



Alkarama for Human Rights – 2bis Chemin des Vignes – 1209 Geneva – Switzerland
☎ +41 22 734 10 06 – F +41 22 734 10 34 - Email: geneva@alkarama.org – Url: www.alkarama.org

Morocco

Universal Periodic Review (UPR)

1st Session; 7 to 18 April 2008

Alkarama for Human Rights

20 November 2007

Table of Contents

Abstract

1. The law concerning the “Fight against Terrorism” adopted on 28 May 2003
2. Arbitrary and incommunicado detention
3. Torture: specifically that of detainees under the protection of law
4. Secret detention and “restitution” of foreign nationals
5. Severe restrictions of the freedoms of association and expression
6. Treatment of refugees and migrants

Conclusion

Annexes

Morocco

Abstract

NGO contributions in the context of the summary prepared by OHCHR

Alkarama for Human Rights, 20 November 2007

Following the death of King Hassan II in July 1999, his son, Mohamed VI who succeeded him expressed his will to democratise the political process and civil society. The hopes raised after these promises have now dissipated. Since his coronation, political freedoms have been reduced and human rights violations have heavily increased compared to the late 1990s and early 2000s. This includes the reaction to the terrorist attacks of 16 May 2003, where thousands of people were arbitrarily arrested, tortured and imprisoned following unfair trials, and this remains the case today. The new law on terrorism promulgated on 28 May 2003 contains some measures which violate principles enshrined in the international conventions ratified by Morocco.

Torture is widespread and almost of a systematic nature and does not only happen to people in pre-trial detention ('garde à vue') with the aim of extracting 'confessions', but is also a common practice in detention centres under the control of the DST (Direction de la surveillance du territoire – Directorate for Territorial Surveillance), the internal intelligence services.

Another problem which raises grave concerns is the fact that the Moroccan security services 'sub-contract' torture for their partners in counter-terrorism measures. Freedom of expression, assembly and association have also suffered serious restrictions. Numerous people have been arrested and sentenced for having peacefully protested their opinions.

The treatment inflicted on numerous refugees and migrants is another concern, particularly when it concerns expulsion in inhuman or degrading conditions for asylum seekers or recognised refugees.

i) The law concerning the "Fight against Terrorism" adopted on 28 May 2003

This law amends, in a more repressive manner, the Penal Code and the Criminal Procedural Code. The definition of "terrorism" was not sufficiently precise. It allows the further extension of the application of the death penalty; increases police powers and threatens freedom of expression. The law provides an extension to the legal duration of custody, which can reach 12 days, without the detainee being given access to a lawyer, a doctor or a family member.

Acts of terrorism are defined as that which is committed "intentionally related to an individual or collective for the purpose of causing serious public order through intimidation, terror or violence."¹ This definition applies, in practice, to a wide variety of acts which may include destruction, degradation and deterioration of means of communication, theft, and forgery or falsification of currency etc.

The penalties under the new law are particularly severe and the death penalty is expected when the original sentence was life imprisonment. The glorification of terrorism through written or verbal means is heavily punished.

¹ Pg. 416, Article 218-1, Bulletin Officiel du Royaume du Maroc, Edition de traduction officielle du Maroc, N. 5114-4, Rabii II, 1424 (5-6-2003)

(ii) Arbitrary and incommunicado detention

Arrests of a political nature have increased since 2002 but particularly since the attacks in Casablanca on 16 May 2003 which killed 45 people and injured several hundred others. According to official statements, more than 900 people were arrested in connection with the attack. Certain sources speculate there were 2000 arrests between 2002 and 2004. Persons charged with belonging to a terrorist group, preparing terrorist acts and / or endangering the security of the state are in many cases held incommunicado.

Suspects are often arrested by agents of the Terrorist Surveillance Directorate (DST), who do not have the judicial status of police officers and are not usually legally permitted to make such arrests. They often wear civilian clothes and in unmarked cars. They do not inform the persons arrested of the reasons for arrest and do not produce arrest warrants (they of course cannot provide this as they are not legally permitted in this regard).

Suspects are then taken to the police or the DST and detained during periods which typically exceed the limits set by law. Relatives of the victims are not informed of the whereabouts or the treatment the detainees undergo. Authorities often deny having detained anyone. Having concealed abusive detentions, the dates of arrest are modified during the *procès verbaux* (PV). This type of prolonged custody and secrecy is akin to a temporary "disappearance".

Sofri Ahmed, a Swedish citizen of Moroccan origin was arrested by the security services in Tetouan on 26 December 2006 while visiting his family. He was presented before the magistrate court in Rabat on 10 January 2007, after 16 days in custody, including 14 days in solitary confinement. He reported having been tortured during the first 9 days of his detention. To date, he has not been tried and continues to be arbitrarily detained. There are no specific facts that have been established to warrant criminal prosecution.

Témara, located about 15 km from Rabat, is one of Morocco's most important detentions centres. Persons suspected of terrorist activities are often transferred to this location. The particularity of this center is that it is managed by the DST. The official mission of this service is to "ensure the protection and safeguarding of state security and its institutions"². Members of the DST are officers or agents of the Judicial Police and therefore the law does not allow them to arrest or imprison suspects for questioning. It is therefore possible to say that the detention centre at Témara does not uphold the appropriate measures of custody which it administers outside the rule of law.

(iii) Torture: specifically that of detainees under the protection of law

It is usually during the period of custody that prisoners are tortured, but in many cases, torture continues until after their conviction; both by agents of the DST and by prison staff. The period of 12 days detention, already excessive, is rarely respected. Officials of the DST or the police who carry out arrests and conduct interrogations inflict torture on the detainees in order to extract information or confessions. Those arrested are often forced to sign the PV containing false statements. Convictions are in many cases based on these confessions extracted during interrogation; especially when it involves people suspected of belong to the Islamist movement or members of the Sahrawi branch of the Forum for Truth and Justice, a human rights organisation. Of these, several of them such as Bazid Salek and Ahmed Naseeri, were sentenced to prison in 2002 and 2003 on the basis of confessions extracted under torture.

² No reference, see RM

Without a doubt, the largest group of torture victims is that of the Islamic activists, accused by the authorities of terrorist activities. This group represents the vast majority of the prisoners of conscience implicated since 16 May 2003. Moreover, they demand, particularly through hunger strikes, status as political prisoners, which the Moroccan authorities refused to grant them.

For the following information, we have mainly referred to the documentation provided by a national association for the support of political prisoners, “Nassir”, of which we have made partial reference to in the Annex. It describes the treatment of prisoners in Salé (Zaki) and Kuneitra; including accounts beginning with their custody up until their detention following their conviction. It is particularly important to note that following the attacks in 2003, section M of Salé prison, is directly under the control of the DST, whereas the managerial and administrative responsibilities of the prison are held by the Department of Justice. Its members are empowered to give orders to the prison staff; from the Director all the way to prison guards. The DST has a number of premises in the area where prisoners are tortured.

The annexes are a sample of approximately 300 inmates; most are jailed at Kuneitra Central Prison. Some of them have passed through Salé prison before being transferred to Kuneitra. The inmates have an average age between 35 and 40 years, almost two thirds of them are married, almost all are condemned to heavy sentences; nearly 10% are sentenced to death and more than 30% to life imprisonment; in addition to this, more than 30% are between the ages of 20 and 30. Those sentenced to life imprisonment or capital punishment among those surveyed in the prison of Salé are transferred to other prisons, including the Kuneitra. Others receive sentences ranging from 5 to 30 years in prison.

Almost all have been detained incommunicado for a period ranging from several days to more than three months (Kamrimi Al-Mustapha was detained incommunicado for nearly 15 months at “Nador Security Center” and the detention centre in Témara). Nearly 60% were held beyond the legal period of custody; the largest number of prisoners passed through the DST’s detention center at Témara.

The initial discovery is that torture is systematic and widespread. It is practiced, without impunity, at all stages of detention and continues to be practiced once a person is tried and sentenced; usually by prison staff or members of the DST within the prison. Many detainees are imprisoned at Kuneitra in holding cells for periods ranging from several days to more than 30 days (Abdel Wahab Rabi spent 60 days). At Salé prison, Tawfiq Yatrib, Hichem Derbani and Merouane 'Assoul were held in individual holding cells for three, six and ten months.

Prisoners of Kuneitra reported methods of torture similar to those used during their custody extended at Témara: For example, beating for almost anything, the “chiffon”³ for about 40% of them, electric shocks all over the body in more than 30% of cases, suspension for more than 40%, lacerations, anal intrusion, the threat of rape for nearly two thirds of prisoners, nudity, profanity and insults, deprivation of food, water and sleep. Prisoners are regularly robbed by prison guards and the baskets that their families bring are regularly looted.

In recent years, many people have died during torture: Abdelhaq Bentassir, formally arrested on 26 May 2003, was accused of having been involved in the attacks of 16 May in Casablanca. He died on 28 May; according to the authorities his death occurred due to his heart and liver illnesses. The family reported that he was arrested May 21 and was in good health. No independent autopsy was conducted, nor was there any public inquiry.

Torture is however not only used against political detainees. Common law prisoners are subjected to torture that have resulted in the death in some cases: Mohammed Ait Sirahal died on 25 July 2002 at a police station in Marrakech as a result of abuse and beatings.

The majority of suspects are not informed of the rights provided by Moroccan law. They do not therefore call for the presence of counsel at the time of their appearance before the investigating judge or prosecutor and do not complain of kidnapping or torture. They fear that such a complaint will only aggravate their situation. They often do not complain of the “sevices” suffered during their subsequent appearance before the magistrate. But the judicial authorities routinely reject these accusations without ordering medical examinations or initiating investigations. Moreover, confessions and statements contained in the verbal confessions submitted in the preliminary proceedings are systematically taken into account by the trial court even if the accused admits to having been tortured and held incommunicado beyond the statutory period of detention.

(iv) Secret detention and “restitution” of foreign nationals

After the September 11 attacks in New York and Washington, Morocco has actively cooperated with the United States in the fight against terrorism. Specifically, CIA flights have transported suspects to Morocco where they have been held incommunicado and tortured in the presence of American and Moroccan officers. There is evidence that at least 28 CIA flights have landed in Morocco since 11 September 2001.⁴

One of the most emblematic cases is that of Mohamed Binyam, Ethiopian national living in Britain and arrested in Pakistan, who was transferred on 22 July 2002 to Morocco and held incommunicado for 18 months in Témara prison before being transferred to Afghanistan and then Guantánamo. He reported that he was tortured during his detention in Morocco. << The paroxysm of torture consisted of taking a naked Binyam and using a doctor’s scalpel to make incisions on his chest and other parts of his body. *“One of them took my penis in his hand and began to make a notch. They waited a minute to observe my reaction. I was in agony, I cried, I tried desperately to hold myself, but screamed despite everything. They did it about twenty or thirty times during maybe two hours. There was blood everywhere. They cut my private parts. One of them said it would be better to simply cut everything, since in any case, I would only beget terrorists.”*⁵

Mohammed Zammar, a German of Syrian origin was arrested in Morocco, where he had spent a few weeks. At the beginning of December 2001 he was arrested at Casablanca airport and held incommunicado for two weeks before being transferred to Damascus. He was interrogated by Moroccan and U.S. officials.

Five Moroccans who had visited Pakistan in late 2001 and were detained incommunicado for two years and eight months on the U.S. base at Guantanamo were eventually handed over to Moroccan authorities in August 2004. They are Abdallah Tabarak, Yacine Chekouri, Brahim Benchekroun, Mohamed and Mohamed Mazouz Ouzar. They have also been held in the DST’s detention centre in Témara before appearing in court in December of the same year.⁶

(v) Severe restrictions of the freedoms of association and expression

Many protests have been brutally repressed by the police. Beatings in such cases are common. Many demonstrators were arrested during the protests and some were handed heavy prison

⁴ Stephen Grey, Ghost Plane. The true Story of the CIA Torture Programm, St. Martin’s press, New York, 2006.

⁵ M. Dick Marty, Allégations de détentions secrètes et de transferts illégaux de détenus concernant des Etats membres du Conseil de l’Europe, 12 juin 2006, p.47.

⁶ Maroc Hebdo International N° 682 - Du 20 au 26 Janvier 2006.

sentences. They include: activists of the Saharawi cause, human rights defenders, the unemployed, trade unionists and activists of political organizations.

In April 2006, Al Adl wal Ihsan (Justice and Spirituality) had organized a national informational campaign entitled "Open Days" in most Moroccan cities and villages. 2360 members of the organization were arrested including 300 women and several children were questioned by police. 578 of them were charged with belonging to a banned organization and participating in unauthorized gatherings. Some were sentenced to prison. Administrative and judicial persecutions were carried out against members of this supposedly "banned organization", despite having been legally declared and licensed by several judicial procedures.

Certain houses where the members would meet were demolished under administrative orders and several homes were sealed.

Rallies organized by trade unions and civil society have been banned: The protest marches in support of the Lebanese during the Israeli bombardment in the summer 2006 were suppressed. In addition to this, the scheduled civil servant (of the Department of Justice) protests in December 2006 and May 2007 against rise of the price of commodities were also banned.

Many militants of the Moroccan Association for Human Rights (AMDH)⁷ were arrested by police after taking part in various peaceful protests during 2007. Some of them were charged with infringement of the monarchy. They were sentenced to several years in prison and heavy fines.

(vi) Treatment of refugees and migrants

Thousands of people suspected of being illegal immigrants, including minors, were arrested and deported to Algeria and Mauritania. Among the hundreds of people returned to Algeria in December 2006, were at least 10 recognized refugees and 60 asylum-applicants registered with the United Nations Office for the High Commissioner for Refugees (UNHCR) in Rabat. Those abandoned on the Algerian border or in the Western Sahara desert were given neither water nor food. One of them was found dead of dehydration. Many of the expelled immigrants reported having suffered sexual abuse by members of security forces in Algeria and Morocco.

2. Conclusion

The human rights situation in Morocco in recent years has experienced an obvious regression. Under the guise of the fight against terrorism, serious abuses took place. Incommunicado detention and systematic torture of suspects are of particular concern, especially when the people are victims of illegal transfers organized by foreign states. It is absolutely necessary to know whether these practices are still current.

The muzzling of civil society through restrictions on freedom of expression, peaceful assembly and association are also of serious concern.

The role played by the Morocco as a transit country for migrants to Europe, raises many questions and is a source of concern. The authorities criminalize potential migrants and expel them in an inhumane way into regions where they most certainly fear for their lives.