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Morocco: Torture Suspicions Mar Mass Trial Verdicts

Provide Justice to Hirak Activists in Appeal Case



Rabat, Morocco, July 15, 2018: demonstrators protest heavy jail sentences on imprisoned activists by wearing masks showing their faces. © 2018 Fadel Senna/AFP/Getty Images

(New York) – The **Casablanca** Court of Appeals should weigh evidence that the police tortured the defendants when it reviews the convictions of protesters and activists from the Rif region, Human Rights Watch said today. The appeals case began on November 14, 2018.

A lower court convicted all 53 defendants on June 26, sentencing them to up to 20 years in prison after admitting their “confessions” into evidence and dismissing their allegations of torture and repudiation of their statements. The lower court, in its 3,100-page judgment, did not explain why it had discounted medical reports suggesting that at least some of the defendants had been subjected to police violence upon or after arrest.

“A court shouldn’t just ignore evidence of torture,” said **Ahmed Benchemsi**, Middle East and North Africa communications and advocacy director at Human Rights Watch. “The appeals court needs to examine and discard any tainted confessions and ensure that no one is convicted except for real crimes.”



The Hirak, a socioeconomic protest movement in Morocco’s northern Rif region that started in



2016, staged several peaceful mass



demonstrations until a police crackdown in May



2017 led to the arrest of more than 400 activists.

Of them, 53, including the movement’s leaders,



were transferred to Casablanca, where they faced a mass trial that lasted over a year. The

Casablanca Court of First Instance convicted all of them on June 26, 2018, on various charges

including harming the state’s internal security,

criminal arson, rebellion, attacking police agents

while performing their duty, damaging public

property, and staging unauthorized protests, and

sentenced them to prison terms from one year to

20 years.

In August, King Mohammed VI pardoned 116 sentenced Hirak activists, including 11 of the Casablanca group, but none of the leaders.

On June 17 and 18, 2017, forensic doctors commissioned by the National Human Rights Council (Conseil National des Droits de l'Homme, or CNDH), an independent state body, examined 34 detained Hirak protesters, including 19 of the Casablanca group. Their medical reports noted that the injuries sustained by some detainees had either a “high” or a “medium level of consistency” with the allegations of police

 abuse. On July 3, 2017, Moroccan media leaked those reports.



The National Human Rights Council said at the time that the reports had not been finalized and thus were unofficial. But a day later, **Justice**



Minister Mohamed Aujjar announced that he had ordered copies forwarded to prosecutors at the Al Hoceima and Casablanca courts trying



these defendants “to include these reports in the case files ... [and] take necessary legal measures.”



Human Rights Watch reviewed relevant sections of the trial judgment, 41 forensic reports, including 19 by National Human Rights Council-appointed doctors and 22 commissioned by the Casablanca first instance court, attended 17 of the 86 trial sessions, examined 55 court documents, and interviewed 10 defense lawyers and six relatives of the imprisoned activists.

Based on the minutes of the hearings before the investigative judge assigned to the case, 50 of the 53 defendants said that police at the National Brigade of Judiciary Police (Brigade Nationale de la Police Judiciaire, or BNPJ) headquarters in Casablanca pressured them, one way or another, to sign self-incriminating confessions without reading their content. Twenty-one said that the police threatened to rape them or their wives or young daughters. Bouchra Rouissi, a defense lawyer, said that 17 of them told her that they had experienced physical violence during interrogation, including slapping, beating, and punching in the face while they were handcuffed, or that dirty rags were inserted in their mouths.



The defendants “confessed” to acts of violence against police officers, torching police cars and a police residence in Imzouren, a small town near El Hoceima, and organizing unauthorized protests. But all recanted before the investigative judge and later during the trial.

In its written judgment, the court stated that the defendants’ allegation of torture was “not serious and not well grounded” and thus the defense’s request to invalidate their confessions “should be rejected.” The court based this decision on 22 medical examinations ordered by the investigative judge and performed on June 6, 2017, and in some cases on examinations performed by a doctor working in Casablanca’s Oukacha prison. But the reports from the court-appointed doctor and the prison doctor deviate in key ways from those performed by the National Human Rights Council team.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Morocco has ratified, states that “any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings.” Morocco’s Code of Penal Procedure provides that “no statement obtained through violence or coercion shall be admitted into evidence.”

The defense argued that the court violated the rights of the defense in other ways. It refused to hear witnesses whom the defense considered to be crucial in providing alibis for at least two defendants. The court did hear from three other alibi witnesses, but ruled that their testimony was unconvincing. It also denied the defendants access to dozens of videotapes and wiretap recordings, which the judgement considered key inculpatory evidence, leading defense lawyer Mohamed Messaoudi told Human Rights Watch.

“The first instance Hirak trial was tainted by a serious failure to grapple with evidence of torture and forced confessions and other grave due process violations,” Benchemsi said. “The appeals court has an opportunity to show us what this is all about: bringing about justice, or crushing social justice activism.”

Torture And Rape Threat Allegations

The forensic reports commissioned by the National Human Rights Council note the detainees’ accounts of what happened to them, including the ill-treatment they say they

experienced, and assess their psychological states in detail. United Nations' guidelines for documentation of torture and its consequences, also known as the Istanbul Protocol, require such detailed assessments. But the reports of the court-commissioned forensic doctor provide little such information.

Jamal El Abbassi, the court-commissioned forensic doctor, found marks of violence on the bodies of 3 of the 22 detainees he examined, including Nasser Zefzafi, the leader of the Hirak movement. However, the doctor did not link



those marks to the unlawful police violence that the three men said they had endured. The court



denied a defense motion to invalidate the confessions of these three men.



In the judgment, the court determined, based on the assessment by the court-appointed doctor of



Zefzafi's injuries, that they were caused by his "violent resistance against police agents" during



his arrest on May 29, 2017, rather than by any unlawful police violence. The judgment was



silent on the causes of the injuries. Dr. El Abbassi found on the two other men.



Hicham Benyaïch and Abdallah Dami, the two Human Rights Council-commissioned forensic doctors, examined 34 Hirak prisoners. Of the 34, 16 had also been examined, 10 or 11 days earlier, by the court-commissioned forensic doctor. Dr. Benyaich and Dr. Dami found traces of violence on nine (of the above-mentioned 16) men that they said were consistent to various degrees with their accounts of police violence. They described

the “acute stress” and “psychological distress” many detainees experienced, and stated that “certain allegations [of physical and psychological violence in custody] are credible because they are corroborated by many concurrent testimonies.”

Rabie Al Ablaq, 31

The official minutes of his hearing on July 17, 2017 before Investigative Judge Abdelwahed Majid said that Al Ablaq, a journalist, said that on the sixth day of his interrogation at the BNPJ

 headquarters in Casablanca, that an officer took him to a different room where five unidentified  hooded men were standing who threatened to rape him with a bottle if he refused to sign a written statement presented to him by the police.  He signed. Al Ablaq also told the judge that a police officer forced him to hold up a Moroccan  flag and shout, “Long live the king.”

 The report by a National Human Rights Council-mandated doctor states that Al Ablaq, when  examined on June 15, 2017, alleged that while he was interrogated at the BNPJ headquarters in  Casablanca, he was beaten on his face while handcuffed, and a policeman ordered him to take his shirt off and then put a filthy rag in his mouth and threatened to rape him. Although the forensic report concluded that “the medical examination did not show signs of violence on (his) body,” it found that Al Ablaq “suffers from deep depression and cries continuously,” and

that his allegations of mistreatment are “generally credible due to their coherence and concordance.”

The investigative judge ordered a medical examination, which was performed on June 6, 2017, by a court-appointed forensic doctor, who concluded that “The [medical] examination on this day does not reveal signs of physical violence.” He did not comment on the defendant’s psychological state. In its written judgment, the court dismissed Al Ablaq’s allegations of mistreatment, noting that no mark

 was found on his body during the medical examinations. The judgment does not address the alleged threats and intimidation that he described to the investigative judge. The court sentenced Al Ablaq to 5 years in prison.

Mohamed Bouhnouch, 21

 The minutes of the investigative judge’s additional hearing on June 28, 2017, say that while Mohamed Bouhnouch, an electrician, was being interrogated, police agents slapped him, hit him on the neck, and pulled his beard. When he refused to sign the statement the police presented to him, police agents threatened to rape him with a bottle and burn his beard with a lighter. He signed.

The forensic doctor appointed by the investigative judge examined Bouhnouch on June 6. He reported that Bouhnouch suffered from torpor and back pain and had difficulties in straightening his head. The report did not

speculate on the causes of these symptoms, or correlate them with the mistreatment he said he endured.

The National Human Rights Council's forensic doctor reported on June 14, 2017, that the physical marks he found on Bouhnouch's body were consistent with his allegations, which, "if confirmed, constitute acts of torture and mistreatment."

In its written judgment, the court rejected the allegations based on a third examination



performed on July 6, 2017, by a doctor working in Casablanca's Oukacha prison, who wrote that he



found no traces of violence on Bouhnouch's

body. The court sentenced Bouhnouch to 15 years in prison.



Youssef El Hamdioui, 34



The minutes of his hearing on July 13, 2017 say



that Youssef El Hamdioui, a teacher, told the investigative judge that while he was being



interrogated, police officers slapped him on the face, pulled his hair, threatened to rape him with



a bottle and to lock him in a closet, knowing that

El Hamdioui suffers from claustrophobia. He told

the investigative judge that he signed a self-incriminating statement without reading it.

The court ordered no medical examination and in its judgment did not address his allegations of physical abuse. The judgment noted, however, that the doctor working in Oukacha prison

reported on July 6, 2017, that El Hamdioui suffered from psychiatric disorders. The court sentenced El Hamdioui to 3 years in prison.

Rachid Aamarouch, 28

The minutes of his July 19, 2017 additional hearing before the investigative judge say that Rachid Aamarouch, a street vendor, said that when he told the police officers interrogating him that he never participated in the Hirak protests, they forced him to shout, “Long live the king!”

Police agents later presented him with a

 statement that he read and refused to sign. A police agent then banged his head on the table

 and asked, “Really? So, you don’t trust us?”

Aamarouch told the judge. He signed the statement.



The judge had ordered a medical examination during Aamarouch’s preliminary hearing. A court-appointed doctor examined him on June 6, 2017,  noted that the prisoner stated having “not been subjected to violence,” and concluded that “The



[medical] examination of this day does not reveal signs of physical violence.” Eleven days later, a



forensic doctor appointed by the National Human Rights Council examined Aamarouch, noted his allegations that police officers slapped, punched, and kicked him during his interrogation, and observed that one of his fingers was out of joint.

In its written judgment, the court rejected the torture allegations based on the June 6 medical examination. It did not mention the National Human Rights Council report. The court sentenced Amarouch to 2 years in prison.

Hussein El Idrissi, 27

The minutes of his additional hearing on July 19, 2017, before the investigative judge, say that Hussein El Idrissi, a journalist, said that a policeman smashed a stapler on his back, then another policeman slapped his face and punched him. They presented him with a 150-page statement and told him to sign it. He refused to sign it without reading it first. Then the officers threatened to rape him with a bottle. He signed.

Police took his saliva, fingerprints, and a video of him in his underwear without his consent, he told the investigative judge, who ordered a medical examination after El Idrissi's preliminary hearing.

That examination, on June 6, 2017, did "not reveal signs of physical violence," according to the doctor's report. Eleven days later, a National Human Rights Council-mandated doctor examined El Idrissi and reported marks of injuries on three fingers of his left hand, "consistent with the date when they allegedly occurred (...) reportedly due to blows by the pointy edge of a stapler." In its written judgment, the court acknowledged El Idrissi's allegations of police abuse, but rejected them based on the June 6 medical examination, and did not mention the other report. The court sentenced El Idrissi to 5 years in prison.

Zakaria Adahchour, 27

The official minutes of his additional hearing before the investigative judge on June 28, 2017, say that Zakaria Adahchour, a plasterer, said that when he refused to sign a statement that the police officers presented to him, they slapped his face, punched him, and flicked on a cigarette lighter near his beard, threatening to burn it. He signed. A forensic doctor commissioned by the investigative judge examined Adahchour on June 6, 2017, and noted that the examination “does not reveal signs of physical violence.”



Eleven days later, a National Human Rights



Council-mandated doctor saw Adahchour, recorded his testimony, and reported irritation marks on his chin that he said corroborated both Adahchour’s account and the testimony of other detainees’ about the threat to burn his beard. In



its written judgment, the court acknowledged Adahchour’s allegations of police abuse, but



rejected them based on the June 6 medical examination, and did not mention the other



report. The court sentenced Adahchour to 15 years in prison.

***Omar Bouhras, 27***

The minutes of his hearing before the investigative judge say that Omar Bouhras, a mechanic, told the judge on July 3, 2017, that during his arrest in Al Hoceima, the police hit him on his face and chipped two of his teeth. He said that during his interrogation in Casablanca, police punched him in the face, demanding that

he give them “30 names of Hirak activists” and knocked out two teeth. When Bouhras refused to sign the statement police officers presented to him, they threatened to rape him with a bottle and slapped and punched him on the face several times, including while he was handcuffed, he told the judge. He signed.

The judge did not order a medical examination. The court’s written judgment did not mention the alleged physical abuse, though it indicated that a dentist “provided necessary care [to Bouhras] after he felt intense pain in his teeth” in

 Oukacha prison on June 6, 2017. The court sentenced Bouhras to 10 years in prison.



Mohamed Majaoui, 47



The minutes of his hearing before the investigative judge on July 18th, 2017, say that Mohamed Majaoui, a teacher, said that after interrogating him, police presented him a written statement and told him to sign it. After reading it, he said he realized that it included statements he didn’t make, such as incriminating Nasser Zefzafi, the Hirak leader. When Majaoui refused to sign, a police agent threatened to rape his wife and his young daughters, a photograph of whom sat on the agent’s desk. Majaoui signed. The investigative judge did not order any investigation into Majaoui’s allegations, and the court’s written judgment did not mention the alleged rape threats. The court sentenced Majaoui to five years in prison.

Abdel Khair Yasnari, 39

The minutes of Abdel Khair Yasnari's hearing before the investigative judge on July 19, 2017, say that at the end of his interrogation sessions, Yasnari, a butcher, refused to sign a written statement the police agents presented to him, because it included declarations he did not make incriminating Zefazfi. Later that night, Yasnari told the investigative judge, a police agent threatened to rape him with a bottle, while another one started pulling down his clothing as if to execute the threat. Yasnari signed. He later repudiated its contents before the investigative judge, who ordered no investigation into his

 allegations. The court did not mention the allegations of rape threats in its written judgment  and sentenced Yasnari to 2 years in prison.

 **Brahim Bouziane, 32**, a salesman, and **Karim Amghar, 34**, a butcher told the investigative judge, said the minutes of their respective  hearings on July 13 and July 17, 2017 that police threatened to rape them with a bottle if they  refused to sign prepared written statements.

They signed. The minutes of the hearing for

 **Abdelaziz Khali, 33**, a baker, on June 17, 2017, say that he told the investigative judge that police agents told him, after he refused to sign a written statement, "We will bring your wife here and you will see things that only happen in Syria." Khali signed the statement without reading it. The court did not open an investigation into these rape threat allegations, nor did the court's written judgment mention them. The court sentenced Bouziane to 3 years, Amghar to 10 years, and Khali to 2 years.

Human Rights Watch also consulted the minutes of the hearings of 10 other prisoners before the investigative judge: **Wassime El Boustati, 25**, a vendor; **Salah Lachkhem, 27**, a student; **Samir Ighid, 31**, a plasterer; **Mohamed Haki, 32**, a coffee shop manager; **Abdelhak Sadik, 27**, a vendor; **Fouad Saidi, 32**, a technician; **Othman Bouziane, 29**, a vendor; **Soulaimane Fahili, 31**, a security guard; **Bilal Ahabad, 20**, a student; and **Jamal Bouhdou, 43**, unemployed.

All ten men told the investigative judge that during their interrogation, police agents slapped them on their faces, punched and kicked them, and threatened them with rape when they refused to sign written statements. They all signed. The National Human Rights Council-mandated doctor who examined Ahabad, Fahili, Saidi and Sadik reported physical marks that he said “could be correlated to the (violence) allegations or could have happened in other contexts.”

Eleven days earlier, the forensic doctor commissioned by the investigative judge examined the same men, and concluded that Ahabad, Fahili, and Saidi had “no signs of physical violence,” while Sadik had an injury above his left eye, which, the report indicated, “could happen as a result of physical violence.” However, the report did not link the injury with Sadik’s allegations of torture. In its written judgement, the court rejected the mistreatment allegations of all 10 and sentenced them to between three and 20 years in prison.

Allegations of Pressure and Falsification

Nabil Ahamjiq, 34, a student; **Mohamed Asrihi**, 31, a journalist; **Abdelmohsine Attari**, 25, a construction worker; and **Abdelali Houd**, 29, a waiter, told the investigative judge that police agents deceived them into signing self-incriminating statements.

The hearing minutes say that Ahamjiq said on July 12, 2017, that after four days and nights of almost nonstop interrogation, police agents came to his cell at 2 a.m., awakened him, and took him in for interrogation again, then pressured him to sign a 200-page document despite his visible state of exhaustion. He signed.

Asrihi said on July 11, 2017 that police agents gave him many copies of his statement and pressured him to sign them quickly because of the approach of the *ftour*, the ritual moment, at dusk, when Muslims break the daytime fast during the month of Ramadan. He signed, and later discovered that the statement included self-incriminating statements that he had not made.

Attari on July 11, 2017 and Houd on June 28, 2017, described similar experiences. After several days and nights of nonstop interrogation, police agents presented them with written statements only minutes before *ftour*, or breaking the Ramadan fast. The defendants said they were exhausted and pressured to sign quickly, which they did, after reading only the first few pages.

Before the investigative judge, all four men repudiated the contents of their police statements. However, the court ordered no investigation into their allegations of pressure and falsification and did not mention them in the written judgment. The court sentenced Ahamjiq to 20 years in prison, Asrihi and Houd to 5 years each, and Attari to 2 years in prison.

Refusing to Allow Key Defense Witnesses to Testify

The prosecutor charged **Bilal Ahabad, 20**, a student, with setting fire to a police van and a building where families of police personnel lived in Imzouren, a small town near El Hoceima, on March 26, 2017. He charged **Samir Ighid, 31**, a plasterer, with attempted murder of a police officer, alleging that Ighid threw a concrete brick from the roof of a house in Al Hoceima on the officer on May 26, 2017.

Both defendants denied the accusations. Ighid said that at the time of the incident, he was attending the funeral of a relative. Ahabad said he was with two friends at the beach. The defense lawyers asked the court to summon Ighid's relatives and Ahabad's friends to testify. The court rejected both requests, providing no justification, and did not cite the requests in its written judgment. The court sentenced Ahabad to 10 years in prison and Ighid to 20 years.

Zakaria Adahchour, 27, a plasterer, was accused of criminal arson in Imzouren in the same circumstances as Ahabad, on March 26, 2017.

During the trial, the defense summoned three co-workers, who testified that, at the time of the event, he was with them at their workplace in Al Hoceima, about 20 kilometers away from Imzouren. However, in its written judgment, the court rejected the witnesses' testimony, saying "the fact that the witnesses [...] were not present [at the crime scene] and did not see the [acts of arson] and have no knowledge of the persons who perpetrated these acts, makes their testimonies useless." The court sentenced Adahchour to 15 years in prison.

Denying Defendants Access to Evidence

 The judgment indicates that the Casablanca Court of First Instance also based its guilty verdicts on dozens of videotapes and wiretap recordings. Some of these were played during court sessions. However, despite several requests by the defense, both orally during court sessions and in writing, the court refused to provide the audio and video files to the defense, Mohamed Messaoudi, one of the lead defense lawyers for the 53 Hirak prisoners, told Human Rights Watch. The judgment neither justified nor mentioned the court's refusal to allow the defense to view this allegedly incriminating evidence.

The court allowed them to review only written transcripts of several taped phone conversations among Hirak activists, translated to Arabic from Tarifit, the variant of the Tamazight language spoken in the Rif region. Messaoudi said that several defendants including Zefzafi had told the investigative judge, the prosecutor, and the trial

judge that the transcripts contained inaccurate translations into Arabic of the taped conversations. The transcripts were written and translated by police officers and not by sworn translators, as they should be to be considered admissible evidence in court, Messaoudi said.

Under the right to fair trial, as guaranteed in UN and African rights treaties, defendants have the right to have their key witnesses presented in court on the same basis as the prosecution.

Defendants equally have the right to see and be able to examine and challenge all the key



evidence and witnesses in the case against them.



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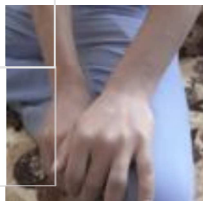
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