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MOROCCO

“Stop Looking for Your Son”

Illegal Detentions under the Counterterrorism Law

HUMAN
RIGHTS
WATCH



Morocco: “Stop Looking for Your Son”

Illegal Detentions under the Counterterrorism Law

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Summary

When I reached a blue office building [at domestic intelligence headquarters] in Témara, I told a man on duty that I was looking for my son. The agent replied politely that I must be mistaken, since it is the Judiciary Police and not [the domestic intelligence agency] that arrests people. Besides, if my son had done nothing wrong he would soon be free. “Stop looking for your son,” he told me, “your son will contact you very soon.”

—Rachida Baroudi, mother of Rida Benotmane, describing her effort to locate him after his arrest by plainclothes officers.

Since Morocco suffered its worst terrorist attack on May 16, 2003, and adopted 12 days later a sweeping counterterrorism law, credible allegations have persisted that security officers routinely violate international and domestic law in their treatment of persons suspected of links to terrorism.

The alleged abuses follow a pattern that starts when agents in plainclothes who show no ID or warrant detain persons without explaining the basis for the arrest. Authorities then hold the suspects in secret places of detention where many face ill-treatment or torture during interrogation and are kept in *garde à vue* (pre-arraignment) detention longer than the 12-day maximum allowed by Morocco’s counterterrorism law, without their families ever being notified. They are then handed over to the police, who present them with a statement to sign, before they have seen a lawyer.

The courts have generally failed to investigate allegations of such abuses when raised by the defense, and have convicted defendants based largely on their contested “confessions” to the police.

In 2004, Human Rights Watch, Amnesty International, and the International Federation of Human Rights published reports denouncing these practices in the handling of the more than 1,500 persons arrested during the months following the May 2003 bombings.¹

¹ According to the US State Department’s *Country Reports on Human Rights Practices* for 2004, “As of June 3 [2004], according to the Government [of Morocco], 1,748 persons had been charged with terrorism since May 2003, including 315 cases still under investigation, 199 cases still ongoing before the district court or the court of appeals, and 1,234 cases in which sentence had been pronounced.” www.state.gov/g/drl/rls/hrrpt/2004/41728.htm (accessed September 27, 2010). Human Rights Watch, *Morocco: Human Rights at the Crossroads*, vol. 16, no. 6(E), October 2004, <http://www.hrw.org/en/node/11932/>; Amnesty International, “Morocco/Western Sahara: Torture in the ‘Anti-Terrorism’ Campaign: The Case of the Témara Detention Centre,” AI Index: MDE 29/004/2004, June 23, 2004,

Moroccan authorities responded at the time by promising to investigate. But the publicly announced results of the investigations amounted to a denial of the allegations, or at most, an admission of isolated cases of abuse.²

Arrests in terrorism-related cases have declined since 2004, as have reports of abuse. However, there has been little change in the types of mistreatment reported, among the smaller numbers of persons being detained. In 2008, illegal detentions constituted one of the main areas of concern at Morocco's Human Rights Advisory Council (ACHR), whose members are appointed by the king. That year, according to the ACHR, illegal detention complaints comprised 26.83 percent of the complaints it received that fell within its mandate. The ACHR observed:

Moroccan law places detention under strict controls and gives the judiciary supervision of it, including garde à vue detention. Thus the existence of cases of detention in locations outside of the supervision of the judiciary and outside of the legal provisions governing such places, even if limited in extent, can only lead to the occurrence of human rights violations that are unacceptable in an era that has turned the page on grave human rights violations.³

This report details cases of terrorism-related arrests between 2007 and 2010. Human Rights Watch takes no position on the guilt or the innocence of those arrested. Our concern is the pattern of abuses they experienced – arrests carried out in violation of legal procedures and that resemble abductions; detention in secret locations; placement in garde à vue detention beyond the 12-day limit provided for in the 2003 law; and illegal delays in providing suspects access to legal counsel. These abuses undermine the right of the accused to a fair

<http://www.amnesty.org/en/library/asset/MDE29/004/2004/en/eb15da6f-d618-11dd-bb24-1fb85fe8fa05/mde290042004en.html> (accessed October 8, 2010), and the International Federation of Human Rights, "Les autorités marocaines à l'épreuve du terrorisme—la tentation de l'arbitraire," No. 379, February 2004, www.fidh.org/IMG/pdf/ma379f-3.pdf (accessed October 8, 2010). In June 2010 Amnesty International published a report providing evidence of continuing illegal arrests of terrorism suspects, secret and incommunicado detention, torture or other ill-treatment and flawed legal proceedings. Amnesty International, "Continuing abuses against individuals suspected of terrorism related activities in Morocco," AI Index: MDE 29/013/2010, June 10, 2010, <http://www.amnesty.org/en/library/asset/MDE29/013/2010/en/21eb0965-f0b4-442e-b9cf-69ce9e65f393/mde290132010en.pdf> (accessed July 8, 2010).

² "Moroccan PM pledges 'appropriate' response to human rights violations," Agence France-Presse, July 5, 2004. Prime Minister Driss Jettou on July 5, 2004 promised that his government would take "appropriate" measures against reported human rights violations, but denied abuses were systematic and said several cases were the result of a robust crackdown on terrorism.... While speaking of "several hundred" arrests in the counterterrorism campaign, Jettou admitted that "from time to time we register some cases – happily only a limited number – that are treated overzealously and excessively."

³ Advisory Council for Human Rights, Annual Report for 2008 (in Arabic), http://www.ccdh.org.ma/IMG/pdf/rapport_CCDH_AR_2008.pdf (accessed September 13, 2010), p. 72.

trial and make them more vulnerable to the torture and other ill-treatment that many claim to have endured.

The persistence of these practices undermines not only the rule of law but also the legacy of Morocco's Equity and Reconciliation Commission. That legacy depends not only on the ERC's groundbreaking contribution to exposing, acknowledging, and making reparations for past abuses but also on whether Moroccan authorities show the political will to heed the recommendations that the ERC made to prevent and punish continuing abuses such as prolonged incommunicado detention in unacknowledged detention centers.

Many Moroccan use the terms "abduction" and "disappearance" to describe the kind of detention this report describes, because suspects are usually taken away by men in civilian clothing who show them neither an arrest warrant nor proof of their own identity; the suspects are then often held without notification to their families for days or weeks, in violation of Moroccan law.

In one important aspect, the "disappearances" documented in this report differ from those practiced by the Moroccan state in the 1960s through the 1990s, which the ERC investigated. In the earlier period, hundreds of those who were abducted by state agents "disappeared" forever and are presumed dead; hundreds more resurfaced only years after their abduction. In the present pattern of abductions, the "disappeared" person turns up within several weeks, if not sooner.

But while the abuse itself may be less grave, the disregard for the law by the security forces is no less flagrant, especially in light of the tougher domestic laws that have been put into place during the reign of Mohammed VI to safeguard against abuse. To date, Moroccan authorities have largely failed to investigate the repeated and credible allegations of violations of the laws governing the arrest and detention in order to eradicate these practices and hold perpetrators accountable. To our knowledge, no official has been held accountable, in cases involving suspects held under the 2003 counterterrorism law, for conducting illegal arrests, holding suspects in secret places of detention, physically mistreating suspects during interrogation, or falsifying dates of arrest. Many victims of such practices are currently serving long prison sentences, imposed after unfair trials.

Detention at Témara?

Most of the subjects of this report said that after being detained by plainclothes officers, they were blindfolded while being transported to detention in a place whose name was

never spoken. Many inferred that they had ended up in Témara, a Rabat suburb where the domestic intelligence agency is headquartered. They inferred this from landmarks and signs they glimpsed on the road, and from the animal sounds they said they heard coming from the national zoo that, until recently, was located in that city. At this facility, according to their accounts, agents threatened, insulted and assaulted them during interrogation. The assaults included slaps, punches, and beatings on the soles of their feet. All were eventually transferred to a recognized police station, at which point many of their families first learned where they were. Some noticed that the arrest reports noted an arrest date that coincided with their delivery to the police station—and not with their initial detention by plainclothes officers—as if their secret detention had never occurred.

Further allegations of secret detention centers in Morocco have come from abroad in recent months. The Associated Press reported in August 2010 that, according to several current and former American officials, the US government possesses video and audio recordings of Ramzi Binalshibh, an accused plotter of the September 11, 2001 attacks being interrogated in a secret prison in Morocco. The US officials told the AP that the prison was run by Moroccans but largely financed by the CIA, which in late 2002 handed Binalshibh over to Moroccan custody and kept him there for five months.⁴ The Moroccan government has never acknowledged the facility's existence, despite allegations by freed Guantanamo detainee Binyam Mohamed and others that the CIA relied on Morocco as a secret proxy detention site during the period after September 11, 2001.

⁴ Matt Apuzzo and Adam Goldman, “To keep program secret, CIA whisked 9/11 figures from Gitmo before court ruling,” Associated Press, August 6, 2010.

Recommendations to the Government of Morocco

Human Rights Watch made many of the following recommendations to the government of Morocco in its 2004 report, *Morocco: Human Rights at the Crossroads*. The cases presented in the present report show the persistence of the abuses documented in the earlier report and the continuing absence of political will on the part of Moroccan authorities to remedy them.

To end torture and other forms of ill-treatment, Morocco's judiciary should:

- Ensure that all allegations of torture and ill-treatment, including the use of coercion and threats, be promptly and independently investigated, and if credible evidence is found against law enforcement officers, bring them to justice.
- Strictly apply article 293 of the amended Penal Procedure Code, which renders confessions made under “violence or duress” inadmissible as evidence.
- Enforce compliance with all Moroccan laws governing garde à vue detention, by, among other things, opening investigations wherever there is evidence that police or other state agents may have held a suspect for any period outside a recognized place of detention, willfully entered a false date of arrest into their registry to cover up secret or illegally prolonged garde à vue detention, denied a suspect access to a lawyer or failed to present him before a judge within the time limits prescribed by law. Both investigating judges and trial judges should, where warranted, weigh these due-process violations in deciding whether “confessions” made under such circumstances should be dismissed or discounted as evidence of guilt.

Moroccan authorities should ensure that its law enforcement and intelligence agencies:

- Ensure that any state agents, when taking a person into custody, always provide that person with (1) proof of their affiliation with an agency empowered to conduct arrests and (2) disclose the basis for arresting that person.
- Hold all detainees only in officially recognized places of detention, and cease all secret detentions, even if they take place on the premises of an officially recognized detention facility.
- Hold arresting officers accountable for any failure to inform the family promptly of the person's arrest and whereabouts, as per article 67 of the Penal Procedure Code.
- Allow both national and international nongovernmental human rights organizations access to all places of detention, including any located in Témara.
- Investigate complaints of irregularities during arrest, interrogation, and garde à vue detention, including those alleging: arrests by agents in plainclothes who show

- neither an arrest warrant nor identification proving their status as agents of the Judiciary Police to the arrested person, and who do not explain the reasons for his or her arrest; detention in unacknowledged places of detention; failure to inform the next of kin of the whereabouts and judicial status of a person taken into custody; detention beyond the time limits allowed by law; denial of access to a lawyer within the time frame provided by the law; and the use of physical violence and threats to obtain confessions or to force a signature on a police statement.
- Make the findings of these investigations publicly available.
 - When complaints are found to be warranted, announce steps to hold accountable the responsible parties and to curtail any illegal practices.

Morocco's parliament should:

- Adopt legislation to shorten the maximum duration of garde à vue (pre-arraignment) detention from the 12-day maximum allowed under the 2003 counterterrorism law, and to allow more prompt access to legal counsel. The legislation should conform to the United Nations Human Rights Committee's determination, in interpreting the right of suspects to hear the charges against them "promptly" under article 9 of the International Covenant on Civil and Political Rights, that a suspect must be brought before a judge or other officer authorized to exercise judicial power within "a few days," in order to rule on the detention of the person. The legislation should give detainees the right to a lawyer when they are first questioned by the police, and ensure that police inform them of that right.
- Accede to the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which seeks to prevent torture by establishing a system of regular inspections of places of detention conducted both by international experts and a domestic independent inspection body.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

The disappearance convention, which Morocco played a constructive role in drafting, contains many provisions designed to prevent secret detention and the abuses associated with it. While Moroccan law already contains some of the provisions that the convention calls on states to enact, ratifying the convention would create new obligations and represent an expression of resolve to prevent not only enforced disappearances but also illegal and secret detentions. The convention requires, among other things, that states ensure that all persons are held only in officially designated places of detention and that detainees may

contact and receive visits from relatives and lawyers. It requires that states guarantee that persons deprived of liberty or persons acting on their behalf can petition a court to decide “without delay” on the lawfulness of a person’s detention and whether to order the person’s release. The Convention also requires states to take the necessary measures to prevent and impose sanctions for: delaying or obstructing access to court remedies when sought by a detainee or other interested party seeking to challenge his detention; failing to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate; and refusing to provide information on the deprivation of liberty of a person, or the provision of inaccurate information.

Introduction

The Moroccan government faces a challenge in preventing and suppressing terrorism, but officials have vowed to meet that challenge while respecting the country's domestic laws and its international human rights obligations. For example, then-Prime Minister Driss Jettou said on July 5, 2004, "Morocco has suffered the anguish of terrorism. In cooperation with states waging the same fight, we are committed to an uncompromising struggle while making sure the only weapon used is that of the law."⁵

Throughout the 1990s, Morocco watched nervously as its neighbor, Algeria, was consumed by political violence involving Islamist insurgent groups and state security forces. On August 24, 1994, suspected Islamist militants invaded the Atlas Asni Hotel in Marrakesh and shot dead two Spanish tourists.

Then on May 16, 2003, Morocco suffered the worst terrorist attack in its modern history when five coordinated suicide bombings in Casablanca killed 45 people, including 12 of the assailants. Officials including then-Minister of Justice Mohamed Bouzoubaâ said that the perpetrators belonged to two Islamist groups, *Sirat al-Mustaqim*, which means "the righteous path" in Arabic, and *Salafia Jihadia*, a loose alliance of militants in Morocco and other Maghreb countries accused of links with Al Qaeda.⁶ Since then, Morocco has suffered a number of less dramatic terrorist incidents. On March 11, 2007, a militant wearing an explosive device blew himself up in an Internet café in Casablanca, killing only himself. On April 10, 2007, three militants blew themselves up as the police closed in on them in Casablanca. One police officer was killed in the operation, as was a fourth suspected militant. On April 14, 2007, two suicide bombers blew themselves up near the US cultural center and consulate in Casablanca.

Moroccan emigrés have also been implicated in numerous terrorist networks and activities abroad. A Spanish court convicted Moroccan nationals of playing a leading role in the bombing of the Madrid commuter rail system on March 11, 2004, which killed 192 persons. The UN Security Council Committee 1267 has designated one of the militant groups

⁵ "Moroccan PM pledges 'appropriate' response to human rights violations," Agence France-Presse, July 5, 2004.

⁶ Salafia Jihadia connotes a struggle (jihad), in this case an armed struggle, on behalf of a revivalist Sunni Islam that venerates what its adherents consider to be the original faith and practices of the Prophet Muhammad and his contemporaries (Salafism). Some Salafists espouse violence as a legitimate means to spread their version of Islam and to punish those who have chosen the "wrong" path. At least one observer has noted that Salafia Jihadia is not a single organization, but "appears more to be a convenient label used by the Moroccan regime to lump together various jihadist strands." Alison Pargeter, "The Islamist Movement in Morocco," *Terrorism Monitor*, vol. 3, no. 10, May 23, 2005, [www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=483](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=483) (accessed August 8, 2010).

suspected of involvement in the attacks, the Moroccan Islamic Combatant Group (MICG), as a terrorist organization affiliated with Al Qaeda.⁷

Iraqi and US forces have arrested Moroccans in Iraq who presumably came to the country to join foreign jihadist forces fighting there. According to a *Washington Post* article published on February 20, 2007:

Moroccan authorities said they have identified more than 50 volunteers who have gone to Iraq since 2003, and many more are believed to have made the journey undetected.... Moroccan officials have tried to disrupt the recruiting networks in recent months, arresting more than 50 people since November [2006].

"We have chosen to be extremely vigilant," [then-] Interior Minister Chakib Benmoussa said in an interview in Rabat, the capital. "These cells all have international connections. They can function because they certainly all have support, especially in regard to training and in regard to logistics."⁸

Human Rights Watch condemns all acts of terrorism. Indiscriminate attacks on civilians are the antithesis of human rights values, and the Moroccan government, like all governments, has the duty to prevent such crimes and to bring to justice those who perpetrate them. Counterterrorism measures, however, must comply with Morocco's obligations under its own laws as well as international human rights law. Individuals suspected of plotting or carrying out acts of violence must be afforded their basic rights at all times. Under no circumstances can a state derogate from its obligation to prohibit torture and cruel, inhuman and degrading treatment. Detention should not be arbitrary and should be subject to judicial review. In addition, fundamental fair trial standards must be respected.

Morocco passed a law in 2003 shortly after the Casablanca attacks, law No. 03-03 of 28 May 2003 on Combating Terrorism (hereinafter Morocco's counterterrorism law), which includes an excessively broad definition of terrorism, reduces the rights of suspects in cases alleged to be terrorism-related and stiffens penalties for offenses classified as terrorist. The law states that specified acts can be classified as terrorist when they "are deliberately

⁷ UN Security Council, 1267 Committee, "The Consolidated List Established and Maintained by the 1267 Committee with Respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them," <http://www.un.org/sc/committees/1267/consolidatedlist.htm#alqaedaent> (accessed August 8, 2010).

⁸ Craig Whitlock, "Terrorist Networks Lure Young Moroccans to War in Far-Off Iraq; Conflict Is Recruiting Tool for Al-Qaeda Affiliates," *Washington Post*, February 20, 2007.

perpetuated by an individual, group or organization, where the main objective is to disrupt public order by intimidation, force, violence, fear or terror.” The list of acts includes theft, extortion, and the “praise of acts that constitute terrorism offenses, be it by speech ... or writings or printed materials that are sold, distributed, or put on sale or on display in public places or public meetings, or displaying it in a manner visible to the public via the various means of audiovisual or electronic means of information.”⁹

This definition has been used to convict and imprison journalists who “incite violence” as well as persons who post statements online praising those fighting the American occupation in Iraq.¹⁰

The law lengthens to 12 days the maximum amount of time that the police can hold a suspect (an initial four-day period, renewable twice upon written authorization from a prosecutor) before presenting him or her to a judge.

The Rabat Court of Appeals, located in Rabat’s sister city of Salé, has exclusive nationwide jurisdiction to try in first instance persons facing charges under the counterterrorism law. This is the court that tried all the defendants mentioned in this report who have already been judged, and it is the court that will try all those in pre-trial detention, if the state retains charges against them under the counterterrorism law.

As noted, Morocco’s repressive counterterrorism legislation raises human rights concerns. However, as this report shows, much of the mistreatment of suspects detained under the counterterrorism law result not from the application of this law but rather from the flouting by authorities of its provisions, as well as the provisions of other domestic laws.

⁹ Penal Code, No. 1.59.413 of 1962, article 218-2, as amended by Law 03-03, promulgated by dahir no. 1-03-140 of May 28, 2003 and published in the Official Bulletin of June 5, 2003.

¹⁰ For example, Mohamed al-Hurd, editor of the Oujda-based *Ash-Sharq* weekly, was given a three-year prison sentence in 2003, only to be pardoned and released by King Mohammed VI on January 7, 2004. The charges against al-Hurd and two other editors were based on an article reprinted on June 5, 2003, in *Ash-Sharq* that criticized the Moroccan intelligence services for doing the “dirty work” of the US Central Intelligence Agency. In 2007, the Rabat Court of Appeals sentenced Rida Benotmane (see below) to four years in prison for online posts attributed to him that praised those fighting the US occupation of Iraq and criticized the king as being subservient to US foreign policy and against Islam.

Methodology

This report is based on interviews conducted between 2008 and 2010 with eight Moroccan men detained in connection with the counterterrorism law, and with the lawyers and relatives of these and other detainees. Researchers interviewed the detainees by telephone, and their relatives and lawyers mostly in person in Rabat and Casablanca, with follow-up by telephone and/or by email.

On September 13, 2010, Human Rights Watch sent a five-page letter to Morocco's minister of justice (reprinted as Appendix 1) describing this report and its interim conclusions, and soliciting information for inclusion in the report. This report contains a response from the government of Morocco (reprinted as Appendix 4), received just before publication.

Preventing Torture and Ill-Treatment: Morocco's Legal Obligations and Verbal Commitments

Morocco has made legal commitments to prevent and punish torture. In 1993, it ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention against Torture). In 2006, it promulgated amendments to its Penal Code prohibiting torture and bringing the code's definition of torture closer to the one found in the Convention against Torture. The code, as revised, refers to:

any act that causes severe physical or mental pain or suffering intentionally inflicted by a public agent or upon his instigation or with his express or tacit consent, upon a person for the purpose of intimidating or pressuring him or for pressuring a third person, to obtain information or a confession, to punish him for an act that he or a third party committed or is suspected of having committed, or when such pain or suffering is inflicted for any other objective based on any form of discrimination.¹¹

Morocco's Penal Procedure Code, article 293, states that any confession obtained through "violence or coercion shall not be considered as evidence" by the court. The article continues, "The perpetrator of the violence or coercion shall be subject to the penalties provided in the penal code." This provision echoes article 15 of the Convention against Torture, which stipulates that states party to the convention shall 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, except against a person accused of torture as evidence that the statement was made."

In its report to the United Nations Committee against Torture, Morocco stated:

A confession obtained through the use of violence, coercion or torture has no value. Any confession where a causal link between obtaining it and the use of such methods has been established must be excluded. A court must look for such a link to reach a decision on the inadmissibility of the confession...

¹¹ Article 231(1) of the Penal Code. For a comparison of article 231(1) and the Convention against Torture, see Emma Reilly, "La criminalisation de la torture au Maroc: Commentaires et recommandations," Association for the Prevention of Torture, February 2008, www.apr.ch/region/mena/CriminalisationMaroc.pdf (accessed October 15, 2010).

[T]his is intended to protect the public interest and not the interest of the individual only. Legislation goes even further by incriminating those who resort to coercion to obtain confessions as a deterrent to committing acts violating human rights.¹²

On October 19, 2006, Morocco took the positive step of lifting its reservation to article 20 of the Convention against Torture, thereby recognizing the competence of the Committee against Torture to open an investigation when, as per article 20, it “receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced” in its territory. Morocco recognized at the same time the competence of the Committee against Torture, under article 22 of the Convention, to receive and consider communications from or on behalf of individuals who claim to be victims of a violation of the convention. Morocco has not signed or ratified the Optional Protocol of the Convention against Torture (OPCAT), which seeks to prevent torture by establishing a system of regular inspections of places of detention conducted both by international experts and a domestic independent inspection body.

¹² Government of Morocco, Fourth Periodic Review to the Committee against Torture, CAT/C/MAR/4, November 5, 2009, paras. 142, 148, <http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-MAR-4.pdf> (accessed September 27, 2010).

Arrests and Detentions in Disregard for the Law

This report examines the cases of seven men who were arrested in March and April 2010 and who were in pre-trial custody as the report went to print. All have alleged a number of abuses by the security force agents who arrested them and kept them in custody. These abuses, if confirmed, violate Morocco's own laws and in many instances, its obligations under international human rights treaties it has signed.

- Each of the seven men said he was arrested by agents in plainclothes who produced neither a warrant for his arrest nor identification proving their identity as agents of the Judiciary Police, the sole agency empowered to make arrests. Each man said that the arresting agents did not tell him the reason they were taking him into custody. This would violate article 9 of the International Covenant on Civil and Political Rights, which states, "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."
- All seven were held without prompt notification to their families, which violates the requirement of Code of Penal Procedure (CPP), article 67, that relatives be notified as soon as officials make a decision to place a person in detention.¹³ The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides in article 15 that, with certain narrow exceptions, "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."¹⁴
- Six of the seven men said they were held in incommunicado detention for longer than the 12 days that Moroccan law provides for garde à vue detention.¹⁵ They are Abdelaziz Janah, Abderrahim Lahjouli, Mehdi Meliani, Salah Nachat, Yassir Outmani, and Younes Zarli.

A garde à vue detention that exceeded the 12-day legal limit would constitute a serious breach of Moroccan law and further evidence of arbitrary detention. But even if it were respected, the legal time limit of 12 days of detention without judicial

¹³ The Code of Penal Procedure, in article 67, stipulates, "The judicial police officer shall notify the family of the detainee as soon as a decision to place him/her under custody is made, by any means and refer to that in the records."

¹⁴ The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN General Assembly, A/RES/43/173, 76th plenary meeting, 9 December 1988, <http://www.un.org/documents/ga/res/43/a43r173.htm> (accessed October 15, 2010).

¹⁵ Law No. 03-03 of 28 May 2003 on Combating Terrorism, article 66, fourth paragraph: "When dealing with a terrorism offense, the period of custody shall be ninety-six hours renewable twice for a period of ninety-six hours each time upon written authorization of the Public Ministry."

review, first made possible by the counterterrorism law of 2003, seems to violate Morocco's obligations under international human rights law by failing to ensure that the person deprived of liberty is brought *promptly* before a judge (*italics added*). The International Covenant on Civil and Political Rights (ICCPR) states in article 9(4), "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

International treaties do not specify the time limit for such a judicial review. However, the UN Human Rights Committee has stated that it must occur within "*a few days*" of the person's arrest, a formulation that does not encompass a delay of 12 days (*italics added*).¹⁶

The six individuals named above allege that state agents held them in a secret place of detention, in violation of the stipulation in Moroccan law that "detention is permitted only in prison establishments under the authority of the Ministry of Justice."¹⁷ The United Nations Body of Principles states in Principle 2, "Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose." If in fact security forces other than the Judiciary Police are holding suspects in places other than those administered by the Ministry of Justice, this would constitute further evidence that these detentions are arbitrary in nature.

- All seven men said they did not see a lawyer until well after their first four days of detention, the limit set by Moroccan law,¹⁸ and they did so only after they had signed a statement prepared for them by the police. The UN Body of Principles states in article 15 that except under exceptional circumstances, "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."
- Agents searched the homes of at least two of the men – Anouar Aljabri and Abdelaziz Janah – and confiscated items, without first obtaining the written permission of the residents or showing a warrant signed by the prosecutor to search the premises, in violation of articles 62.3 and 79 of the Code of Penal Procedure.

¹⁶ Human Rights Committee, General Comment 8, article 9 (Sixteen session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc HRI/GEN/1/Rev.1 at 8 (1994) www1.umn.edu/humanrts/gencomm/hrcom8.htm (accessed October 15, 2010).

¹⁷ Code of Penal Procedure, article 608.

¹⁸ Code of Penal Procedure, article 66.

Under international human rights law, the right to a fair trial requires access to a lawyer during detention, interrogation, and preliminary investigation. Prompt and regular access to a lawyer is an important safeguard against torture, ill-treatment, coerced confessions, and other abuses.¹⁹ The UN Basic Principles on the Role of Lawyers states, in article 7, “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”²⁰ One UN special rapporteur on torture recommended that anyone who has been arrested “should be given access to legal counsel no later than 24 hours after the arrest.”²¹ His successor as special rapporteur stated that “detainees must have a right of access to a lawyer from the outset of detention, the lawyer must be present during the interrogation and the detainee must have the right to talk to the lawyer in private.”²²

- Five of the seven reported their interrogators physically abused them, which if true would violate the prohibition of violence and of torture found in article 231 of Morocco’s penal code.²³ As a signatory to the Convention against Torture, Morocco is required under articles 5 and 6 to investigate alleged acts that constitute torture and, where the evidence warrants, to hold perpetrators accountable.
- All seven claim that they signed the written statement prepared for them by the police without reading it to check its veracity, because the police prevented them from reading it or threatened them if they refused to sign, or because they said they believed that they would have no choice but to sign it. Moroccan law implies that signing a statement prepared by the police must be voluntary.²⁴ Coercion to sign a self-incriminating statement would constitute a violation of article 14.3(g) of the ICCPR, which states that no one shall be “compelled to testify against himself or to confess guilt.”

¹⁹ Human Rights Committee General Comment 20, para. 11; Report of the UN Special Rapporteur on torture, (E/CN.4/1992/17), 17 December 1991, para. 284.

²⁰ Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990).

²¹ Report of the UN Special Rapporteur on Torture, UN Doc. E/CN.4/1990/17, December 18, 1989, para. 272; see also U.N. Doc. E/CN.4/1995/34, January 12, 1995, para. 926.

²² Report of Special Rapporteur on Torture Theo van Boven on his visit to Spain, submitted to the 60th session of the Human Rights Commission on February 6, 2004, E/CN.4/2004/56/Add.2, para. 41 p. 13.

²³ Penal Code, article 231 states that any public agent who, without a legitimate motive, “uses violence or causes it to be used toward persons in or during the exercise of their duties, shall be punished for these acts of violence according to their severity.” The same article penalizes “torture,” defined as “any act that causes sharp physical or mental pain, when committed intentionally by a public agent, or at his instigation or with his express or tacit consent, inflicted on a person in order to intimidate or pressure him or to pressure a third party, in order to obtain information or ‘indications’ or his confession, or in order to punish him for an act that he or a third party committed or is suspected of having committed....”

²⁴ Article 67 of the CPP states that “the concerned person must affix to these statements his signature or fingerprint; if he refuses or is unable to do so, this must be indicated, along with an explanation of the reasons for this refusal or inability.”

Most of the detainees featured in this report believe they were held in Témara during their interrogations, though none could provide evidence proving this. In any case, the testimony of six of the detainees indicates that they were held incommunicado for up to five weeks in a location unknown to them, where most say they were subjected to physical violence during interrogation, before agents transferred them to a recognized police station, at which point they were presented with written statements for signature and their families were finally able to learn their whereabouts.

At this writing, the suspects in this case are still under investigation by the investigating judge, who has yet to draw up official charges. It is not yet possible for Human Rights Watch to obtain information from the suspects' lawyers about the case, because the law prevents them from disclosing details while it is still in the investigative stage.

However, if confirmed, the abuses alleged by the detainees constitute serious violations of Moroccan law and undermine the credibility of any confessions obtained from the suspects subjected to these practices, as well as the fairness of any trials in which the convictions were based solely or predominantly on such confessions.

Secret Detention, Allegedly by Domestic Intelligence

Despite Morocco's legal and verbal commitments to prevent torture and ill-treatment, there continue to be persistent and consistent allegations about suspects who are suspected of links to terrorism being tortured or ill-treated during secret detention.²⁵ Moroccan prisons contain hundreds of persons convicted on terrorism charges since the May 2003 attacks, a large portion of them convicted primarily on the basis of written statements the police attribute to them and their codefendants, according to Moroccan human rights lawyers.²⁶ The lawyers allege, based on their clients' accounts, that many of these statements were obtained through torture or other abuse while detainees were imprisoned at secret facilities, such as one believed to exist in Témara, a suburb southwest of the capital city of Rabat. Témara is home to the headquarters of Morocco's domestic intelligence agency, the General Directorate for the Surveillance of the Territory (La Direction générale de la surveillance du territoire, DGST), formerly the Directorate for the Surveillance of the Territory (Direction de la surveillance du territoire, DST) and still commonly referred to by those three initials.

Moroccan authorities have denied that the DGST operates a detention site at Témara. "The era of secret detention centers [in Morocco] is long gone," the state news agency Maghreb Arabe Presse quoted then-Justice Minister Mohamed Bouzoubaâ telling reporters in 2004.²⁷ Bouzoubaâ said there was a recognized and official prison in Témara under the jurisdiction of the Justice Ministry, like any other civilian prison.²⁸ It is not clear to which facility Bouzoubaâ was referring. However, the Moroccan nongovernmental organizations that have conducted regular visits to prisons around the country state that they have never been invited to visit a prison in Témara. And the mounting testimonies of terrorism suspects who say they were detained in Témara suggest that the facility there is anything but an ordinary prison.

Detainees who believe they were held in Témara told Human Rights Watch that the plainclothes security agents who arrested them covered their eyes in the car to prevent them from knowing their destination. They made inferences about the destination from the time traveled from the place of arrest to the place of detention, landmarks glimpsed en route

²⁵ For cases involving torture and ill-treatment of Sahrawi independence and human rights activists arrested by Moroccan police, see Human Rights Watch, *Human Rights in Western Sahara and in the Tindouf Refugee Camps*, December 19, 2008, <http://www.hrw.org/en/node/77259/section/1>.

²⁶ These lawyers include Moustapha er-Ramid and Abdallah Zaâzaâ of Casablanca, and Abdelaziz Nouaydi of Rabat. Nouaydi is a member of the advisory committee of Human Rights Watch's Middle East and North Africa division.

²⁷ "Morocco denies Amnesty 'Secret Detention' report," Reuters, July 2, 2004.

²⁸ Omar Dahbi, "L'ère de Tazmamart est révolue," *Aujourd'hui le Maroc*, July 5, 2004, <http://www.aujourdhui.ma/imprimer/?rub=actualite&ref=16806> (accessed October 8, 2010).

through blindfolds that did not fully impede vision, and sounds made by the animals at the national zoo that, until recently, was located in Témara near the detention facility.

The detainees said that after their period in secret detention, agents transferred them to a regular police jail, such as the one at the headquarters of the National Brigade of Judiciary Police (Brigade Nationale de la Police Judiciaire, BNPJ) in the Maârif section of Casablanca.

At the regular police jail, agents presented for their signature a written declaration (*procès verbal*, or PV) purporting to be a faithful transcription of the statement they gave orally to the police. In cases involving persons suspected of links to terrorism, such as the detainees Human Rights Watch interviewed, the police PVs do not mention the place where the detainees were held in secret detention or the time they spent there, but, rather, are completed by the police in such a way so as to suggest that the detainee was taken upon arrest straight to the Judiciary Police. In addition, in numerous cases researched by Human Rights Watch, the police do not inform relatives of the detainee's whereabouts until he or she has been transferred from secret detention to an acknowledged facility, a period that can last several weeks. Human Rights Watch heard credible allegations that the police falsify arrest dates in their registries and PVs in order to cover up the period of illegal custody before presenting a detainee to the investigating judge.²⁹ Amnesty International also reported that arrest dates were falsified.³⁰

Detention by the DGST?

Most of the cases cited in this report involve detainees who reported to their lawyers and relatives that they believed that they were held in the custody of officers of the DGST. If confirmed, this would add to the ways in which their detention could be considered illegal under Moroccan law, since the DGST is an agency that is not authorized by law to arrest, detain, or question suspects.

Under Moroccan law, only security force personnel with the status of Judiciary Police and acting under the supervision of the public prosecutor are authorized to arrest, detain, or take and record initial statements by suspects, and to conduct home searches.³¹ Moroccan

²⁹ See, e.g., Human Rights Watch, *Morocco: Human Rights at the Crossroads*: "In cases we examined, police held suspected Islamist militants in garde à vue detention beyond the legally permitted limit before bringing them before a judge. The police then falsified the recorded arrest date to make it appear that garde à vue had stayed within the legal bounds." Amnesty International also reported on the falsification of arrest dates by the police in its 2004 report, "Torture in the 'Anti-Terrorism' Campaign: The Case of Témara Detention Center."

³⁰ Amnesty International, "Morocco: Continuing abuses."

³¹ Articles 18, 21 and 59 of the Penal Procedure Code.

authorities have stated repeatedly over the years that the DGST lacks the status of Judiciary Police and thus has no authority to arrest or detain suspects. The late Justice Minister Bouzoubaâ confirmed in 2003 that the DST is not authorized to conduct such operations and denied the DST had actually done so. In September 2003, he said the DST "doesn't have the status of Judiciary Police. It is the Judiciary Police that investigates cases submitted to it by the DST."³²

According to a 2004 joint statement from the Ministries of Justice and Interior, the DGST is "assigned to look for and to prevent, through the collection of intelligence, activities that are inspired by, or undertaken or supported by subversive or terrorist movements" and also has responsibility for counter-espionage. "But in all cases, whether in combating terrorism or in counter-espionage," the 2004 statement notes, "it is agents of the Judiciary Police of the National Security [Direction Générale de la Sûreté Nationale, DGSN] who, on the basis of information gathered by the DGST, and under the supervision of the prosecutor's office, carry out arrests of suspects and bring them before the judiciary."³³

DGST personnel "actually lack the credentials of officers of the Judiciary Police that would permit them to carry out arrests, searches, seizures, or interrogations," the statement continues. "This does not, however, rule out the existence of cooperative relations in the domain of information and intelligence, between the DGST and the Judiciary Police, as is found throughout the world."³⁴

Again in 2009, Moroccan authorities denied that the DGST arrests people, and also denied the existence of a detention facility at DGST headquarters. Using the older, more familiar name of that agency, Morocco in its report to the UN Committee against Torture, said,

In paragraph 5 (d), the Committee expresses concerns about the role of the National Surveillance Directorate (DST). It must be noted that staff members of this agency are not Judiciary Police officers and do not act as such. The King's representative conducted a visit to the headquarters of the DST and reported on the visit. No detention unit was found at the premises.³⁵

³² *Libération* (Casablanca) and *Le Matin du Sahara et du Maghreb*, September 10, 2003, cited in Amnesty International, "Torture in the 'Anti-Terrorism' Campaign: The Case of Témara Detention Center."

³³ Quoted in Karim Boukhari, "L'Etat police de la DST," TelQuel Online, http://www.telquel-online.com/137/zoom_137.shtml (accessed October 3, 2010).

³⁴ Quoted in "Le gouvernement ordonne l'ouverture d'enquêtes sur les allégations de torture émanant d'ONG nationales et internationales," *Maghreb Arabe Presse*, July 20, 2004.

³⁵ Government of Morocco, Fourth Periodic Review to the Committee against Torture, CAT/C/MAR/4, November 5, 2009, paras. 142, 148, www2.ohchr.org/english/bodies/cat/docs/.../CAT-C-MAR-4.pdf (accessed August 11, 2010).

Responding to a request for clarification from Human Rights Watch, the Embassy of Morocco in Washington provided the following statement on August 25, 2010:

The DGST employees do not have the title of officers of the Judiciary Police nor do they act as such.... It is worth noting that the general prosecutor to the Court of Appeal in Rabat has visited the DGST Headquarters in Témara and inspected all its facilities. His visit report concluded that there exists no detention center there.³⁶

The issue of secret detention in Morocco took on international dimensions in August 2010, when the Associated Press (AP) reported that, according to several current and former American officials, the US government had video and audio recordings of an interrogation of Ramzi Binalshibh, an accused plotter of the September 11, 2001 attacks, in a secret prison near the Moroccan capital of Rabat. The prison was said to have been run by Moroccans but largely financed by the CIA, which handed Binalshibh over to Moroccan custody in late 2002 and kept him there for five months—the first of his three trips through the Moroccan facility during his years in CIA custody, according to the AP. “CIA spokesman George Little would not discuss the Moroccan facility except to say agency officials ‘continue to cooperate with inquiries into past counterterrorism practices.’ Moroccan government officials did not respond to questions about Binalshibh and his time in Morocco. The country has never acknowledged the existence of the detention center,” the AP reported.³⁷

Prior to these revelations, other Guantanamo detainees, notably Binyam Mohamed, a British citizen and a detainee at Guantanamo until 2009, alleged that also in late 2002, the CIA had sent him to Morocco for interrogation and torture.³⁸

³⁶ The full response is reprinted as Appendix 2 to this report.

³⁷ Matt Apuzzo and Adam Goldman, “To keep program secret, CIA whisked 9/11 figures from Gitmo before court ruling,” Associated Press, August 6, 2010.

³⁸ “Profile: Binyam Mohamed,” BBC News, last updated February 12, 2010, http://news.bbc.co.uk/2/hi/uk_news/7906381.stm (accessed October 15, 2010).

The Cases of Seven Men Detained in March and April 2010

In April 2010, Moroccan newspapers, citing the state news agency Maghreb Arabe Presse (MAP), reported that officials had announced the dismantling of a terrorist network of 38 men in the cities of Casablanca, Kenitra, and Berchid.³⁹ The men were allegedly “preparing to carry out assassinations and acts of sabotage inside the country, particularly against security agencies and foreign interests in Morocco, sending Moroccans to the hotbeds of tension, especially Afghanistan, Iraq, and Somalia.”⁴⁰ MAP reported that on May 6, the National Brigade of the Judiciary Police (BNPJ) in Casablanca had turned over 38 individuals in their custody to the prosecutor on suspicion of involvement in a terrorist network.⁴¹

The press reports did not include a full list of the suspects. From the complaints of “kidnapping” and “disappearance” that the suspects’ families submitted to Moroccan human rights organizations⁴² and interviews with some of the family members, researchers identified and made phone contact with seven of the suspects who provided accounts of their arrest and detention, and the names of their co-accused.⁴³

Abdelaziz Janah, 32, a merchant in Bouskoura-Chrarga, in Casablanca’s southern suburbs, was detained on April 18, 2010. Wafae Raji, Janah’s wife, told Human Rights Watch that around midnight, she and her husband were awakened by loud knocking on their door.

³⁹ See for example, “Members of Dismantled Cell Visited Kenya in Recent Months,” *Al Jarida Al Oula*, April 28 2010, “More than 50 Individuals Questioned; Some Already Convicted in Terrorism Cases,” *Akhbar al-Youm*, April 28, 2010, “The leader of the Dismantled Cell is a Frenchman of Moroccan Origin Who is Wanted,” *Al Jarida Al Oula*, April 29, 2010, and “The National Brigade Exhibits Items Confiscated From a Terrorist Cell,” *Akhbar al-Youm*, April 29, 2010. Some of the reports referred to the 38 men as 24 presumed terrorists linked to Al Qaeda and 14 “accomplices.”

⁴⁰ “Morocco dismantles al-Qaeda Cell”, Al Jazeera.net, April 26, 2010, <http://english.aljazeera.net/news/africa/2010/04/2010426151513872770.html> (accessed September 24, 2010).

⁴¹ Maghreb Arabe Presse, “Rabat: Trente-huit présumés terroristes déférés devant le procureur général du Roi,” May 6, 2010, http://www.map.ma/fr/sections/memomap/rabat__trente-huit_p/view (accessed September 24, 2010).

⁴² The Moroccan human rights group Mountadha al-Karama (The Forum for Dignity) issued press releases about the detentions of Abderrahim Lahjouli (dated April 9, 2010), Adnan Zakhbat (April 10), Younes Zarli (April 14) and Mehdi Meliani and others (May 3).

The Moroccan Association for Human Rights wrote letters to the ministers of interior and justice and to the general director of National Security on April 23, 2010, about the “abductions” of Adnan Zakhbat, Abderrahim Lahjouli, Younes Zarli, and Abdelaziz Janah, and on May 6, 2010 about the abduction of Mehdi Meliani, among others.

⁴³ Although the names of the defendants to be tried will not be known until the investigating judge completes his investigation, some of the suspects prepared a list of 33 Moroccan men who are under investigation in connection with the case. That list includes the seven men whom Human Rights Watch interviewed in preparing this report. The list is as follows, starting with the seven profiled in this report: Abdelaziz Janah, Abderrahim Lahjouli, Anouar Aljabiri, Mehdi Meliani, Salah Nachat, Younes Zarli, Yassir Outmani, Abdelilah Mouslim, Abdellah Dahak, Abdellah Aït Bihi, Adnan Zakhbat, Abdelhamid Elabdellaoui, Abdelhak Machrati, Abderrahim Mabrouki, Anouar Mejrar, Hassan Essadfaoui, Hicham Oltoum, Jamal Oulahsen, Mahfoud Latif, Maissara Lefkir, Mehdi Miftah Elkhair, Mohamed Grouzi, Mohamed Bouassila, Mustapha Elgada, Nasreddine Sadik, Rachid Boutafnin, Rachid Hayate, Rachid Boualem, Said Ziouani, Soufiane Lechhab, Youssef Ettabaï, Youssef Sabir, and Zakaria Benârif.

Janah rose to answer but by the time he arrived at the landing, he found three men in plainclothes who had already entered through an open skylight. Then a large number of men entered the house, handcuffed him, and searched the premises. Janah told Human Rights Watch in a telephone interview from Salé Prison, “At home, when the police entered, they asked me where was Yassir Outmani [a co-accused in this case] and Ali—I don’t remember his family name. I told them, ‘They are not at my home.’ They asked me where I hid the money they had given me. I answered that I don’t have any money at home. They also asked me where I had hid explosives. They said that I had hosted Ali and Yassir for a week at my house.” That night, the men in plainclothes confiscated from the home a computer, some CDs, documents, and the keys to his car. Raji said that the men did not show any arrest or search warrant or explain why or where they taking her husband, but told her that he would be back in 30 minutes.

The next morning Raji discovered that someone—she presumes the plainclothesmen or their associates—had forced open the door of Janah’s olive oil store, which is adjacent to their residence.

Mohamed Janah, Abdelaziz’s father, said he contacted the police and the prosecutor’s office in Casablanca to inquire about his missing son, but learned nothing. The family had no information on Abdelaziz’s whereabouts until May 7, when a detainee in Salé Prison called Mohamed to say that Abdelaziz was currently with him in prison. On May 10, Mohamed went to Salé Prison and visited his son for the first time.

Mohamed Janah said that Abdelaziz told him that for nine days he had been interrogated and tortured while detained in an individual cell in an unknown location. Abdelaziz said in a telephone interview from Salé Prison, “When they were interrogating me, they again accused me of hiding the two men in my house. I answered that I don’t even know Ali and that Yassir and I have only a business relationship, and that he spent only one night at my house, after which I gave him a ride to visit the family of his fiancée.”⁴⁴ Mohamed said that his son recounted how at this location he was blindfolded and beaten with a wooden stick on his feet until he lost consciousness and required medical care. In an article about the case, the Moroccan weekly magazine *Nichan* quotes Abdelaziz Janah saying that his interrogators bound and beat his feet to the point where he lost sensation in them and was unable to walk for three days.⁴⁵ After nine days at this location, police held Janah for ten days at the headquarters of the National Brigade of the Judiciary Police (BNPJ) in the Maârif neighborhood of Casablanca. The police then presented Janah before an investigating judge, who remanded him to pretrial

⁴⁴ Human Rights Watch telephone interview with Abdelaziz Janah, July 1, 2010.

⁴⁵ Mohamed Elkhadiri and Sami Moudni, “We the kidnapped/abducted,” (in Arabic) *Nichan*, no. 260, July 9-15, 2010.

detention in Salé Prison. Janah told Human Rights Watch in a telephone interview that he signed the statement prepared for him by the police at Maârif because he could not read well enough to understand it and believed he had no real choice in the matter.⁴⁶

Janah said that he did not see a lawyer during the two and-a-half four weeks he spent in custody before seeing a judge.⁴⁷ This was not Janah's first experience in detention, as the authorities had detained and questioned him for seven days in 2003 before releasing him without charge.⁴⁸

Mehdi Meliani is a 22-year-old resident of Casablanca who attends engineering school in the city of Mohammedia.

Abderrahman Meliani, Mehdi's father, said in an interview that his son went out to a mosque to pray on March 26, 2010 and never came back. The father said that he filed a complaint with the prosecutor's office four days after his son's disappearance but never received a response. The police never came to the family home to inform them of Mehdi's whereabouts, to ask questions, or to conduct a search.

Mehdi Meliani said in a telephone interview from Salé Prison that when he left a café that day around noon or 12:30 p.m., four men wearing plainclothes approached him in a car and asked him to come with them because someone had filed a complaint against him for a bounced check. They said they were police but did not provide ID to prove it and showed no warrant. Meliani said later that he has no checkbook and thought at the time that the police had erred. He got into their car, thinking they were going to the police station but discovered instead that they were driving him out of Casablanca.

Forty days after Mehdi Meliani "disappeared," he called his family from Salé Prison. In an interview he gave to *Nichan* magazine, Meliani said that the men in plainclothes who drove him from Casablanca took the highway toward Rabat, passing Mohammedia, Bouznika, and Skhirat—the town on the coastal road before Témara—before blindfolding him. This suggested to him that the destination was Témara.

⁴⁶ Human Rights Watch telephone interview with Abdelaziz Janah, July 5, 2010.

⁴⁷ Ibid.

⁴⁸ Human Rights Watch interview with Mohamed Janah, Casablanca, June 23, 2010.

Mehdi told his father that he had been detained in Témara in an individual cell.⁴⁹ Meliani said the interrogators there questioned him but did not torture him, and promised that he would soon be released. He told Human Rights Watch in a telephone interview from Salé Prison:

When in Témara, I was asked about jihadism. I replied by asking them to define the term. So they asked me if I like the jihadists. I answered simply that I sympathize with those fighting the Jews in Palestine. Then they asked me about Salah Nachat [a co-accused], and if he ever talked to me about jihadism or asked me to join jihadists or to travel with him to Somalia. I answered that the only relationship I have with Salah is that he is my cousin, and I have never talked with him about any plan to travel. I don't even have a passport.⁵⁰

Meliani told Human Rights Watch in a telephone interview from prison that he was held from March 26 to April 26 in a secret facility in what he presumed to be Témara, and from April 26 to May 6 in the jail at the Maârif station of the Judiciary Police, after which he saw an investigating judge, who remanded him to pre-trial detention in Salé Prison.⁵¹

Younes Zarli, a Casablanca resident born in 1980, is married to an Italian woman. He had planned to settle in Italy, but the Italian authorities expelled him three times because, Zarli says, his two brothers are allegedly connected to “terrorist groups.”⁵² On September 15, 2006, a Moroccan court had convicted Zarli himself of terrorism-related activities and sentenced him to two years in prison, Amnesty International reported. An appeals court lowered his sentence to ten months because he was acquitted of most charges, with the exception of forging documents and making false statements.⁵³

Zohra Sahib, Zarli's mother, said that on April 11, 2010, a man appeared outside their home and asked their house cleaner, who was inside at the window, if Younes was at home. When the house cleaner answered that he was at home, the man asked her to call him. Younes went out to see who was asking about him. He did not return.

⁴⁹ Human Rights Watch interview with Abderrahman Meliani, Casablanca, June 23, 2010.

⁵⁰ Human Rights Watch telephone interview with Mehdi Meliani, July 1, 2010.

⁵¹ Human Rights Watch telephone interview with Mehdi Meliani, September 9, 2010.

⁵² Amnesty International reports that Salah Zarli, Younes's brother, was arrested in August 2002 and sentenced to death in 2003 for terrorism-related activities. See Amnesty International, “Morocco: Torture Fears for Moroccan man,” AI Index: MDE 29/011/2010, April 29, 2010, <http://www.amnesty.org/en/library/asset/MDE29/011/2010/en/ba9e4e62-8f2a-473b-bede-1e4a8a1d9b66/mde290112010en.html> (accessed October 15, 2010). Salah Zarli is currently in Kenitra Prison.

⁵³ Ibid.

Zarli, in a telephone interview from Salé Prison, said that co-accused Yassir Outmani was the man who invited him out of his house on April 11 to talk. When Outmani and Zarli had walked the short distance from Zarli's home in the Bernoussi neighborhood to the Avenue Harti, men in plainclothes intercepted them and placed them into cars, without stating that they were police or providing a warrant or a motive for their arrest, or revealing where they were taking them.⁵⁴

Younes Zarli told Human Rights Watch in a telephone interview from Salé Prison that he suspects that Témara was his destination because he could see a bit while en route from Casablanca since the men in plainclothes had covered his head with his jacket rather than blindfolding him. At one point, Zarli said, he glimpsed a yellow sign announcing New Avenue Mohammed VI in Témara.

Zarli said that upon his arrival at Témara, agents stripped him naked and beat him repeatedly as they questioned him. He said they asked him about his relationship with Saïd Ziouani—another detainee apparently considered to be part of the same group—and whether Zarli had been planning to emigrate illegally to Europe and then to Afghanistan. Zarli said that he had no need to emigrate illegally since he had a visa valid for travel to Italy to attend his own appeals hearing against his deportation from that country.

Zarli said he signed a statement that police drafted for him on May 3, 2010, only after the police threatened to return him to interrogation if he refused. He said he saw a lawyer for the first time only after he signed the police statement, the day before he was presented to the investigating judge.

Sahib said that her son told her when she visited him in prison that he had spent 15 days in Témara and then 12 days in custody at the Judiciary Police headquarters in Maârif, before being remanded to Salé Prison.

Anouar Aljabri is a Casablanca resident born in 1973.

Hind Aljabri, Anouar's sister, told Human Rights Watch that around 3:30 a.m. on April 29, 2010, she responded to a knock on their door. When she opened it, nine men in plainclothes entered the house without seeking permission. They said they were police but showed no identification or warrant to search or arrest, and did not explain why they had come. They asked for Aljabri, and when Hind indicated his room, they went over and handcuffed him. They searched the room and confiscated cassettes, religious books and papers, and left with Aljabri. Hind said that the men told her that her brother had broken no laws and that they

⁵⁴ Human Rights Watch telephone interview with Younes Zarli, October 6, 2010.

would free him after asking him some questions. But it was not until May 7, nine days later, that the family had news of Anouar, when they learned that he was in Salé Prison.

Aljabri told Human Rights Watch that he spent eight days in Maârif police headquarters, where the police questioned him. Anouar said that during interrogation the police slapped and insulted him each time his answers displeased them. He also said that the agents threatened to detain his mother if he did not cooperate. Anouar said, “I was asked if [co-accused] Yassir Outmani helped me to set up a commercial project and I said no. I was asked about [co-accused] Salah Nachat and if he had talked to me about a plan to emigrate, and I denied this, too. I told them I had no relationship with those guys.”

Aljabri said that he signed without reading a statement prepared for him by the police at Maârif, without reading it, before he was transferred to Salé Prison. Aljabri said he signed it because it made no difference: in his view, it would contain what the police want whether he signed or not. He said that he did not see a lawyer during his time in pre-arraignment custody.

Aljabri added that he had previously been detained in April 2002 in Syria for three months before Syrian authorities delivered him to the Moroccan intelligence services, which took him to Témara in July 2002. He knew that he was at Témara, he said, because he could hear lions roaring at the nearby zoo, and also guns being fired at a shooting range.⁵⁵ He said he spent seven months there before being released without charge.⁵⁶

The police detained him again for nine days in May 2003 in Casablanca and then released him again without charge. In December 2005, Aljabri was arrested, convicted of membership in a terrorist group and served a four-year sentence. He had been free only five months before his latest arrest, in April 2010.

Yassir Outmani is a Casablanca resident and second-year law student born in 1980. In a telephone interview from Salé Prison, Outmani said he was abducted on the bustling Avenue Harti in Casablanca on April 11, 2010, after paying a visit to Younes Zarli, who lives nearby (see above).

Outmani’s mother, Najat Bensaïd, said that the family had no information on his whereabouts until May 7, when they learned he was in Salé Prison. Bensaïd said she filed no

⁵⁵ Human Rights Watch telephone interview with Anouar Aljabri, July 4, 2010.

⁵⁶ The Moroccan Organization for Human Rights named Aljabri among six Moroccans delivered by Syrian intelligence to Morocco in July 2002 and placed in detention. “Observations et recommandations relatives au rapport gouvernemental du Maroc en vertu de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants,” October 2003, www.omdh.org/newomdh/affdetail.asp?codelangue=23&info=904 (accessed October 15, 2010).

complaint because when she did so after her son's previous arrest in November 2005, she received no response. Yassir was convicted that year of planning to fight in Iraq and was sentenced to three years in prison.

Outmani described events that occurred shortly before his abduction:

I worked with a man named Ali Sejlmassi at his pharmacy. One day the concierge told me that four persons had come the day before and asked about Ali and me. Because I have been already detained, I knew that they were police, so I didn't return to work. My father went to the police station, presented my ID, and asked if there was a warrant against me. He was told that there was no warrant. So I knew that those who were looking for me were with the intelligence service and not the police. When I was abducted, they asked me about Ali and if I knew that he had sent money to Afghanistan. I told them that the period when Ali is accused of sending money to Afghanistan—the summer of 2008—I was still in prison. They later tried to tell me that I was trying to go into hiding to avoid the police, but I replied that they could find me simply by coming to my address. They are accusing me of funding terrorists: this is what I gathered from the questions that the investigating judge asked me.⁵⁷

Outmani told Human Rights Watch that the men who had detained him drove him to Témara, which he said he recognized from having previously been imprisoned there. Outmani said that this time he was confined to an individual cell and that his interrogators beat him on his feet with a chain encased in a plastic tube (a technique known as “al falaqa”), suspended him by his limbs in the “airplane” position (“tayara”), poured cold water on him with the air conditioner running, and threatened to sodomize him with a bottle and to bring his sister into the prison.

Outmani said police initially refused his request to see a lawyer but then told him that they had called his attorney. But no lawyer ever came to see him during his four weeks in pre-arraignment police custody, he said.

After 16 days in secret detention, Outmani said he was transferred to BNPJ headquarters in Maârif, where he spent 11 days. Outmani, the son of a lawyer, said that the police in Maârif refused his request to read the written statement they had prepared for his signature, so he declined to sign it. Later that day, he said, they threatened to subject him to practices that

⁵⁷ Human Rights Watch telephone interview with Yassir Outmani, July 1, 2010.

he said would “harm my dignity.” They told him that even Moustapha Mouâtassim and Mohamed Amine Regala—leaders of small political parties charged in “the Belliraj affair” (see below)—had signed their own statements without reading them.⁵⁸

The investigative judge sent Outmani to pre-trial detention in Salé Prison.

Salah Nachat, 39 years old and a resident of Mediouna, a suburb southeast of Casablanca, was detained on March 22, 2010, in front of his house. He told Human Rights Watch that four men in plainclothes approached and one asked him if he owns a scooter. When he replied that he did, they told him that someone he had hit while riding it had filed a complaint, and so he must accompany them to the police station. He told them that he had not ridden his scooter in more than a week and had never hit anyone. They insisted and took him away in an unmarked car. They never showed him a warrant or any identification.

Nachat said the men in plainclothes drove him to a place he presumed was Témara, although he could not be sure because they blindfolded him while en route. Nachat said he spent 36 days at this place. He says that agents there beat him on the bottom of his feet with a hard object (he is not sure whether it was wood or metal) until he lost consciousness. During the interrogation, the agents asked Nachat about his relationship with three men, including co-accused Boualem Rachid.⁵⁹

After 36 days, the authorities transferred Nachat to BNPJ headquarters in Maârif. Nachat spent 10 days in Maârif, where he was questioned about co-accused Anouar Aljabri, among other topics. He answered that he has a business relationship with him and nothing more. He also told Human Rights Watch that the police brought Aljabri to confront him in Maârif and the latter also stated that the relationship of the two men was commercial only.

Nachat signed the statement prepared for him by the police at Maârif. He said the police did not allow him to read it and he was weak from having been deprived of food and sleep for many hours. Nachat told Human Rights Watch that when he was sent from Maârif to his first court appearance on May 6, he informed the investigating judge that he had signed his police statement without reading it, and also that he had spent the last 24 hours without sleep or food. He also said he told the investigating judge that he had been detained in Témara. The judge placed him in pretrial detention in Salé Prison. The following day his family learned of his whereabouts for the first time since his arrest.⁶⁰

⁵⁸ Human Rights Watch telephone interview with Yassir Outmani, September 14, 2010.

⁵⁹ Human Rights Watch telephone interview with Salah Nachat, July 1, 2010.

⁶⁰ Human Rights Watch telephone interview with Salah Nachat, September 10, 2010.

Abderrahim Lahjouli is a Casablanca merchant who sells cases for compact discs. Born in 1972, Lahjouli is married and the father of two children.

Lahjouli said in a telephone interview from Salé Prison that while he was at work in the Derb Ghalaf neighborhood on March 30, three men in plainclothes came to him and asked him if his name was Lahjouli. Then they told him to put on his jacket and bring his ID, explaining that they would question him for half an hour and then let him go. Lahjouli said that the men never said they were police, but when they asked him to bring ID he assumed they were police and wanted to talk to him about the merchandise he sells.⁶¹

Lahjouli's family said they did not know anything about his whereabouts until May 7, when he called Brahim, his brother, from Salé Prison. Lahjouli told his brother that he had spent 28 days in Témara in an individual cell before being brought to Maârif, where he spent 11 more days before being transferred to Salé Prison. According to Brahim Lahjouli, Abderrahim said his interrogators threatened but did not physically torture him.⁶² Brahim said that his brother reported that police accused him of failing to provide information to authorities about a French citizen of Moroccan origin named Ahmed Sahnouni, who Moroccan authorities were reportedly seeking because of his links to this alleged network.⁶³ On April 30, French authorities arrested an Ahmed Sahnouni in Paris and charged him with recruiting jihadists via the Internet to fight in Iraq, Afghanistan and Somalia, *Le Parisien* reported.⁶⁴

The seven accused men who spoke to Human Rights Watch claim they belong to no terrorist cell and that they never met the majority of their fellow suspects before they found themselves together in pretrial detention in Salé Prison. They said they believed they were arrested because of links with one or two of their co-accused. For example, Younes Zarli was accused of helping fellow suspect Saïd Ziouani to emigrate illegally. Mehdi Meliani is a cousin of fellow suspect Salah Nachat. Yassir Outmani worked with a pharmacist accused of sending money to Afghanistan.

As this report went to press, the investigating judge was still examining the case, and the suspects remained in pre-trial detention. No trial date had been set.

⁶¹ Human Rights Watch telephone interview with Abderrahim Lahjouli, October 6, 2010.

⁶² Human Rights Watch interview with Brahim Lahjouli, Casablanca, June 26, 2010.

⁶³ "Maroc: 38 personnes soupçonnées de terrorisme devant un juge d'instruction," Agence France-Presse, May 6, 2010.

⁶⁴ "Un des cerveaux d'Al-Qaïda au Maroc arrêté à Paris," *Le Parisien*, May 6, 2010, <http://www.leparisien.fr/abo-faits-divers/un-des-cerveaux-d-al-qaida-au-maroc-arrete-a-paris-06-05-2010-911261.php> (accessed September 24, 2010).

Other Cases Involving Allegations of Illegal Arrest and Detention

Other cases prosecuted since 2007 under the counterterrorism law raise similar concerns about the arrest, detention, and ill-treatment of suspects in ways that violate Moroccan law and the country's obligations under international human rights law.

The Belliraj Affair

Several of the 35 defendants convicted on appeal on July 16, 2010, in a mass terrorism case known as “The Belliraj Affair” contend that they were tortured while being held for two or more weeks in secret detention in Témara.⁶⁵ The Belliraj case was unique among mass terrorism trials in Morocco because six political figures were among the defendants, including senior figures in four political parties – three of them moderate Islamist parties, and the fourth, a socialist party. The six political figures are among the nearly 30 defendants who have been in detention since their arrest in early 2008.

The six political figures, who include Moustapha Mouâtassim and Mohamed Lamine Regala, president and spokesman, respectively, of al-Badil al-Hadhari (The Civilized Alternative) party, were neither placed in secret detention nor held beyond the legal time limit for garde à vue. All six, however, contended that the police falsified the written version of the statements they gave. The trial judges in the lower court and appeals court gave no credence to their claims and convicted all of the defendants. The appeals court sentenced five of the six political figures to 10 years in prison and the last political figure to two years in prison for alleged roles in a terrorist network that, according to the court, perpetrated robberies, laundered money, forged documents, and imported arms for the purpose of carrying out terrorist acts to destabilize and eventually overthrow the state. After the appeals court confirmed their convictions, the defendants filed suit before the country's highest appeals tribunal, the Court of Cassation. That appeal is pending.

Many of the Belliraj defendants who were not public figures said that they had been held in secret detention and tortured or ill-treated. For example, Abdelkadir Belliraj, the alleged ringleader, told the court that authorities intercepted him on a street in Marrakesh at some point in January 2008—and not on February 18 as the authorities reported—and held him

⁶⁵ See “Morocco: Terror Convictions Upheld for 35, Including Political Figures,” Human Rights Watch news release, July 28, 2010, <http://www.hrw.org/en/news/2010/07/28/morocco-terror-convictions-upheld-35-including-political-figures>, and “Morocco: Address Unfair Convictions in Mass Terror Trial,” Human Rights Watch news release, December 29, 2009, <http://www.hrw.org/en/news/2009/12/29/morocco-address-unfair-convictions-mass-terror-trial>.

incommunicado for one month before bringing him before a judge. The report of the investigating judge reflects Belliraj's statement that state agents abducted and tortured him.⁶⁶ According to his wife, Rachida Hatti, after Belliraj's abduction, the family looked for him in hospitals and police stations without obtaining any information about his whereabouts until February 18, when Moroccan authorities announced his arrest.⁶⁷ Belliraj, in a written letter he provided to his Belgian lawyer Vincent Lurquin, said that his interrogators held him incommunicado, blindfolded, beat him, hung him upside down by his feet, and submitted him to electric shocks.⁶⁸

Belliraj's allegations of torture take on special gravity in light of the fact that his file contains, unusually, two quite different statements to the police, bearing different dates. His first statement does not mention the six political figures among his co-defendants, whereas his second statement deeply implicates them in the alleged terror organization. This raises the question of what happened to Belliraj while in custody after he made his first statement that led him provide a second statement offering such a different version of events. Despite this, the court refused demands to investigate his allegations.

Belliraj, in his multiple appearances before the investigating judge, gave inconsistent testimony, first proclaiming his complete innocence and at a later date confirming key aspects of his own incriminating police statements. During the trial phase months later, Belliraj proclaimed his innocence again and stated that the police had threatened him against retracting his confession before Investigating Judge Abdelkader Chentouf. Belliraj said also that one of his alleged torturers was present in judge Chentouf's chambers when the judge questioned him about his statement. Defense lawyer Abderrahim Jamâi asked the trial judge to summon judge Chentouf to answer questions about this hearing, but the trial judge declined to do so. The lower court sentenced Belliraj to life in prison, a sentence affirmed on appeal.

Another defendant in the case, Mokhtar Loqman, claims state agents abducted him and interrogated him at Témara. A merchant born in 1958 and living with his family in Salé, Loqman left for work around 9 a.m. on February 2, 2008, and did not come home as usual at the end of the afternoon. For two-and-a-half weeks, his family visited hospitals and filled out missing-person reports at police stations, to no avail, his wife, Houriya Ameur, told Human

⁶⁶ Report of Investigating Judge Abdelkader Chentouf referring the Belliraj case to trial (*ordre de renvoi*), p. 100.

⁶⁷ Email communications from Rachida Hatti to Human Rights Watch, July 25 and August 15, 2009.

⁶⁸ Jean-Pierre Borloo, "Une lettre de Belliraj: 'j'ai été torturé,'" *Le Soir*, November 14, 2008, http://archives.lesoir.be/une-lettre-de-belliraj-j-8217-ai-ete-torture-_t-20081114-00K1G9.a.html?&v5=1 (accessed October 15, 2010). "Procès de Rabat: le Belgo-marocain Belliraj se dit victime de tortures," Agence France-Presse, November 14, 2008.

Rights Watch in an interview outside the Salé court.⁶⁹ Only on February 18, 2008, when then-Minister of Interior Benmoussa announced that a terror network had been dismantled and the names of those arrested appeared on the Internet, did the family learn that Loqman had been detained. He had never before been arrested, his wife said.

During family visits to Salé Prison beginning on March 5, 2008, Loqman was able to tell his family what happened after his arrest. He said that the arresting officers took him to the detention center in Témara, according to Ameer. Loqman told his wife that state agents there slapped and insulted him at the beginning of his detention, even before the interrogation began. During questioning, he says, they administered electric shocks to his body, causing him to faint. Finally, the police presented him with a statement and told him that if wished to see his children he would have to sign. He signed without reading the statement, his wife said. Loqman repudiated his police statement before the investigating judge and once again before the trial judge.

Another defendant in the case, Ahmed Khouchiâ, a travel agent born in 1966 who had never been arrested, was apprehended by men in plainclothes who did not identify themselves, near his home in the city of Kenitra at 11:30 p.m. on January 27, 2008, according to his wife, Maymouna al-Bosh. For three weeks his family did not know Khouchiâ's whereabouts. The family filed three missing-person reports before they learned he had been arrested. According to what her husband later told her, al-Bosh said, state agents blindfolded and beat him, and made him crouch for long periods, and made threats concerning his wife. In the end, he signed the police statement without reading it, he told her.⁷⁰

Before the investigating judge in the trial of first instance, Khouchiâ stated that the state agents had used "violence"⁷¹ on him and that the contents of his police statement were false. Later, before the trial judge, he once again repudiated his police confession and recounted his abduction, incommunicado detention, and mistreatment while in custody.

The court of appeals confirmed the sentences of Loqman and Khouchiâ to 15 and eight years in prison, respectively.

⁶⁹ Human Rights Watch interview with Houriya Ameer, Salé, July 27, 2009.

⁷⁰ Human Rights Watch interview with Maymouna al-Bosh, Rabat, March 12, 2009.

⁷¹ The Investigating Judge Chentouf's report (*l'ordre de renvoi*) states on pages 133-134 that Khouchiâ mentioned having been the victim of police "violence." This choice of words would have been the way the judge summarized for the court clerk the defendant's testimony. The defendant's own words may have been more graphic.

The Denkir Group

Human Rights Watch also researched the cases of three men detained in 2008 and convicted in January 2010 as part of an alleged terrorist cell known as the “Denkir Group,” named after one of the defendants. Authorities arrested a total of 38 suspects as alleged members of the cell, most of whom reside in the northern cities of Tangier, Tetouan, and Larache. The court found the defendants guilty of plotting to recruit Moroccans and finance their travel to Iraq to fight the occupying US forces.

The lead suspect, Aziz Denkir, told Human Rights Watch that plainclothes agents detained him on May 28, 2008, at around 11 a.m., at his workplace in the city of Tetouan, in front of eyewitnesses. They blindfolded and handcuffed him, he said, and drove him two or three hours to a detention facility. There, he said, they stripped him, beat him, and threatened to rape him. He remained blindfolded and thus unable to see his interrogators. He was held in isolation and could not converse with other prisoners, though he said he could hear the cries of persons he presumed were being tortured. He believes he was held in Témara, for a period of five weeks, before being transferred to Maârif police station in Casablanca, where the police presented him with a statement to sign.

Denkir said the authorities did not inform his family of his whereabouts until they transferred him to the Maârif police station, but “since I’m a Salafist, they assumed I had been taken to Témara.”⁷²

Another of the defendants in the Denkir case, Abdelkrim Hakkou, born on February 5, 1978, disappeared in his hometown of Aïn Taoujdat, east of Meknes, on his way to work as a schoolteacher on May 16, 2008, according to his brothers, Ahmed and Mehdi Hakkou. No one saw the arrest, but Hakkou’s bicycle was recovered on the side of the road. The family sought information at police stations but none provided news of his whereabouts. The family also contacted the Moroccan Association for Human Rights and Human Rights Watch, both of which wrote to Moroccan authorities asking about Abdelkrim.

The family only learned where Abdelkrim was when the Moroccan press reported the dismantling of a terrorist network in early July 2008, seven weeks after Hakkou’s disappearance. They subsequently learned that the investigating judge had remanded Hakkou to pre-trial detention in Salé Prison. When they visited him there, he told them he had been abducted and driven to Témara, where, he told his family, he spent 47 days and

⁷² Human Rights Watch telephone interview with Aziz Denkir, January 27, 2010.

was tortured, before being transferred to the Maârif police station. The police at Maârif presented him with a statement that he reportedly refused to sign.⁷³

One reason Abdelkrim Hakkou believes that Témara was his destination is that the men who detained him drove him on the highway from Aïn Taoujdat to the Rabat-Salé tollbooth before blindfolding him, his brother Mehdi said. Abdelkrim estimates they drove 20 minutes more before reaching their destination, a time period consistent with the drive to Témara.⁷⁴

The Ministry of Justice, responding to an inquiry from Human Rights Watch, wrote that police arrested Hakkou not in May but rather on July 1, and that the Judiciary Police held him and presented him to court on July 11—that is, within the 12-day limit specified by the counterterrorism law. The letter stated that Hakkou was being investigated for “forming a criminal band for the purpose of preparing and carrying out acts of terrorism... collecting and managing of funds for the purpose of financing the perpetration of terrorist acts and to recruit others for this purpose; holding public meetings without prior authorization and carrying out activities on behalf of an unauthorized association.”⁷⁵

Anas Lakhnichi went missing on May 18, 2008. A student from Larache who was attending the National Institute for the Post and Telecommunications in Rabat, Lakhnichi was en route that day to apply for an internship in the city of al-Jadida, southwest of Casablanca. When he did not arrive at home and did not answer his cell phone, his father, Allal Lakhnichi, began looking for him. Allal filed a missing-person report with the Rabat police on May 20, 2008 and persuaded Morocco’s television channel 2M to air a notice on its television show “The Missing” (*Mokhtafoun*). The authorities provided no information on Lakhnichi’s whereabouts until an article in *es-Sabah* daily newspaper on July 1, 2008, described the breakup of a “terrorist network” and named Lakhnichi as one of the suspects.

Lakhnichi told his father during a visit to Salé Prison, where Lakhnichi had been placed in pre-trial detention, that men in plainclothes arrested him on May 18. They covered his eyes, he said, and then transported him to a place he believes was Témara. He was held there in isolation and interrogated, and eventually transferred to Maârif police station for about 10 days before being presented to a judge in July. According to Allal Lakhnichi, his son said his

⁷³ Human Rights Watch interviews with Ahmed Hakkou, Témara, June 14, 2008, and with Mehdi Hakkou, Rabat, January 26, 2010.

⁷⁴ Human Rights Watch interview with Mehdi Hakkou, Rabat, January 26, 2010.

⁷⁵ Letter from Mohamed Ledidi, secretary general of the Ministry of Justice, to Human Rights Watch, October 10, 2008, reprinted as Appendix 3 of this report.

interrogators slapped him repeatedly, tore out his hair, and forced him to sign his police statement.⁷⁶

Rabat-based lawyer Khalil al-Idrissi, who defended both Hakkou and Lakhnichi, said that his clients described to the investigating judge the ill-treatment they endured while under interrogation. The minutes of the session reflect their allegations. However, Idrissi said, the court did not investigate them.⁷⁷

On January 28, 2010, the Rabat Court of Appeals issued its verdict, sentencing Denkir to ten years in prison and Lakhnichi and Hakkou to eight years in prison each, for involvement in an Islamist terrorist cell aiming to send Moroccans to fight abroad. The court sentenced 30 of their co-defendants to prison terms, one of them suspended, and acquitted five others, according to the state news agency.⁷⁸ On June 28, 2010, a court of appeals reduced the prison terms of some of the defendants, including Lakhnichi and Hakkou, whose terms were reduced to six years apiece.

Rida Benotmane: Secret Detention and Four Years in Prison for Online Commentaries

Rida Benotmane endured a relatively short secret detention of only two days, perhaps because he readily admitted to his interrogators the basic accusations against him, which centered on comments that he posted online, rather than his implication in any alleged terrorist network or acts.

On January 20, 2007, Benotmane, a civil servant born in 1976, was with his pregnant wife and 18-month-old daughter in their apartment in Témara when men in plainclothes came to the door. The men said that they were police but showed no warrant to arrest or search, according to Benotmane's mother, Rachida Baroudi, who learned what happened from her son and daughter-in-law. They handcuffed Benotmane and searched the apartment, confiscating his computer, passport, and cell phone, said Baroudi.

Baroudi, who lives in Rabat-Agdal and is a high school teacher, said her husband, a law professor at the University of Rabat, searched the police stations during the night but could

⁷⁶ Human Rights Watch interview with Allal Lakhnichi, Salé, January, 28, 2010.

⁷⁷ Human Rights Watch telephone interview with Khalil al-Idrissi, August 10, 2010.

⁷⁸ "Des peines d'un an à 10 ans de prison à l'encontre de plusieurs personnes poursuivies pour terrorisme," <http://www.gazette-press.com/culture/sale-des-peines-un-an-a-10-ans-de-prison-a-encontre-de-plusi.html> (accessed October 16, 2010).

find no trace of their son. The family concluded that since he had not been taken to a nearby police station, he must be with the DGST in Témara because, they reasoned, that is where the authorities take persons they detain in this manner.

The following morning, a Sunday, Baroudi drove toward DGST headquarters in Témara. “When I reached a blue office building in Témara, I told a man on duty that I was looking for my son. The agent replied politely that I must be mistaken, since it is the Judiciary Police and not the DGST that arrests people. Besides, if my son had done nothing wrong he would soon be free. “Stop looking for your son,” he told me, “your son will contact you very soon.” Baroudi left.

It was not until Tuesday, January 23, 2007, that the police phoned the family to inform them that Benotmane was at Maârif in Casablanca, and that they could come the next day to visit him. In this case, the family received information about Benotmane’s whereabouts three days after his arrest, in contrast to other cases described in this report, where the family had no confirmation for two or more weeks. Both cases seem to violate article 67 of the Code of Penal Procedure, which states, “The Judiciary Police officer shall notify the family of the detainee *as soon as* a decision to place him/her under custody is made...” (italics added)

When Baroudi arrived at Maârif on January 24, she found that the police log recorded Benotmane as having arrived there on Monday, January 22, at 9:30 p.m., a time and date that leaves the first two days of his detention unaccounted for.

It was during those two days that Benotmane says he was detained at the secret facility at Témara, before being transferred to Maârif. He has no proof he was at Témara, but presumes that to be the case based on the short travel time from his home in the town of Témara to the place of detention, and the fact that after his arrest his parents contacted police stations near his home and found no trace of him.

According to what Benotmane later told his mother, on the night of his arrest the men who detained him blindfolded him in their car; he was kept blindfolded almost the entire two days that he spent in secret detention. Benotmane told his mother that in his first place of detention, his interrogators accused him of visiting pro-Al Qaeda websites, which he admitted. He gave them his passwords and they apparently researched his online activities, Baroudi said. They questioned him about those activities, about his acquaintances, and about his political and religious beliefs. He said that the agents did not hit or abuse him physically but prevented him from sleeping and threatened to throw him in a place filled with snakes and to detain his wife, Baroudi said. He said he was handcuffed and held in

isolation for the duration of his secret detention and prevented from crossing paths with other detainees.

At Maârif police station, the Judiciary Police presented him with a statement to sign in which he confessed to writing in online chat rooms in support of the armed resistance to the US occupation of Iraq, and to virulently denouncing Moroccan foreign policy as subservient to US interests.

Benotmane acknowledges that the foregoing portions of the statement he signed are true but insists that he did no more than peacefully express his political views.

His signed police statement contains assertions that he later repudiated. The statement suggests that Benotmane put online photographs of the US and French embassies alongside a caption describing them as buildings whose destruction Muslims fervently wished for; and that he called the king a “tyrant” against Islam. Benotmane maintained later that these last statements had been posted not by him but by other contributors to the same websites where he posted. He explained that he had signed the police statement because officers had threatened and pressured him, and because his two days in secret detention had exhausted and disoriented him.⁷⁹

After Benotmane’s detention in Maârif, the police presented him to the investigating judge, who remanded him to Salé Prison, where he remained in pre-trial detention. On May 18, 2007, the Rabat Appeals Court convicted Benotmane of having “praised terrorism” (article 218.2 of the Penal Code, as amended by the 2003 counterterrorism law) and for having committed “an offense toward the person of the king” pursuant to article 179 of the Penal Code. (The court’s judgment also refers to his “attacks on sacred values.”) On appeal, the Rabat Appeals Court upheld his conviction and doubled his sentence to four years in prison. Benotmane is currently serving his term in Salé Prison and is due to be released in January 2011.

⁷⁹ Human Rights Watch interview with Rachida Baroudi, Rabat-Agdal, February 2, 2010.

Continuing Abuses and the Failure to Implement Recommendations of Morocco's Equity and Reconciliation Commission

The abuses described in this report continue at a time of continuing debate over the legacy of Morocco's Equity and Reconciliation Commission (ERC). The commission prepared a final report after two years of investigating the serious human rights violations perpetrated by the Moroccan state between independence in 1956 and the accession to the throne of the current king in 1999. As part of its report, the ERC offered a series of forward-looking recommendations intended "to guarantee the non-repetition of serious human rights violations and to consolidate the reform process in which the country is engaged," notably in the realms of "constitutional reforms [and] the implementation of a national strategy to combat impunity."⁸⁰ The ERC's recommendations included:

- "The consolidation of constitutional guarantees of human rights, notably by inscribing the principle of the primacy of international human rights law over domestic law, the presumption of innocence and the right to a fair trial....
- "A constitutional prohibition of any involvement by the executive branch in the functioning of the judiciary branch."
- "The prohibition of enforced disappearances, arbitrary detention, genocide, and other crimes against humanity, torture and all forms of treatment and punishments that are cruel, inhumane, or degrading...."
- "The adoption and implementation of an integrated national strategy to combat impunity" by, among other things, "making it incumbent on all civilian and military personnel responsible for applying the law to report any information concerning the aforementioned crimes, regardless of the authority responsible for ordering them to be carried out" and "reinforcing in a significant manner the protection of the rights of victims and the remedies available to them."

The ERC went on to state that "consolidating the rule of law requires moreover reforms in the realm of security, justice, legislation and penal policies." It said that reforming the security apparatuses meant "revising, clarifying and publishing the reglementary texts regarding the authority, the organization, the decision-making process, the modes of operation and the systems of oversight and of evaluating all security and intelligence agencies without

⁸⁰ Equity and Reconciliation Commission, Final Report, Synthesis, Recommendations (in French), www.ier.ma/article.php?id_article=1433 (accessed August 11, 2010).

exception, as well as the administrative authorities charged with maintaining the public order and having the power to resort to the use of public force.”

King Mohammed VI accepted the ERC’s final report, along with its recommendations on January 6, 2006. On that occasion he declared, “We must all draw the right lessons in order to equip ourselves with the necessary guarantees to prevent the repetition of certain gaps and to fill certain past gaps. That said, what is most important is to adopt a prospective and constructive approach toward the future...”⁸¹

Some human rights organizations and journalists have criticized Moroccan authorities for not yet implementing many of the legal, administrative, and constitutional reforms that the ERC recommended to prevent serious abuses in the future, and for the persistence of serious abuses despite all the ERC-inspired discourse about “turning the page.”⁸²

The perpetuation of serious abuses with impunity undermines not only the rule of law but also the legacy of the ERC. That legacy depends not only on the ERC’s groundbreaking contribution to exposing, acknowledging, and making reparations for past abuses but also on whether Moroccan authorities show the political will to heed the recommendations that the ERC made to prevent and punish serious abuses, such as the continuing pattern of prolonged incommunicado detention in unacknowledged detention centers.

⁸¹ King Mohammed VI’s speech is online in Arabic at http://www.ier.ma/article.php3?id_article=1530. and in French at http://www.ier.ma/article.php3?id_article=1531 (accessed August 11, 2010).

⁸² The most detailed critique of the state’s response to the ERC’s recommendations can be found in Amnesty International, Morocco/Western Sahara: “Broken Promises: The Equity and Reconciliation Commission and its Follow-up,” AI Index: MDE 29/001/2010, January 6, 2010, <http://www.amnesty.org/en/library/info/MDE29/001/2010> (accessed October 18, 2010), especially chapters 7 and 8. The Moroccan Association for Human Rights has issued statements criticizing the government for having failed to implement most of the reforms recommended by the ERC, including one issued on June 24, 2008. The Moroccan Forum for Truth and Justice (Forum marocain pour la vérité et la justice, FMVJ) issued a statement on September 4, 2010, regretting the “absence of any noteworthy progress in implementing the recommendations of the IER ... in the realm of political, constitutional, and administrative reform toward the goal of preventing a repeat of serious violations.” For background on the ERC, see Human Rights Watch, *Morocco’s Truth Commission: Honoring Victims during an Uncertain Present*, vol. 17, no. 11(E), November 2005, <http://www.hrw.org/en/reports/2005/11/27/moroccos-truth-commission>.

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Appendix 1: Letter from Human Rights Watch to Minister of Justice Naciri requesting information for this report

September 13, 2010

Minister of Justice Mohamed Taïeb Naciri
Ministry of Justice
Place Mamounia
Rabat, Morocco

Via facsimile: +212 537 72 37 10

Dear Mr. Minister,

Human Rights Watch, the international human rights monitoring organization, is preparing a report on the arrests by Moroccan security services of terrorism suspects. We have collected interviews that indicate a pattern in which the security services arrest persons without warrants, place them in apparently secret places of detention, do not inform the families of their whereabouts, and often fail to present the suspect to a judge within 12 days of their arrest. As you know, such practices would violate Moroccan laws designed to protect the rights of persons in custody.

The purpose of this letter is to present you with some of the cases we have researched and to invite your government to respond. We will reflect in the forthcoming report any pertinent information or observations that we receive from you or other Moroccan officials by October 4, 2010.

We have already received some pertinent information from Moroccan authorities. The Embassy of Morocco in Washington sent to us the attached statement, in response to questions we submitted about whether the Direction Générale de la Surveillance du Territoire (DGST) had the status of the Judiciary Police under Moroccan law, and about whether there exists in Témara a detention facility administered by the DGST. We will reprint this statement as an appendix to our report, along with the attached letter, dated October 10,

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2008, that your ministry sent us in response to our inquiry about the detention of terrorism suspect Abdelkrim Hakkou, whose whereabouts were unknown to his family during six weeks that year. We will reflect in our report any additional pertinent information that you furnish us by the above-mentioned date.

Our draft report takes as a case study a group of suspects held in connection with a suspected terrorist network whose dismantling was announced by the Maghreb Arabe Presse state news agency on May 6, 2010. According to the MAP, the National Brigade of the Judiciary Police (Brigade Nationale de la Police Judiciaire, BNPJ) in Casablanca had turned over 38 individuals to the prosecutor at the Rabat Court of Appeals on suspicion of involvement in that network (« Rabat: Trente-huit présumés terroristes déférés devant le procureur général du Roi, » http://www.map.ma/fr/sections/memomap/rabat__trente-huit_p/view).

Human Rights Watch identified the suspects through press reports and through complaints of “kidnapping” and “disappearance” that the suspects’ families submitted to Moroccan human rights organizations. We then obtained information from seven of the suspects and their families: Abderrahim Lahjouli, Anouar Aljabri, Mehdi Meliani, Younes Zarli, and Yassir Outmani, all of Casablanca, Abdelaziz Janah of Bouskoura-Chraga, and Salah Nachat of Mediouna. The seven men are currently in provisional detention in Salé Prison as investigating judge Abdelkader Chentouf of the Rabat Court of Appeals pursues his investigation of the case.

According to the information that the defendants or their families provided us:

- All seven men were arrested by plainclothes agents who produced no arrest warrant nor identification proving their status as judiciary police, and who did not explain the basis for the arrest;
- All seven were held without their families being promptly notified, which would violate CPP article 67;
- Although article 66 of the Code of Penal Procedure gives detainees in custody the right to request a lawyer after the first extension of their garde à vue detention – that is after the first four days -- none of the seven men saw a lawyer until much later in their period of detention, and did so only after they had already signed their statements that the police prepared for them;
- All seven claim that they signed the written statement prepared for them by the police without reading it to check its veracity, either because the police prevented them from reading it or threatened them if they refused to sign, or because they said they believed that they would have no choice but to sign it. Moroccan law implies

that signing one's statement is voluntary: article 67 of the CPP states that "the concerned person must affix to these statements his signature or fingerprint; if he refuses or is unable to do so, this must be indicated, along with an explanation of the reasons for this refusal or inability;"

- Six of the seven -- Abdelaziz Janah, Abderrahim Lahjouli, Mehdi Meliani, Salah Nachat, Yassir Outmani, Younes Zarli -- claim that the police held them in garde à vue (pre-arraignment) detention for longer than the 12 days allowed by Law No. 03-03 of 28 May 2003 on Combating Terrorism, article 66, fourth paragraph; and that the police held them in a secret place of detention for part of that period, in apparent violation of CPP article 608.

According to the information provided by those six defendants or their families, the circumstances of their pre-arraignment detention were as follows:

- Abdelaziz Janah: arrested April 18 and held in an unknown location for 9 days and then 10 days in Maârif BNPJ station;
- Abderrahim Lahjouli: arrested March 30, held 28 days allegedly in Témara, then 11 days at the Maârif BNPJ station;
- Mehdi Meliani: arrested March 26, held 32 days allegedly in Témara; then on April 26 transferred to the Maârif BNPJ station, and then on May 6 to Salé Prison; on May 7 his family first learned his whereabouts;
- Salah Nachat: arrested March 22, held 36 days in an unknown place, then on April 26 transferred to the Maârif BNPJ station where he was held for 10 days, and then on May 6 to Salé Prison; on May 7 his family first learned of his whereabouts;
- Yassir Outmani: arrested April 11, held 18 days allegedly in Temara, then 11 days in Maârif BNPJ station; and
- Younes Zarli, arrested April 11, held 15 days allegedly in Temara, then 12 days at the Maârif BNPJ station.

Furthermore, five of the seven -- Janah, Meliani, Nachat, Outmani and Zarli -- reported that their interrogators physically abused them, which if true would violate the prohibition of violence and of torture found in article 231 of Morocco's penal code.

Of course, these and other detainees who believe they were held in secret detention in Témara cannot prove it. The plainclothes security agents who arrested them took a number of steps to prevent them from identifying the detention facility to which they had been transported, the detainees explained. They described how the police blindfolded them while en route to the secret center, and how they were ultimately transferred from that center to a regular police jail, in the above-mentioned cases the one at BNPJ headquarters in Maârif. Although former detainees cannot know with certainty that they were being held at Témara,

many said they inferred this from circumstantial evidence, including the time traveled from the place of arrest to the place of detention, landmarks glimpsed en route through blindfolds that did not fully impede their vision, and the sounds made by the animals at the national zoo that, until recently, was located in Témara.

When detainees are in the Judiciary Police's detention facility, agents present them for their signature a written declaration (*procès verbal*, or *PV*) purporting to be a faithful transcription of the statement they gave orally to the police. Our examination of police *PVs* in other terrorism cases points to discrepancies between the way these *PVs* account for the period of pre-arraignment detention and the accounts given by the detainees themselves. If the testimonies of the detainees are true, then the discrepancies seem to be the result of the police having falsified the date of arrest and omitting to mention the period and place of secret detention, so as to suggest that the detainee was taken by his arresting officers directly to a recognized place of detention and then brought before a judge within the 12-day limit. For example, Abdelkrim Hakkou claims to have been taken into custody on May 16, 2008 and held for 47 days in Témara before being transferred to the BNPI police station in Maârif. This contrasts with the information that your ministry provided us, according to which Hakkou "was arrested and placed in garde à vue on July 1, 2008, in a place belonging to National Security, in conformity with the law," and presented to the prosecutor on July 11, 2008.

Such allegations about arrest and detention practices involving terrorism suspects, if true, amount to a series of violations of Moroccan law and in some cases of Morocco's obligations under international law. These laws and obligations are intended to safeguard against torture and ill-treatment of persons in custody. They also seek to protect defendants from the resort to improper means of coercion to extract confessions, which would violate their right to a fair trial if such coerced confessions were used against them in court.

We welcome from you any facts pertaining to the specific allegations made by each of the above-named defendants concerning irregularities in the handling of their arrests and period of custody, including arrests executed without warrants, detention and ill-treatment in unacknowledged places of detention, detention beyond the 12-day limit provided by law, failure to inform families promptly of their detention, and failure to ensure timely access to legal counsel.

We would also welcome more general information about the mechanisms Morocco has in place to ensure that security forces in conducting arrests of terrorism suspects respect national law by

- (1) showing a legal arrest warrant before taking a person into custody;
- (2) informing the family promptly when placing a relative in custody;
- (3) holding suspects in their custody only in recognized places of detention;
- (4) providing detainees access to legal counsel beginning after the first extension of their garde a vue detention; and
- (5) ensuring that the police records in the court files accurately reflect the times and places of detention for the entire period that a person spent in pre-arraignment custody.

Finally, we wish to formally request that you allow Human Rights Watch and other human rights organizations to visit DGST headquarters in Témara. We intend to mention in our report the statement your embassy provided us to the effect that the General Prosecutor at the Court of Appeal in Rabat inspected DGST Headquarters and concluded that it houses no detention center. However, given the persistence for many years now of accounts from persons detained in terrorism cases who say they were transported to Témara and held there, we believe that providing access to Témara for the first time to independent human rights organizations would only enhance the credibility of the government's position on the matter.

We would be happy to come to Rabat at any time to discuss these matters with you in person. In any event, our forthcoming report will reflect any pertinent information you provide to us by October 4.

Thank you for your consideration.

Sincerely yours,



Sarah Leah Whitson
Executive Director
Middle East and North Africa division

Appendix 2: Moroccan authorities' response to a request by Human Rights Watch for clarification of the status of the DGST

(Received by Human Rights Watch August 25, 2010)

The General Directorate of Territorial Surveillance (Direction Générale de la Surveillance du Territoire, DGST) is an intelligence agency in charge of protecting and preserving the security of the State and its institutions. Its internal statute, operating system and attributions do not differ from those of similar agencies around the world. The Agency's Headquarters is located in Temara and has regional offices under its direct authority. Its mission is to investigate and analyze relevant intelligence and prevent all activities initiated, conducted or supported by subversive movements.

The DGST employees do not have the title of officers of the Judiciary Police nor do they act as such. Consequently, they are never asked to conduct any judicial discovery, nor has it ever been proven that they drafted any judicial minutes on terrorism or any other issues. Their job is limited to notifying the public prosecutor's Office about crimes reported to them as other civil servants and State agents do in accordance with the provisions of article 42 of the Penal Code.

It is worth noting that the General Prosecutor to the Court of Appeal in Rabat has visited the DGST Headquarters in Temara and inspected all its facilities. His visit report concluded that there exists no detention center there.

**Appendix 3A: Letter from Ministry of Justice in response to inquiry
concerning the alleged abduction of Abdelkrim Hakkou (French original)**

(An English translation follows)

ROYAUME DU MAROC

Rabat, le 10 OCT 2008

Ministère de la Justice

Secrétariat Général



N° : 2634 / SG

A Monsieur Eric GOLDSTEIN

Human Rights Watch

Objet : Affaire Abdelkrim HAKKOU

V./Réf. : Mail du 24 septembre 2008 adressé à M. Ali BARGACH

Monsieur,

J'ai l'honneur de vous faire part des éléments de réponse concernant le dossier de M. Abdelkrim HAKKOU, dont copie a été remise lors de notre réunion du 17 juin 2008.

En effet, suite à la plainte déposée par la famille de M. Abdelkrim HAKKOU sur sa prétendue disparition ou enlèvement, le Ministère de la Justice, dès qu'il en a été saisi, a diligenté une enquête d'où il ressort que l'intéressé n'a été victime d'aucune disparition ou enlèvement mais qu'il a été arrêté et placé en garde à vue, le 1^{er} juillet 2008, dans un lieu relevant de la Sûreté Nationale, conformément à la loi. C'est d'ailleurs le contenu de la réponse adressée à la famille par lettre n° 3/2391 du 22 juillet 2008.

Concernant sa prétendue séquestration au Centre de Témara, relevant de la Direction de la Surveillance du Territoire (DST), il s'avère que l'intéressé a été présenté au Procureur général

du Roi près la Cour d'appel de Rabat, le 11 juillet 2008, en vertu d'un procès-verbal établi par la Brigade nationale de Police judiciaire (BNPJ), après que la période de sa garde à vue ait été renouvelée à deux reprises avec l'autorisation du Procureur général et que sa famille en ait été avisée. A cet égard, il est à souligner que la période de garde à vue en matière de terrorisme est de 96 heures, pouvant être renouvelée à deux reprises sur autorisation écrite du Procureur général du Roi (art. 66 du CPP).

A cet égard, il n'est pas sans souligner que les dispositions du Code de procédure pénale applicables à la garde à vue et celles du Code pénal incriminant les actes d'enlèvement et de séquestration, sont conformes aux critères contenus dans les conventions internationales en la matière. En outre, la BNPJ, qui a enquêté dans ce dossier, relève de la Direction Générale de la Sûreté Nationale (DGSN) et ses officiers sont sous l'autorité du Parquet général et soumis à son contrôle.

Aussi, faut-il rappeler que les services de sécurité marocains ont procédé à l'arrestation de 35 personnes, membres d'une cellule de la *Salafya Jihadya*, à Tanger, Tétouan, Larache et Oujda, dont l'activité est de recruter des jeunes pour accomplir des opérations-suicide aux fins de terrorisme ou rejoindre les camps en Irak pour les mêmes raisons et pour une formation dans ce domaine.

L'intéressé a été présenté au Juge d'instruction aux motifs de constitution d'une bande de malfaiteurs en vue de préparer et accomplir des actes terroristes dans le cadre d'un projet collectif d'atteinte grave à l'ordre public ; la récolte et la gestion de fonds destinés à financer l'accomplissement d'actes terroristes et de recrutement de tierces personnes à cette fin ; de tenue de réunions publiques sans autorisation préalable et l'exercice d'activités dans le cadre d'une association non-autorisée. Après son interrogatoire par le Juge d'instruction, il a été placé en détention à la Prison civile de Salé, dans le strict respect de la loi, laquelle lui garantit tous les droits dont jouissent les détenus.

Quant à toute autre question que M. Abdelkrim HAKKOU souhaiterait soulever et dont il voudrait avoir une réponse, il peut s'adresser à la juridiction de jugement saisie de son dossier, seule habilitée à enquêter en la matière.

Veuillez agréer, Monsieur, l'expression de mes sentiments distingués.

Le Secrétaire Général
Mohammed LIDIDI

**Appendix 3B: Letter from Ministry of Justice in response to inquiry
concerning the alleged abduction of Abdelkrim Hakou
(English translation)**

(Translation by Human Rights Watch)

To Mr. Eric Goldstein, Human Rights Watch

Re: The case of Abdelkrim Hakkou

E-mail of September 24, 2008 addressed to Mr. Ali Bargach

Sir :

I am pleased to provide you with answers concerning the case of Mr. Abdelkrim Hakkou, whose file you submitted at our meeting on June 17, 2008.

Upon receiving a complaint filed by the family of Mr. Abdelkrim Hakkou about his supposed disappearance or kidnapping, the Ministry of Justice immediately launched an inquiry that concluded that the person was the victim neither of a disappearance nor of a kidnapping. Rather, he was arrested and placed in pre-arraignment detention on July 1, 2008, in a location that is under the auspices of National Security, pursuant to the law. This is what the family was told in letter 3/2391 of July 22, 2008.

Regarding Mr. Hakkou's supposed illegal confinement in the Center of Témara, which is under the auspices of the Direction of the Surveillance of the Territory (DST), in fact he was presented to the general crown prosecutor at the Rabat Appeals Court on July 11, 2008, pursuant to a report prepared by the National Brigade of the Judiciary Police, after his period of pre-arraignment detention was renewed twice with the approval of the general prosecutor and after his family was notified.

It is worth noting in this respect that the period of pre-arraignment detention is 96 hours, subject to two renewals upon written authorization from the general crown prosecutor (article 66 of the Code of Penal Procedure).

The provisions of the Code of Penal Procedure pertaining to pre-arraignment detention and the provisions of the Penal Code that define the crimes of kidnapping and illegal confinement are consistent with the criteria contained in the relevant international conventions. Moreover, the National Brigade of the Judiciary Police, which led the investigation in this case, operates under the auspices of the General Directorate of National Security (DGSN), and its officers act under the authority of the prosecutor's office, and DGSN officers are subject to its oversight.

It may be worth pointing out that Morocco's security services arrested 35 persons, members of a Salafia Jihadia cell, in Tangiers, Tetouan, Larache, and Oujda, the activity of which consisted of recruiting youths to carry out terrorist suicide operations or to reach camps in Iraq in pursuit of those same objectives and for training in this domain.

Mr. Hakkou was presented to the investigating judge on accusation of forming a criminal band for the purpose of preparing and carrying out acts of terrorism as part of a group effort to inflict serious harm on the public order; collecting and managing funds for the purpose of financing the perpetration of terrorist acts and to recruit others for this purpose; holding public meetings without prior authorization and carrying out activities on behalf of an unauthorized association.

After the investigating judge questioned him, Hakkou was placed in detention in the Civil Prison of Salé, in strict conformity with the law, which guarantees to him all the rights enjoyed by detainees.

As for any other question that Mr. Abdelkrim HAKKOU wishes to raise and receive a response to, he can contact the court handling his case, which is the only body empowered to look into the matter.

Please accept my respectful consideration.

Secretary General
Mohammed LIDIDI

Appendix 4: Response of the Government of Morocco to Human Rights Watch Letter sent September 13, 2010

(Received by Human Rights Watch October 18, 2010)

This is the complete text of the Moroccan government's response to HRW's letter of September, 13 2010, except for two phrases in the first two paragraphs where HRW deleted the names of suspects who have not yet been put on trial:

On January 20, 2010, a uniformed policeman was assaulted; he sustained a knife injury and his firearm and ammunition were seized. An investigation by the judicial police revealed that the assailants belonged to a terrorist network, linked to al Qaeda, that was involved in recruiting and sending fighters to Iraq, Afghanistan, Somalia, and Algeria. After dismantling the 38-member cell, it was discovered that cell members were preparing terrorist actions targeting security forces. They began implementing their plans with the assault on the aforementioned policeman, stripping him of his firearm. The firearm was seized ... as is documented in the search and seizure reports prepared in accordance with the law.

Based on this, members of the terrorist cell ... were arrested. Due to the exigencies of the investigation, they were placed under garde à vue [pre-arraignment detention] by the National Brigade of the Judicial Police on April 26, 2010, under the supervision and oversight of the general prosecutor. They were presented to the general prosecutor on May 6, 2010, after their detention had been extended twice for 96 hours with authorization from the general prosecutor, in accordance with article 66 of the Code of Criminal Procedure.

The general prosecutor filed a request to question them regarding the acts attributed to them, and they were referred to the investigating judge. After taking their preliminary statement, the judge ordered them detained in Salé Civil Prison.

It is thus clear that the arrest of the aforementioned parties was legal and that they were detained in accordance with the provisions stipulated by law. They were then referred to the competent judicial body within the specified time limit and in accordance with the conditions mandated by law. Similarly, their status as detainees affords them all the legal guarantees given to all arrested persons generally.

On the allegation that the security apparatus arrested them without warrants and in violation of articles 146 and 608 of the Code of Criminal Procedure.

As noted above, the aforementioned parties were arrested by the National Brigade of the Judicial Police and placed under garde à vue in accordance with the conditions specified by the law, which does not require a written warrant for the arrest of suspects. The law empowers the judicial police to ascertain that a crime has taken place, gather evidence of it, and search for the perpetrators, pursuant to article 18 of the Code of Criminal Procedure. In addition, the law has specified the pertinent procedures in cases of crimes that are discovered while they are being perpetrated (flagrant délit), among them the possibility of placing persons under garde à vue if required by the exigencies of the investigation. In such a case, the general prosecutor is informed and may extend the period of garde à vue by written order. These procedures were respected in this case. It cannot be argued that articles 146 and 608 of the Code of Criminal Procedure were violated, as these are related to provisional pretrial detention and not garde à vue, whose provisions are elaborated in Articles 66 and 80 of the Code of Criminal Procedure.

On the allegation that the concerned parties were detained in a secret detention facility and their families were not informed of their whereabouts, in violation of article 67 of the Code of Criminal Procedure.

These allegations are groundless since detention facilities are subject to the oversight and supervision of the general prosecutor's office. Moroccan law requires suspects under garde à vue to be placed in stations of the judicial police stations or facilities belonging to the Royal Gendarmerie, which are subject to the oversight of the general prosecutor. The general prosecutor's office is also informed of every case of garde à vue (articles 66, 67, and 79 of the Code of Criminal Procedure). The office oversees the term and date of such detentions, and it follows the investigations carried out by the judicial police, monitors its actions, and visits the facilities in which suspects are held while under garde à vue.

In every case, the General Prosecutor's office investigates the legality of the detention, including the reasons for it, the existence of legal provisions allowing it, and the correct application of the procedures accompanying and pursuant to it.

When a request is submitted to extend garde à vue, the law states that the concerned party must be brought before the General Prosecutor or Royal Crown Prosecutor, who examines the condition of the detainee and gives him a hearing in order to assess the validity of the stated reasons for extending the custody period before making a decision. The judicial

police are also required to document in their records the hour and date at which garde à vue is imposed, as well as the date the suspect is brought before the General Prosecutor's office. The General Prosecutor's office also inspects these records.

In this case, the families of the concerned parties were informed as soon as they were placed under garde à vue in accordance with Article 67 of the Code of Criminal Procedure, as is noted in the hearing report.

On the allegation that the concerned parties were not permitted to avail themselves of their right to contact an attorney during the investigation.

In articles 66 and 80 of the Code of Criminal Procedure, the Moroccan legislator grants suspects the right to contact an attorney starting from the first hour in which garde à vue is extended. An attorney is also permitted to contact his client with permission from the Public Prosecutor's Office. The issue is one of a right that an arrested person or his defense may avail himself of if he wishes. The law does not compel an officer of the judicial police to bring about on his own initiative the contact between the suspect and the lawyer. In contrast to what your letter states, the General Prosecutor's office permitted the attorney of suspects Younes Zarli and Said Ziouani (accused in the same case) to contact them after their custody was extended on May 4, 2010. The judicial police filed a report that documents the visit of Mr. Fouad Zaamouti, on behalf of Mr. Tawfiq Moussa'if, to his client Younus Zarli on May 5, 2010. The allegation that the arrested persons were denied contact with their defense is thus groundless and refuted by documents attesting to a visit from their lawyers.

On the allegation that the concerned parties signed their statements under duress and without reading them.

The law requires an officer of the judicial police to prepare a report containing his observations, statements received, or actions taken under his authority. The person who makes a statement is required to read the statement or have it read to him by the judicial police officer. This must be indicated in the report. The person then signs the report, as does the judicial police officer, at the end of the person's statement and any additions, if any. If he is illiterate or unable to sign, he places his fingerprint and this is indicated in the report (article 24 of the Code of Criminal Procedure). He may also refuse to sign the statement while citing cause or due to his inability to sign, in accordance with article 67 of the Code of Criminal Procedure.

In contrast to what your letter states, the allegation that the concerned parties signed the statements under duress and without reading them is groundless. Several reports have been filed by the National Brigade of the Judicial Police on persons involved in membership in terrorist cells or in other cases, where the statements remained unsigned by the person who made them because he refused to do so. This suggests that the statements would have been signed had some form of coercion been used.

At the same time, it must be noted that judicial police reports carry no evidentiary weight in criminal proceedings and are made available to the court solely as a reference. The court must base its rulings on evidence presented in the general court session. Indeed, the confession itself is subject to the discretionary authority of the judges. Any confession or evidence that is obtained by force or coercion has no value, and an officer who obtains it is liable to criminal and disciplinary action.

On the allegation that the physical integrity of the concerned parties was infringed upon.

Articles 73 and 134 of the Code of Criminal Procedure state that every public prosecutor and investigating judge must grant requests for medical exams from suspects who were placed under garde à vue or from their lawyers. The general prosecutor and the investigating judge should also automatically order a medical exam if they observe marks on the suspect that warrant the measure.

Based on the documents in the case of the aforementioned parties, both those from the preliminary and preparatory investigations, no suspect claimed he had been tortured or suffered any sort of violence or harm, neither before the General prosecutor nor before the investigating judge. Indeed, Younes Zarli's lawyer visited him at the judicial police station and made no observations, written or oral, to the police or the General Prosecutor's office, that would indicate that his client had been tortured or mistreated, although the final paragraph of Article 80 of the Code of Criminal Procedure allows the lawyer to do so.

On the complaints filed by some suspects' families to rights organizations regarding abduction and detention.

It should be noted that since the counterterrorism law went into effect, this debate has again arisen. Some parties exploit the circumstances in which persons are arrested in a legal fashion to claim that they were forcibly disappeared or abducted. It must be reiterated that persons are arrested in accordance with the law and with all legal guarantees. Moreover, the

authorities are required to investigate every allegation of a disappearance and to pursue the responsible party regardless of his position.

In this case, this ministry has received correspondence from some associations claiming that persons were abducted and disappeared. Upon investigation, it was found that they had been arrested and placed under garde à vue for investigation regarding their membership in extremist terrorist groups. Their families were informed of this measure, and the suspects were referred to the competent judicial authority within the prescribed time period and in accordance with the conditions mandated in the Code of Criminal Procedure. They have been detained in a known place regulated by the law and subject to the oversight of the General Prosecutor's office. The conditions of their detention also allow them to avail themselves of all legal guarantees given to arrested persons in general. Some were visited by their attorneys while in custody at the judicial police station, as Younes Zarli, who was visited by his lawyer while in custody at a time when some associations were alleging that he had disappeared.

Note

Regarding the letter's statement that if the foregoing allegations are true, they represent a series of violations of Moroccan laws – laws that aim to protect persons from torture and ill-treatment -- it must be noted here that the state has a clear will to stop any extralegal act that harms the freedom and security of individuals. This is illustrated by the number of judicial proceedings initiated against law enforcement officials and the sentences imposed on them. In addition, all complaints and grievances of possible abuses are investigated by the General Prosecutor's office, and medical exams of victims are conducted when warranted. The General Prosecutor's office bases its decision for further actions on what these investigations reveal.

It is clear from the organization's letter that it relies on unofficial channels to collect information without examining facts that would clarify certain falsehoods. It is also clear that the organization has little confidence in the official responses that it receives and is skeptical about information provided by the Moroccan government regarding its counterterrorism measures, which are carried out in accordance with the law and while respecting human rights, including the right to a fair trial.

“Stop Looking for Your Son”

Illegal Detentions under the Counterterrorism Law

Since Morocco suffered the worst terrorist attack in its modern history on May 16, 2003, credible allegations have persisted that security officers routinely violate international and domestic laws in their treatment of persons suspected of links to terrorism.

Plainclothes agents who show no identification or warrant detain suspects and do not explain the basis for the arrest. Authorities then hold them in a secret place of detention, which many detainees later identify as the headquarters of the domestic intelligence agency in the city of Témara. Many of the secret detainees are ill-treated or tortured under interrogation, and often held longer than the 12-day legal maximum allowed for garde à vue (pre-arraignment) detention, without any notification to their families of their whereabouts. They are then handed over to the police, who present them with a statement to sign, before they have seen a lawyer. These abuses undermine the right of the accused to a fair trial.

“*Stop Looking for Your Son*,” based on interviews with detainees and their relatives and lawyers, as well as news reports, documents a disturbing pattern of secret detentions and abuse. Many Moroccans use the terms “abduction” to describe such detentions, although the detainee generally turns up in police custody within several weeks, unlike the “disappearances” of earlier decades, when most victims were never seen again. Still, the pattern of abuses surrounding these detentions shows a flagrant disregard for the law, especially in light of the domestic legislation enacted under King Mohammed VI to safeguard against abuse. Morocco has conducted a significant process of acknowledging and making reparations for the serious human rights violations perpetrated during past decades. But if it is to turn the page on that grim chapter of its history, the authorities must also show political will to enforce Morocco’s own laws on the detention of suspects and hold abusers accountable. The report contains a government response, received just before publication, to questions submitted by Human Rights Watch.

Protestors on July 27, 2004, near the headquarters in Témara (outside Rabat) of the General Direction of the Surveillance of the Territory (DGST), who they accused of allegedly having a secret detention centre and of allegedly torturing persons arrested under the counterterrorism law.

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