

Kingdom of Morocco

The Moroccan Equity and Reconciliation Commission

Three-part Summary of the Final Report

Part I: Establishing the Truth and Determining Responsibility

Taking into account that the period covered by the Equity and Reconciliation Commission (IER) is the longest of any comparable experiences (43 years); that the various crises of political violence that caused gross human rights violations were of an extremely varied nature and implicated both state and non-state actors; and considering the lack of reliable records and academic studies covering specific periods in the contemporary history of Morocco, the Commission's truth-seeking mission took several different forms.

The public hearing sessions with victims, broadcast by various public media outlets, and the hundreds of testimonies registered and preserved in the Commission's archives, as well as the academic conferences and dozens of seminars organized by the Commission or by non-governmental organizations from various sectors of society have all allowed the broadening of a pluralistic and composed public debate addressing half a century of national history. Furthermore, these activities made it possible to achieve a substantial leap forward in the process of establishing the truth about many events in this period of time, as well as about several types of violations, which had remained until then marked by silence, taboo, or rumors, particularly in regards to the issue of enforced disappearances.

During the national debate on the issue of human rights, this notion was used to cover several categories of missing people. For the sake of more clarity, the Commission employed a work methodology based on two parallel approaches

- **Field investigation:** The Commission visited the families of missing individuals and received them in its offices, to collect their testimonies, define their demands and explain its approach and methodology in handling this issue. It also held closed hearings with witnesses who had spent time with individuals considered missing. The Commission further carried out inspection visits to former detention centers and held hearings with former wardens who had practiced in these centers.
- **Research and examination of records and documents:** the Commission gathered and analyzed all the records made available by various local and international sources (lists, reports, etc.), and which, in one way or another, point to cases of disappearances (lists of local human rights groups, of Amnesty International, and of the UN Working Group on Enforced and Involuntary Disappearances). It also examined the answers presented by security forces and the Royal Armed Forces, as well as the documents that the International

Commission of the Red Cross have regarding those individuals who went missing as a result of armed clashes in the Southern provinces.

Following the hearings, cross-checking, and examination of the public authorities' answers, the Commission reached the following results:

- The Commission discovered, verified and specified the identity and places of burial of 89 individuals who died during captivity in Tazmamart (31), Agdez (32), Qal'at Mgouna (16), Tagounite (8), Gourrama (1) and in the surroundings of the Mansour Ad-Dahbi dam (1).
- The Commission discovered and specified the identity and places of burial of 11 individuals who died during armed clashes, 7 of whom died in 1960 (Barkatou Group and Moulay Chafii) and 4 others died in 1964 (Sheikh Al Arab Group).
- The Commission arrived at the conclusion that 325 people of those who were considered missing in fact died during the riots of 1965, 1981, 1984, as follows: 13 in Tetouan, 4 in Ksar El Kebir, 1 in Tangiers, 12 in Al Hoceïma, 16 in Nador and its surroundings, 1 in Zaïo and 2 in Berkane, as well as in 1990 (112 deaths) as a result of the public forces' disproportionate use of force. The Commission managed to localize some of the burial places without the identity of some of the victims, and in other cases, it identified the victims without managing to localize the places of burial. With the exception of the 1981 events of Casablanca, the Commission reached the conclusion that the victims were buried at night, in regular graves, in the absence of their families, and without any intervention by the public prosecution. A medical source further informed the Commission that the overall number of victims who died during the June 1981 events in Casablanca reached 142. However this figure needs to be verified.
- The Commission further determined that 173 people died during their arbitrary detention or forced disappearance between 1956 and 1999, in detention centers such as Dar Bricha, Dar al Maqarri, Derb Moulay Cherif Tafnidilte, Courbiss, etc., but was unable to determine their places of burial. 39 cases of deaths occurred in the first years following the independence during clashes opposing non-state actors, 14 deaths occurred in the 1960s, and a high number of deaths, namely 109 cases, occurred in the 1970s. The 1980s and 1990s were marked by a significant drop in the number of deaths: 9 cases in the 1980s and 2 cases in the 1990s.
- In the context of the conflict in the Southern provinces, the Commission's investigations allowed the elucidation of 211 cases of individuals who had been accounted for as missing, and these cases include:

- 144 persons who died during armed clashes: the identity and burial place of 40 of these have been determined, while the identity and places of the remains of 88 have been determined, but not their places of burial. Also, the Commission was unable to identify 12 people among those deceased, while 4 others died as a result of injuries incurred during clashes, after having been detained and hospitalized. They were buried in regular graves.
- 67 people among those presumed missing were in fact handed over to the International Commission of the Red Cross on October 31, 1996.

Conclusions:

- The total number of people whose fate was determined is 742;
- The Commission is convinced that 66 of the cases it examined have the constituting elements which suggest that they are cases of enforced disappearances, and the Commission believes that it is the State's responsibility to pursue the investigations to the end of uncovering these victims' fate. The Commission's investigations have allowed for great progress to be achieved in the truth-seeking process, therefore it is the Commission's recommendation that its experience, findings, testimonies, indicators and investigations be taken advantage of, and which constitute part of the Commission's archives.

The Commission faced obstacles in its truth-seeking mission, including the limitations and fragility of certain oral testimonies. However, these were overcome by referring to written sources. Other difficulties related to the deplorable state of national archives and the inadequate cooperation of certain authorities, whereby certain officials gave incomplete answers about cases they were questioned about, while certain former, retired officials refused altogether to contribute to the efforts to reveal the truth.

Having reached the end of its mandate, the Commission believes that it has accomplished an important step towards establishing the right to know the truth, by way of non-conventional methods, and that it has contributed to finding the truth about the gross human rights violations Morocco has experienced in its past.

Part II: Reparations

The IER made decisions on the files of 16,861 individuals who sent requests for reparations.

Compensation

The IER has made the following decisions: Of 9,280 victims who will benefit from compensation, 1,895 were recommended to receive supplemental forms of reparations (for example, reintegration into public function or other professional/administrative reparations); Moreover, 1,499 of those already benefited from previous compensation boards between 1999-2003 but were granted additional compensation by the IER. In total, the IER responded with compensation packages to 9,779 victims.

These decisions on compensation affect victims of the following violations:

- Forced disappearance
- Arbitrary detention with or without due process and/or followed by execution
- The killed, wounded, or arbitrarily detained during urban demonstrations/riots
- Forced exile
- Sexual violence

The IER based its decisions on six criteria of experience, treating all victims with equal respect:

- deprivation of liberty
- forced disappearance (a complex violation of the very basic human right to life)
- detention conditions
- torture and other cruel, degrading, or inhumane treatment
- the aftermath of physical or psychological abuse
- the loss of opportunity and earned income

In all of its decisions, the IER paid specific attention to gender, taking into consideration the unique suffering experienced by women in their experience with violations of human rights.

Medical and Psychological Rehabilitation

During its mandate the IER opened a medical unit to take care of victims needing immediate/urgent care. Moreover, in the course of its work, the IER analyzed close to 9,000 files of people who were rendered physically or psychologically ill by the violations they experiences. As such, the IER recommends the following:

- The obligatory extension of medical coverage to all victims and their beneficiaries
- The immediate care of close to 50 victims suffering from severe or chronic after-effects of violations
- The immediate creation of a permanent mechanism that gives medical assistance to victims of violence and abuse

Communal reparations

Based on the conviction that certain communities and regions are believed to have suffered, whether directly or indirectly, from the effects of political violence and the ensuing violations, the Commission brought a particular focus to the issue of communal reparations. As such, it:

- Organized and participated in seminars in various cities and regions (Figuig, Al Hoceïma, Errachidia, Khenifra, Marrakech, etc.);
- Organized a national forum on reparations, with the participation of over 200 organizations and 50 national and international experts; and
- Held consultative meetings with both the public authorities and civil society actors.

In this regard, the Commission recommends the adoption and support of socio-economic or cultural development plans tailored to a number of cities (such as Casablanca), and to specific groups (namely women), and regions (Rif, the Figuig region, Tazmamart, Agdez-Zagora, the Middle Atlas, etc.).

The Commission particularly recommends the transformation of the former illegal detention centers (Tazmamart, Agdez, Derb Moulay Cherif in Casablanca, etc.). Measures to that effect have already been initiated; indeed, the army has already dismantled the military barrack near Tazmamart, and the dismantling of the former detention center in Derb Moulay El Cherif has started, whereby the residents of the building where the detention center was located on the ground floor, are being evacuated and relocated.

Part III: Recommendations

In order to guarantee the non-repetition of the gross human rights violations that took place in Morocco and in order to advance the ongoing reforms, the IER is making a series of recommendations concerning institutional reforms, a national strategy for the fight against impunity, and the necessary follow-up stages for implementing the recommendations.

1. Consolidating constitutional guarantees to human rights.

Namely by ascribing to the principle of the primacy of international law on human rights over domestic law, and the presumption of innocence and the right to a fair trial, the Commission recommends reinforcing the principle of separation of powers, and constitutionally prohibiting any interference by the executive power in the functioning of the legislative power.

The Commission also recommends clarifying in the constitution the basic freedoms and rights, such as the freedom of movement, of expression, of demonstration, of association, of political organization, of gathering and of striking, the confidentiality of communications, the sanctity of residence, and the respect of private life.

The Commission further recommends strengthening the control of the constitutionality of laws and independent decrees issued by the executive power, by including in the constitution the right of a person under the jurisdiction of a court to claim an exception of unconstitutionality of a law.

Just as one-party rule is prohibited by the constitution, the Commission recommends the constitutional prohibition of forced detentions, arbitrary detention, genocide and other crimes against humanity, torture and other forms of cruel treatment or sentence, or inhuman or degrading treatment, as well as all forms of internationally prohibited discrimination, as well as any incitation to racism, hatred and violence.

2. Adopting and implementing an integrated national strategy to struggle against impunity

Based on the results of its final report, the Commission recommends the development of a comprehensive national strategy, integrated and multi-faceted in this field. This strategy should be based on the notion that the struggle against impunity requires, in addition to legal reforms, the development and implementation of a general set of policies in the fields of justice, security, order maintenance, education, and permanent training, as well as the active participation of the society as a whole.

The Commission believes that this strategy needs to be grounded in the rules of international law on human rights, making the penal code consistent with Morocco's international commitments, by:

- Incorporating and defining the responsibility and sentences as stipulated in international instruments;
- Empowering and holding responsible any employee in the public sector with the application of laws to report any information about the crimes committed, regardless of the party responsible for this act;
- To establish specific requirements for the protection of victims of gross human rights violations and their right-holders, as for example during hearings, by ensuring means of recourse for civil parties to appeal for justice through rehabilitation and reparations.

3. The Commission believes that in order to promote a state of law, there must be, in addition to all this, reforms in the sectors of security, justice, law, and penal policy.

Therefore, it specifically recommends:

- A. *The governance of the security apparatus*, which requires the habilitation, clarification and publication of the regulations and laws related to the prerogatives, the organization, and decision-making process in the sectors of security, and means of intervention during operations and supervision and assessment of all the intelligence service organs and executive authorities or any other party having the power to resort to public force.
- B. *Strengthening the legislature's autonomy*, which requires in addition to the recommendations related to the constitution, a reassessment of the statutes of the Higher Magistracy Council, by way of a functional law reviewing its constitution and mission. This would be necessary to ensure the representation of other, non-judicial actors within the Council, and establish its autonomy as far as its human resources and finances. This would also serve to grant it enough prerogatives to organize the profession and determine restraints, and assess the judges' work, educate them and task them with presenting an annual report about the judicial authority's work.
- C. *Finalize new legislation on the penal code and criminal system*. This requires strengthening the legal and procedural guarantees against human rights violations and implementing the recommendations presented at the national forum on penal politics held in Meknes in 2004. It also necessitates developing a clear and precise definition of violence against women, in conformity with international norms, and put into action the recommendations of the Consultative Council on Human Rights specific to prisons (expand the scope of jurisdiction of the judge in charge of carrying out sentences, adopting alternative sanctions, etc.).

4. Follow-up mechanisms

Being at the end of its mandate, the Commission recommends the adoption of mechanisms and norms charged with following-up on these steps:

- Implement the decisions related to compensation and follow-up on the implementation of recommendations about other forms of reparations, including medical and psychological rehabilitation of victims and communal reparations programs;
- Implement the recommendations specific to the truth-seeking processes with regards to still unresolved cases;
- Implement the Commission's recommendations related to reforms;
- Preserve the IER's private and public archives.