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Morocco/Western Sahara: Accession to OPCAT must be followed by swift implementation

Moroccan authorities announced today that the country acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 24 November, paving the way for enhanced prevention of torture and other ill-treatment in detention.

Morocco's accession to OPCAT had been expected since 17 June 2013 when the law approving accession was promulgated by King Mohammed VI after it was voted by the legislature.

Authorities now have one year to establish a National Preventive Mechanism (NPM) with a mandate to monitor all places of detention, make recommendations to the authorities on preventing torture and other ill-treatment and improving conditions for persons deprived of their liberty, publish annual reports on their torture-prevention activities, and complement the work of the UN Subcommittee on Prevention of Torture.

In order to unlock OPCAT's full torture prevention potential, authorities should move swiftly to establish a fully-resourced and truly independent NPM. Articles 19 to 23 of OPCAT set out minimum guarantees for the establishment of an effective NPM following a transparent, inclusive and comprehensive process involving a wide range of stakeholders, including civil society.

Drawing on OPCAT and guidelines by the UN Subcommittee for the Prevention of Torture Amnesty International has set out benchmarks to assess the effective implementation of the anti-torture treaty in its *Checklist for the Effective Implementation of OPCAT*.

These benchmarks include an NPM established by a founding instrument that guarantees its institutional and functional independence, adequate long-term funding and ability to function throughout the territory under the state's control including Western Sahara. The law should enable the NPM to visit all places of detention and detainees, whether official or not.

Independence from state authorities is key, with distinct administration, premises, funding and means of communication with detainees. The threshold of functional independence required for NPMs is higher than that required by the Paris Principles for national human rights institutions such as Morocco's National Human Rights Council (CNDH).

The NPM must be allowed to visit places of detention unannounced, have full, immediate, unhindered access to all places of detention and detainees, the ability to speak privately to detainees, staff members, or others they believe have relevant information. Likewise, it should have unrestricted access to all relevant information compiled by the authorities regarding persons deprived of their liberty, detention

centres, and conditions of detention. Meanwhile, authorities should ensure the safe access of all persons wishing to report to the NPM, while the institution should demonstrate steps to protect detainees from reprisals through follow-up contact with their families or lawyers, as well as adequate documentation of any reprisals.

In addition, the government or its agencies should not monitor or hinder the NPM's communications with the UN Subcommittee for the Prevention of Torture, which should be direct and private whenever the NPM deems necessary.

Finally, founding legislation should empower the NPM to submit reports to directors of places of detention, legislative bodies, the executive or other political institutions, and its reports and recommendations should be taken seriously.

Amnesty International also encourages authorities to take other measures to prevent and tackle torture in detention beyond the establishment of an NPM. Access to places of detention in Morocco and Western Sahara by independent human rights groups would allow them to complement the NPM's future role in preventing torture in detention, as well as to monitor the NPM's effectiveness in practice.

Moroccan authorities also have an additional obligation to protect those who report on torture from reprisals, in order to create a climate where those suffering or witnessing torture and other ill-treatment feel safe to speak out and access justice through the courts.