

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Morocco: Stop prosecution of torture complainants for ‘false reporting’**

The Moroccan authorities must stop actions that appear aimed at intimidating victims of torture and other ill-treatment from speaking out, Amnesty International said today in the wake of last week’s three-year prison sentence against one activist and ongoing prosecutions against two human rights defenders in connection with “false reporting” of torture complaints.

The current developments follow a statement on 11 July 2014 by the Moroccan Minister of Justice and Liberties, El Mustapha Ramid, in which he reiterated the Moroccan authorities’ commitment to preventing and investigating instances of torture and other ill-treatment, but said that “the Office of the Prosecutor will undertake necessary legal proceedings when faced with false reports or attempts to harm the reputation of individuals or institutions.” The statement triggered an uproar from Moroccan human rights groups, which denounced an attempt to dissuade victims from reporting torture.

Amnesty International believes that the authorities should create a safe environment for victims to speak out. By charging complainants with making false allegations, they are likely to instil fear among victims of torture and other ill-treatment and encourage impunity for perpetrators. This is contrary to international human rights standards which explicitly state that victims and witnesses must be protected against any retribution or intimidation, including threats of counter-charges, as a result of making such complaints.

### **Activist sentenced to three years after torture testimony on YouTube**

On 23 July 2014, the Court of First Instance in Casablanca handed a three-year prison term to 22-year-old Oussama Housne, an activist with the 20 February protest movement and member of the local branch of the Moroccan Association for Human Rights (AMDH), after convicting him of falsely reporting an offence and slandering police officers, under Articles 264 and 445 of Morocco’s Penal Code. The 20 February movement is a peaceful protest movement that emerged in 2011 and calls for greater respect for human rights, democratization, social justice and an end to corruption.

Housne reported being abducted and tortured by three unknown men in plain clothes on 2 May 2014 as he was leaving a protest in solidarity with nine 20 February members who were then in detention. He said that the men drove him to an unknown location and beat him, burned him with a heated metal rod and raped him with their fingers. Three days later, human rights defenders from the local branch of the AMDH recorded a video of the activist describing the abuse to which he says he was subjected and posted it on YouTube. The video prompted the authorities to open an investigation, following which the National Brigade for Judicial Police (BNPJ) summoned him for questioning.

On 1 June, the Crown Prosecutor concluded that Housne had not been tortured and announced his intention to prosecute him. To support his assessment that the activist was lying about having been tortured, the Crown Prosecutor cited the fact that he had declined to undergo a medical examination. According to his lawyer, however, the examination was proposed over three weeks after the reported assault, and Housne’s physical injuries had already healed by then.

The same day BNPJ officers arrested the activist at his home and, that evening, the Crown Prosecutor informed him, in the absence of a lawyer, of the charges he faced and placed him in pre-trial detention in Okacha prison in Casablanca.

Housne's lawyer told Amnesty International that, during his trial, he had requested that two witnesses be called to provide testimony that they had seen how upset the activist was shortly after the alleged assault on 2 May. The court refused, raising concerns that Housne's right to call witnesses – a key element of the right to a fair trial – was violated.

### **Human rights defenders charged for torture complaint**

At the same time, two human rights defenders – Wafae Charaf and Aboubakr El Khamlichi – are currently on trial in connection with a torture complaint submitted by Charaf. Their trial began on 14 July 2014, with the next hearing scheduled for 4 August 2014.

Wafae Charaf, who is a member of staff of the local branch of the AMDH in Tangiers and a political activist with the Democratic Path party, has reported that she was abducted from a trade union protest in Tangiers on 27 April 2014. She said that two unknown individuals in plain clothes forced her into an unmarked vehicle and blindfolded her before driving away, beating her on the way, and threatening further violence if she did not stop her activism, before releasing her approximately three hours later on a road 12km outside the city.

Three days after these events, after securing a medical certificate from the local hospital documenting light injuries, Charaf lodged a complaint for abduction and torture by unknown persons with the General Prosecutor at the Tangiers Court of Appeal, with support from the Tangiers branch of the AMDH. She was questioned by the Tangiers judicial police the same day in relation to her complaint, before the BNPJ took over the investigation and summoned her for questioning on several occasions over the following weeks. On at least two occasions, on 6 and 13 June 2014, she reportedly fainted during questioning and was admitted to hospital. She was later admitted to a private clinic where doctors found she was under significant psychological pressure and concluded she was not fit for interrogation until her mental health improved.

Police officers arrested Wafae Charaf on 8 July 2014 and placed her in pre-arraignment detention for three days, during which she was reportedly severely distressed and briefly hospitalized as a result. On 11 July, she was charged with falsely reporting an offence and slander under Articles 263, 264 and 445 of the Penal Code, and ordered to remain in detention pending trial.

Aboubakr El Khamlichi, an active member of the AMDH and also a political activist with the Democratic Path party, was arrested on 10 July and detained overnight in connection with the same case. The following day, he appeared before the Crown Prosecutor alongside Wafae Charaf and was charged with complicity to falsely report an offence and slander (under Article 129 of the Penal Code) and released on bail. He had been present at the trade union protest on 27 April and accompanied her to hospital later that night and on subsequent occasions, but was not involved in filing her complaint with the judicial authorities.

### **Medical evidence and torture**

A medical examination must always be offered to someone who has made allegations of torture or other ill-treatment. In a positive development, Minister of Justice and Liberties El Mustapha Ramid recently circulated a memorandum to prosecutors and judges encouraging them to order medical examinations when allegations of torture or other ill-treatment are made.

However, the absence of physical injuries does not prove the absence of torture or other ill-treatment, as international human rights standards explicitly state. The lack of visible physical marks of torture does not prove someone is lying about having been tortured. Marks can fade with time, while many forms of ill-treatment, including psychological torture and some forms of sexual violence, do not leave visible marks, but they do create long-term psychological scars.

Therefore, it is not enough simply to encourage prosecutors and judges to order medical examinations. Such examinations must conform to established standards of medical practice as defined in the Istanbul Protocol – the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Forensic medical

examinations of torture allegations must include a physical as well as a psychological evaluation, be undertaken only with the victim's informed consent, conducted in private, and take full account of the victim's statements.

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