



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

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Committee against Torture

**List of issues to be considered prior to the submission of the
fifth periodic report of Morocco, adopted by the Committee
at its fiftieth session (6–31 May 2013)**

Draft prepared by the Committee

At its thirty-eighth session, the Committee against Torture adopted a new optional reporting procedure (A/62/44, paras. 23 and 24) which consists of the preparation and adoption of a list of issues to be transmitted to States parties prior to the submission of their periodic reports. The State party's replies to this list of issues will constitute its report under article 19 of the Convention.

Articles 1 and 4

1. With reference to the Committee's preceding concluding observations¹ (para. 5), provide information report on the current status of the draft legislation that would amend article 231.1 of the Criminal Code,² which does not currently cover complicity or explicit or tacit consent on the part of law enforcement personnel or any other person acting in an official capacity; nor does that article provide any penalty for officials who consent to or cover up acts of torture.
2. In relation to the question of the absence of a statutory limitation to the crime of torture, provide a detailed description of the steps taken to amend articles 2 and 6 of Act No. 35.11, which deal with the question of statutory limitation in general but do not expressly state that the crime of torture is not subject to a statute of limitations, in order to include torture.
3. With reference to the Committee's previous concluding observations (para. 16), provide information concerning the prosecution of public officials who order, condone or cover up acts of torture in flagrant abuse of their authority as superior officers, including statistics on the cases in which public officials have been prosecuted and the investigations of public officials that have been conducted during the reporting period.³
4. In connection with the modernization of the criminal justice system, provide information on the new provisions concerning non-custodial sentences, the reinforcement of the presumption of innocence, the right to remain silent and safeguards to protect persons in police custody or pretrial detention, such as a limit on the length of time that a person may be held in police custody, a requirement that a family member must be informed, the possibility of a medical examination, the presence of a lawyer during questioning and the reinforcement of the independence of the examining judge. Describe the measures that are in place to ensure that the procedures in use conform to international standards, which include the limitation of the duration of police custody to 48 hours.⁴
5. Provide information on the procedures that have been instituted in order to ensure that all non-governmental organizations, especially those upholding the rights of the Saharawi people, are registered.⁵

Article 2⁶

6. With reference to the Committee's previous concluding observations (para. 6), provide information on the mechanisms in place for the protection of subordinates who refuse to obey an illegitimate order from a superior or other public authority.

¹ The paragraph numbers in brackets refer to the Committee's previous concluding observations, issued under symbol CAT/C/MAR/CO/4.

² A/HRC/22/53/Add.2, para. 10; CAT/C/SR.1025, para. 6; A/HRC/22/53/Add.5, para. 33.

³ CAT/C/SR.1025, para. 7; A/HRC/22/53/Add.2, paras. 28–30.

⁴ A/HRC/WG.6/13/MAR/1, para. 7 and para. 36.

⁵ A/HRC/WG.6/13/MAR/3, para. 73.

⁶ The issues raised in connection with article 2 could be raised equally in relation to other articles of the Convention, including, but not limited to, article 16. As noted in paragraph 3 of the Committee's general comment No. 2 (2007) on the application by States parties of article 2: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in

7. With reference to the Committee's previous concluding observations (para. 7), provide statistics on the number of people in police custody who have had access to a lawyer and explain what occurred in the cases where access to a lawyer was denied. Also indicate what steps have been taken to amend article 66 of Act No. 35.11 in order to ensure that access to a lawyer is provided from the moment that a person is taken into police custody. Also provide up-to-date information on the undertaking of the Ministry of Justice to have all statements made to the police during investigations and interrogations videotaped⁷ and on the steps taken to make sure that acts of torture are not committed either during the initial period of detention or during phases of the proceedings that come after the videotaped taking of statements. Describe the steps taken by the State party to uphold the right of access to legal counsel and to an examination by a physician and the right to contact the family or a family member.

8. With reference to the Committee's previous concluding observations (para. 8), provide up-to-date information on the progress made in revising Act No. 03-03 with a view to improving the definition of terrorism, reducing the maximum amount of time that a person may be held in police custody to the absolute minimum and permitting access to counsel from the very start of the period of detention.⁸

9. In the light of the Committee's previous concluding observations (para. 10), provide information on the specific steps taken to investigate acts of torture and to prosecute and punish those who have committed such acts in connection with matters pertaining to national security. Also provide up-to-date information on the status of the judicial proceedings involving Omar Brad, the Commander of the Royal Gendarmerie unit in Settat, who has been charged with having tortured a suspect who was being held in police custody.⁹

10. Provide a detailed description of how detainees are informed of their right to contact a lawyer and their right to be examined by an independent physician and how these are ensured in practice. Please also provide geographically disaggregated statistics on the number of court-appointed defence lawyers in Morocco. Provide information on the legal aid system that is in place for people who cannot afford to pay for a lawyer.

11. With reference to the Committee's previous concluding observations (para. 17), provide statistics for the period from 2011 to the present on the number of complaints that have been filed concerning violent acts committed against protesters following their arrest or during their transfer to police stations or questioning and the obtention of confessions under duress which have subsequently been used in a court of law to obtain convictions for which the persons concerned have received prison sentences.¹⁰ Also inform the Committee how many investigations the courts and prosecutors have opened on their own initiative when there were reasonable grounds for believing that confessions had been obtained by means of torture or ill-treatment. Also indicate in how many cases they have immediately ordered that an independent medical examination be carried out. Provide examples.

12. With reference to the Committee's previous concluding observations (paras. 14 and 15), indicate whether the State party has undertaken inquiries in order to determine whether secret detention centres exist and whether it has investigated allegations that suspects have

practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear." See also part V of the same general comment.

⁷ A/HRC/22/53/Add.5, paras. 36 and 41.

⁸ A/HRC/22/53/Add.2, para. 16.

⁹ CAT/C/SR.1025.

¹⁰ A/HRC/22/53/Add.2, para. 23.

been tortured while being questioned in such centres. What steps have been taken to do away with such centres? Comment on the many recurrent and consistent allegations concerning the existence of secret detention centres in the headquarters of the National Surveillance Directorate (DST) in Témara and elsewhere.

13. Provide information on the steps taken to ensure that the national mechanism for the prevention of torture in places of detention is capable of conducting effective, independent, unannounced and unrestricted inspections and monitoring of places of detention. Describe the way in which those visits are conducted, their outcome and the recommendations made following such visits by the Crown Prosecutor, the National Human Rights Council and civil society associations. Provide information on the changes made in response to those recommendations.

14. With reference to article 23 of the Constitution, report on the steps taken to initiate investigations into the allegations of the use of incommunicado detention.

15. With reference to the Committee's previous concluding observations (para. 20), explain what mechanisms and procedures are used in order to conduct a prompt, systematic and independent investigation into the causes of all deaths in detention and to prosecute the persons responsible, if any, for such deaths. The State party should provide the Committee with information on any and all deaths occurring in detention centres as a result of torture, ill-treatment or wilful negligence and on the independent forensic medical examinations performed in those cases.

16. With reference to the Committee's previous concluding observations (para. 12), give a detailed description of the steps taken to prevent acts of torture and ill-treatment, arbitrary arrests and detention, incommunicado detention, the obtention of confessions under torture and the excessive use of force by security personnel in Western Sahara.

17. With reference to the Committee's previous concluding observations (para. 21), report on the steps taken to abolish the death penalty. Also provide information on the conditions of detention and the treatment of death row prisoners and prisoners serving life sentences.

18. With reference to the Committee's previous concluding observations (para. 29), inform the Committee about the steps taken to develop a comprehensive national strategy for combating impunity in the light of the fact that, in order to eradicate impunity, legal reforms must be backed up by public policies addressing with the justice system, security and public order, education and training and by the active engagement of society as a whole.¹¹

19. Please indicate whether measures have been introduced to ensure that the 25 Sahrawis¹² who have been convicted will not be subjected to acts of torture or other cruel, inhuman or degrading treatment or punishment.

Article 3

20. With reference to the Committee's previous concluding observations (paras. 25 and 26), provide information on the allegations that many foreign nationals, migrants in an irregular situation and asylum seekers, including some pregnant women and children, were collectively expelled from Morocco, in violation of Moroccan law, without having been

¹¹ A/HRC/22/53/Add.5, paras. 13 and 14; A/HRC/22/53/Add.2, para. 12.

¹² CAT/C/MAR/CO/4/Add.1, in the section on Point C, para. 13.

clearly informed about the expulsion order and without having the possibility of availing themselves of their rights, including the right of appeal.¹³

21. Provide information on the procedures used and the efforts made by the authorities to protect sub-Saharan migrants who attempt to reach Europe via the Strait of Gibraltar or via Ceuta and Melilla. Also report on the measures adopted to prevent migrants from being subjected to acts of violence, torture or other cruel, inhuman or degrading treatment or punishment. Furnish information on the provisions relating to the deportation from Morocco of persons who are in the country illegally. Comment on the allegations that have been made concerning the illegal and collective expulsion of migrants to Algeria and Mauritania, where they have allegedly been subjected to torture or have been abandoned in a no-man's-land.¹⁴

22. With reference to the Committee's previous concluding observations (para. 9), provide up-to-date information on current procedures and practices in Morocco with regard to extradition and refoulement.¹⁵

23. Indicate whether the State party has obtained diplomatic assurances and, if so, in how many instances and what States have provided them.

24. Indicate whether, since the submission of the State party's previous report, there have been any cases in which it has denied an extradition request from another State, for whatever reason, concerning an individual suspected of having committed acts of torture and whether it has taken the necessary steps to prosecute the person itself. If so, provide information on the nature of the proceedings and their outcome.

25. With reference to the Committee's previous concluding observations (para. 11), provide information on the steps taken to investigate the allegations that "extraordinary renditions" have been undertaken as part of the international fight against terrorism and indicate how such "renditions" are in accordance with the international obligation assumed by Morocco under article 3 of the Convention to refrain from returning or extraditing "a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

Articles 5, 7 and 9

26. Indicate whether Moroccan law includes provisions that establish universal jurisdiction over acts of torture. Indicate whether the State party has exercised such jurisdiction and brought charges or initiated any proceedings to give effect to this provision of the Convention, regardless of the nationality of the perpetrator or the victim.

27. Provide information on any international judicial cooperation agreements concluded between the State party and other States.

Article 10

28. Explain what mechanisms and procedures have been established to ensure that qualified personnel perform impartial, independent forensic medical examinations on persons who have been taken into custody. Describe also the general qualifications of the physicians concerned and the specific forensic training that they have received so that they

¹³ CAT/C/MAR/CO/4, para. 9.

¹⁴ A/HRC/22/53/Add.2, paras. 24 and 25.

¹⁵ A/HRC/22/53/Add.2, paras. 24 and 25; CAT/C/MAR/CO/4, para. 9.

are able to apply the minimum international standards for clinical forensic assessments undertaken for the purpose of assessing, interpreting and documenting acts of torture and cruel, inhuman or degrading treatment.¹⁶

29. Please provide information on the training programmes conducted in the State party in order to ensure that law enforcement officers, border guards, prison staff and the staff of detention centres, as well as all judges, magistrates and prosecutors, are well-acquainted with the obligations assumed by the State party under the Convention and that they know that violations of the Convention will not be tolerated and will be investigated and that persons who commit violations will be prosecuted. Also indicate whether or not the State party has established a mechanism for evaluating the effectiveness of these training programmes and the impact that they have had in terms of a reduction in the number of cases of torture, violence and ill-treatment.

30. Please furnish detailed information on the programmes being conducted to train physicians and other medical personnel who deal with detained persons to detect and document the physical and psychological after-effects of torture and to recognize acts of torture.

Article 11

31. With reference to the Committee's previous concluding observations (para. 18), indicate what legislative measures have been adopted, particularly with respect to article 620 of the Code of Criminal Procedure, in order to authorize representatives of non-governmental organizations to make independent, regular and unannounced visits to places of detention.

32. In the light of the Committee's previous concluding observations (para. 19), provide up-to-date information on the steps taken by the State party to improve conditions in places of detention that affect the physical, material and psychological well-being of inmates. Indicate what steps the State party has taken to ensure that unconvicted prisoners are held entirely separately from convicted prisoners. Also indicate what steps have been taken to ensure that children are held in separate quarters from adult detainees.

33. Also give details of the steps taken to improve the conditions under which women are held in police custody and in prison¹⁷ and to address overcrowding in women's prison blocks. Provide up-to-date information on the modification of Moroccan laws to permit the use of alternatives to pretrial detention in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

34. With reference to the Committee's previous concluding observations (para. 22), provide information on how psychiatric institutions are monitored and inspected. In addition, provide details to the Committee of the statutory and actual time frames for in-patient placement and what has been done to bring them into line with international standards.

Articles 12 and 13

35. Provide detailed information on the measures taken to ensure that registry entries, transcripts, statements and all other official records concerning a person's arrest and

¹⁶ A/HRC/22/53/Add.2, paras. 34–36.

¹⁷ A/HRC/22/53/Add.2, paras. 57–58; CAT/C/MAR/CO/4, paras. 19–21.

custody are kept in the most rigorous manner possible and that all information regarding a person's arrest and custody is recorded and confirmed by both the investigative police officers and the person concerned.

36. Comment on the allegations that judges have failed to order investigations into defendants' claims about human rights violations of various sorts, such as unlawful arrest, placement in secret places of detention for indefinite periods, torture and ill-treatment during interrogation and forced confessions. Comment on the allegations that statements extracted from defendants under torture have been used as evidence in judicial proceedings.

37. With reference to paragraph 13 of the Committee's previous concluding observations, provide information on the specific steps taken to introduce stronger measures for ensuring that thorough, impartial and effective investigations are undertaken without delay into the violence and deaths that occurred during the dismantling of the Gdeim Izik camp and to ensure that those responsible are brought to justice.

Article 14

38. Provide information on redress and compensation measures, including rehabilitation services, ordered by the courts and actually provided to victims of torture or their families since the examination of the last periodic report in 2011. Indicate how many applications for compensation have been submitted, how many have been granted, the amounts of compensation ordered and the amounts actually paid out in each case.

Article 15

39. Explain in detail what measures have been adopted to prevent judges from admitting confessions into evidence if they have been obtained under torture. Describe the steps taken to ensure that decisions are corroborated with other evidence and what type of investigation is undertaken if the person recants during the trial. Explain what measures have been adopted to ensure that, in the absence of any material evidence, persons are not sentenced to prison solely on the basis of a defendant's confession.¹⁸

Article 16

40. In view of the large number of reports of the systematic use of excessive force to suppress demonstrations and arrest protesters or persons suspected of participating in demonstrations calling for the self-determination of the Sahrawi people, provide: (a) information on the procedures that have been introduced to uphold freedom of peaceful assembly and to protect protesters and human rights defenders, particularly those in Western Sahara;¹⁹ (b) information on the events that occurred at the end of April and the beginning of May 2013 at Laayoune when, according to the allegations, six men, one of whom was a minor, were tortured in the course of their arrest.

41. With reference to the Committee's previous concluding observations (para. 23), describe the legal framework for the effort to combat violence against women in Morocco, including sexual violence, domestic violence and marital rape and the fact that, under Moroccan law, the rapist of a minor can avoid criminal responsibility by marrying the victim. Also indicate what steps have been taken to repeal that law.

¹⁸ A/HRC/22/53/Add.2, para. 23.

¹⁹ A/HRC/22/47/Add.4, paras. 296–302; A/HRC/22/53/Add.2, paras. 61–67.

42. Provide statistics for the reporting period on the number of complaints filed concerning acts of violence committed against women, the number of decisions handed down in such cases by the courts and the length of time that passes between the filing of a complaint and the conclusion of trial proceedings. Provide examples of such court decisions together with information on the number of cases in which rape victims have married their attackers or have refused to do so.²⁰

43. With reference to paragraph 24 of the Committee's previous concluding observations, describe the legislative or other measures adopted by the State party in order to prohibit corporal punishment within the home, at school and in institutions that provide child protection services.

44. In the light of the Committee's previous concluding observations (para. 27), provide information on the State party's efforts to prevent and combat trafficking in women and children.

Other matters

45. In the light of the work that has been undertaken with a view to the State party's accession to the Optional Protocol to the Convention against Torture, please provide up-to-date information on the status of the draft instrument of accession to the Protocol.²¹

46. Explain what measures and procedures have been instituted by the State party to amend its laws so as to ensure that no civilians appear before a military court.

47. Provide up-to-date information on the legislative, judicial, administrative and other measures adopted by the State party in response to the threat of terrorist attacks and indicate whether or not these measures have had an impact on human rights safeguards in law and in practice and, if so, in what way. Indicate how the State party ensures that such measures comply with its obligations under international law, particularly the Convention, in accordance with the relevant resolutions of the Security Council, including resolution 1624 (2005). Please describe the relevant training given to law enforcement officers, the number and types of convictions handed down under antiterrorism legislation and the legal and other remedies available to persons subjected to antiterrorist measures. Also indicate whether there have been complaints of non-observance of international standards and, if so, what the outcome has been.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

48. Provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations. This may include institutional developments, plans or programmes. Specify the resources allocated and provide statistical data or any other information that the State party considers relevant.

²⁰ CAT/C/MAR/CO/4, para. 23.

²¹ CAT/C/SR.1025, para. 5.