

# SUMMARY REPORT FOR THE UNIVERSAL PERIODIC REVIEW OF MOROCCO

The report for the Working Group on the Universal Periodic Review (UPR) presents information and data on the use of the death penalty in Morocco since the last session of the UPR (2017), for the 4<sup>th</sup> examination cycle (November 2022).

## FACTS AND FIGURES

- Morocco has observed a de facto moratorium since 1993. Moroccan courts continue to hand down death sentences on a regular basis.
- As of 31 March 2022, the Moroccan prison administration reported 79 death row prisoners, including 2 women.
- Between 2009 and 2019, 97 death sentences were pronounced by Moroccan courts.

## Recommendations

- **Formalise the moratorium on executions.**

## LEGAL FRAMEWORK

### National legal framework

- Article 20 of the Moroccan Constitution adopted in 2011 enshrines the right to life.
- The absence of decree prevents people from challenging the constitutionality of the law, especially in criminal courts.
- 49 legislative provisions provide for the death penalty. More than half of these provisions impose the death penalty for offences that do not meet the threshold of the most serious crimes under international law.
- The King has the right to grant clemency (Article 58 of the Constitution).
- A National Mechanism for the Prevention of Torture was created in 2018 following Morocco's ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and integrated into the National Council for Human Rights (CNDH).
- A draft revision of the Penal Code had reduced the number of crimes punishable by death to 11. This draft was withdrawn following the appointment of a new government in October 2021.
- The new version of the Code of Military Justice (2014) significantly reduced the number of offences punishable by death.

## Recommendations

- **Abrogate the laws providing for the application of the death penalty for crimes that do not meet the threshold of the «most serious» crimes under international law.**
- **End the detention of prisoners who have spent more than 15 years in prison and whose death sentences should be revised in accordance with the statute of limitations.**
- **Revise the Moroccan Penal Code, including the abolition of the death penalty, in accordance with Article 20 of the Constitution protecting the right to life.**
- **Encourage the role of MPs in the process of abolishing the death penalty and in particular for legislative reforms (Penal Code and Criminal Procedure Code), submission of bills, the dialogue with the Government, the use of oral questions, awareness-raising, and monitoring of the conditions of detention of prisoners on death row.**
- **Strengthen the capacity of actors of the judiciary about international minimum standards applicable to all persons deprived of their liberty, including those on death row.**
- **Include the right to visit prisoners on death row in the prison regulation.**

## International instruments

- Morocco has ratified the following treaties:
  - International Covenant on Civil and Political Rights (ICCPR)
  - International Convention on the Rights of the Child (CRC)
  - International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)
  - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (OPCAT).
- Morocco has neither ratified the Rome Statute nor the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (OP2).
- Since 2007, Morocco has systematically abstained from voting the UN General Assembly resolutions calling for the establishment of a universal moratorium on the use of the death penalty.
- During its 2017 UPR, Morocco accepted 5 (out of 19) recommendations related to the death penalty.

## Recommendations

- **Vote in favour of the UNGA Resolution calling for a universal moratorium on the use of the death penalty.**
- **Ratify the OP2, abolishing the death penalty in all circumstances, in accordance with the recommendations of the Equity and Reconciliation Commission (IER).**

## USE OF THE DEATH PENALTY IN MOROCCO

- Despite improvements over the past decade, prison conditions remain very difficult.
- The right to a fair trial and due process of people accused of capital offences is regularly violated.
- The majority of prisoners on death row (70%) are detained in the prisons of Kenitra, Moul El Bargui and Ras Elma Fès. The central prison of Kenitra has specific section for prisoners sentenced to death.
- Interviews conducted with people sentenced to death in 2019 revealed that 18% of them do not communicate with the outside world nor their families.
- In 2019, 96% of death row prisoners interviewed had no access to professional training.

## Recommendations

- **Ensure that all prisoners, without exception or discrimination, benefit from fundamental safeguards under national law from the very beginning of their deprivation of liberty.**
- **Ensure that all vulnerable people have access to legal assistance in all regions and at all stages of the procedure.**
- **Revise the criminal procedure in order to establish the obligation of conducting a medical and social expertise for the most serious cases.**
- **Ensure that prisoners are detained in the facilities closest to their homes. Ensure that prisoners sentenced to death at first instance are not transferred to prisons in other regions until the end of the appeal procedure.**
- **Continue to guarantee free and independent access to all places of detention to Moroccan civil society organisations, as well as to the National Council for Human Rights and MPs.**
- **Take all necessary measures to improve the conditions of detention of prisoners, including those sentenced to death, in particular regarding hygiene, food and sanitary conditions.**
- **Reduce prison overcrowding by using alternative sentencing measures and by introducing non-custodial alternative sentences in prisons where overcrowding remains endemic.**
- **Ensure access to health care for all prisoners, including through systematic medical examinations at the very beginning of the detention.**
- **Systematically and regularly carry out a psychological and medico-social assessment of death row prisoners.**
- **Work towards the transfer of death row prisoners to prisons located closer to their families.**
- **Ensure that prisoners on death row are not isolated or separated from other prisoners.**
- **Provide opportunities for education, training and activities for prisoners on death row.**
- **Allow prisoners privacy with their spouses in order to strengthen family ties and reduce tension and hostility.**
- **Establish a prison medical centre for prisoners suffering from mental disorders who are likely to backslide and create a regional forensic medicine service, responsible for medical diagnosis, psychological expertise of convicts and victims, and educational and social assistance to prisoners.**