

## HUMAN RIGHTS IN MOROCCO

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## SUMMARY

During the late 1980s, Morocco's human rights record came under intense scrutiny by the international community. After decades of repression, the government took a series of steps that were critical in creating a climate of greater freedom in Morocco. This wave of changes would make human rights rhetoric a permanent part of the national language and forever alter political realities in Morocco.

Despite the historic significance of these changes, however, events in the last few years indicate that the transition to a democratic state that complies with international human rights standards is far from complete. For example, while hundreds of political prisoners were released in a general amnesty in July 1994, the future of dozens of others, arbitrarily excluded from the amnesty, is uncertain. One Islamist leader, Abdessalam Yacine, has been held under arbitrary house arrest, without trial, for five years.

Hundreds of victims of forced "disappearance" were released in June 1991, some after almost two decades of secret detention, but the fate of others remains unknown. With the exception of a minimal stipend provided by the armed forces to twenty-eight former military officers, none of the former "disappeared" have received reparations for their suffering and wrongful detention. Moreover, many former prisoners and "disappeared" have still not received their passports and national identity papers, preventing them from exercising their right to freedom of movement. Although most political exiles have returned, at least one, Abraham Serfaty, remains in exile, having been arbitrarily stripped of his Moroccan nationality following his release from prison in 1991.

Not only has the government failed to resolved the issue of political prisoners and the "disappeared" in a definitive manner, but there has been no investigation into past human rights abuses, including torture, ill-treatment and "disappearances." As a result, those responsible for these acts have not yet been held accountable and the truth-telling about past abuses that should be part of any reform process has been largely suppressed.

A series of amendments to the Code of Penal Procedure in December 1991 has significantly reduced the frequency of violations during pre-trial detention. Yet, Morocco's record in this regard remains unenviable, as abuses such as prolonged *garde à vue* (incommunicado) detention, torture and ill-treatment continue to occur, at times with fatal results: there have been at least twenty-five cases of deaths during incommunicado detention in Morocco since 1989. Irregularities also continue during the course of trials. For example, Khadija Benameur, a young labor union activist, and two of her co-workers were beaten and arrested during a peaceful factory strike in March 1995, on charges of "bringing about a cessation of work" and "insulting the king." They were subsequently kept in pre-trial detention in excess of the permitted forty-eight-hour period. Despite signs that they had been tortured during detention, the judge refused to order a medical examination, as required by law, and the defense was also denied the right to call witnesses at the trial. Aside from high-profile cases such as this one, ill-treatment and torture, as well as serious due process violations including forced or falsified confessions and prolonged detention, continue to take place in the context of ordinary criminal cases. Such violations are rarely investigated, leading to a pattern in which law enforcement agents are rarely held accountable when they go beyond the law in their treatment of detainees.

After decades of fear, the press is currently allowed to operate with far greater freedom and political discourse takes place openly. Nevertheless, clear limitations to the freedom of expression exist and Moroccans are still careful to stay clear of any criticism or perceived challenge to the king or the royal family, Islam or the "territorial integrity" of Morocco, particularly its claim to sovereignty over the Western Sahara.<sup>1</sup> On June 21, 1995, for example, a military

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<sup>1</sup>Since 1975, the Western Sahara has been at the heart of a seemingly intractable conflict between Morocco and the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (the Polisario Front), the Western Saharan movement struggling for independence from Morocco. Following Spanish withdrawal from the Western Sahara in 1975, Morocco claimed sovereignty and promptly moved into the territory. After more than a decade of armed conflict, the parties signed a U.N.-brokered cease-fire on September 6, 1991. They also agreed to participate in a referendum to determine whether the Western Sahara should be independent or integrated into Morocco. The referendum was originally scheduled for 1992, but has been repeatedly postponed.

court in Morocco sentenced eight Sahrawi (Western Saharan) civilians to sentences ranging from fifteen to twenty years for participating in a peaceful, pro-independence demonstration in the Western Sahara. The eight were charged with "threatening the external security of the state and the territorial unity of Morocco." A few weeks later, the king commuted their sentences to one year.

The judiciary does not function independently and is susceptible to influence from high government officials, as well as to bribes. Members of the judiciary engage in illegal acts or make legally unsound decisions with impunity, as the judiciary is not subject to effective controls, supervision or penalties. The judiciary has also had ample opportunity to investigate allegations of abuses, particularly those committed during garde à vue detention, but has generally declined to do so. In every case documented in "Violations During Detention," below, judges refused to order medical examinations (a right provided in the Code of Penal Procedure), or even investigations into allegations of torture. This was true even in cases where the detainee showed visible traces of torture.

Although certain provisions of the 1958 Family Code were modified in September 1993, it and other laws still contain numerous provisions that discriminate against women. Even those laws that protect women are largely unenforced, at times because social and cultural norms serve to discourage women from bringing law suits. Domestic violence is prevalent in Morocco, but has remained unaddressed by the government, and the police and justice system are reluctant to assist women who have been physically assaulted in exercising even the legal rights available to them.

The Ministry of Human Rights and the Consultative Council on Human Rights claim that they do not always hear about due process violations or the grievances of former "disappeared" and, thus, cannot be expected to act. However, the former "disappeared" and released political prisoners, as well as human rights organizations and activists, have been relentless in issuing communiqués and seeking contacts with the government in order to make abuses known and press for change.

Thus, despite the dramatic changes of the past few years, serious problems persist. Of particular concern is the fact that the momentum for progress with respect to human rights has now been replaced by a sense of stagnation. Indeed, government officials brush off questions about current violations, emphasizing past progress instead. In the words of one attorney, "Certain important changes have been made in Morocco. Now, there is a feeling on the part of the king and the government that they can take their time in resolving the rest of the human rights problems." However, in order for the changes already in place to have a lasting impact, the government must pursue further change relentlessly and push the process already begun towards completion.

Morocco cannot turn the page on its history of repression until the question of the remaining political prisoners and victims of forced "disappearance" has been resolved, and the needs of those already released has been addressed in a just manner. The past will continue to resurface until those responsible for decades of abuses are brought to justice. The Moroccan judiciary cannot function independently until this becomes a priority at the highest levels of government and the lack of judicial resources and poor training are addressed. The judicial system will continue to be party to human rights violations unless procedural laws now in place are respected and those who violate them are held accountable. Women will continue to feel disempowered unless meaningful modifications are made in laws and practices that discriminate against women, and safeguards are introduced to protect against domestic violence. The Ministry of Human Rights and the Consultative Council on Human Rights , which currently have little credibility, cannot play a real role in carrying out such reforms unless they become truly active and independent. Indeed, in the words of one human rights activist, "Despite the changes, the rule of law still does not exist in Morocco. The new, democratic ways are superimposed on the old system, but nothing will really change unless we have truly democratic institutions."<sup>2</sup>

The lack of political will on the part of the government to pursue further, meaningful, changes with respect to human rights is due, in part, to the reduction or elimination of pressure from the international community. As Algeria has fallen deeper into instability and violence, the United States and European countries have grown more protective of Morocco, despite its continuing record of human rights abuses, citing the importance of the Moroccan regime as a buffer against the spread of Islamic fundamentalism. For the United States, Morocco's cooperative role in the Palestinian-Israeli peace process has served as an additional justification for toning down United States criticism. During King Hassan's state visit to the United States in March 1995, President Clinton declared the leader to be "a friend of the United States" and "a force for tolerance and progress."<sup>3</sup> The international community must not back off now or assume that the task of ending human rights violations in Morocco has been achieved. On the contrary, continued international engagement is critical at this stage, in order to ensure that the process of change and reform does not end in mid course.

## RECOMMENDATIONS

### To the Government of Morocco:

- Release all prisoners arrested for the exercise of their right to freedom of expression and opinion and freedom of association, and provide new trials to all prisoners sentenced in trials that did not conform to international standards.
- Make the issue of the remaining "disappeared" a priority by providing full and public disclosure of the details of the arrest, imprisonment, treatment and present whereabouts of all victims who are still unaccounted for, including four Islamists who "disappeared" between August 30 and September 18, 1995.
- Provide meaningful reparations to *all* of the former "disappeared," in order to provide partial compensation for the wrongful detention, torture and other cruel, inhumane and degrading conditions to which they were subjected.
- Provide reparations to the families of those victims who died in detention and to those who are presently unaccounted for, as partial compensation for the suffering the families of the "disappeared" have endured for so many years.

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<sup>2</sup> Human Rights Watch interview, Casablanca, May 22, 1995.

<sup>3</sup> Agence France-Presse, March 16, 1995.

- Investigate and acknowledge publicly past human rights abuses, including torture, ill-treatment and “disappearances” and punish, to the full extent of the law, those found guilty of committing such abuses.
- Restore the Moroccan nationality of Abraham Serfaty and permit him to return to Morocco from exile in France.
- Promptly bring to trial on recognizable criminal charges or release Abdessalam Yacine, the leader of the outlawed Islamic group al 'Adl wa al-Ihsan. Yacine has been held under arbitrary house arrest since 1989, in the absence of any judicial decision.
- Cease the arbitrary application of Article 288 of the Penal Code to prevent peaceful strikes, in violation of the right to freedom of assembly.
- Abolish Article 77 of the Press Code, which permits the arbitrary seizure or suspension of a publication and violates the rights to freedom of expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights and the Constitution of the Kingdom of Morocco.
- Cease arbitrary restrictions on the free formation of associations and political parties and the sponsoring of their activities. Such restrictions violate the constitution, the Code of Public Liberties and the International Covenant on Civil and Political Rights.
- Eliminate the traditional system of *garde à vue* (incommunicado) detention, which is insulated from judicial or public scrutiny and has provided conditions that permit the practice of torture, falsification of the statement before the police (*procès verbal*) and detention in excess of the legal duration. In addition, the presence of defense attorneys should be required during all stages of interrogation. Incommunicado detention should cease to be the norm in ordinary political and criminal cases; it should be permitted as an exceptional measure only if ordered in writing by a judge, stating a valid reason why incommunicado detention is required in that particular case, and should be subject to systematic and independent judicial supervision.
- Provide clear instructions, education and training to members of the judicial police on the limits of interrogation methods under international law, and the penalties that will be applied for noncompliance with these standards.
- Provide clear instructions, education and training to state prosecutors and magistrates on the requirement of ordering medical examinations when there are allegations of torture or ill-treatment, and ensure that those who violate this requirement are held accountable.
- Carry out prompt and serious investigations of allegations of abuse during *garde à vue* and, when there is sufficient evidence, prosecute those responsible to the full extent of the law.
- Increase government funding of the judicial system in order to raise salaries, reduce the case load per judge and improve work conditions, including legal research facilities and assistance.
- Permit the Magistrates' Council to function as a truly independent body that would supervise all courts and officers within the judicial system, and investigate and impose strict penalties for corrupt practices and other wrongdoing.
- Promptly present to parliament an amended Prison Code that complies with international standards.
- Cease the cruel, inhuman or degrading treatment or punishment of inmates and punish, in conformity with the law, prison guards and law enforcement officials responsible for such acts.

- Address the serious inadequacies in prison conditions, including overpopulation, poor nutrition, and lack of health and hygiene.
- Introduce legislation dealing with the issue of domestic violence and increase training and awareness of police officers with respect to this problem.
- Amend the provisions of the *Moudawana* (Family Code) and other laws that discriminate against women.

**To the International Community:**

- United States military sales to Morocco for 1995 were estimated at \$36,200,000 and commercial military sales were estimated at \$5,899,000. In addition, the United States provides military education and training (IMET) to Morocco and transfers a significant quantity of excess defense articles, at free or little charge; the value EDA transfers was \$18,779,065 in 1990 - 1992, the last period for which complete figures are available. The United States also continues to provide over \$50 million in annual economic assistance to Morocco. France, which enjoys good relations with Morocco, is Morocco's largest trade partner and conducts significant military sales as well. Yet, neither the United States nor France have been vocal regarding recent human rights violations in Morocco. Both countries must use their influence as close allies, commercial and military trade partners and providers of significant economic assistance to Morocco, to urge that the government address continuing human rights abuses.
- The European Union (EU), which has called for "stepping up the dialogue on human rights" with countries with which it has cooperation agreements, should take advantage of its ongoing negotiation of a new EU cooperation agreement with Morocco to urge that Morocco address continuing abuses. In addition, the European Union should raise Morocco's human rights record at the November 1995 EU-Mediterranean basin conference in Barcelona. The conference is aimed at creating a Euro-Mediterranean partnership and human rights has been explicitly placed on the agenda.

**To the United Nations:**

- The United Nations Working Group on Enforced and Involuntary Disappearances should continue to call on the Moroccan government to resolve, in a definitive manner, the remaining cases of "disappearances" in Morocco, and should request that the Moroccan government permit it to visit the country in order to expedite resolution of these cases.
- On the occasion of the United Nations International Decade of the World's Indigenous People, the United Nations should call on the government of Morocco to cease restrictions on the right of the Berber community to "enjoy their own culture [and ...] use their own language," as guaranteed by Article 27 of the International Covenant on Civil and Political Rights, without interference or fear of punishment.

**BACKGROUND**

Morocco, a North African country located in the Maghreb, has a population of twenty-seven million.<sup>4</sup> According to its constitution, Morocco's official language is Arabic and its state religion is Islam.<sup>5</sup> Up to two-thirds of

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<sup>4</sup>The Maghreb refers to the region of North Africa encompassing Morocco, Algeria, Tunisia, Libya and Mauritania.

Morocco's population are ethnic Berbers. In addition, there is a Jewish community of some 10,000 people. Morocco was ruled as a French and Spanish protectorate for forty-four years, until it gained independence in 1956. King Hassan II, whose family has held power in Morocco for over 400 years, has ruled since 1961.

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<sup>5</sup>Constitution of the Kingdom of Morocco, 1992, Preamble and Article 6.

Since 1983, Morocco has implemented two structural adjustment programs aimed at making the transition to a market economy. Despite the success of these programs in keeping inflation relatively constant and bringing about growth in the gross domestic product (GDP), the stringent requirements of structural reform created severe economic hardship in the country. Official estimates indicate that unemployment rose to 16 percent in 1994, while unofficial reports placed it at 20 percent.<sup>6</sup> According to some estimates, the buying power of the average Moroccan worker has been reduced by 35 percent in the past ten years<sup>7</sup>. Moreover, seven droughts during the past fourteen years, including a particularly serious one in 1995, have adversely affected the economy, which is highly dependent on the agricultural sector.<sup>8</sup> Meanwhile, illiteracy is officially at 55 percent, although unofficial estimates place it closer to 70 percent.<sup>9</sup> These factors, combined with reports of rampant corruption, have left socio-economic conditions in Morocco in a fragile state.

### **A History of Political Repression**

Beginning in the 1960s, hundreds of Moroccans became victims of forced "disappearance." Some were former military officers accused of involvement in *coup d'état* attempts against the king in 1971 and 1972. After the Polisario Front began its struggle against Moroccan control of the Western Sahara, however, hundreds of people suspected of harboring sympathies for Polisario in the Moroccan-controlled territory and in Morocco itself, were also "disappeared." In addition, hundreds of Moroccans were subjected to politically-motivated arrests and sentenced in unfair trials, while others were exiled. It was routine for Moroccans who were victims of politically-motivated arrests to be held in prolonged *garde à vue* detention and tortured. Detention conditions, both in the prisons and in the secret detention centers where the "disappeared" were held, were inhumane. The use of torture was systematic and many did not survive.<sup>10</sup> The press was strictly controlled by the government during this period, and tight reins were kept on all political activity and speech. What resulted was three decades of fear and repression.

### **Pressure and Political Change in the 1990s**

In the mid-1980s, Morocco's poor human rights record began to receive a great deal of international attention. Amnesty International launched an international campaign exposing a pattern of "disappearances," political imprisonment and torture in Morocco. The international press, particularly in France, began to cover the human rights situation in the kingdom. Under mounting pressure, the king finally issued an invitation to Amnesty International to visit the country in 1989, only to expel the delegation shortly after it arrived.

In the meantime, plans were underway in France for a Franco-Moroccan collaboration in a series of events overseen by the French ministers of foreign affairs and culture, and aimed at strengthening ties between France and Morocco. Human rights activists took advantage of this occasion to pressure the French government to hold Morocco accountable for its human rights record. When France began to pressure Morocco, the king abruptly canceled the event, causing a great deal of embarrassment to the French participants. French-Moroccan relations continued to decline as Danielle Mitterand, wife of the French president and head of the human rights organization France-Libertés, began to devote attention to the sensitive issue of refugees from the Moroccan-controlled Western Sahara. Next came the publication of Gille Perrault's highly critical exposé of King Hassan, *Notre Ami le Roi* (Our Friend the King), which quickly sold out in France and began to circulate clandestinely in Morocco as well.

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<sup>6</sup>Salomon Brothers, *Kingdom of Morocco: Reaping the Benefits of Economic Stabilization*, New York, October 28, 1994.

<sup>7</sup>Union Marocaine du Travail, "IXème Congrès National de l'Union Marocaine du Travail," *Rapport Général*, (Casablanca), April 21-23, 1995, p. 2.

<sup>8</sup>Jean-Pierre Tuquoi, "La Secheresse qui Sévit au Maroc et en Tunisie Ralentit le Développement Economique," *Le Monde*, June 22, 1995.

<sup>9</sup>*Enquête Nationale sur la Population et la Santé (ENPS-II)*, 1992, Ministère de la Santé Publique.

<sup>10</sup>See Amnesty International, *Morocco: A Pattern of Political Imprisonment, "Disappearances" and Torture* (London: Amnesty International) March 20, 1991, and *Morocco: Deaths in a Secret Detention Center* (London: Amnesty International) April 1990.

As a party to the International Covenant on Civil and Political Rights, Morocco is required to give periodic reports on implementation of the Covenant to the United Nations Human Rights Committee. However, Morocco delayed doing so for four years and, after being called by the committee to account for its failure to fulfill its reporting obligations, Morocco finally came before the committee in 1990. During the presentation, committee members raised questions on issues that Morocco had never before had to address publicly, including forced "disappearance" and its use of secret detention centers.

By early 1991, pressure had mounted from all sides. The United States joined the chorus of disapproval during joint hearings by the House Foreign Affairs Subcommittees on Human Rights and on Africa in June 1991. The international spotlight reinforced strong pressure from within, where the political opposition, human rights groups, and the press were raising topics that had formerly been taboo. After having denied, for decades, that the practice of "disappearance" existed in Morocco, over three hundred "disappeared" individuals were released from secret detention centers in June 1991, without any official explanation, and it was made known that the notorious Tazmamart detention center -- the very existence of which had always been denied -- had been razed to the ground. In September 1991, just before a scheduled state visit to the United States, King Hassan released forty political prisoners. Then, in July 1994, 424 additional political prisoners were released pursuant to a "general amnesty," and political exiles, some of whom had been absent for over two decades, were permitted to return.

The government also implemented legal changes which, while not fully enforced, have had a more than symbolic significance. In 1992 Morocco amended its constitution, largely in response to pressure from political opposition groups. The modifications included a statement in the preamble that the Kingdom of Morocco "reaffirms its determination to abide by universally recognized human rights." In June 1993, the government ratified the 1981 Convention on the Elimination of all Forms of Discrimination against Women and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>11</sup>

More significant was the abrogation on July 5, 1994, of a law known as the "*dahir* [law] of 1935 relative to demonstrations contrary to order and offenses against the respect for authority." This law, which had been passed during the time of the French protectorate in order to suppress the nationalist movement, had subsequently been used by the Moroccan regime for decades to silence and repress its opponents. While its symbolic importance must not be overlooked, the practical impact of the abrogation has been undermined as other existing laws and procedures continue to be used to restrict expression and activism.

A step that demonstrated, on a symbolic level, the unwillingness of the government to change the status quo in Morocco was the composition of the Moroccan government delegation to the United Nations Committee on Torture on November 16, 1994. One delegation member was the notorious Yousfi Kadouri, a former high ranking official at the Derb Moulay Cherif Prison, who had been responsible for the torture of countless political prisoners.<sup>12</sup> Kadouri's participation, which shocked and offended victims of torture in Morocco, has never been explained by the government.

Two institutions were created by the king to implement human rights-related changes in Morocco: the Consultative Council on Human Rights (CCDH), established in May 1990 to counsel the king on human rights matters, and the Ministry of Human Rights, founded in November 1993. Both have been highly visible in carrying out changes that the king had already decided to make, but they have been widely criticized for their lack of independence and failure to take initiatives of their own.

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<sup>11</sup>As discussed below, neither convention has become law in Morocco, because they have not been published in the official government bulletin, as required under Moroccan law.

<sup>12</sup>Communiqué of the Moroccan Organization for Human Rights on the Composition of the Delegation of the Government of Morocco before the Committee Against Torture, November 23, 1994.

The Moroccan system of government is not a democratic one. The constitution provides that "Morocco shall have a democratic, social and constitutional monarchy" with a multiparty system, but the king nevertheless exercises virtually absolute power, including the power to appoint and dismiss ministers and to dissolve the parliament.<sup>13</sup> The new constitution provides that, instead of the king appointing the entire government, he shall appoint the prime minister and then, upon the prime minister's recommendations, appoint the other ministers in the government.<sup>14</sup> In practice, however, the selection of the government still reflects the will of the king. The different branches of the government do not function separately and the judiciary, in particular, is not independent.

Two thirds of the parliament are elected by universal suffrage in a first round of elections, and the remaining one third are indirectly elected in a second round, by an electoral college comprised of members of district councils, labor organizations and professional associations close to the Ministry of Interior. During the first round of parliamentary elections, held for the first time in nine years in June 1993, the opposition captured over 45 percent of the vote. However, a range of observers charged that the second round of the elections held in September 1993, in which the opposition captured just over 20 percent of the seats, was rigged. Thus, only one third of the parliament's 333 seats are currently occupied by the opposition, which possesses very little power due to the predominance of the king and the lack of independence among the different branches of government.

In October 1994, the king declared his intention to form a coalition government including members of the opposition, but demanded control over key ministries such as finance, foreign affairs and the interior. The opposition refused to form a coalition under such conditions and, in January 1994, the king returned with another offer to form a coalition government, this time insisting that he retain control over the Ministry of Interior. Once again, the opposition refused, and a government composed primarily of technocrats was assembled instead.

On August 20, 1995, the king announced a referendum, to be held in 1996, to vote on the institution of a bicameral, parliamentary government, consisting of one house elected entirely by direct universal suffrage, and a second house consisting of regional representatives. This proposal met with a positive response from the opposition.<sup>15</sup>

## **POLITICAL PRISONERS AND THE "DISAPPEARED"**

### **The "Disappeared"**

For decades, the most serious blemish on Morocco's human rights record was the practice of forced "disappearance" of those who opposed the regime or its policies. Some of the victims were members of the military who had been implicated in coup d'état attempts in 1971 and 1972; others were Sahrawis or Moroccans who had challenged Morocco's claims to the Western Sahara. The "disappeared" were held in secret detention centers, but the government always denied any knowledge of their whereabouts.

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<sup>13</sup>Constitution of the Kingdom of Morocco, Article 1.

<sup>14</sup>Ibid, Article 24.

<sup>15</sup> *Reuters*, August 21, 1995.

Four Islamists, Abdelkader Jouti, Abdelhamid Sadik, Mohammed Yachouti and Abderrahim Bouabid, are believed to have "disappeared" between August 30, 1995, and September 18, 1995. According to the Moroccan Association for Human Rights, Jouti, who had been sentenced to life in 1985, had fled the country and returned to Morocco from exile after the amnesty. Jouti was reportedly seen going to police headquarters in Rachidia on August 30, 1995 to renew his identity papers, and has not been seen since. Sadik and Yachouti were reportedly detained near Oujda on September 12 and September 15, 1995, respectively, while Bouabid, a student, was detained in Casablanca on September 18, 1995. The authorities have not confirmed the arrests of these men, who have had no contact with their families.<sup>16</sup> Prior to this, the last reported "disappearance" of a Moroccan had been the case of Mohammed Benbaz, a nineteen-year-old student, who "disappeared" on January 19, 1991.

In response to strong internal and international pressure, and despite its earlier claims of ignorance concerning their whereabouts, the Moroccan government quietly released over two hundred "disappeared" in June 1991. A few months later, twenty-eight former military men who had been imprisoned in the notorious Tazmamart secret detention center were also released. Testimony gathered from those released has permitted Moroccan human rights organizations to conclude that at least eighty-two other "disappeared" persons died in detention; in Tazmamart alone, thirty-four of the fifty-eight detainees did not survive. The Moroccan government has acknowledged these thirty-four deaths, all of whom were military personnel, and has provided death certificates to the families of all but one.<sup>17</sup> The deceased were reportedly buried on the grounds of Tazmamart but families have been unable to reclaim the bodies of their loved ones.

Upon their release, the "disappeared" were forbidden to speak out about their years in detention. In exchange, they received assurances that the government would assist them in finding jobs and reintegrating into society. In fact, according to the Moroccan Organization for Human Rights (OMDH), most of those who had been students or relatively new to the work force when they were "disappeared" have remained unemployed, while the government has assisted many of the rest of the former "disappeared" in finding jobs in the civil service. In addition, many have not had their civil and political rights restored and continue to be denied passports, in violation of their right to freedom of movement (See "Political Exiles/Denial of Passports," below.)

Abdallah Aaguaou, for example, who was "disappeared" for nineteen and a half years, has been waiting at least nine months for a passport, a process that usually takes one month.<sup>18</sup> Aaguaou, a twenty-three year old former air force officer implicated in the August 1972 coup d'état attempt, was sentenced to three years imprisonment. He told Human Rights Watch that in August 1973, after having served one year of his sentence in the military and civil prisons of Kenitra, he was taken to Tazmamart, where he was kept in secret detention until August 1991 -- sixteen and a half years after his sentence had been fully served.

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<sup>16</sup> *Reuters*, September 25, 1995 and October 16, 1995 communication from Moroccan Organization for Human Rights.

<sup>17</sup> October 16, 1995 communication from Moroccan Organization for Human Rights to Human Rights Watch.

<sup>18</sup> Human Rights Watch interview, May 29, 1995, Rabat.

Despite warnings and threats from government authorities following his release, Aaguaou has spoken openly about his experience.<sup>19</sup> He told Human Rights Watch that, in the year or so following his release, he, family members and friends were harassed and threatened because of Aaguaou's outspokenness. Nevertheless, he would not permit himself to be silenced: "After spending nineteen and a half years in secret detention, I have nothing more to lose. What we need is pressure on the government because all this talk about human rights is not what is happening in reality." He explained that, despite pressure on the government to pay reparations to those who had been released, the former detainees received no response until the eve of the GATT conference, held in Morocco in April 1994.

Then, suddenly, due to the international pressure, the Ministry of Human Rights announced that the former detainees would receive a temporary indemnity of 5,000 dirhams per month for two months; after that, our situation would be 'regularized' and we would receive a permanent, more substantial indemnity.<sup>20</sup> We were demanding an indemnity in exchange for the excessive imprisonment that we had all served, the physical hardship to which we had been subjected, and the medical expenses we now have due to conditions that were brought about by detention at Tazmamart.<sup>21</sup>

In spite of the government's promises, however, the Tazmamart detainees have received nothing more than 5,000 dirhams a month since February 1994, despite addressing themselves regularly to the minister of human rights. According to Aaguaou, "for most of us, [this sum] is barely enough to cover medical expenses."<sup>22</sup> The indemnity paid to Tazmamart survivors is an exception, however; other released detainees, and the relatives of deceased detainees, have not received any compensation to date. Those released from secret detention in Kalaât Mgouna, in southeastern Morocco, in 1991 were even told by the Ministry of Human Rights to "prove their presence in the detention center."<sup>23</sup> In June 1994, several other individuals secretly detained for nine years in Agdz and then in Kalaât Mgouna and released in 1984, publicly demanded "legitimate indemnization for the nine years during which we were buried alive in contempt of all laws."<sup>24</sup> The four alleged that, ten years after their release, promises made to them by government authorities in 1984 had still not been kept.<sup>25</sup> The Ministry of Human Rights responded that it was in the process of studying their cases.<sup>26</sup>

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<sup>19</sup>According to Moroccan human rights organizations, other released detainees have also spoken out regarding their "disappearances" without experiencing any serious repercussions.

<sup>20</sup>5,000 dirhams is approximately US\$600.

<sup>21</sup>Human Rights Watch interview, Rabat, May 29, 1995.

<sup>22</sup>Ibid.

<sup>23</sup>Meeting of Moroccan Organization for Human Rights, Rabat, February 26, 1994, as reported in communiqué entitled "Psychothérapie de Groupe pour les Rescapés de Tazmamart et de Kalaât Mgouna."

<sup>24</sup>Agence France-Presse, June 23, 1994.

<sup>25</sup>Agence France-Presse, June 26, 1994.

<sup>26</sup>Ibid.

Hundreds of Moroccan and Western Saharan families are still searching for missing sons, brothers and husbands, many of whom have been "disappeared" for over two decades. The 1991 releases have given these families hope that their loved ones might still be alive as well. Many of those who were liberated in 1991 had been "disappeared" in connection with the question of the Western Sahara, and it is widely believed that most of the remaining disappeared are Sahrawi. The Moroccan government has been working with a list of 285 cases, provided by the United Nations Working Group on Enforced and Involuntary Disappearances. Although it did not make details available to Human Rights Watch, the government says that sixty of these cases have been resolved and that it is trying to determine how many of the remainder were cases of forced "disappearance" and how many are still living. Based on testimony from family members and from the former "disappeared," the Association of Families of Prisoners and Disappeared Sahrawis (AFAPREDESA), reports that at least 526 Sahrawis are still "disappeared" and may be detained in Morocco or in the Moroccan-controlled Western Sahara.<sup>27</sup>

Now that a large number of the "disappeared" have been released, however, and international pressure regarding this issue has diminished, the momentum for further action is gone. For the families of the "disappeared," however, the search for loved ones will continue until they have been given proof, either that their relatives were released or that they died in detention. Indeed, according to the Moroccan Organization for Human Rights, "Strong presumptions leave one to suppose that a large number of disappeared are dead and the authorities keep totally silent on this point."<sup>28</sup>

Equally significant is the fact that the government has neither facilitated independent investigation or disclosed the details of human rights abuses such as "disappearances" and torture in the secret detention centers. As a result, those who were guilty of committing these violations have never been held accountable for their crimes and this chapter of history remains open, even for those who have been released.

Nor has the government responded to demands that it pay reparations to the former "disappeared" or to the families of those who were never accounted for or died, for the suffering brought about by the arbitrary or excessive periods of detention and the inhumane conditions to which they were exposed. Mohammed Ziane, the minister of human rights, responded to this issue by stating that, "The government's policy is to assist these people with reintegration, including finding jobs, lodging, etc. But we do not want to give them a sum of money; we think it is better for them if we assist them in reintegration. If they want damages, they must seek them through the justice system."<sup>29</sup> This is an unrealistic suggestion, however, since the sensitive nature of this issue makes it highly unlikely that Moroccan courts would be able to make independent and impartial judgments in such cases, particularly when the government has failed to take the lead in addressing the subject. In terms of payments, Ziane distinguished the Tazmamart prisoners because "it is the Royal Armed Forces, not the government, that has taken the responsibility to pay them this stipend, since they were military personnel. This does not apply to the others."<sup>30</sup> Although the minister acknowledged that a number of former "disappeared" continue to come to his ministry with grievances, the ministry stated that it has no statistics on the number of former "disappeared" who have found jobs and lodging, because "they do not always inform us."<sup>31</sup>

## Political Prisoners

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<sup>27</sup> Human Rights Watch interview with Mahjoub Naama, Chargé d'Information of AFAPREDESA, Rabouni, Algeria, August 13, 1995.

<sup>28</sup> Moroccan Organization for Human Rights, *Rapport Moral Présenté par le Président au 2ème Congrès*, June 1994.

<sup>29</sup> Human Rights Watch interview with Mohammed Ziane, minister of human rights, Rabat, June 2, 1995.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

During the 1960s, 1970s and 1980s, hundreds of Moroccans were arrested for political motives. They were convicted and sentenced to long prison terms, following unfair trials that took place in a politically-charged environment and violated international human rights standards. Responding to domestic and international pressure, the king began to authorize the release of certain political prisoners in 1989 and, by August 1991, close to one hundred political prisoners had been released. Then, in July 1994, the king delivered a speech declaring his intention "to turn the page on what are commonly referred to as 'political prisoners.'"<sup>32</sup> What followed was a "general amnesty," pursuant to which 364 political prisoners were released.<sup>33</sup> Many of them had been arrested during riots that took place in several Moroccan cities in December 1990. The general amnesty explicitly excluded individuals who did not acknowledge Morocco's sovereignty over the Western Sahara.<sup>34</sup>

However, at least fifty prisoners whose arrests had a political character remain in detention.<sup>35</sup> While most are Islamists, some are also associated with leftist movements. The government's official explanation for the continued detention of these individuals is that they had committed "blood crimes." In reality, however, the amnesty appears to have been applied arbitrarily, as many of those released in 1994 had also been sentenced for the commission of "blood crimes," while many of those who remain in detention were only charged with non-violent crimes. According to the minister of human rights, his ministry has pushed for the release of the remaining prisoners because "while their crimes cannot be justified, we need to put these events behind us. Why were the Islamists not released while others who were responsible for blood crimes were released? Because the Islamists had no political representation or any presence on the Consultative Council on Human Rights, so no one pushed for their release. Meanwhile, members of other political positions who did have representation were released."<sup>36</sup>

Despite the ministry's declared position, however, the government has failed, for over one year, to act on the cases of the remaining prisoners. In April 1995, the Consultative Council on Human Rights reportedly provided prison authorities with lists of prisoners who had not benefitted from the amnesty, but there has been no indication of further progress on this issue.<sup>37</sup> Human Rights Watch believes that the arrests of these individuals were politically-motivated and many of their trials tainted. Those who were charged with non-violent crimes and imprisoned solely for the exercise of their right to free expression and assembly should be immediately released, and those denied their internationally-protected right to a fair trial should be re-tried or released.

Abdessalam Yacine, the leader of the outlawed Islamic group al 'Adl wa al-Ihsan, has been held under arbitrary house arrest since 1989. Yacine was placed under house arrest pursuant to an administrative order of the Ministry of the Interior -- not a judicial decision. His attorneys submitted an appeal to the Supreme Court in early 1992, but the court has yet to rule on his fate. Yacine should either be promptly charged and tried in accordance with international fair trial standards, or he should be immediately released.

## The Death Penalty

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<sup>32</sup>Excerpt from royal speech in *Bulletin des Droits de l'Homme*, Ministry of Human Rights, Kingdom of Morocco, no. 2, September 1994, p. 6.

<sup>33</sup>The amnesty actually covered 424 people, sixty of whom had been previously released.

<sup>34</sup>Foreign Broadcast Information Service (FBIS), July 21, 1994.

<sup>35</sup>A September 1994 joint list released by the Moroccan League for Human Rights, the Moroccan Association for Human Rights, the Moroccan Organization for Human Rights, the Marrakech Committee for the Defense of Human Rights and the Bar Association of Morocco named the fifty. The July 1994 issue of the Islamist newspaper *al-Sahwa* named over sixty remaining prisoners.

<sup>36</sup>Human Rights Watch interview, Rabat, June 2, 1995.

<sup>37</sup>Agence France-Presse, April 28, 1995.

The last person to be executed in Morocco was Mustapha Tabet, a police commissioner convicted in August 1993, of the rape and assault of hundreds of women. The last death sentences in Morocco were handed down in the cases of three defendants tried in connection with a series of armed attacks in 1993 and 1994, including an attack on a Marrakech hotel leading to the death of two tourists. The executions have not been carried out. Several months before the 1994 amnesty, 196 prisoners sentenced to death had their sentences commuted to life sentences.

### **Political Exile/Denial of Passports**

In addition to outright exile, one method of repression used in the 1970s and 1980s was the denial of national identity papers and passports to opponents of the regime. This prevented hundreds of Moroccan citizens from exercising their internationally protected right to "enter [one's] own country."<sup>38</sup>

Following their release from detention, it was announced by the Ministry of Human Rights that former political prisoners and victims of forced "disappearance" would be eligible to receive passports. When these individuals approached the local authorities in charge of issuing passports, however, they were told that authorization to issue passports had not yet been given from above.<sup>39</sup> A number of individual cases have gradually been addressed by the government during the last year, but close to fifty Moroccans, including both former prisoners and "disappeared," continue to be denied their fundamental right to freedom of movement.<sup>40</sup> The poet Abdallah Zrika, for example, who had been imprisoned for two years in 1978, had not received a passport by October 1995, despite a year-long effort. Ahmed Marzak, who was released from Tazmamart in 1991 after more than eighteen years of secret detention, attempted to travel to France for medical attention in July 1995. However, Moroccan authorities reportedly confiscated his passport, which he had received only a few months before. Then, he was reportedly kidnaped by civilian police and taken to the outskirts of Rabat, where he was interrogated for thirty-six hours, particularly about his relations with foreign nationals, and subjected to ill-treatment.<sup>41</sup>

The general amnesty of July 1994 also applied to some 200 political exiles, who were pronounced free to return to Morocco. However, many were initially unable to do so because they continued to be denied Moroccan passports.<sup>42</sup> Gradually, however, almost all exiles who wished to return were able to do so.<sup>43</sup> On June 10, 1995, for example, some 1,000 people turned out at Casablanca airport to meet Mohammed "Fkih" Basri who, after a twenty-eight-year absence, was one of the last returning political exiles.

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<sup>38</sup>International Covenant on Civil and Political Rights (hereinafter "ICCPR"), Article 12 (4).

<sup>39</sup>Moroccan Organization for Human Rights, "La Liberté de Circulation est Toujours L'objet de Violations," Press Release, September 14, 1994.

<sup>40</sup>Human Rights Watch interview with representatives of the Moroccan Association for Human Rights, Rabat, June 2, 1995.

<sup>41</sup> Agence France-Presse, August 28, 1995.

<sup>42</sup>Communiqué of the Moroccan Organization for Human Rights, January 25, 1995.

<sup>43</sup>Several individuals have chosen to remain in their countries of exile.

One political exile, Abraham Serfaty, is still prevented from returning to Morocco. Serfaty, who had been a member of an extreme left opposition group and proponent of Western Saharan independence, was arrested in November 1974 and sentenced to life in prison in February 1977. Serfaty was released from Kenitra central prison on September 13, 1991, after seventeen years of detention. He was promptly stripped of his Moroccan nationality and expelled to France by the Ministry of the Interior. The stated basis for Serfaty's expulsion was the sudden "discovery" by the government that Serfaty was not Moroccan but Brazilian, and should therefore be stripped of his nationality. This action was contrary to the 1958 Moroccan Code of Nationality, which provides that the state may only strip a Moroccan of his nationality pursuant to an irrevocable judicial decision. Serfaty, who was born in Morocco in January 1926 of Jewish-Moroccan parents, has never set foot in Brazil, although his father had business interests in that country. In June 1995, Serfaty's attorney finally managed to obtain a copy of Serfaty's birth certificate, issued on January 12, 1926 by the president of the Rabbinical chamber of the Casablanca court.<sup>44</sup> Even if Serfaty were also Brazilian, however, this would not be a basis for stripping him of his Moroccan nationality, since Moroccan law permits dual nationality.

The stated basis for Serfaty's expulsion is considered by most to have been an elaborate, but ultimately ridiculous, pretext for getting rid of him. The regime was under tremendous pressure, particularly from the French government, to release Serfaty from prison in 1991, but was reluctant to do so because of his prominence and his outspokenness on the issue of the Western Sahara. Having given in to pressure to release him, the government nevertheless prevents him from living in his homeland.

Serfaty is almost seventy years old and suffers from a heart condition. After having been subjected to torture and spent so many years in inhumane detention conditions, he has declared his wish to spend the last years of his life in Morocco. The Supreme Court has not yet acted upon an appeal submitted by his attorney in November 1991. Nor has Serfaty received any response to a passport application deposited with the Moroccan Consulate in Paris on October 4, 1994, following the General Amnesty. In addition to violating Moroccan law, the administrative decision to expel Serfaty violates the International Covenant on Civil and Political Rights, ratified by Morocco on August 3, 1979, which provides that "no one shall be arbitrarily deprived of the right to enter his own country," as well as the Universal Declaration on Human Rights, which prohibits arbitrary exile and the arbitrary deprivation of one's nationality.<sup>45</sup> Accordingly, Serfaty should be permitted to return to Morocco immediately.

## VIOLATIONS DURING DETENTION

In December 1991, important amendments to the Code of Penal Procedure introduced partial safeguards against some of the systematic abuses that had, for decades, characterized both pre-trial detention and trial procedures in Morocco. Among the most important changes was the reduction of the duration of garde à vue detention in police custody to forty-eight hours, with some exceptions, and with the possibility of a twenty-four-hour extension.<sup>46</sup> The shortening of the duration of incommunicado detention introduced a significant safeguard against the possibility of torture and ill-treatment in police custody. A further safeguard was introduced in Article 76, which now requires the state prosecutor to order a medical examination of the accused by an expert doctor, if so requested by the accused or on the state prosecutor's own initiative, if he sees signs of torture justifying such an examination. The new procedures also require the presence of an attorney at the preliminary interrogation that takes place before the state prosecutor or the investigating judge. However, the police interrogation still takes place during garde à vue detention, from which attorneys are excluded.

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<sup>44</sup>"Serfaty n'est plus 'Brésilien,'" *Jeune Afrique*, June 8-14, 1995, p. 14.

<sup>45</sup>ICCPR, Article 12(4), and Universal Declaration on Human Rights, Article 9 and Article 15.

<sup>46</sup>According to Article 68 of the Code of Penal Procedure, the permitted period of incommunicado detention for a suspect charged with threatening the internal or external security of Morocco is ninety-six hours.

Although the new procedural safeguards have reduced the degree and number of abuses, violations still occur with disturbing frequency. For example, the forty-eight-hour maximum for garde à vue detention is still illegally prolonged in many cases. Police records are at times falsified to indicate incorrect arrest dates, in order to give the impression that this provision is being complied with. The presence of an attorney at the preliminary interrogation is "generally purely formal," as the lawyer "cannot ask questions, nor require that his observations be recorded as part of the *procès verbal*, [official statement taken by the police during garde à vue detention and presented in court.]"<sup>47</sup> Moreover, it is during garde à vue, when lawyers are absent, that the real abuses tend to occur. Indeed, Human Rights Watch received testimony from many different lawyers suggesting that the *procès verbal* is routinely coerced or fabricated. According to the Moroccan Association for Human Rights (AMDH), there have even been cases where the *procès verbal* was not signed by the accused, but was nevertheless admitted in court by the judge.<sup>48</sup> This is of grave concern because, according to the Moroccan Organization for Human Rights, "an entire case can be based on the *procès verbal*."<sup>49</sup>

Torture and ill-treatment also persist. Poor training and education may be factors, but the political will to end torture and ill-treatment has still not been demonstrated. Law enforcement officials have, for decades, been accustomed to violating international human rights standards with impunity, and inadequate investigations and the virtual failure to prosecute law enforcement officials responsible for abuses have created little incentive for change.

Since 1989, there have been at least twenty-five deaths during pre-trial detention in Morocco, based on a list of names compiled from different sources by Human Rights Watch. According to the Moroccan Organization for Human Rights, there have only been two instances of prosecution of those responsible. In both cases, the violence against the detainee occurred at the time of arrest, in a public location with witnesses present, but the detainee died later, during detention. On September 21, 1991, for example, Hachmi Lamseguem was arrested during a police round-up in Casablanca, while he was selling vegetables. The violence to which he was subjected led to his death during police custody on the same day. Lamseguem's death received a great deal of attention in the press and there was strong pressure for an investigation. In December 1993, the five security force agents responsible for his death received sentences ranging from three to eight years, for involuntary homicide.

Investigations that were supposedly opened in at least half a dozen other cases of death in detention have never led to any results.<sup>50</sup> An investigation into the death of Mustapha al-Hamzaoui, who died one day after his arrest on May 15, 1993, is still ongoing. The official announcement stated that Hamzaoui had committed suicide. The Moroccan Organization for Moroccan Organization for Human Rights, Human Rights, which at the time had called for an autopsy by doctors designated by the victim's family, subsequently became a "civil party" in the lawsuit against the government. Two years later, there have still been no results.<sup>51</sup>

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<sup>47</sup>Moroccan Organization for Human Rights, *Non à la torture au Maroc: Rapport Alternatif de l'OMDH dans le cadre de la Convention Internationale Contre la Torture et autres Peines ou Traitements Cruels, Inhumains ou Dégredants*, (Casablanca: Les Editions Maghrébines), November 1994, p. 50 (hereinafter "*Non à la torture au Maroc.*")

<sup>48</sup>Human Rights Watch interview, Rabat, May 26, 1995.

<sup>49</sup>Human Rights Watch interview, Rabat, May 24, 1995.

<sup>50</sup>Moroccan Organization for Human Rights, "Dossier [et annexes] relatif aux décès survenus dans les locaux dépendant de la police judiciaire et des autorités locales ou impliquant la force publique."

<sup>51</sup>Moroccan Organization for Human Rights, *L'OMDH à travers ses communiqués et déclarations*, (Casablanca: Les Editions Maghrébines), December 1992 - May 1994, pp. 57, 63 and 65, and Human Rights Watch interview, Rabat, June 1, 1995.

As discussed above, the fact that lawyers are not present during at least the first forty-eight hours of detention, the period during which abuse is most likely to occur, increases the likelihood of torture or ill-treatment during police custody. Numerous detainees have died within twenty-four hours of being brought into police custody. One example is Brahim Belfakir, age twenty-nine, who died on November 7, 1994. According to the Moroccan Association for Human Rights, the state prosecutor accepted the Belfakir family's demand that an independent autopsy be conducted by physicians of their choice. When the physician arrived, however, the autopsy had already been completed.<sup>52</sup> In another case of possible death under torture, Hamza Dagdoug was arrested on January 18, 1995, and was declared dead on January 19, 1995. According to the police, Dagdoug had committed suicide in the central police station of Tangiers, using a tie that had "inadvertently" been left in the toilets.<sup>53</sup>

One of the problems, according to human rights groups, is the policy with respect to autopsies. First, autopsies are not routine, but are only carried out upon request of the state prosecutor or the orders of a judge. According to the Consultative Council on Human Rights, the prosecutor always asks for an autopsy, and the only problem is the shortage of medical experts.<sup>54</sup> Human rights activists disagree that this is the practice, and state that, even in cases where an autopsy has suggested that the death occurred due to torture or ill-treatment, there have been inadequate, if any, follow-up investigations. In the case of Mustapha al-Hamzaoui, for example, the autopsy record simply "disappeared" from police files; by the time this was discovered, it was too late to conduct another autopsy.<sup>55</sup>

According to human rights lawyer Abdessalam Chaouch, "Many people think the situation in Morocco has improved just because there are fewer political cases. But now we see that due process violations still take place, except that they happen in ordinary criminal cases."<sup>56</sup> Most lawyers also agree that abuses tend to be graver and more frequent in small towns and rural areas than in the big cities. According to Chaouch, "You should not look at Rabat and Casablanca as examples. The message has gotten down to the low levels more quickly in these areas. But in the small towns and villages, the policeman who, for twenty years has been practicing torture during garde à vue -- he is still behaving the same way today."<sup>57</sup> Even when torture does not take place, the conditions of garde à vue detention can be inhumane. According to the Moroccan Organization for Human Rights, these locations are

generally in a lamentable state. They are often tiny, badly ventilated and dirty. They are not subject to any hygienic controls. These conditions constitute, in and of themselves, even in the absence of torture, inhumane and degrading treatment.<sup>58</sup>

Even in high-profile, political cases in big cities, law enforcement officials continue to commit torture, ill-treatment and serious due process violations. In June 1994, for example, fourteen members of the National Association of Unemployed University Graduates were sentenced to two years imprisonment and fined 3,000 dirhams each for having participated in an unauthorized demonstration. According to Amnesty International, the defendants complained to judicial authorities that "they had been beaten and ill-treated during incommunicado detention in police custody, and some reportedly still bore the marks several days later. However, a medical examination ordered by the state prosecutor

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<sup>52</sup>Human Rights Watch interview, Rabat, May 26, 1995.

<sup>53</sup>"Un Citoyen meurt en garde à vue à Tanger," *Libération* (Morocco), January 23, 1995.

<sup>54</sup>Human Rights Watch interview with Consultative Council on Human Rights, Rabat, June 1, 1995.

<sup>55</sup>Human Rights Watch interview with Moroccan Association for Human Rights, Rabat, May 26, 1995.

<sup>56</sup>Human Rights Watch interview with Abdessalam Chaouch, Rabat, May 25, 1995.

<sup>57</sup>Ibid.

<sup>58</sup>Moroccan Organization for Human Rights, *Non à la torture au Maroc*, p. 50.

was never carried out and further requests for a medical examination by defense lawyers were refused by the court."<sup>59</sup> On appeal, their sentences were reduced to three months and 500 dirhams.

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<sup>59</sup>Amnesty International, Urgent Action Appeal, July 1, 1994.

Another case occurred on March 14, 1995, when three striking workers were arrested at an agro-industrial factory at Sidi Slimane. Strike organizer Khadija Benameur was charged with bringing about a "cessation of work," a violation of Article 288 of the Penal Code, and for offending the person of the king, a violation of Article 179 of the Penal Code. The second charge was brought because, according to the police commissioner, Benameur had encouraged workers to shout the following slogan: "Long live our employer! Down with the king!" Benameur denied this charge. Her two co-workers were charged with violations of Article 288 and with drug and alcohol offenses, charges which they also denied.<sup>60</sup>

Both the period of incommunicado detention and the trial were marked by grave violations of due process. Although the state prosecutor stated that the three were arrested on March 14, defense lawyers allege that they were actually arrested on March 13 and kept in pre-trial detention for fifty-two hours, exceeding the forty-eight-hour maximum permitted by the amended Code of Penal Procedure.<sup>61</sup> In addition, the defendants, who bore visible bruises on their faces and hands during the trial, alleged that they had been beaten during their arrest and tortured during pre-trial detention. Nevertheless, defense requests for a medical examination were refused. This refusal violates the state prosecutor's duty to order a medical examination of the accused by an expert doctor. Defense requests that the clerk record the fact that the defendants' lawyers had noted traces of torture were also rejected by the judge. Finally, the defendants were denied the right to call witnesses during the trial. The court even refused to allow police commissioner Brahim Marchane to testify, although he was responsible for the arrests and was the one who had charged Khadija Benameur with insulting the king.

Benameur was eventually sentenced to one year imprisonment for violation of Articles 179 and 288 of the Penal Code, while her two co-workers were sentenced to one and two months for drug and alcohol offenses, respectively, but were acquitted with respect to Article 288. Following the trial, the Moroccan Association for Human Rights protested against "the degrading and baseless charges -- such as drunkenness, consumption of drugs and insulting sacred institutions -- brought against the workers in order to tarnish their honor and facilitate their conviction by the courts."<sup>62</sup> On appeal, Benameur's sentence was reduced to one month.

Perhaps the best-known trial in Morocco in recent years was that of seventeen men convicted on January 28, 1995 for a series of armed attacks during 1993 and 1994 in Fez, Casablanca and Marrakech. An August 1994 attack resulted in the death of two Spanish tourists. Neither the defendants, who were ultimately charged with having carried out these attacks on behalf of militant Islamists, nor their families, were informed of the charges against them at the time of arrest. According to one of their attorneys, Abdessalam Chaouch, three of the defendants were held in incommunicado detention for 144 hours, and two in excess even of that period. Although several of the defendants did not speak Arabic, adequate interpretation was not provided during the interrogations or when signing the *procès verbal*. Moreover, despite allegations that at least several defendants were tortured during *garde à vue*, no medical examinations were accorded.<sup>63</sup>

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<sup>60</sup>Human Rights Watch interview with defense attorney Abdellatif Wahbi, Rabat, May 24 and May 25, 1995.

<sup>61</sup>Ibid.

<sup>62</sup>Agence France-Presse, March 29, 1995.

<sup>63</sup>Letter to Human Rights Watch from defense attorney Abdessalam Chaouch, September 27, 1995.

Three of the defendants were sentenced to death, six to life imprisonment and the remaining six who stood trial received sentences ranging from six to ten years. Human Rights Watch is opposed to the death penalty in all cases. The death sentences in these cases were particularly egregious, however, given the high number of procedural irregularities in the trial and the fact that at least one defendant was sentenced to death in a case where there were no fatalities: he was found guilty of firing on the wall of the Jewish cemetery in Casablanca and involvement in armed attacks on a bank and a restaurant, but nobody was killed in either case. This violates Article 6(2) of the International Covenant on Civil and Political Rights, which requires that the death penalty be imposed "only for the most serious crimes." The "leader" of the attacks and one participant in the Marrakech murders were abroad and did not stand trial.<sup>64</sup>

Another violation is the fact that civilians in Morocco are sometimes tried by military tribunals. Human Rights Watch opposes the trial of civilians by military tribunals under all circumstances, because of the lack of independence of such tribunals, which are part of the executive branch of government. This practice is also discouraged by international human rights law. The Human Rights Committee established under the International Covenant on Civil and Political Rights issued the following warning in 1984:

The committee notes the existence, in many countries, of military or special courts which try civilians. This could present serious problems as far as the equitable, impartial and independent administration of justice is concerned. Quite often the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with normal standards of justice. While the International Covenant on Civil and Political Rights does not prohibit such categories of courts, nonetheless, the conditions which it lays down clearly indicate that the trying of civilians by such courts should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in Article 14 [the fair trial article in the International Covenant on Civil and Political Rights.]

The trial of civilians by military courts is of particular concern since military courts do not provide defendants with the same procedural safeguards as those in ordinary criminal procedures: while the duration of garde à vue detention for defendants charged with threatening internal security in civilian courts is limited to ninety-six hours (with a forty-eight-hour extension), a ten-day renewable period of incommunicado detention is permitted in military courts.<sup>65</sup> The eight Sahrawi demonstrators arrested in Laayoune on May 11, 1995, for example, were tried by a military court and alleged that they were beaten, tortured and forced to sign "confessions" during the ten-days of incommunicado detention preceding their military court trial.

In another case that came to trial in May 1994, eight men, two of whom were Algerian, were arrested on charges of having smuggled arms into Morocco. Although the eight were civilians, they were tried by a military court and, on this basis, the government stated that a ten-day period of incommunicado detention was permitted. According to one of their attorneys, Ramid al-Moustafa, even that period was exceeded, however, as some of the accused were detained incommunicado for as long as twenty days. "The government falsified the dates of arrest, but everyone knows that they were held for longer than ten days. The newspapers reported the arrests before the day on which the government claims the garde à vue started."<sup>66</sup> Several of the defendants also alleged that they had been tortured, but they were denied requests for a medical examination.<sup>67</sup>

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<sup>64</sup>Erich Inciyan, "Trois beurs de la région parisienne ont été condamnés à mort par la cour d'appel de Fès, *Le Monde*, January 30, 1995.

<sup>65</sup>See dahir of July 6, 1971, as quoted in *Non à la torture au Maroc*, p. 49.

<sup>66</sup>Human Rights Watch interview with Ramid al-Moustafa, Casablanca, May 23, 1995.

<sup>67</sup>*Ibid.*

In a similar case, another group charged with arms smuggling were also tried in a military tribunal in June 1994. The lawful duration of garde à vue detention was, once again, exceeded. According to one of the defense attorneys, Abdellatif Wahbi, the judge responded to complaints by defense attorneys regarding this violation by concluding, in his decision, that "the violation of articles related to garde à vue does not annul the entire proceeding."<sup>68</sup> Again, there were allegations that torture had been used to force confessions, but although traces of torture were still visible, the judge denied the request for a medical examination. The judge also denied the defendants' request to present witnesses. One defendant received a five year sentence, while the others all received sentences ranging from ten to twenty years.

Human Rights Watch is concerned that, despite significant modifications in the Code of Penal Procedure, serious violations continue to occur in Morocco, particularly during garde à vue. Thus, we recommend that the traditional system of garde à vue be eliminated in Morocco, and that the presence of lawyers be required at all stages of interrogation. Garde à vue should be permitted as an exceptional measure only if ordered in writing by a judge, and stating a valid reason why it is required in that particular case. The only valid reason for incommunicado detention is a demonstrated, exceptional need to protect the integrity of a criminal investigation by preventing the detainee from communicating with accomplices, fellow detainees or potential targets for arrest; the need to facilitate or expedite interrogation, or to elicit a confession, is not a valid justification. A garde à vue order imposed by anyone other than a judge should constitute unlawful arrest and make the interrogating officer criminally liable. Moreover, there should be systematic and independent judicial supervision over the police during garde à vue; specifically, a judge who imposes garde à vue should be required to visit the detainee on a daily basis to ensure that the legal duration of detention has not been exceeded, that the detainee is not being mistreated, and that food and medical requirements are being met.

### **COMPLIANCE WITH THE TORTURE CONVENTION**

Morocco ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the "Torture Convention") in June 1993. This ratification notwithstanding, the cases above indicate that the Moroccan government still has a long way to go to eradicate torture and other forms of ill-treatment. Moreover, although two years have passed since its ratification, the Torture Convention has not entered into the domestic laws of the country because its text has not yet been published in the official government bulletin, as required by Moroccan law.

Moreover, Morocco has taken no steps, either legislative or administrative, to place domestic laws in compliance with the the Torture Convention. Articles 400 to 403 of the Penal Code punish "injury, blows or other violence or assault and battery" leading to incapacity, but do not mention torture, as defined in Article 1 of the Torture Convention. The only articles in the Penal Code that specifically mention torture (Articles 399 and 438) apply only to individuals acting in a non-official capacity. This violates Article 4 of the Torture Convention, which imposes the affirmative obligation on a state to "ensure that all acts of torture are offences under its criminal law."

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<sup>68</sup>Human Rights Watch interview with Abdellatif Wahbi, Rabat, May 25, 1995.

Moreover, under the Torture Convention, Morocco must ensure "a prompt and impartial investigation, whenever there is reasonable ground to believe that an act of torture has been committed."<sup>69</sup> At present, those accused of carrying out torture in Morocco are rarely investigated and virtually never prosecuted. Nor has Morocco complied with the requirement in Article 11 of the Torture Convention to keep interrogation and custodial methods and practices under systematic review, in an effort to prevent torture. Of additional concern is the high number of cases where defendants or their legal counsel have alleged torture but been refused the right, in violation of the newly-amended Code of Penal Procedure, to a medical investigation. Finally, confessions alleged to have been extracted under torture are not only routinely admitted as evidence in Morocco, but often constitute the basis for a conviction. The admission of such evidence violates Article 15 of the Torture Convention, which requires the state to "ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings." These facts indicate that Morocco has violated its obligations under Article 2 of the Torture Convention to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."

Actions such as the selection of Yousfi Kadouri as part of the Moroccan government delegation to the United Nations Committee on Torture on November 16, 1994, also hold back progress. Kadouri, a former high ranking official at the Derb Moulay Cherif Prison, had been responsible for the torture of countless political prisoners.<sup>70</sup> Not only did Kadouri's participation place the credibility of the Moroccan government in question but, according to the Moroccan Organization for Human Rights, "it inflict[ed] an additional humiliation upon the victims of torture and constitute[d] a challenge to the defenders of human rights."<sup>71</sup>

## PRISON CONDITIONS

According to attorneys, human rights organizations and former prisoners, the conditions in Morocco's prisons are inhumane and deteriorating daily. Problems include severe overpopulation, reports of brutality and ill-treatment of prisoners, lack of medical attention and poor hygiene.

Mohammed Lididi, the director of penitentiary administration in Morocco, disagreed that prison conditions were poor, although he did acknowledge that the prisons are overpopulated. Indeed, Moroccan prisons currently hold 45,000 - 46,000 prisoners, although their capacity is 25,000 -26,000 prisoners.<sup>72</sup> Sixteen new facilities are presently being built, which should create a capacity for 13,000 more prisoners. Although this is a positive step, the space will still be inadequate. According to Lididi, however,

even if the number of prisoners is above the international norms, this does not mean that the conditions are not humane. In Morocco, we have less space in our normal milieu, which is very close and social. So if a prisoner in the West has three cubic meters of space, that doesn't mean the same is necessary in Morocco. Besides, the problem of [prison] overpopulation exists in all countries.<sup>73</sup>

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<sup>69</sup>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, June 26, 1987, Article 12.

<sup>70</sup>Moroccan Organization for Human Rights, "Communiqué of the OMDH on the Composition of the Delegation of the Government of Morocco Before the Committee Against Torture, November 23, 1994."

<sup>71</sup>Ibid.

<sup>72</sup>Human Rights Watch interview with Mohammed Lididi, Rabat, June 1, 1995.

<sup>73</sup>Human Rights Watch interview, Rabat, June 1, 1995.

The situation as described by attorneys and human rights activists is grim, however. Casablanca attorney Ramid al-Moustafa, who represents several clients being held at Safi civil prison, told Human Rights Watch that his clients had undergone a forty-five-day hunger strike to protest their conditions at the prison, including the fact that up to twenty-four people were being held in a single cell measuring four cubic meters.<sup>74</sup> This flouts the United Nations Standard Minimum Rules for the Treatment of Prisoners, which do not specify the recommended size of prison cells, but require the consideration of "cubic content of air, minimum floor space ... and ventilation."<sup>75</sup>

When asked about reports of violence, poor hygiene and inadequate medical care, Lididi responded, "Anyone can say that there are bad conditions. Why believe the detainees and not the administration?" According to attorney Abdessalam Chaouch, however, these are endemic problems, and "the lack of food and medicine lead to many deaths. In other cases, these factors, combined with the degrading treatment, lead to a high number of suicides."<sup>76</sup>

Even more serious, however, are reports of the brutality, violence and degrading behavior to which prisoners are routinely subjected. In testimony to Human Rights Watch, a former prisoner stated that "prisons guards and prison administrators treat the prisoners like animals, not humans, and respond to the slightest protest with severe violence."<sup>77</sup> A report released by the Moroccan Association for Human Rights in February 1995 provides official confirmation that the "*al-kashu*" or "*le cachot*," a dark, humid, dirty cell with no toilet, in which a prisoner is held for days, is still used as a form of punishment.<sup>78</sup> Another method of punishment, according to the report, is the denial of food to prisoners.<sup>79</sup> These and other forms of cruel, inhuman or degrading treatment or punishment are outlawed in the Torture Convention, but are permitted by the Moroccan Prison Code.

According to official figures, there were 120 prisoner deaths in Morocco in 1994; three were suicides and the rest were "all due to natural causes."<sup>80</sup> Nevertheless, the facts suggest that many prison deaths actually result from a combination of poor conditions, lack of medical attention and prison staff brutality. For example, the newspaper *al-Ittihad al Ichtiraki* reported four deaths in the span of a single week in the civil prison of Oukacha in March 1995, attributable to "poor detention conditions."<sup>81</sup>

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<sup>74</sup>Human Rights Watch interview, Casablanca, May 23, 1995.

<sup>75</sup>Standard Minimum Rules for the Treatment of Prisoners, adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders on 30 August 1955, Rule 10. These rules are not part of a binding treaty, but constitute an authoritative interpretation of international norms and, as such, are binding on Morocco.

<sup>76</sup>Human Rights Watch interview, Rabat, May 25, 1995.

<sup>77</sup>Human Rights Watch interview with a prisoner released in 1991, Rabat, May 24, 1995.

<sup>78</sup>Moroccan Association for Human Rights, *Rapport 1995 sur les Conditions de Détention des Personnes Incarcérées*, Rapport de l'AMDH à la rencontre de l'OIP à Dakar, February 1-6, 1995, p. 2.

<sup>79</sup>Ibid.

<sup>80</sup>Human Rights Watch interview with Mohammed Lididi, Rabat, June 1, 1995.

<sup>81</sup>Agence France-Presse, April 3, 1995.

Numerous prisoners have conducted hunger strikes to protest their conditions. Cherkaoui Doukkali, a leftist activist detained without trial in Fez civil prison since late 1994, went on a hunger strike for over forty days in March 1995, demanding better conditions, direct family visits and separation from common law prisoners.<sup>82</sup> Another prisoner, Aouinti Bensalem, also conducted a one-month hunger strike in March with the same demands. Three Islamists sentenced for alleged involvement in an Algerian arms-smuggling network also went on a hunger strike on May 26, 1995. Among the demands of the prisoners, being held in Essaouira civil prison on the southwestern coast of Morocco, were improvement in detention conditions and transfer to a prison closer to Rabat, to facilitate family visits from Algeria.<sup>83</sup>

The grave state of prison conditions was brought to light when a rebellion broke out in Khenifra prison on January 29, 1995. Prison officials responded with firearms, wounding prisoners and causing a number to be hospitalized. A number of the prisoners involved in the rebellion subsequently had their sentences increased.<sup>84</sup> Following the incident, the Moroccan Association for Human Rights demanded, and was authorized, to conduct an unprecedented visit to the prison site and speak to prisoners about what had happened.<sup>85</sup> Based on discussions with prisoners involved in the rebellion, the report concluded that "The policy followed [in the prison] is one of punishment and repression, based on systematic sanctions (bastonnades, lashes, insults to dignity, isolation). The living conditions of prisoners are difficult. They complain of malnutrition, absence of medical assistance, being deprived of walks and any cultural, sport or recreational activities."<sup>86</sup> Prisoners reported that one prisoner had died in 1993 as a result of torture, lashing and being kept in isolation. The prisoners also indicated that they had previously written to local and central administration officials about their grievances, but in vain.<sup>87</sup>

The message appears to have made its way to top government officials, who have at least paid lip service to the problem. On March 30, 1995, Human Rights Minister Mohammed Ziane stated that certain provisions of the Penal Code and Code of Penal Procedure would have to be revised to protect the rights of detainees. On April 18, 1995, during Mr. Doukkali's hunger strike, government spokesperson Driss Alawi announced that the government had decided to improve the prison situation "progressively," particularly over-population. Moreover, in addition to allowing the visit by the Moroccan Organization for Human Rights to Khenifra prison in February 1995, the Minister of Human Rights has recently accompanied journalists on visits to the civil prisons of Aïn Kadous (Fez) and Sidi Saïd (Meknes) on April 17, 1995, the civil prison of Aïn Bourja (Casablanca) on May 4, 1995 and Kenitra prison on October 3, 1995.<sup>88</sup> While such visits cannot replace regular monitoring by independent experts, they are an important first step toward acknowledgment of the need for openness with regard to prison conditions.

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<sup>82</sup>Agence France-Presse, April 18, 1995. Doukkali was released on July 14, 1995.

<sup>83</sup>Human Rights Watch telephone interview with Abdellatif Wahbi, who represents the prisoners, July 6, 1995.

<sup>84</sup>Agence France-Presse, March 24, 1995.

<sup>85</sup>This authorization was given by then-Minister of Justice Mohammed Idrissi Alami Machichi, who was generally considered sympathetic to reform. He was replaced in late January 1995, with the change in government.

<sup>86</sup>Moroccan Organization for Human Rights, "Le Rapport de la Commission d'Enquête de l'OMDH sur la Mutinerie de la Prison de Khénifra, March 18, 1995," *Al Bayane*, March 23, 1995.

<sup>87</sup>Ibid.

<sup>88</sup>Prior to arriving in Morocco, Human Rights Watch requested permission to visit Moroccan prisons on several occasions, but never received a response from the government. However, at the end of its fact-finding mission, Human Rights Watch was informed by Human Rights Minister Ziane, that the organization could return to Morocco at any time and visit prisons.

The government has also recognized the urgency of revising the Moroccan Prison Codes, which date to 1915 and 1930. The Consultative Council on Human Rights proposed changes to this code and presented its proposals to the government in March 1994. The government should present its own draft code, based on these proposals, for consideration by parliament, but it has not yet taken this step. The government has not even made the proposed changes public -- a step that is essential in order to allow human rights organizations and other outside experts the opportunity to comment on the draft.

It is clear that the existing administrative structure in the prisons has not been effective in identifying and resolving problems. Article 661 of the Code of Penal Procedure, which has never been effectively implemented, provides for the functioning of a "commission of control" in each province, whose role would be to review health, security and other conditions in the prisons. The implementation of this or another form of outside supervision or control over the prisons, preferably with the participation of domestic and international human rights organizations, is essential. This step would bring the conditions of Moroccan prisons into conformity with international standards, as outlined in the United Nations Standard Minimum Rules for the Treatment of Prisoners, which require that penal institutions be regularly inspected.<sup>89</sup>

### **VIOLATIONS OF THE FREEDOM OF EXPRESSION**

Article 9(b) of the Moroccan constitution guarantees "freedom of opinion, of expression in all its forms..." This guarantee was routinely violated during the 1960s, 1970s, and 1980s, however, as those who spoke out against or challenged the regime were "disappeared" or imprisoned, creating widespread fear and silence within the society.

A few examples illustrate the pattern that existed in Morocco during the three decades following independence. In one case, human rights activist Ahmed Belaïchi was arrested following an interview on the private television station "2M International," where he discussed the illegal traffic of drugs and immigrants from northern Morocco into Europe. Belaïchi was charged with "offending the honor of and respect for the authority of the security forces," and for "dissemination of information undermining the morale of the army."<sup>90</sup> He received a three year prison sentence on December 23, 1992. Noubir El Amaoui, the secretary-general of the powerful socialist union, the Confédération Démocratique du Travail or CDT, granted an interview to the Spanish newspaper *El País* on April 17, 1992, in which he declared that the Moroccan government consisted of "a group of thieves without a future [who are] so crazy that they do not even consider us as citizens." In an earlier interview with the newspaper *La Liberté du Citoyen*, Amaoui had stated that Morocco should be ruled by a constitutional monarchy based on the model of England and other European countries. Following these two statements, he was arrested, charged with defamation and sentenced to two years in prison.

During the past few years, however, a profound and visible change has taken place in Morocco. A healthy political exchange has replaced whispers and silence, and newspapers regularly criticize government policies or key and powerful officials such as the minister of interior. During the late 1960s and 1970s, publications had to be submitted to the official government censorship bureau for pre-publication approval, a practice dating back to the colonial period. Since March 1978, this practice has ceased.

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<sup>89</sup>Standard Minimum Rules for the Treatment of Prisoners, Rule 55.

<sup>90</sup>Human Rights Watch/Middle East (formerly Middle East Watch), "Moroccan Human Rights Activist Jailed for Criticizing Government Policies on Television." Press Release, December 19, 1992.

Despite the new climate of openness, however, restrictive laws remain in Morocco. During the political turmoil of the 1970's, a state of exception was declared and the 1958 Press Code was amended. This amendment, which was passed in April 1973 and is still in place, permits the minister of the interior to order the seizure of a publication "of a nature that could disturb the public order" or order the suspension or banning of a publication that could "threaten the fundamental institutional policies or religion of the kingdom."<sup>91</sup> Violators of the law are subject to a prison sentence and fine. The law does not require that a reason be given, nor does it provide for a judicial determination of whether the article or publication in question has actually violated the law. In addition, defamation laws, which have traditionally been broadly interpreted to punish criticism of public officials, remain.

For years, this article of the Press Code had been enforced with regularity, leading to the practice of self-censorship by most journalists. In the past few years, seizure and suspension of Moroccan or foreign publications have been less frequent, but the practice still occurs. The weekly Arabic language newspaper *Asrar* was suspended for an undetermined period on October 15, 1993. At the same time, an issue of the weekly *Al Maouja* was seized in four provinces. Finally, several issues of foreign publications have been seized in the past few years. These include the February 13, 1992 issue of *Le Monde*, which contained interviews with three former "disappeared," the November and December 1992 issues of *Le Monde Diplomatique*, which contained interviews with the exile Abraham Serfaty, the December 1992 issue of the London-based *al-Wasat*, which contained an article on Islamic fundamentalism in Morocco, the September 4, 1994 issue of *Le Monde*, which contained an interview with Moroccan Islamists challenging the spiritual leadership of the king and the March 23, 1994 and April 28, 1994 issues of *Jeune Afrique*, which contained remarks by a Moroccan prince regarding a Moroccan who had reportedly been unjustly imprisoned in France.

More recently, the January 6, 1995 issue of the weekly *Maroc Hebdo* was seized because it excerpted a speech given at an American university by a Moroccan prince, who discussed the need for democratization and economic reform in the Arab world. Immediately following the seizure, the minister of interior summoned Mohammed Larbi Messeri, the president of the National Union of the Moroccan Press (S.N.P.M.), and informed him that "the seizure did not affect freedom of expression in Morocco, but was related to the enforcement of a rule concerning procedures that must be followed by the press with regard to information about the royal family."<sup>92</sup>

In addition to Article 77 of the Press Code, which allows these arbitrary restrictions of freedom of expression, other laws restrict freedom of expression in three areas which Moroccans refer to as "the taboo subjects": insulting or criticizing the king or Islam, or questioning the territorial integrity of Morocco, particularly its sovereignty over the Western Sahara. "Insulting" the king or other members of the royal family is a crime that is punishable by a one to five year prison sentence and a fine of up to 1,000 Moroccan dirhams.<sup>93</sup> On June 30, 1995, for example, Abdelkadir Chidoudi was sentenced to three years for insulting the king. Another citizen, Maghi Hicham, was sentenced to six months in July 28, 1995, for insulting the king.

In addition, Article 190 of the Penal Code punishes any Moroccan or foreigner who, through any means, threatens the territorial integrity of Morocco, which has been interpreted to punish those challenging the position that the Western Sahara is a part of Morocco. This crime, which is considered a threat against the external security of Morocco, is punishable by a five to twenty-year sentence. This issue is of the utmost sensitivity in Morocco. The general amnesty of 1994, for example, excluded any political prisoners who rejected Moroccan sovereignty over the Western Sahara. On June 21, 1995, eight young Sahrawi men were convicted and sentenced by a military court because they had participated in a pro-independence demonstration in the Western Saharan capital of Laayoune.

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<sup>91</sup>Code of the Press in Morocco, dahir no. 1-58-378 of November 15, 1958, as amended on November 13, 1963 and April 10, 1973 (hereinafter "Press Code"), Article 77.

<sup>92</sup>Human Rights Watch interview with Mohammed Larbi Messeri, Rabat, May 30, 1995.

<sup>93</sup>Article 41 of the Press Code and Article 179 of the Penal Code.

As a result, while Moroccans take advantage of their newly-found liberties, most are studiously careful not to violate the ground rules; that is, making the grave mistake of broaching one of the "taboo subjects." The fact that these fears continue, and that laws restricting free speech are still in place, points to the fragility of freedom of expression in Morocco. In the words of one Moroccan journalist, "We are happy to have greater freedom, of course. But we do not want a system where we are free only because there is suddenly a freer political climate, or because of the current 'good will' of our leaders. What if that changes tomorrow? This freedom must be reflected in the law."<sup>94</sup>

Moreover, despite the fact that certain newspapers are more open in their criticism now and publications linked to opposition political parties and Islamist groups circulate freely, the public media, controlled by the government, reflects only official positions. The sole news or information agency in Morocco (Maghreb Arabe Presse) is government-owned and exercises a virtual monopoly over the dissemination of information. The only non-subscription television station is also government-owned. One private radio station, Medi 1, broadcasts in the country and a private television station, 2M International, is available by subscription. Foreign television broadcasts are only available to those who have satellite dishes.

The control exercised by the government over the Maghreb Arabe Presse news agency and the public television station is evident. In December 1994, for example, the Organization of Moroccan Human Rights complained that the state-owned television station, which had requested to cover the organization's annual opening session, had done so in a biased manner. According to the organization's president, Abdelaziz Benani, the station focused solely on one aspect of the organization's positions, while omitting any reference to criticisms of human rights situation in the country.<sup>95</sup>

Journalists also complain that the new Code of Journalists, approved by parliament on January 26, 1995, following pressure from journalists and their unions, falls short of their expectations. In particular, they point to the absence of a journalistic privilege to protect their sources. In addition, the protections provided in the Code of Journalists are limited to print journalists, thus excluding those who work in public television and radio.<sup>96</sup>

## VIOLETIONS OF THE FREEDOM OF ASSOCIATION

Article 9(c) of the Moroccan constitution guarantees freedom of association, and the freedom to belong to any union or political group." In practice however, the freedom of association of Moroccan citizens is routinely restricted, often in an arbitrary manner. The 1973 amendment to the 1958 Code of Public Liberties, permits the creation of any association or political party, as long as it "does not have an illicit objective, is not contrary to the laws or good morals and does not seek to threaten the integrity of the national territory or the monarchical form of the state."<sup>97</sup> The law specifically states that no authorization is needed for the creation of an association or the sponsorship of an activity; the only requirement is the submission to the local administrative authority of a declaration or statement providing certain factual information. In exchange, an acknowledgment (*récépissé*) is provided to the association.<sup>98</sup>

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<sup>94</sup>Human Rights Watch interview, Rabat, May 24, 1995.

<sup>95</sup>Letter from Abdelaziz Benani to the minister of interior and information, December 21, 1994.

<sup>96</sup>Human Rights Watch interview with Younis Moujahid, adjunct-secretary of the National Union of the Moroccan Press (S.N.P.M.), Rabat, May 25, 1995.

<sup>97</sup>Constitution of the kingdom of Morocco, Article 3.

<sup>98</sup>1958 Code of Public Liberties, Article 5, as amended by dahir no. 1-73-283, April 10, 1973.

In practice, however, a de facto system of authorization exists because the *récépissé* is often withheld, sometimes for years and usually without any explanation, thus denying legal status to an organization. The Moroccan Association of Progressive Women, for example, which was formed in September 1992, has still not succeeded in obtaining a *récépissé*. According to Naima Naim, one of the group's founding members, "We have filed three times since 1992, but they will not give us the *récépissé*. This process usually takes only one month. We participate in activities with other organizations, but we have no legal status -- we cannot have our own office, for example."<sup>99</sup> The group has never been provided with an official explanation as to why the *récépissé* has been withheld. However, Naim explained that, "the name of the organization suggests that it has links to leftist politics. Also, in 1992 we were asked a lot of questions about our members, and the fact that many had husbands or sons who were former prisoners. We were also asked if our association had anything to do with the question of political prisoners."<sup>100</sup>

Another organization, the National Association of Unemployed University Graduates (*Association Nationale des Diplômés Chomeurs*), was also denied a *récépissé* for several years, until it was finally "authorized" this past year.

In addition to a number of pro-government political parties, several opposition parties exist in Morocco, including Istiqlal, the party of independence, and the Socialist Union of Popular Forces (Union Socialiste des Forces Populaires -USFP). Islamist parties have not been permitted to form, however (see "The Islamist Movement in Morocco.") Le Parti Maghrébin, a new political party focused on the entire Maghreb, was denied authorization in March/April 1995.

## **VIOLATIONS OF THE FREEDOM OF ASSEMBLY**

Article 9(b) of the constitution guarantees all citizens the freedom of "public gathering." Nevertheless, there are frequent instances of governmental interference with the activities of legally existing organizations, particularly labor unions (see "Interference with the Activities of Labor Unions, below.") Other groups also report interference with their activities, but this seems to take place in a somewhat arbitrary manner and the motivations of the authorities are often unclear.<sup>101</sup> On January 28, 1995, for example, the administrative authorities of Casablanca forbade a meeting of the Movement of Expert Accountants, a legally formed organization. The action was taken without explanation and in spite of the fact that the movement had reserved a conference hall and issued a declaration to the authorities ten days in advance. Several meetings of the socialist youth organization, Jeunesse Ittihadia, were banned in April because certain governors considered them to be "threatening to the public order and unity of the country" or because they were allegedly "cultural activities assuming a political character."<sup>102</sup>

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<sup>99</sup>Human Rights Watch interview, Rabat, May 30, 1995.

<sup>100</sup>Ibid.

<sup>101</sup> See also "Violations of the Rights of the Berber Population," below.

<sup>102</sup>Agence France-Presse, April 14, 1995.

In June 1994, fourteen members of the National Association of Unemployed University Graduates were sentenced to two years imprisonment and 3,000 dirhams each for having "demonstrated without authorization."<sup>103</sup> The group was protesting the prevalence of nepotism in the hiring practices of the regional governments. On appeal, their sentences were reduced to three months and 500 dirham fines. On September 13, 1995, twenty-six members of the group were beaten and arrested during a sit-in held at the city hall of El Jadida to protest the high rate of unemployment. According to the Moroccan Association for Human Rights, the police used hose pipes to disperse the protest. Those arrested were sentenced to six months imprisonment for having disturbed the public order. The group subsequently went on hunger strike to protest against police tactics.<sup>104</sup>

One occasion on which the intervention of authorities has become almost routine is the annual May Day demonstrations that take place throughout Morocco. In May 1994, for example, twenty-six teachers and human rights activists were arrested in different cities, after having participated in peaceful demonstrations.<sup>105</sup> Many were subsequently released in the 1994 general amnesty.

Criticism of the regime is not tolerated, even when it is indirect and presented humorously. One of the most well-known "stars" in Morocco is the singer and humorist Ahmed Snoussi, better known as "Bziz." Because he invokes human rights themes in his performances and parodies powerful governmental figures such as the minister of interior, Bziz has become "the most censured artist in Morocco" according to the Moroccan daily *Libération*.<sup>106</sup> Accustomed to drawing tens of thousands of fans, Bziz was banned from television and radio eight years ago and has been forbidden from performing in virtually every Moroccan city. As a result, he has been reduced to delivering occasional impromptu performances that are not advertised in advance, or participating in the shows of other performers; he also performs abroad.

In February 1995, Bziz wrote an open letter disputing the official position that his performances are not banned in Morocco, and offered to "accept the challenge" if the authorities would permit him to deliver live performances on both the public and private television stations. Bziz told Human Rights Watch that, although he has always provided the required declaration to local authorities in a timely fashion, the government has repeatedly justified its actions by stating that the comedian had not sought "authorization in conformity with the law." In addition, he said that government officials have sought to discredit him by saying that his performances "threaten the public order," and portraying him as anti-Israeli and unsympathetic to the hardships faced by ordinary Moroccans.<sup>107</sup> In April 1995, for example, he was publicly reproached by the minister of human rights for "making fun of institutions and people's suffering by joking about the subject of unemployment."<sup>108</sup>

Bziz expressed outrage at the authorities' attempts "to prevent the people from laughing."<sup>109</sup> According to Bziz, in a "profoundly unequal" Morocco, "only the state enjoys all the forms of freedom of expression."<sup>110</sup> Indeed, the state's

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<sup>103</sup> Agence France-Presse, July 6, 1994.

<sup>104</sup> Reuters, September 14, 1995 and Agence France-Presse, September 9, 1995.

<sup>105</sup> Agence France-Presse, May 5, 1994.

<sup>106</sup> *Le Monde*, November 27, 1993.

<sup>107</sup> Human Rights Watch interview, Casablanca, June 6, 1995.

<sup>108</sup> Agence France-Presse, April 13, 1995.

<sup>109</sup> Human Rights Watch interview, Casablanca, June 6, 1995.

<sup>110</sup> "Les Gens," *Libération* (Paris), January 16, 1995.

repeated prevention of Biziz's performances violates both the Code of Public Liberties which, as described above, does not require authorization, and the constitutionally guaranteed rights to freedom of expression and freedom of assembly.

On June 21, 1995, a military court in Morocco sentenced eight Sahrawis to sentences ranging from fifteen to twenty years for participating in a peaceful, pro-independence demonstration in the Western Sahara. The Moroccan Organization for Human Rights told Human Rights Watch of reports that five other young Sahrawis were also arrested in relation to the demonstration; one reportedly died during detention, but the whereabouts of the other four are currently unknown.<sup>111</sup> Human Rights Watch was unable to confirm these reports. On July 9, 1995, the king commuted the eight Sahrawis' sentences to one year. The next day, the pro-government newspaper *Le Matin* printed a letter, purportedly written by the parents of the detainees, in which they declared their "devotion, loyalty, attachment and allegiance" to the king and asked that he extend a pardon to the eight young men despite the acts of "pillage, injury, arson, theft and other grave crimes" that they had committed, "lured by false propaganda." The letter and the accompanying article made no mention at all of the fact that the eight had been arrested during a peaceful demonstration. These arrests and the harsh initial sentences demonstrate the government's ongoing sensitivity with respect to the Western Sahara and its unwillingness to comply with the right to freedom of assembly guaranteed under both Moroccan and international law.

Islamists report few examples of the authorities forbidding Islamist activities. According to Ramid al-Moustafa, an Islamist lawyer, this is because "these activities are underground. Islamists are not looking for conflict with the authorities. They do not want a situation like in Algeria."<sup>112</sup> In February 1995, however, Islamists had planned to hold a conference on the war in Chechnya and received written permission to hold the meeting. They were subsequently informed by the Ministry of Culture that the conference would not be permitted.<sup>113</sup>

Women's rights groups also report that they have not experienced interference with their activities during the past two years. However, a peaceful march organized in April 1993 to protest sexual assault and harassment of women was banned by the authorities, without any explanation.<sup>114</sup> The march had been organized following the conviction of police commissioner Mustapha Tabet of assault, rape and forceful videotaping of sexual acts with hundreds of women over a three year period.<sup>115</sup> The government, which was highly embarrassed by the scandal, promptly tried and convicted Tabet, who was sentenced to death and executed on August 9, 1993. Women activists saw the banning of the march as an effort to hush up the affair and silence further discussion of such issues.<sup>116</sup>

## INTERFERENCE WITH THE ACTIVITIES OF LABOR UNIONS

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<sup>111</sup>Human Rights Watch telephone interview, August 2, 1995.

<sup>112</sup>Human Rights Watch interview, Casablanca, May 23, 1995.

<sup>113</sup>Ibid.

<sup>114</sup>See Human Rights Watch/Middle East (formerly Middle East Watch), "Government of Morocco Prevents Demonstration by Women's Rights Groups Protesting Sexual Harassment," Press Release, April 9, 1993.

<sup>115</sup>There were also reports dating back to 1980, when Tabet was serving as police superintendent in the city of Beni Mellal. Tabet was removed from his post after a minor girl, whom he had allegedly molested, jumped out of a window, but he was eventually promoted to a position in the Department of Security in Rabat. François Soudain, "Sexe, Pouvoir et Vidéo," *Jeune Afrique*, March 25-31, 1993, p. 8.

<sup>116</sup>Aicha Belarbi, "Et la Marche Continue ...," *Libération*, April 9, 1993.

There are more than a dozen labor unions and federations in Morocco, the three primary ones being the Confédération Démocratique du Travail (CDT), tied to USFP party, the Union Générale des Travailleurs Marocains (UGTM), tied to the Istiqlal party and the officially unaffiliated Union Marocaine du Travail (UMT).

While unions are permitted to organize, their activities are interfered with, often in a brutal manner. In 1993, the government abrogated a 1935 law punishing demonstrations that disturbed the public order. The abrogation of this law, which had been used to quell free expression and, in particular, to limit the activities of unions and other gatherings, was seen as a positive step. Since then, however, the government has simply switched tactics, applying Article 288 of the Penal Code instead. This article makes it illegal "through violence, fraudulent means or assault and battery, to bring about a cessation of work in order to raise or lower salaries." Those who are found to violate this law are routinely punished with one month to two year sentences and fines of 120 to 5,000 dirhams. During the past two years, the government has repeatedly used this article against workers engaged in peaceful strikes or sit-ins, arguing that they are interfering with other peoples right to work.<sup>117</sup> Not only does this misinterpret Article 288, but it constitutes a violation of the constitutionally guaranteed rights to freedom of expression and assembly.<sup>118</sup> 157 members of the UMT, alone, have been arrested and charged with violations of Article 288 during the past two years.<sup>119</sup>

Union leaders also told Human Rights Watch that the police have responded to peaceful strikers, including women, with violence and brutality. One striker was killed at the Behya construction factory near Rabat, in 1992, and others have been wounded since.<sup>120</sup> On July 26, 1994, for example, the police intervened with force against 1,200 strikers at the Tazi Jalil Bisma company in Sidi Slimane. Eleven activists were arrested pursuant to Article 288, including three women.<sup>121</sup> The workers had been protesting the management's refusal to engage in negotiations on a number of issues, including application of the minimum wage and social security.

On September 20, 1994, six female textile workers, all under the age of twenty-five, were arrested during a peaceful strike at the Aurore 2000 factory in Takaddoum. According to witnesses, the workers were subjected to "violence and degrading behavior" during their arrest.<sup>122</sup> They were charged with violation of Article 288 and brought to trial on September 21. At the conclusion of the first day of trial, a four-day recess was called, but requests that the women be provisionally released (*liberté provisoire*) were turned down. Two of the defendants were eventually acquitted and each of the other four received one month suspended sentences.

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<sup>117</sup>August 25, 1995 letter from Ministry of Human Rights to Human Rights Watch.

<sup>118</sup>Constitution of the Kingdom of Morocco, Article 9 and Article 14.

<sup>119</sup>Union Marocaine de Travail, "Note de Présentation," *IXème Congrès de l'UMT*, April 22, 1995, p. 1, *Rapport Général*, p. 6., and Agence France-Presse, June 27, 1995.

<sup>120</sup>Human Rights Watch interview with Amin Abdelhamid, secretary-general of Agricultural Sector of UMT, Rabat, May 29, 1995.

<sup>121</sup>July 27, 1994 letter from El Mokhareq El Miloudi, national secretary of the UMT, addressed to the director general of the International Labor Organization, Geneva.

<sup>122</sup>Human Rights Watch interview with Khadija Riyadi, a member of the Committee for Women Workers, Rabat, May 29, 1995.

Another application of Article 288 occurred during a strike that began on February 21, 1995 at an agro-industrial factory at Sidi Slimane. Six striking workers were arrested on March 14, but three were released. Both the period of incommunicado detention and the trial were marked by grave violations of due process, including detention of the defendants in excess of the legal incommunicado detention period and the failure to investigate allegations of torture. On March 20, 1995, strike organizer Khadija Benameur was sentenced to one year for violation of Article 288 of the Penal Code and for having allegedly insulted the king, a violation of Article 179 of the Penal Code. Her sentence was reduced to one month on appeal. Her two co-workers, Ahmed Bourraqi and Shiqdoof al-Ma'arofi, were sentenced to one and two months for drug offenses and drunkenness, respectively, but were acquitted with respect to Article 288. When questioned about the basis for such arrests in Article 288, the Ministry of Human Rights responded, "if we guarantee the right to strike, we must also guarantee the freedom to work .... in the case of Khadija Benameur, the infraction with which she was charged constituted an attack on the freedom to work, therefore an attack on the rights of others."<sup>123</sup> (For further details on this case, see "Violations During Detention.")

On May 8, 1995, more than 17,000 railroad workers went on strike to protest the management's refusal to enter into negotiations regarding lay-offs and wages. The strike, which coincided with the Muslim holiday of *Eid al-Adha*, crippled the country's transportation network. As a result, strikers in Ben Guerir were ordered to return to work on May 9, 1995, pursuant to Article 2 of a September 1938 dahir. The language of the dahir, however, specifies that an order to resume work can only be enforced during a state of war or emergency. Nevertheless, eight workers who refused to sign the order agreeing to resume work were arrested.

On May 29, 1995, organizers of the railroad strike notified local authorities that they were planning to hold a march on June 2. The next day, they received a letter from the governor (*wali*) of Rabat, stating, "I have the honor to inform you that I cannot accept the organization of this march."<sup>124</sup>

## THE ISLAMIST MOVEMENT IN MOROCCO

The role of Islam in Moroccan society is complex. Islam is the state religion and the king is, according to the constitution, the "*Amir al-Muminin*" or commander of the faithful.<sup>125</sup> King Hassan bases the legitimacy of the monarchy, and his own role as the political and religious leader of Morocco, upon Islam, and claims that, as a direct descendant of the Prophet Mohammed, his religious authority ranks third after that of God and the Prophet.<sup>126</sup>

This does not mean that Islamist groups are permitted to play a political role in Morocco. According to scholar Emad Shahin, "In its relations with the Islamic opposition, the [Moroccan] regime has adopted a series of different measures, including suppression, confinement, and toleration (albeit without recognition.)"<sup>127</sup> Indeed, conspicuously absent from the list of opposition political parties in Morocco are Islamist ones. According to Minister of Human Rights Ziane, the government forbids such groups because "Islam belongs to everyone in Morocco, and one party cannot monopolize it by creating an Islamic political party."<sup>128</sup> Although this governmental opinion is not codified in

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<sup>123</sup> August 25, 1995 letter from Ministry of Human Rights to Human Rights Watch.

<sup>124</sup> Letter from wali of Rabat entitled "A Propos de la demande de l'Organisation d'une Marche des Travailleurs du Chemin de Fer," May 30, 1995

<sup>125</sup> Constitution of the Kingdom of Morocco, Article 6 and Article 19.

<sup>126</sup> Emad Eldin Shahin, "Under the Shadow of Islam: Morocco's Diverse Islamic Movements," *Middle East Insight*, January - February 1995, vol. XI, no. 2, p. 40.

<sup>127</sup> Ibid.

<sup>128</sup> Human Rights Watch interview, Rabat, June 2, 1995.

law, numerous activists and journalists told Human Rights Watch that Moroccan law prohibits the formation of religiously-based political parties, as is the case in neighboring Algeria and Tunisia. In fact, Morocco law contains no such prohibition.

The fact that Islamist political parties are de facto banned in Morocco has not eliminated the Islamist movement, however. According to one Islamist activist, at least two dozen Islamist groups exist. While several issue publications, most of these groups operate semi-clandestinely. Many Moroccans cite the increase in the number of people who attend mosques and the fact that a growing number of female university students cover their heads, as evidence of heightened Islamist influence. During a press conference on April 21, 1995, Driss Khalil, the minister of higher education, stated that certain universities in Morocco "are confronting a wave of Islamic fundamentalism."<sup>129</sup> Khalil was the first government official to refer publicly to the existence of this phenomenon in Morocco. The "disappearance" of four Islamists in August and September 1995 may also indicate increased governmental concern over Islamist activities. (See "The Disappeared," above.)

But whether political Islam is really on the rise in Morocco is difficult to gauge. According to a scholar at the King Abd-al Aziz Foundation in Casablanca, "There is no question that Islamists have entered the universities and the mosques. The February 1991 demonstrations in Morocco against the Gulf War, which were reportedly the largest in the Middle East, were proof that the Islamists are capable of mobilizing the masses. But they cannot do much on a community level [as they were able to do in Algeria] because the Ministry of the Interior is present everywhere in Morocco. So we cannot gauge the power of the Islamists by the visibility of their activities."<sup>130</sup>

Perhaps the most well-known Islamist group is the banned Justice and Charity (al 'Adl wa al-Ihsan), led by Abdessalam Yacine. The organization has existed under several different names since 1974, never concealing its political nature or its desire to challenge the legitimacy of the regime. Although the government has actively sought to suppress it, al 'Adl wa al-Ihsan has nevertheless successfully recruited new supporters and is believed to have the largest following among the Islamist groups. In 1974, Yacine wrote an open letter criticizing the king and governmental corruption. As a result, he was detained in a secret location for three years, without trial. He was arrested and imprisoned again for two years in December 1983, after writing an article that was considered disruptive to public order in *al-Subh*, a publication that he had recently founded. Pursuant to an administrative order, Yacine was placed under house arrest in Salé in December 1989, where he remains to date. Al 'Adl wa al-Ihsan was banned in January 1990 and several of its followers imprisoned.

Another Islamist group, the Movement of Reform and Renewal in Morocco (Harakat al-Islah wa al Tajdid bil Maghreb), originally existed as a religious society. It was outlawed in 1975 but continued to operate clandestinely. After undergoing several transformations in the 1980s, the group eventually reached a state where it was tolerated, though not officially recognized, by the authorities. It was reshaped in 1992 and sought a larger political role, including participation in local elections scheduled for October 1992. The request of its political wing for legal recognition in May 1992 was rejected however, even though all the required procedures had been followed.

Ramid al-Moustafa summed up the efforts of Islamist groups to gain a political voice as follows: "No association or political party with a character not approved by the government is permitted -- it is not the laws that prohibit this, but the government, which does not apply its own laws."<sup>131</sup>

## VIOLATIONS OF THE RIGHTS OF THE BERBER POPULATION

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<sup>129</sup>Agence France-Presse, April 24, 1995.

<sup>130</sup>Human Rights Watch interview, Casablanca, May 22, 1995.

<sup>131</sup>Human Rights Watch interview, Casablanca, May 23, 1995.

The indigenous Berber population of Morocco is estimated to constitute two-thirds of Morocco's population. No official statistics confirm this figure, however, since the censuses conducted in Morocco have never inquired about ethnic origin. The Berber population of Morocco, concentrated primarily in the mountainous regions, is the largest in the Maghreb. The Berbers are an indigenous population who underwent Arabization and Islamization following the Muslim Arab invasion of North Africa in the late seventh century. They speak several distinct dialects in Morocco, but their "national language" is referred to as Tamazight.

The rate of Berber intermarriage with Arabs has been high and there is no evidence of economic or social discrimination against Berbers. However, several cultural organizations created in Morocco over the past two decades aim to preserve the Berber ethnic and cultural identity. The creation of these groups was also intended to fill the gap left by the failure, until quite recently, of the Arab-oriented Moroccan human rights groups to address violations of Berber rights. The Berber organizations include the New Association for Culture and Popular Arts, the Moroccan Association for Research and Cultural Exchange and a number of regional organizations. Since late 1991, these organizations have published several different newsletters, including *Tasafut*, which has a circulation of 10,000.

There is evidence that Morocco has denied, in violation of Article 27 of the International Covenant on Civil and Political Rights, the rights of the Berber community "to enjoy their own culture [and ...] use their own language." In response, Berber organizations have demanded that the use of Tamazight be permitted in the media and education system, and that the language be recognized in the constitution for, although Berbers constitute a majority of the Moroccan population, Arabic is the only official language in Morocco.<sup>132</sup> While Tamazight is not banned by law, its use has rarely been tolerated either in the media or in the education system.

On several occasions, the government has sought to clamp down on Berber organizations. On May 1, 1994, for example, seven members of the Berber Tilleli Association, including the group's president, were arrested during the annual May Day demonstrations by labor unions. The group had been holding banners written in Tifinagh characters and shouting slogans demanding official status for their language, as well as its incorporation into the education system.<sup>133</sup> Seven were arrested and charged with "agitation, threatening the public order, uttering of anti-constitutional slogans and threatening the internal security of the state."<sup>134</sup> Two were sentenced to two years imprisonment and 10,000 dirham fines, while a third was sentenced to one year and a 10,000 dirham fine. The trials were marred with multiple human rights violations, including allegations of torture, an excessive period of pre-trial detention and failure to inform families of the detentions.<sup>135</sup> As a result, the cases received significant national and international attention, provoking particular protest over the fact that such arrests had taken place in a country where "three out of ten people speak Berber."<sup>136</sup> Upon appeal, the defendants' sentences were reduced to three month prison terms and 500 dirham fines. When the Tilleli members were released, the Association for Initiative in Errachidia requested authorization for the organization of a cultural event to mark the occasion; the request was denied.

In early 1994, several members of the Inezgane branch of the New Association for Culture and Popular Arts were arrested and interrogated for printing and distributing a calendar in the Tamazight language. They were released without charges following the forty-eight-hour period of incommunicado detention. In another case, a conference entitled "The Tamazight language and alphabet," organized by the Ilmas Cultural Association and planned for the spring of 1994 in the city of Nador, was banned by the authorities.

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<sup>132</sup>Preamble to the Constitution of the Kingdom of Morocco.

<sup>133</sup>Tifinagh is the Tamazight alphabet.

<sup>134</sup>May 14, 1994 communiqué of the Cultural Amazighes Associations.

<sup>135</sup>Agence France-Presse, June 27, 1994.

<sup>136</sup>Mouna El Banna, "Au Maroc, Libération de Trois Défenseurs de la Culture Berbère." *Le Monde*, July 1, 1994.

On August 10, 1994, following this series of events, the king made a speech that permitted the teaching of Berber "dialects" in the schools, offering some hope for improvement.<sup>137</sup> Although it only referred to dialects (whereas Tamazight is considered a distinct language), the speech was nevertheless hailed by members of the Berber community as an implicit recognition of their right to speak and write in Tamazight. The Berber community has not made any attempts to introduce Berber language instruction in the schools since August 1994, according to Hassan Id Balkassm, president of the New Association for Culture and Popular Arts. Thus, it may be too soon to judge the full impact of the royal speech. However, twelve minutes are now devoted daily to Berber language news on the state-owned television station. Moreover, daily newspapers such as Al-Bayane often devote one page to Tamazight news. On the other hand, the state-run radio station in Agadir, which used to broadcast programs in Berber, has recently stopped these broadcasts.

In contrast to the generally reduced sensitivity of the language issue, the Moroccan government continues to deny freedom of assembly with respect to activities sponsored by Berber organizations, as it does in other domains as well (see "Violations of Freedom of Assembly," above.) In July 1994, for example, the Moroccan Association for Research and Cultural Exchange obtained advance authorization from local authorities and permission to use an auditorium at the municipal council in the city of Agadir for a three day conference of Berber scholars. One day prior to the event, however, local authorities banned the conference. Also in July 1994, the Tamazight association NUMIDIA in Al Hoceima was told by local authorities that a cultural event scheduled for July 28-30 could not be held because the auditorium requested was to be used by another organization. According to the Association for Culture and Popular Arts however, this was simply a pretext; "In reality, the location was purely and simply closed during those days."<sup>138</sup>

On March 10, 1995, the Association for Culture and Education received authorization to hold a colloquium on Berber women in Morocco one month later. On the day of the event, however, the authorization was withdrawn. In a similar incident, advance authorization was granted for a three-day NUMIDIA conference to be held in April 1995, on the life of Abdelkrim Khattabi, a Berber national hero who had been one of the leaders of the resistance movement against French and Spanish colonialism. At the last minute, the organizers received notification, this time in writing, that the event would not be authorized because it posed a threat to "national unity." Also in April 1995, a cultural day planned in city of Tizuit by the Moroccan Association for Research and Cultural Exchange was not authorized.

In May 1995, on the occasion of the Muslim celebration of Eid al-adha, the New Association for Culture and Popular Arts in Chira organized a parade, which incorporated traditional Berber customs. The local government attempted to stop the parade and, when the participants refused to be stopped, thirty were arrested. All but one were freed and he was eventually acquitted.

## INDEPENDENCE OF THE JUDICIARY

Several provisions in the Moroccan constitution guarantee that the different branches of government function independently. Articles 59 and 62 assign administrative and regulatory powers to the executive branch, while Articles 44 and 45 assign legislative functions to the parliament. Article 80 provides that the judiciary shall be independent of the executive and legislative powers, and Article 10 states that no one can be arrested, detained or punished other than as provided by law.

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<sup>137</sup>Royal Speech, August 20, 1994, as quoted in *Bulletin de Droits de l'Homme*, Ministry of Human Rights, no. 3, December 1994, p. 46.

<sup>138</sup>New Association for Culture and Popular Arts, "Communiqué de Protestation Contre les Interdictions qui ont Frappé les Activités Culturelles Amazighes durant le moi de Juillet 1994."

Yet, numerous laws and practices violate the principle of independence of the judiciary. The Supreme Council of Magistrates (hereinafter the "Magistrates' Council") provided for in the constitution, presumably as a check on the judiciary, plays no real role in Morocco. According to the Moroccan Organization for Human Rights, "The council ... does not regularly hold the two annual sessions provided for in the Law of the Magistrature [and] did not meet for over two years, between January 1991 and July 1993."<sup>139</sup> Moreover, although the constitution provides that magistrates shall be appointed by the king upon recommendation of the council, 200 magistrates were reportedly appointed in February 1993 without having been recommended by the council.<sup>140</sup>

Moreover, Article 56 of the Code of Penal Procedure places magistrates under the authority of the Ministry of Justice.<sup>141</sup> The minister of justice may suspend a magistrate in the event of commission of a "grave mistake," a broad term that is left undefined in the code.<sup>142</sup> The code also empowers the minister of justice to reassign magistrates or, "in case of necessity", to assign magistrates to the position of state prosecutor or investigating judge.<sup>143</sup> No consultation with the Magistrates' Council is required in either case. This structure greatly reduces the independence of magistrates.

In certain cases, the power to determine compliance with laws is placed outside of the judiciary. Article 77 of the Press Code, for example, empowers the minister of the interior, and thus the executive branch of the government, to seize or suspend a publication. In such cases, the judicial branch plays no role in determining whether, in fact, the given publication has violated Article 77, thus leaving open the possibility of arbitrary application of the law.

One example in which the judicial branch was bypassed is the case of Abdessalam Yacine, the leader of the outlawed Islamic group al 'Adl wa al-Ihsan, who has been held under arbitrary house arrest since 1989. The decision to place Yacine under house arrest was not a judicial one, but rather an administrative decision of the Ministry of the Interior. The fact that this ruling was handed down by the executive branch, rather than the judiciary, violates the requirement in the Moroccan constitution that the different branches of government function independently. Moreover, it violates the International Covenant on Civil and Political Rights, which prohibits arbitrary arrest or detention and entitles anyone arrested or detained to "take proceedings before a court, in order that a court may decide without delay on the lawfulness of his detention."<sup>144</sup> Although Yacine's attorneys submitted an appeal to the Supreme Court almost four years ago, citing abuse of power by the Ministry of Interior, the court has yet to rule on his fate.

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<sup>139</sup>Moroccan Organization for Human Rights, *Non à la Torture au Maroc*, p. 19.

<sup>140</sup>Ibid.

<sup>141</sup>Code of Penal Procedure, November 11, 1974.

<sup>142</sup>Ibid., Article 62.

<sup>143</sup>Ibid., Article 55 and Article 57.

<sup>144</sup>ICCPR Article 9(1) and Article 9(4).

The predominance of the executive branch was also evident in the case of Abraham Serfaty, a prominent political prisoner who was stripped of his Moroccan nationality on September 13, 1991, and expelled to France.<sup>145</sup> In violation of Moroccan law, which only permits the stripping of nationality on the basis of an irrevocable judicial decision, Serfaty was expelled by order of the minister of the interior. Serfaty's attorney, Abderrahim Berrada, appealed this administrative order to the Supreme Court in November 1991, again on the basis of abuse of power by the Ministry of Interior. The court has thus far failed to rule on Serfaty's case.<sup>146</sup>

The Moroccan judiciary is also plagued with practical problems. Due to the poor quality of education and judicial training they reportedly receive, judges are often underqualified, while the courts are overcrowded and responsibilities and professional demands are high. According to attorney Abderrahim Berrada, "the caseload of judges is so high that they often spend no more than three to four minutes on a single case."<sup>147</sup> Judges and clerks are also underpaid and, according to many lawyers, susceptible to bribes. A range of lawyers told Human Rights Watch that judges actually receive instructions on how to rule from highly-placed individuals who have interests in particular cases. Not only do government officials at the highest levels intervene in judicial decisions, but well-connected and wealthy families are also able to manipulate the system to their advantage. As a result, the judicial system is reportedly corrupt to its core.

Individuals who engage in such abuses run virtually no risk of being investigated or prosecuted, further contributing to the lack of independence of the judiciary. Indeed, the law protects many of those involved in the judicial system from responsibility for illegal acts. Article 267 of the Code of Penal Procedure provides that "a minister of the crown, member of government, magistrate of the Supreme Court, governor of a province, first president of a court of appeals, or magistrate of a state prosecutor's office can only be brought before a court upon the demand of the prosecutor general of the Supreme Court, upon instructions of one or more members of this court." Although the principle behind this requirement, which seeks to protect the independence and impartiality of judges, is sound, it makes it virtually impossible to hold high government officials, including judges, accountable for their illegal actions.

The scope of the problem was summed up in a communiqué issued by the Bar Association of Morocco on June 16, 1995, which alleged that "the material and moral abandon [of the justice system] poisons the magistrature" and denounced "the forms of intervention with and subjugation of political authorities ... based on money and nepotism."<sup>148</sup>

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<sup>145</sup>See also "Political Exiles/Denial of Passports," above.

<sup>146</sup>Human Rights Watch interview with Abderrahim Berrada, Casablanca, June 3, 1995.

<sup>147</sup>Ibid.

<sup>148</sup>Agence France-Presse, June 19, 1995.

On April 18, 1995, government spokesperson Driss Alawi announced plans to carry out a "structural reorganization of the Ministry of Justice and the construction of several new tribunals" by the end of the year. In order to "reinforce the independence and credibility of the judiciary," Alawi stated that the government would be "more watchful over whether judgments were handed down as quickly as possible and actually executed."<sup>149</sup> Six days later, on April 24, 1995, the king himself spoke about the serious problems facing the Moroccan judicial system in an speech to the Magistrates' Council. He discussed low salaries and corruption, noting that "we must protect our magistrates from all pressure because 'poverty is comparable to apostasy.' Man is not completely sheltered from the temptation of the devil ...."<sup>150</sup> Although the king did not offer details, he did promise to address these issues.

While the government's public recognition of some of the judicial system's shortcomings is positive, the problems are far more complex than has been acknowledged. Indeed, the bypassing of the judiciary, whether through Article 77 of the Press Code or through administrative orders handed down by the Ministry of Interior, constitutes a violation of the independence of the judiciary. Similarly, Alawi identified a mechanism for ensuring that verdicts are handed down and executed promptly, but he did not address the need to ensure that legal decisions are rendered justly and without extrajudicial interference, whether by governmental or private parties. While these practices are not systematic, they occur frequently enough and have existed for so many decades that they have become institutionalized and caused an erosion of public confidence in the judicial system.

Accordingly, a thorough overhaul of the judicial system is in order. Recent cases indicate an immediate need to introduce supervision over the activities of magistrates, to ensure that their decisions are not influenced by outside sources. A partial solution may be to strengthen the Magistrates' Council, so that it can function as a truly independent body and supervise all courts and officers within the judicial system, in order to investigate and impose penalties on those found guilty of corrupt practices and other wrongdoing. Cases in which interference with judicial proceedings are suspected or alleged must be vigorously investigated and those responsible punished. In addition, the Code of Penal Procedure must be amended in order to eliminate the control exercised by the Ministry of Justice over the judiciary, including the ability to suspend judges and determine which judge will preside over a case, as well as the ability to assign magistrates interchangeably in judicial and prosecutorial functions. Finally, sufficient governmental funding must be dedicated to improving training and remuneration of judges and clerks, in order to improve legal decision-making and reduce the possibility of corruption.

## DISCRIMINATION AGAINST WOMEN

Despite progress in certain other aspects of the human rights situation in Morocco during the past few years, the impact upon women's rights has been slight. The activities of a group of women struggling for equality since independence led to the creation, in the mid to late 1980s, of a number of non-governmental organizations dedicated to protecting and increasing awareness of women's rights. A decade later, dozens of women's rights organizations are active in these efforts.

Morocco ratified the 1979 Convention on the Elimination of all Forms of Discrimination against Women in June 1993. However, as the discussion below indicates, the government has failed to modify domestic laws in conformity with Morocco's obligations under the convention. Moreover, the convention has not yet been incorporated into domestic law because it has not been published in the official government bulletin, as required by Moroccan law.

### Legal Rights

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<sup>149</sup>Agence France-Presse, April 19, 1995

<sup>150</sup>Text of royal speech in *Le Matin*, no. 8864, April 26, 1995.

One particular area of concern to women is the 1958 Moudawana or Family Code. Based in part on the *Shari'a*, or Islamic law, and interpreted in the conservative *Maliki* legal tradition, the code contains many inequitable and discriminatory provisions. According to the Democratic Association of Women in Morocco, "even if the constitution or other laws provide women with certain rights, in practice, it is the Moudawana that reigns."<sup>151</sup>

In response to criticism from women's groups and other activists, the king assembled a group of *ulema*, or Islamic legal scholars, to consult with women's groups and consider modifications to the Family Code. Women considered to be "hard-line" feminists were excluded from this gathering and others declined to participate. On September 10, 1993, a dahir was passed announcing a series of amendments to the Family Code. Although these represented modest improvements, even the modified provisions remain discriminatory in many key respects. Moreover, as described below, other important flaws in the Family Code were not addressed at all.

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<sup>151</sup>Human Rights Watch interview in Rabat, June 2, 1995.

Rather than eliminating the institution of matrimonial tutelage for all women over the age of eighteen, the new law merely removed the requirement that a fatherless woman over the age of eighteen obtain permission for marriage from a male relative, judge or member of the religious community.<sup>152</sup> This change loses significance in light of the fact that women over eighteen whose fathers are living still require male permission for marriage.

Another modification accorded a widow both physical and legal guardianship over her children, while limiting divorced woman to physical guardianship.<sup>153</sup> The same article states that, even when she is the legal guardian, a woman may not transfer her children's legal property without a judge's authorization. There is no such restriction on men. Moreover, Article 105 removes legal guardianship over the children from the mother in the event that she remarries, while a man's right to legal guardianship is not affected by remarriage.

In the area of divorce through repudiation (talaq), the law was amended so that repudiation can only take effect if both parties and a judge are present;<sup>154</sup> previously, a man could repudiate a woman in her absence. However, the article states that a woman who is "summoned" and does not appear can still be repudiated, without spelling out the requirements and procedures for summoning the woman.

As far as polygamy is concerned, the law was changed to require that both the new and the existing wife or wives be informed of the decision to take a new wife, but the women's permission is still not required. The demand by women's groups that polygamy, which is not commonly practiced in Morocco, be outlawed altogether was not met.<sup>155</sup>

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<sup>152</sup>Code du Statut Personnel et des Successions, Article 11 to 4.

<sup>153</sup>Ibid., Article 148(2).

<sup>154</sup>Ibid., Article 48.

<sup>155</sup>Ibid., Article 30. The official figure for polygamy in Morocco is 3 percent but, according to the Democratic Association of Women in Morocco, the actual rate is somewhat higher. One reason for the inaccuracy of the official figure is that many men still hide new marriages from an existing wife.

Another modification to the Family Code permits a woman to stipulate in the marriage contract that her husband may not take another wife, and that his failure to abide by this stipulation entitles her to a divorce.<sup>156</sup> However, women's rights groups and activists told Human Rights Watch that, in practice, this right is rarely exercised. Not only is the woman generally the weaker economic party and, therefore, reluctant to demand a right that she fears may result in the union not taking place, but even well-to-do families frown upon this requirement. One woman explained that the inclusion of such a provision in the marriage contract "is considered an insult to the groom's family."<sup>157</sup> Accordingly, many families, including well-to-do, educated ones, refuse even to consider this demand.

Laws that discriminate against women are present in other areas as well. The constitution, for example, states that "men and women shall enjoy equal political rights" but is silent on the issue of civil rights.<sup>158</sup> Indeed, blatantly discriminatory provisions are found throughout Moroccan laws. For example, Article 336 of the Code of Penal Procedure requires that a woman who wishes to bring a civil suit against her husband, obtain advance authorization from a court, although no similar requirement applies to men. Article 418 of the Penal Code reduces the sentence for a husband who murders, wounds or hits his wife upon catching her in the act of committing adultery, without providing similar leniency for a wife in this situation. Similarly, Article 491 of the Penal Code, which prescribes a two year prison sentence for a spouse convicted of adultery, states that a lawsuit can only take place upon the filing of a complaint by the offended party. However, the article goes on to permit the automatic initiation of legal proceedings by the state prosecutor if the husband is outside of Morocco and his wife's adulterous conduct has been made public.

Until April 1994, a Moroccan woman needed her husband's permission in order to obtain a passport. Although a Ministry of Interior ruling has since eliminated that requirement, its impact upon women's freedom of movement and travel has been minimal, as the husband's permission is still required in order for a woman to obtain a visa.

Women are also constrained in the area of economic activity. Article 6 of the Code of Commerce requires that a woman wishing to engage in a commercial activity obtain her husband's consent. Article 726 of the Law of Obligations and Contracts requires that a woman obtain authorization from her husband prior to accepting paid employment. The parliament adopted a proposal to abrogate this article on July 13, 1995. In the workplace, women complain about unequal salaries and their lack of representation in managerial positions, whether in the private or public sector. One significant development for women, however, was the election to parliament of two female deputies in June 1993.<sup>159</sup>

Even rights guaranteed to women by law are not always enforced. For example, the Family Code sets forth a series of conditions permitting a woman to seek divorce, including cruelty, lack of maintenance and abandonment.<sup>160</sup> Nevertheless, numerous women told Human Rights Watch that, despite the numerous bases for divorce set out in the Family Code, the only factor that is always taken seriously by the courts is a husband's failure to provide economically for his wife or family. According to a member of the Committee of Women's Workers, "Lawyers even advise their female clients against going to court if he beats her, is an alcoholic, etc. None of these arguments will succeed in court -- only the argument that he is not providing her material needs."<sup>161</sup> The attitude of the courts has "caused women to

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<sup>156</sup>Code du Statut Personnel et des Successions, 10 September 1993, Article 30(2).

<sup>157</sup>Human Rights Watch/Middle East interview with representatives of the Democratic Association of Women in Morocco, Rabat, June 2, 1995.

<sup>158</sup>Constitution of the Kingdom of Morocco, Article 8.

<sup>159</sup>These are Latifa Bennani-Smaes of the Istiqlal party and Badia Skali of the USFP.

<sup>160</sup>Code du Statut Personnel et des Successions, Articles 53 to 58.

<sup>161</sup>Human Rights Watch interview, Rabat, May 30, 1995.

lose confidence in the legal system" and most do not even bother to file for divorce, fearing that they will be unsuccessful and only enrage their husbands.<sup>162</sup>

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<sup>162</sup>Ibid.

Cultural, economic and family pressures often prevent women from seeking redress when their legal rights are violated, particularly in smaller cities and rural areas. For example, despite provisions in the Family Code for the payment of child support to women who have physical custody of their children, payment is often withheld. Thus, many women, particularly those living in rural areas, do not file for divorce because they are pessimistic about receiving financial support from their ex-husbands and are afraid that they will not be able to survive economically on their own.<sup>163</sup>

Finally, with a 68 percent female illiteracy rate, many women are not even aware of their legal rights.<sup>164</sup> The task of educating women with regard to their rights has fallen largely to non-governmental organizations, many of whom plan to establish programs aimed at increasing women's knowledge and awareness of their rights and the remedies available for abuse.

### **The Problem of Domestic Violence**

One area of tremendous concern to Moroccan women is the prevalence of violence, particularly in the home. While statistics are not available for the entire country, the example of a single Moroccan city is illustrative. Citing statistics of the criminal chamber of the Casablanca court of first instance, *Maroc Hebdo* reported in 1995 that "out of 913 cases on which [the court ruled,] 334 files (more than one third) were connected to violence against women."<sup>165</sup> Zineb Miadi is the director of the "Center for Listening to and Orienting Attacked Women" in Casablanca. In the first two months after opening its doors in April 1995, the center had already received some eighty women.<sup>166</sup>

These statistics do not necessarily reflect the full scope of the problem, particularly as regards domestic violence. Miadi observed that women in rural areas are far less likely to report domestic violence than in big cities such as Casablanca, adding that, whether it occurs in an urban or rural area, "women who go to the police station because they have been beaten are told to speak to their husbands, work it out. They are generally discouraged from reporting their cases. If a woman is from a higher social class, or if she is accompanied by her father, brother or lawyer, there is more of a chance that she will be helped."<sup>167</sup>

A woman who is the victim of violence may report the incident to the police, who prepare a statement (*procès verbal*). The victim must also provide a medical certificate proving that she has incurred demonstrable injuries. Reports of the reluctance of the police to respond to such cases were echoed by all the women with whom Human Rights Watch spoke. They agreed that if there are no signs of violence, the police will not intervene at all; even when there are visible traces of violence, the police often refuse to take action, usually citing a lack of proof of the husband's culpability.

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<sup>163</sup>Ibid., Article 30.

<sup>164</sup>Department of Statistics, Morocco, 1995, as quoted in Agence France-Presse, April 27, 1995.

<sup>165</sup>Khadija Ridouane, "Qui aime bien ...," *Maroc Hebdo*, February 3-9, 1995, p. 20.

<sup>166</sup>Human Rights Watch interview, June 7, 1995.

<sup>167</sup>Ibid.

According to another member of the Committee of Women Workers, wealthy men usually succeed in persuading police, judges, or even lawyers, not to pursue domestic violence cases brought against them.<sup>168</sup> One lawyer observed that "the judicial system is geared towards the idea that the man will 'reform.' This is a way of permitting him to save face. If the case even gets to the judge, he will always try to reconcile the parties, rather than looking at whether this is a safe or desirable situation for the woman."<sup>169</sup>

A well-educated, working woman who had been abused by her husband for fourteen years told Human Rights Watch that she had finally decided to file charges after one particularly violent incident.

I went to the police with two medical certificates, one from a private doctor and the other from a hospital. The police took the *procès verbal* and were supposed to summon my husband [within ten days], but they never did. After one and a half months of returning constantly to the police and trying to push them to do something, I finally had to get well-connected friends to intervene. Even though there had been two witnesses to the act, which is very rare, my file was blocked. Why? Because my husband paid off the court and got *his* friends to call. When we finally went to court, the judge didn't even permit me to speak. My husband was found innocent.<sup>170</sup>

One woman activist explained that "it is easy for men [who are accused of domestic violence] to find a way out of the situation. The police and judges side with the man -- they consider the woman to be 'bad' and disloyal for having made her internal disputes public. They do not see this as violence."<sup>171</sup>

According to Miadi, there have been instances of a man being sentenced to a few months for beating his wife. In these cases, however, "there was irrefutable evidence, support from the family and so on. But in most cases of this nature, it is difficult to find proof or witnesses, and the police and the justice system simply do not have the will to look for proof."<sup>172</sup>

To combat the problem of domestic violence, Morocco must adopt laws specifically designed to protect women from this form of violence, and ensure that violators are prosecuted to the full extent of the law. As far as the standard of proof is concerned, the absence of physical traces of violence and, therefore, of a medical certificate, should not affect a woman's ability to file charges. Moreover, files should be opened automatically, without police officers passing their own preliminary judgment on the merits of the case, or handing out unsolicited advice regarding reconciliation. Given the apparent scope of this problem, the placement of female police officers or counselors in police stations might increase the likelihood of women reporting domestic abuse.

According to Miadi, there is a Moroccan saying that "'The carpet that is expensive must be hit more often in order to get rid of the dust.' In the same way, some people think it is 'acceptable' for a man to hit his wife." Such attitudes pose obvious challenges to the struggle to eradicate domestic violence, and make the need for the adoption of strong laws and a supportive legal system all the more urgent.

## HUMAN RIGHTS ORGANIZATIONS AND ACTIVISTS

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<sup>168</sup>Human Rights Watch interview, Rabat, May 30, 1995.

<sup>169</sup>Human Rights Watch interview, Rabat, May 29, 1995.

<sup>170</sup>Human Rights Watch interview, Rabat, June 1, 1995.

<sup>171</sup>Human Rights Watch interview, Casablanca, June 1995.

<sup>172</sup>Human Rights Watch interview, Casablanca, June 5, 1995.

The king's creation of the Consultative Council on Human Rights (CCDH) in May 1990, to counsel the king on matters related to human rights, was hailed by many as an indication of a desire for reform. The council is headed by the president of the Supreme Court and includes, among its thirty-seven members, representatives from both government and opposition political parties, labor unions, human rights organizations, scholars, religious leaders, and cabinet ministers. The CCDH can provide counsel on an issue either upon the request of the king, or following a vote by two-thirds of its members.

However, Moroccan activists allege that the CCDH is far from the independent body that it is represented to be. They point to the fact that ministers serve as members of the CCDH, rather than as mere observers or participants. In addition, they complain that the CCDH rarely meets and is slow to act. Indeed, although the CCDH is authorized to meet if one third of its members petition to do so, this has never happened. To date, the CCDH has only met in response to issues that the king has asked it to act upon, and not based on its own objective assessment of where the actual needs lie. As a result, the CCDH is generally perceived as being a weak and passive body that has taken credit for positive actions, the impetus for which actually came at a much higher level.

According to Abdelaziz Benani, president of the Moroccan Organization for Human Rights, "Too many members of the CCDH are unqualified to serve on such a council, and human rights is not their 'cause.' Those motivated by human rights form the minority [of the CCDH.]"<sup>173</sup> Moreover, despite the fact that human rights organizations and lawyers are represented on the council, many complain that they are not always informed of issues before the CCDH or consulted in a timely manner.

A number of human rights organizations exist in Morocco and, although activists state that they do not experience interference with their activities, they emphasize that efforts at dialogue with the government have been ineffective. Most human rights activists told Human Rights Watch that they did not see the point of even attempting to engage in dialogue with the present human rights minister, who they do not consider to have a serious commitment to human rights. The Moroccan Association for Human Rights refused to participate in the CCDH, and the Marrakech Committee for the Defense of Human Rights, which did not exist at the time of the creation of the CCDH, declined to request CCDH membership. The Moroccan Organization for Human Rights complains that, during the past five years, it has received no response to its letters to the prime minister, the minister of the interior or the director of national security, although it has occasionally been accorded meetings with these ministries in the context of making preliminary contact. The Moroccan Organization for Human Rights also criticizes the government for its failure to respond to the organization's application to obtain the status of a public or charitable organization (*statut public*), which would enable the organization to receive public donations.

As far as international human rights organizations are concerned, Morocco has opened up a great deal. For example, after nearly four years of denying permission to Human Rights Watch to conduct a fact-finding mission to Morocco, Moroccan authorities finally agreed to this request in April 1994, and the Human Rights Watch mission took place the following spring. Amnesty International had an uneasy relationship with the Moroccan regime during the 1980's, following a period of highly critical reporting, and a delegation from London was even expelled from Morocco in 1990. In recent years, however, Amnesty International has been able to conduct missions to Morocco. Amnesty International is in the process of opening several "groups" throughout Morocco, which will conduct campaigns on other countries but not on Morocco, in accordance with Amnesty International rules.

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#### *Human Rights Watch/Middle East*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the

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<sup>173</sup>Human Rights Watch interview with Abdelaziz Benani, president of the Moroccan Organization for Human Rights, Casablanca, June 5, 1995.

Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Robert Kimzey, publications director; Jeri Laber, special advisor; Gara LaMarche, associate director; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; Joanna Weschler, United Nations representative; and Derrick Wong, finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Middle East division was established in 1989 to monitor and promote the observance of internationally recognized human rights in the Middle East and North Africa. Christopher George is the executive director; Eric Goldstein is the research director; Aziz Abu Hamad and Virginia N. Sherry are associate directors; Shira Robinson and Awali Samara are associates. Gary Sick is the chair of the advisory committee and Lisa Anderson and Bruce Rabb are vice chairs.