

MOROCCO

CAT A/50/44 (1995)

105. The Committee considered the initial report of Morocco (CAT/C/24/Add.2) at its 203rd and 204th meetings, held on 16 November 1994 (CAT/C/SR.203 and 204 and Add.2), and adopted the following conclusions and recommendations.

A. Introduction

106. The Committee thanks the State party for its report, which was submitted on time and in conformity with the Committee's guidelines. It also thanks the State party for its sincere cooperation in the constructive dialogue conducted with the Committee. It takes note of the information submitted in both the written and oral reports.

B. Positive aspects

107. The Committee expresses its appreciation of the efforts made by the State party in connection with the revision of the Constitution and the laws and regulations with a view to ensuring that the country's legal system conforms to the provisions of the Convention. These efforts appear to express a real determination to establish the necessary conditions for the promotion and protection of human rights and to prevent the practice of torture and other cruel, inhuman or degrading treatment.

108. It welcomes the establishment of a ministry responsible for human rights.

C. Subjects of concern

109. The Committee is nevertheless concerned about the allegations received from various non-governmental organizations concerning torture and ill treatment, said to be practised in various places of detention, in particular in police stations. The Committee is also concerned about certain shortcomings relating to the effectiveness of the preventive measures taken to combat torture, in particular the half-heartedness displayed in pursuing inquiries and bringing the authors of acts of torture before the courts, whose independence must be preserved. This situation creates the impression that such offences can be committed with relative impunity, an impunity prejudicial to the application of the provisions of the Convention. The fact that the Convention has not yet been published in the Official Journal is also a cause of concern.

D. Recommendations

110. The Committee recommends that the State party provide for all forms of torture in its penal legislation so that all the elements of the definition of that offence contained in article 1 of the Convention are fully covered.

111. The Committee also recommends that, for the greater protection of persons arrested, the State party establish procedures for the systematic and effective monitoring of interrogation methods and practices, especially on all police premises, to give effect to the commitments undertaken in accordance with article 11 of the Convention.

112. The Committee further recommends that the State party continue its efforts with a view to further reforming the penal legislation, particularly as regards prison administration and the duration of police detention in cases involving breaches of internal or external State security. The State party should instigate and press forward with serious inquiries into the actions of police officials for the purpose of establishing whether or not acts of torture have been committed and, if the results of these investigations are positive, bring the authors before the courts. At the same time, it should draw up and pass on to the police clear and precise instructions prohibiting all acts of torture or ill treatment.

113. The State party should intensify the education, information and training programmes called for by article 10 of the Convention, for all the officials concerned.

114. The Committee recommends that the State party take all the necessary measures to ensure the effective application of article 14 of the Convention, so that victims of torture may be fully compensated and rehabilitated. Finally, the Committee recommends that the State party have the Convention published forthwith in the Official Journal.

115. The Committee, which appreciates Morocco's ratification of most of the human rights covenants and conventions, hopes that the Moroccan Government will withdraw the reservations entered with regard to article 20 and make the declarations provided for in articles 21 and 22 of the Convention. The Committee also hopes to obtain written replies to all the questions raised, in particular those concerning the persons reported by various non-governmental organizations as having disappeared or as having been detained.

CAT A/54/44 (1999)

190. The Committee considered the second periodic report of Morocco (CAT/C/43/Add.2) at its 380th, 383rd and 387th meetings, held on 6, 7 and 11 May 1999 (see CAT/C/SR.380, 383 and 387), and adopted the following conclusions and recommendations.

1. Introduction

191. The Committee warmly welcomes the second periodic report of Morocco.

192. The report, which is in conformity with the Committee's guidelines for the presentation of periodic reports, and indeed the oral introduction by the head of the Moroccan delegation, did not evade any subject. This is a source of gratification to the Committee, which is grateful to the Moroccan delegation for the frank and constructive dialogue it has established.

2. Positive aspects

193. The Committee expresses its great satisfaction at certain measures taken by the State party to fulfil its treaty obligations. These measures have, *inter alia*, taken the following forms:

(a) The manifest political will to establish in Morocco the genuine rule of law; this will is clearly reflected in paragraphs 4, 6-10, 16 and 17 of the report;

(b) The payment of allowances to political detainees recently released by the Moroccan State, which has also borne the cost of medical care in cases where this has proved necessary;

(c) The favourable action taken on certain of the recommendations made by the Committee when it considered Morocco's initial report, including:

(i) The publication in the Journal Officiel of the Convention, which thereby becomes applicable throughout the Kingdom and enforceable in respect of all authorities;

(ii) The implementation of a substantial human rights education and awareness programme for law enforcement officials and indeed for other categories, such as school pupils;

(iii) The reform of prison policy with the aim of achieving greater humanization.

3. Factors and difficulties impeding the application of the provisions of the Convention

194. The Committee considers that there are no factors or difficulties impeding implementation of the Convention in Morocco.

4. Subjects of concern

195. The Committee is, however, very concerned about the following questions:

- (a) The persistent non-existence, in Moroccan criminal legislation, of a definition of torture fully consistent with that contained in article 1 of the Convention, and of the classification as crimes of all acts liable to be characterized as torture pursuant to article 4 of the Convention;
- (b) The maintenance of the reservations expressed in respect of article 20 and the non-existence of the declarations provided for in articles 21 and 22 of the Convention; this considerably restricts the scope of the Convention in respect of Morocco;
- (c) Despite the efforts made, the persistence of allegations of torture and ill-treatment;
- (d) The non-conformity of Moroccan legislation with the provisions of the Convention relating to return, expulsion and extradition.

5. Recommendations

196. The Committee recommends to the State party that it should:

- (a) Introduce into its criminal legislation a definition of torture fully consistent with that contained in article 1 of the Convention and classify as crimes all acts liable to be characterized as torture;
- (b) Withdraw the reservations expressed in respect of article 20, and make the declarations provided for in articles 21 and 22 of the Convention;
- (c) Bring the legislation on return, expulsion and extradition into line with the relevant provisions of the Convention;
- (d) Initiate, urgently if such has not already been done, impartial inquiries into the serious allegations of human rights violations brought to the attention of the Moroccan delegation by the Committee on the occasion of its consideration of the second report, and ensure, in recognized cases, that appropriate penalties are imposed on those responsible and that equitable compensation is granted to the victims.

CAT CAT/C/CR/31/2 (2003)

1. The Committee considered the third periodic report of Morocco (CAT/C/66/Add.1 and Corr.1), together with the additional oral information submitted by the State party delegation, at its 577th, 580th and 589th meetings (CAT/C/SR.577, 580 and 589), held on 12, 13, and 20 November 2003, and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the third periodic report of Morocco, which provided it with detailed information on the efforts made by the State party, since the consideration of the second report in 1999, to implement the Convention, and also the information given orally by the Moroccan delegation, which furnished positive information concerning measures to implement the Convention taken since the submission of the third report on 23 March 2003. The Committee thanks the delegation for the frank and constructive dialogue established with it.

3. The third periodic report was submitted slightly late since it had been scheduled for 2002. It was not completely consistent with the general guidelines regarding the form and contents of periodic reports, notably because it did not devote a part to measures taken to comply with the conclusions and recommendations previously addressed to the State party by the Committee.

B. Positive aspects

4. The Committee takes note of the following positive new developments:

(a) The declaration by the State party delegation of the intention of the executive, up to the highest level, and of the legislature, to implement the Convention, which is directly applicable in Morocco, to adopt institutional, normative and educational measures, in consultation with local and international associations, and to develop technical cooperation in the area of human rights with the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations (NGOs). This political will has also been reflected in the release of political prisoners, including a group of 56 who were released in November 2002, and in the compensation of victims;

(b) The broadening of the mandate of the Consultative Council on Human Rights (CCDH); the appointment of a "mediator", the Diwan al-Madhalim, responsible for considering cases of human rights violations submitted to him and for forwarding to the competent authorities the requisite proposals and recommendations; the establishment of the Mohamed VI Foundation for the reintegration of prisoners, which is presided over by the King himself; the establishment of the Human Rights Documentation, Information and Training Centre; the prison reform, including the adoption of measures to assist persons subjected to any form of detention or imprisonment, notably juveniles in the child protection centres, and the implementation of measures to ensure medical care and training for detainees and prisoners;

(c) The substantial reform of the relevant legislation initiated by the State party, in particular the Code of Criminal Procedure and the draft reform of the Criminal Code, in consultation with CCDH and the competent human rights associations, notably with regard to the presumption of innocence, the right to a fair trial, the right of appeal and consideration of the specific needs of women and juveniles;

(d) The remarkable efforts to develop training and education in the area of human rights, notably the organization by the Human Rights Documentation, Information and Training Centre of training for prison service officials, senior prison medical personnel and forensic physicians;

(e) The unlimited access to detainees and prisoners accorded to independent local NGOs;

(f) The payment of compensation, following the recommendations made by the Independent Arbitration Commission set up within CCDH on compensation for material damage and moral injury suffered by victims of disappearance or arbitrary detention and their next of kin;

(g) The assurance that the State party will act on the recommendations and concerns addressed to it by the Committee.

C. Subjects of concern

5. The Committee expresses concern about:

(a) The non-existence of information on the full implementation of article 2 of the Convention, notably in the cases provided for in paragraphs 2 and 3 relating to exceptional circumstances and an order from a superior officer or a public authority as grounds for excluding criminal responsibility;

(b) The considerable extension of the time limit for police custody, the period during which the risk of torture is greatest, both in criminal law and in anti-terrorist legislation, which has been effected subsequent to the consideration of the second periodic report;

(c) The non-existence, during the period of police custody, of guarantees of rapid and appropriate access by persons in custody to a lawyer and a doctor, and to a relative;

(d) The increase, according to some information, in the number of arrests for political reasons during the period under consideration, the increase in the number of detainees and prisoners in general, including political prisoners, and the increase in the number of allegations of torture and cruel, inhuman or degrading treatment or punishment, allegations implicating the National Surveillance Directorate (DST);

(e) The lack of information about measures taken by the judicial, administrative and other authorities to act on complaints and undertake inquiries, indictments, proceedings and trials in respect of perpetrators of acts of torture, notably in the case of acts of torture verified by the 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;

- (f) The application to acts of torture of the prescription period provided for by ordinary law, which would appear to deprive victims of their imprescriptible right to initiate proceedings;
- (g) The non-existence of a provision of criminal law prohibiting any statement obtained under torture from being invoked as evidence in any proceedings;
- (h) The number of fatalities in prisons;
- (i) Prison overcrowding, and the allegations of beatings and violence between prisoners.

D. Recommendations

6. The Committee recommends that the State party:

- (a) In the context of the ongoing reform of the Criminal Code, include a definition of torture which is fully consistent with the provisions of articles 1 and 4 of the Convention;
- (b) In the context of the ongoing reform of the Criminal Code, clearly prohibit any act of torture, even if perpetrated in exceptional circumstances or in response to an order received from a superior officer or public authority;
- (c) Limit the period of police custody to a strict minimum and guarantee the right of persons in police custody to rapid access to a lawyer, a doctor and a relative;
- (d) Include in the Code of Criminal Procedure provisions organizing the imprescriptible right of any victim of an act of torture to initiate proceedings against any torturer;
- (e) Take all necessary measures to eliminate impunity for public officials responsible for torture and cruel, inhuman or degrading treatment;
- (f) Ensure that all allegations of torture or cruel, inhuman or degrading treatment are immediately investigated impartially and thoroughly, especially allegations relating to cases and situations verified by the aforementioned Independent Arbitration Commission and allegations implicating the National Surveillance Directorate in acts of torture, and ensure that appropriate penalties are imposed on those responsible and that equitable compensation is granted to the victims;
- (g) Inform the Committee of the outcome of impartial inquiries into all deaths in police custody, detention or prison, in particular deaths alleged to be the result of torture;
- (h) In the context of the ongoing reform of the Criminal Code, incorporate a provision prohibiting any statement obtained under torture from being invoked as evidence in any proceedings, in conformity with article 15 of the Convention;
- (i) Withdraw the reservation made concerning article 20 and make the declarations provided for in articles 21 and 22 of the Convention;

(j) Devote a part of its next periodic report to measures taken to comply with the conclusions and recommendations addressed to it by the Committee;

(k) Provide in its next periodic report detailed statistics on complaints of acts of torture or other cruel, inhuman or degrading treatment or punishment perpetrated by public officials, and on inquiries, proceedings and criminal and disciplinary sanctions relating to those complaints, disaggregated by offence, age and sex of victim, and position of the perpetrator of the offence. The State party should also provide information on the results of any inspection of any place of detention, the measures taken by the authorities to find solutions to the problems of prison overcrowding, and action taken on allegations of violence between prisoners.

7. The Committee recommends that the present conclusions and recommendations, and the summary records of the meetings at which the State party's third periodic report was considered, should be widely disseminated in the country in the appropriate languages.

8. The Committee requests the State party to provide within one year information on the action it has taken on its recommendations contained in paragraph 6, subparagraphs (c), (f) and (g) above.