

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

AI Index: MDE 29/012/2008  
Date: 23 July 2008

### Morocco/Western Sahara: Human Rights Lawyer Facing Disciplinary Charges

Amnesty International is concerned that Tawfik Moussaef, a widely respected lawyer, is facing disciplinary charges which may be connected to his human rights work and intended to intimidate or deter him. He is due to appear before the Court of Appeals in Rabat today, 24 July, to answer charges that he acted improperly in commenting on a case that was ongoing investigation. If he is being targeted because of his human rights work, Amnesty International urges that the charges against him are immediately dropped.

Tawfik Moussaef is accused of breaching Law No. 1.93.162, which governs exercise of the legal profession, notably Articles 12 and 36. These stipulate, respectively, that lawyers must not “say or publish anything that is contrary to the laws, regulations, public morals, security of the state and public order” and must “respect the secrecy of an investigation and abstain from communicating any information taken from (case) files or publish any papers, documents or letters related to an open inquiry.” The charges relate to two articles published in the *Annahar Al-Maghribiy* newspaper on 19 and 20 August 2006, entitled “*The lawyer of Ansar Al-Mehdi describes the case as fabricated*” and “*This case is fabricated*”, which included comments attributed to Tawfik Moussaef.

The articles were published following an interview with Tawfik Moussaef in which he expressed concern that one of his clients, Badr Bouziki, had been tortured and otherwise ill-treated while detained as a terrorism suspect. He also questioned the Moroccan authorities’ legal basis for implicating Badr Bouziki in the so-called Jammaat Ansar El Mehdi case, described by the Minister of Interior as an armed terrorist group. Over 50 alleged members of the group were arrested in August 2006 and accused of planning to carry out terrorist attacks on tourist sites, strategic government facilities and foreign holdings.

The *Annahar Al-Maghribiy* articles said that Tawfik Moussaef had described the Jammaat Ansar El Mehdi case as fabricated. He denies this, and only days after the articles were published wrote to the newspaper making this clear. He maintains that he does not bear any legal responsibility for the newspaper’s misinterpretation of his comments and its other additions.

Despite this, the General Crown Prosecutor called for disciplinary action to be taken against Tawfik Moussaef, accusing him of breaching the lawyer’s professional code. The case was referred to the Council of the Association of Lawyers in Rabat, which oversees the legal profession. The Council decided on 3 October 2006 to close the case. The Council’s decision stated that Tawfik Moussaef had not disclosed any secret information related to an ongoing investigation. The Council also accepted that the newspaper articles had misrepresented Tawfik Moussaef’s statements.

The General Crown Prosecutor appealed the Council’s decision to the Rabat Appeals Court on 9 November 2006, urging that Tawfik Moussaef be made subject to disciplinary action under

Article 60 of the law on the legal profession and to one of its four listed sanctions: warning, reproach, suspension which cannot exceed three years or expulsion from the legal profession.

Amnesty International is concerned that Tawfik Moussaef may be facing these disciplinary charges on account of his work as a human rights lawyer. He has acted as defense counsel for many people suspected or accused of terrorism-related offences and has publicly exposed and criticized the widespread use of torture and other ill-treatment in such cases and the denial of fair trial rights.

The UN Basic Principles on the Role of Lawyers make clear the importance of lawyers being able to speak freely about human rights. Principle 14 states: "Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession." Principle 23 states: "Lawyers like other citizens are entitled to freedom of expression....In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights."

Amnesty International regards that intimidation of lawyers who express views on the cases they are involved in, including where the case concerns human rights violations, is inconsistent with the duty of states to protect the role of lawyers and the legal profession. The organisation calls on the Moroccan authorities to protect lawyers from intimidation and harassment, in accordance with international law and standards. Principle 16 of the UN Basic Principles on the Role of Lawyers provides that "governments shall ensure that lawyers... shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

### **Background**

Morocco's Law on Combating Terrorism, promulgated in May 2003, does not adequately safeguard the rights of terrorism suspects. It extends the period of *garde à vue* (pre-arraignment detention) in "terrorism" cases to 12 days and limits contact between detainees and their lawyers – increasing detainees' vulnerability to torture and other forms of ill-treatment. Hundreds of real or suspected Islamists have been detained in recent years on suspicion of belonging to "criminal gangs" or planning or carrying out violent acts, scores of whom are alleged to have been tortured or otherwise ill-treated. Many have been convicted on the basis of evidence allegedly extracted under torture or other ill-treatment and sentenced to long prison terms or, in at least 12 cases, to death. The use of torture and other ill-treatment appears to have diminished since 2005, but the Moroccan authorities have failed to hold those responsible to account. In the majority of cases where complaints were made involving allegations of torture or other ill-treatment, investigations have either not been opened, have been dismissed without adequate investigation, or have not resulted in perpetrators being prosecuted.

END/