs), a specialized commission was given responsibility for verifying and investigating the various cases, and for ensuring that death certificates and other administrative documents are delivered to the families and that the latter are informed of the results of the investigations carried out.

142. In order to define the rules by which its work should proceed, the Arbitration Commission has adopted rules of procedure based on the principles of justice and fairness and respect for the right to a fair hearing.

143. Up to 31 January 1999 (deadline for filing of applications), 5,127 requests were submitted to the Arbitration Commission, which has handed down 1,458 awards, including 424 final decisions for compensation benefiting 1,034 persons (victims and next of kin).

144. In order to deal with the most urgent compensation requirements decided by the Arbitration Commission, the Government has made available a budget of 590 million dirhams (US\$ 59 million). The amount actually paid out to the persons concerned up to 18 October 2001 was nearly 465 million dirhams.

145. It should be noted that more than 4,000 files were examined in the course of some 100 hearings, during which more than 3,560 persons were heard.

146. Provisional compensation payments were also allocated to claimants pending the final settlement of their cases.

147. In addition to the painstaking work of hearings and investigation, the granting of compensation requires medical and accounting expert examinations to assess the harm suffered not only by the actual victim but also by his parents, children and spouse.

148. The Arbitration Commission holds a weekly hearing in order to give a ruling on claims in accordance with the rules of justice and fairness.

149. In parallel with the work of compensation *stricto sensu*, efforts are constantly made both by the Ministry of Human Rights and by the Consultative Council to find solutions to problems encountered by former missing persons or detainees concerning health issues and social reintegration.

**(b) Emergence of a rehabilitation mechanism**

150. The idea of action to rehabilitate the victims of torture, initiated in 1994 by the Ministry of Human Rights, has been strongly encouraged by the Government.

151. As from early January 2001, it finally materialized in the establishment in Casablanca of the Reception and Guidance Centre for Victims of Torture.

152. This NGO, which operates independently, has as its aim the rehabilitation and medical assistance of torture victims. It emerged in a favourable political context as a result of its partnership with the International Rehabilitation Council for Torture Victims (IRCT) and the dedication of volunteer doctors to the defence of human rights.

153. The aim of this new institution is to provide victims with response and counselling, consultation, guidance and medical assistance services.

154. The Centre's activity is based on the medical commission of the Truth and Justice Forum<sup>2</sup> composed of two general practitioners, a dentist, a psychiatrist, a paediatrician, a gastroenterologist, a neurologist and a lung specialist.

155. This commission has complete legal and financial independence. It conducts its work in accordance with the code of medical ethics and in confidentiality.

156. During the period between January and June 2001 it recorded 360 victims of torture which it registered in medical files with all their basic data.

157. All the victims were systematically introduced to general practitioners who examined them and drew up a detailed medical history.

158. Psychological counselling sessions and consultations in other specializations available in the Centre are organized on a regular basis. For specializations not available in the Centre, the victims are sent to public hospitals or referred to other volunteer medical specialists.

159. The Centre also organizes visits to other Moroccan cities, where it is endeavouring to set up local medical commissions for the follow-up of torture victims.

160. It also conducts awareness and information campaigns.

## **Article 15**

### **Value of statements obtained under torture**

161. Under article 23 of the Code of Criminal Procedure, "officers of the judicial police are required to draw up a report of their operations and immediately inform the Crown Procurator of the crimes and offences brought to their attention. On completion of their operations, they shall transmit directly to him the original of the reports they have prepared together with a certified copy and all pertinent records and documents; the objects seized shall be made available to him".

162. The report thus becomes the means by which the officer of the judicial police sets out the statements and all operations relating to the proceedings.

163. Although the lawgiver considers the report prepared by the officers of the judicial police recording crimes and minor offences to be an authentic instrument admissible as prima facie evidence, he nevertheless makes acceptance of its legal validity subject to strict compliance with the form established by the law.

164. Articles 288 to 297 of the Code of Criminal Procedure, which regulate forms of evidence, relate to the legal validity of such reports and their value as evidence.

165. Under article 292 "the report only has value as evidence when it is regular in form and when its author, acting in the performance of his duties, reports what he has personally seen or heard concerning a subject within his competence".

166. In criminal matters and with regard to criminal law, these reports are only of value as information. They can only be used as information, therefore, and it is for the judge to make use of them or not in accordance with his own conviction.

167. In all cases, whether the reports have value as evidence or simply provide information, judicial decisions are handed down by the judge in accordance with his personal conviction. As a result, he will not hesitate to dismiss reports which do not comply with the legal formalities or which may contain information obtained by illegal means. Such a report not only loses any value as evidence but its author may be liable to penalties if he is guilty of any abuse.

168. Moroccan case law is full of lessons in this regard, for example, the decision handed down by the Rabat Court of Appeal on 15 January 1992,<sup>3</sup> considering that the failure to comply with legal formalities in crime reports deprives them even of the value of information.

169. Similarly, the decision handed down by the special court of justice on 22 March 1980<sup>4</sup> considers that failure to note periods of detention in reports nullifies their validity.

170. It emerges from the foregoing that Moroccan justice is extremely vigilant with regard to the form and substance of the reports prepared by officers of the judicial police. Should it prove to be the case that such reports contain confessions obtained under duress, they are simply rejected and proceedings are initiated against their authors.

## **Article 16**

### **Prohibition of other forms of cruel, inhuman or degrading treatment or punishment**

171. The Moroccan Criminal Code has several chapters devoted to incriminating any person who is guilty of cruel, inhuman or degrading treatment or any act intended to impair the rights and freedoms guaranteed to citizens. These include:

Abuses of authority committed by officials against individuals (arts. 224 to 232).

“Judges, public officials, law enforcement officials or representatives of public authority who order or carry out an arbitrary act which violates the individual freedom or civil rights of one or more citizens shall be punished by loss of their civil rights.”

Attacks on the honour or reputation of individuals and the violation of secrets are punished under articles 442 to 448.

Threats of attacks on individuals, governed by article 429, in accordance with which “threats of attacks on individuals or property other than those to which articles 425 to 427 apply, by one of the means for which those articles provide and under orders or other conditions, shall be punished by one to three months’ imprisonment and a fine of 120 to 250 dirhams or by only one of these penalties”.

Attacks on individual freedom, hostage-taking and the inviolability of the home are punished by articles 436 to 441 of the Criminal Code.

**Notes**

- <sup>1</sup> *Dahir* No. 1-99-200 of 13 Jumada I A.H. (to 25 August 1999) containing Act No. 23-98 on the organization and running of prison establishments (*Bulletin officiel* No. 4726 of 5 Jumada II (16 September 1999)).
- <sup>2</sup> Association of victims of enforced disappearances, arbitrary detention or torture, established in Casablanca in November 1999.
- <sup>3</sup> Decision published in the review “Icha’â”, No. 7, pp. 125-130 (case No. 89/542/551).
- <sup>4</sup> Decision published in the review “Rissalat Al Mohamat”, No. 3.

-----