

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# MOROCCO: CONDUCT AN IMPARTIAL INVESTIGATION INTO THE UNLAWFUL DEATH OF YASSINE CHABLI

Moroccan authorities should make sure that their investigation into a man's unlawful death in police custody on 6 October 2022, is impartial and thorough. They should hold accountable, in a fair trial, the police officers that tortured the victim and did not provide him with adequate medical care. While authorities took some positive steps to investigate the death of the man and prosecuted four police officers, both the investigation and prosecution are flawed and do not meet international standards. The investigation was partially conducted by the officers of the same police station where Chabli died in custody, thus casting doubt on its independence and impartiality. The perpetrators were tried in the first instance in Ben Guerir for simple violence and negligence and not for torture.

On 6 October, the regional hospital of the city of Ben Guerir, south-east of Morocco declared that Yassine Chabli, who used to work as a security officer in the national phosphate company, aged 28, died, after police officers arrested him in a local park the day before and detained him in the police station of Ben Guerir.

Amnesty International conducted nine interviews, including with Chabli's sister, Chabli's lawyers, a doctor and a nurse at the hospital of Ben Guerir as well as with two people who were detained at the same police station as Chabli on the night between 5 and 6 October. Amnesty International also reviewed several documents such as the complaint filed by the family to the General Crown Prosecutor of the Appeal Court of Marrakech, along with photos and videos of the corpse of Chabli laying in the morgue of the hospital. Amnesty International with the help of the expertise of a forensic expert also reviewed the autopsy report as well as the records from the police station of Ben Guerir where Chabli was detained, the reports of the judicial police of Casablanca and of Ben Guerir to the General Crown Prosecutor of Marrakech, who ordered an investigation, and the statement by the same prosecutor published on 1<sup>st</sup> December.

Amnesty's documentation into the case strongly suggests that the victim was tortured in custody and that he died from the lack of care from detaining authorities. Police officers beat Chabli on his face and body several times. They maintained him alone in a cell, handcuffed for more than seven hours, isolating him from other detainees. For several hours, police officers did not observe how Chabli's state was evolving despite the beatings and the fact that they knew he was drunk at the time of his arrest, thus exposing him to health risks and failing to ensure their duty of care towards someone in their custody.

According to international law and standards, including those set out in the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment/Punishment), The Minnesota Protocol on the Investigation of Potentially Unlawful Death, the UN Human Rights Committee General Comment on the right to life and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Moroccan authorities should conduct prompt, impartial and effective investigations on torture acts and unlawful deaths. In this case, Amnesty International found several flaws in the investigation and the trial of the police officers responsible for the death of Chabli, including a lack of independence and proper access to the proceedings and evidence for the victim's family.

### Torture and negligence in custody resulting in death

On 5 October, at around 7 p.m, two police officers arrested Yassine Chabli, who was sitting next to a female friend in a local park in Ben Guerir. The Casablanca police investigation report said that the police officers saw that Chabli had on him a small bottle of alcohol. They then arbitrarily arrested him, although there was no evidence of him acting erratically at the time of his arrest. According to police reports based on the review of the camera that was on one of the police officers at the time of arrest., Chabli was cooperative.

Police officers put Chabli in custody at the Ben Guerir police station at 7.20 pm. The review by the national judicial police in Casablanca of footage records from inside the police station, mentions that police officers punched Chabli on the face one time and that he was slapped on the face five times, as well as once on the lower back of his thigh. Post-mortem

photographic and videographic material reviewed by a forensic expert showed a bruised and swollen left eye and lower left corner of Chabli's mouth, confirming that law enforcement officers likely punched Chabli in the face.

International law prohibits torture and other cruel, inhuman or degrading treatment or punishment ("other ill-treatment") absolutely, in all circumstances and without exception. In addition to the Convention against Torture, Morocco is also a party to the International Covenant on Civil and Political Rights (ICCPR), which, like the Convention against Torture prohibits torture and other ill-treatment in all circumstances and without exception. The prohibition against torture and other ill-treatment is also a rule of customary international law binding on all nations.

Article 22 of Morocco's Constitution provides in its first paragraph that "no one should harm the physical and moral integrity of anyone, under all circumstances, by either party, public or private". The article also prohibits the use of ill-treatment and torture. Torture is a crime punished by law.

Law enforcement officers did not inform Chabli about the reasons of his arrest and detention. He was deprived from both his rights to contact his family and a lawyer, as provided by international law<sup>1</sup> and Article 66 of Morocco's Code of Criminal Procedures. According to Chabli's sister, when his mother and brother tried to find out what had happened to him by going to the police station of Ben Guerir at around 9 p.m on 5 October, a police officer told them that Chabli had resisted his arrest.<sup>2</sup> He showed them a video where Chabli was seen handcuffed, his clothes torn out and with traces of beatings. When Chabli's mother insisted with questions about her son, the police officer told her to calm down if she did not want to see her other son who accompanied her, arrested. Chabli's family members were not authorized to see him in custody. They went to the police station between 8 a.m. and 9 a.m the next day to try and see him but police officers did not let them in and told them Chabli was sleeping.

One individual, who asked not to be named for fear of reprisals, who was detained on the night between 5 and 6 October in the same police station told Amnesty International that he heard Chabli screaming in a cell next to him, where Chabli was detained alone.<sup>3</sup> Another detainee whom Amnesty International interviewed also confirmed that Chabli was detained in a cell alone.<sup>4</sup> When he was brought first into the police station at 1.45 a.m, Chabli tried to talk to him. On the morning of 6 October, as he did not hear his voice for a while, he enquired about Chabli's state. A police officer said that he was sleeping. At around 1 p.m, he heard a police officer say that Chabli was dead.

What happened in the cell where Chabli was detained is detailed in the police reports which are based on the review of the videos of the cell of Chabli. Police officers put Chabli in a cell by himself. They maintained him handcuffed. This method of restraint affected Chabli's ability to sit or stand up properly in the cell. He fell on the ground at least seven times and started vomiting. Despite that, police officers maintained him handcuffed, not assessing if the use of such method is justified or not. As per international human rights law and standards, the use of handcuffs is unlawful where their use is not necessary and proportionate, and they should never be used as a punishment. Use of handcuffs on a person alone in a cell is highly likely to fail both these tests.

According to a transport certificate delivered by the civil protection of the same city to Chabli's family, which Amnesty International reviewed, law enforcement officers transported him two times at the hospital of Ben Guerir, a first time at 1.13 a.m and a second time, at 1.14 pm on 6 October. The doctor who examined Chabli on his first visit at the hospital, told Amnesty International that she prescribed an injection to stop the vomiting that Chabli was suffering from.<sup>5</sup> After that, the nurse who was supposed to give Chabli his treatment told Amnesty International that Chabli refused the injection.<sup>6</sup> On the next day and according to another document delivered by the hospital, Chabli arrived dead at 1.30 pm.

The Casablanca investigation report states that on 6 October at around 1.45 am, Chabli was brought back to his cell, police officers, punishing him for his refusal to take the injection, handcuffed Chabli in a different manner, with one hand tied to a prison bar and the other hand to another prison bar while he was standing. Police officers then hit him in this position at around 2.08 am on the back of his head and then another time from the back on the lower part of his leg. After few minutes, they took his left arm and tied it to another prison bar further away from the first one. At around 2.27 am,

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<sup>1</sup> United Nations Human Rights Committee, General Comment 35, Article 9 (Liberty and Security of Person), para 58

<sup>2</sup> Interview with Sihem Chabli, 31 October 2022.

<sup>3</sup> Interview with "Mohamed", 8 November 2022. (Name has been changed to respect the interviewee's anonymity)

<sup>4</sup> Interview with "Malik", 28 November 2022. (Name has been changed to respect the interviewee's anonymity)

<sup>5</sup> Interview with the doctor who asked to remain anonymous, 9 November 2022.

<sup>6</sup> Interview with the nurse who asked to remain anonymous, 8 November 2022.

police took off the handcuffs from Chabli and gave him food and fluid for the first time. At around 4.49 am, the video footage from the cell showed that Chabli made his last move. For ten and half hours, no police officer went inside the cell of Chabli. They entered again his cell at around 1.04 pm only to find out that he was dead.

According to the forensic expert consulted by Amnesty International, Chabli has been lying face down and vomited, dying in that position. He has remained face down and his body has not been turned onto its back for several hours.

Detaining authorities have an obligation to care for individuals inside their facilities. According to the forensic expert, the results of both the toxicology and the autopsy reports indicate that Chabli had a high level of alcohol in his blood (2,34gr/l). His consequent vulnerability required the authorities to fulfill a duty of care for his health and wellbeing. Because of his state, one of Chabli's vulnerabilities was the risk of falling and sustaining an injury. Leaving him handcuffed for about seven hours and alone in a cell during the whole time of his custody could not be reconciled with that duty of care.

The UN Human Rights Committee, the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its States parties in its General Comment on the right to life, provides in Paragraph 25 that " States parties also have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility. The same heightened duty of care attaches to individuals held in private incarceration facilities operating pursuant to an authorization by the State. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health, shielding them from inter-prisoner violence, preventing suicides and providing reasonable accommodation for persons with disabilities."

### **A flawed investigation and trial**

On 7 October, Chabli's mother filed a complaint before the General Crown Prosecutor of the Appeal Court of Marrakech for "murder". In the complaint, reviewed by Amnesty International, the family asked the prosecutor to open an investigation into what happened to Chabli and to review camera recordings inside the police station where Chabli was arrested as well as those inside the hospital.

Chabli's family tried to enquire about the state of the investigation several times. On 21 November, the General Crown Prosecutor of the Appeal Court of Marrakech told them that the results of the investigation and of the autopsy were under examination by his office. He refused to disclose the details of when those results will be shared with them or publicly. On 2 December, Chabli's sister went to the court of Ben Guerir and retrieved the documents related to her brother's death.

On 6 October, the General Directorate for National Security (GDNS) published a press release stating that Chabli died on his way to the hospital in the ambulance and that he was arrested in connection with an ongoing investigation. The next day and after demonstrations broke out in front of the police office of Ben Guerir asking for justice for Chabli, the directorate published a second statement asserting that there were instructions from the GDNS's director to investigate the case and to shed light on responsibilities. Both the police offices of Ben Guerir and of Casablanca conducted investigations into the unlawful death in custody of Chabli and sent their results to the General Crown Prosecutor of Marrakech, who ordered the investigation. Results were not made public to this day.

As per international standards, authorities have an obligation to guarantee access to information. The Minnesota Protocol on the Investigation of Potentially Unlawful Death provides in its Paragraph 13 that "The right to know the truth extends to society as a whole, given the public interest in the prevention of, and accountability for, international law violations. Family members and society as a whole both have a right to information held in a state's records that pertains to serious violations, even if those records are held by security agencies or military or police units. "

On 20 October, the judicial police of Ben Guerir sent out her report to the General Crown Prosecutor of Marrakech. The fact that the General Crown Prosecutor of Marrakech asked the same police office where Chabli died to investigate the case is contrary to international standards and could not ensure promptness, impartiality and effectiveness of the investigation. According to Paragraph 17 of the Minnesota Protocol, a judicial or other competent authority that is

independent of the detaining authority should be the one mandated to look into the circumstances and causes of such death.<sup>7</sup>

On 1<sup>st</sup> December, the General Crown Prosecutor published a statement stating that Chabli's death was the result of self-inflicted harm that resulted from his multiple falls. He also announced that three police officers were arrested and charged for "committing acts of violence during duty" and "unintentional killing resulting from negligence, lack of precaution, and lack of foresight". The prosecutor also prosecuted while free another police officer for "unintentional killing resulting from negligence, lack of precaution, and lack of foresight".

According to Souad Brahma, one of the lawyers of the victim, the fact that the prosecutor chose to comment on the death was harmful and had as an effect to orient public opinion and the trial on the case, by reducing the State's responsibility as the statement made it seem as if Chabli's death was his own fault.<sup>8</sup>

The trial of three police officers before the First Instance Court of Ben Guerir started on 8 December. The judge held six hearings on the accusations related to two police officers detained in Ben Guerir and one on trial while free. The fourth police officer, who is the chief officer of the Ben Guerir police station, is facing a trial in Marrakech while detained

Prior to the hearings, the court did not grant access to some of the evidence to lawyers of the victim's family. Chabli's family should have had access to all the evidence to guarantee their meaningful participation.

Moreover, the court refused to hear the individuals who were detained on the same night with Chabli.

On 12 January, the judge, decided that his court was not competent to decide on the merits of the case since the representatives of the victim asked to requalify the charges to "intentional murder" and "torture resulting in death" or "committing violence which resulted in a death", which constitute criminal offences punished with heavier prison sentence than the ones originally brought against the accused. The defense appealed the decision and on 7 March, the Appeals Court of Marrakech decided to send back the file to the Ben Guerir tribunal and to keep the original charges.

As per international standards, the families of individuals who have been victims of unlawful deaths are entitled to redress. Redress should include legal proceedings that bring those responsible to justice, which should include adequate legal representation for the family, adequate compensation, and guarantees of non-repetition so as to ensure such human rights violation of this nature do not reoccur.

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<sup>7</sup> Paragraph 17 of The Minnesota Protocol on the Investigation of Potentially Unlawful Death.

<sup>8</sup> Interview, 13 January 2023.