

Kingdom of Morocco
The Moroccan Equity and Reconciliation Commission

Summary of the Findings of the Final Report

Introduction

The Equity and Reconciliation Commission is composed of one President and 16 members, half of whom are members of the Consultative Council on Human Rights and the other half from outside this organization, in view of ensuring a representation of various trends, experiences and fields of specialty, all brought together by a same will to safeguard and promote human rights. Upon His appointment of the Commission's president and members on January 7, 2004, His Majesty the King delivered a grand speech, bestowing upon the Commission a historic role and significant responsibilities, as His Majesty deemed it equivalent to a Truth, Justice and Reconciliation Commission.

The Commission's statutes identify its mission, the violations to be covered, as well as its activities. The statutes were ratified by means of dahir (royal decree) number 1.04.42, issued on April 10, 2004.

The Commission was mandated to assess, research, investigate, arbitrate and make recommendations about the gross human rights violations that occurred between 1956 and the end of 1999. These violations include forced disappearances, arbitrary detention, torture, sexual abuse and deprivation from the right to live, as a result of unrestrained and inadequate use of state force and coerced exile. This mission's goal is to foster development and dialogue, and to create the grounds for national reconciliation crucial for a democratic transition in our country towards a state of justice and law, and for advancing the values and culture of citizenship and human rights.

The Commission carried out a comprehensive assessment to settle the case of forced disappearances and arbitrary detention, by way of contacts with the public authorities, civil society actors, the victims, their families and their representatives.

The Commission's truth-seeking mission further led it to conduct investigations, collect testimonies, examine official archives, as well as gather information and facts from various sources, in order to:

- Determine the nature and scale of the violations, in light of the norms and principles of human rights, democracy and a state of justice and law;
- Pursue the investigation of unresolved cases of forced disappearances and uncovered facts; reveal the fate of the missing and find adequate solutions for those whose death has been ascertained;
- Determine the responsibilities of state organs or other parties for the violations and other issues covered by the investigations.

With regards to reparations and equity for the victims, the Commission worked on settling the demands it received from victims of gross violations or right-holders. It also issued suggestions and recommendations related to the victims' moral and medical rehabilitation and social reinsertion and pursued the settlement of pending administrative and legal problems of certain victims, as well as issues of expropriation.

Considering the damage incurred on certain communities and regions, whether directly or indirectly, as a result of political violence and violations, the Commission has primarily focused on communal reparation. Thus, it has recommended the adoption of socio-economic and cultural development projects serving the interest of cities and regions, and it has further specifically recommended the conversion of former illegal detention centers.

The Commission prepared a final report presenting the conclusions of its research, investigations and analyses about the violations and its contexts, as well as its recommendations and suggestions to safeguard the memory and ensure the non-repetition of what happened, eradicate the violations' aftereffects, and restore and bolster trust in a state of law and the respect of human rights. Following is the executive summary:

Part I: The Truth and Determination of Responsibilities

1. The case of the missing

The lack of a clear definition in Moroccan law of the notion of forced disappearance, which is in fact a violation of all internationally-protected human rights, first being the right to life, has led to a proliferation of labels being used when discussing human rights issues in Morocco. These descriptions range from “those with an undetermined fate”, “abducted with an undetermined fate”, “abducted”, etc., but the truth is that these descriptions are not specific to forced disappearances only as per the internationally acknowledged definition, but include other forms of deprivations than the right to live, as a result of public forces’ excessive or inadequate use of power during social riots or as a result of torture and ill-treatment, or in the course of armed clashes.

Adding to this ambiguity was the fact that in certain cases of arbitrary detention, there were elements typical of a case of forced disappearance, such as keeping secret the place of detention and the refusal to reveal the fate of the detainees.

Consequently, just as much as the Commission was facing huge expectations from the society and the victims’ families for its truth-seeking mission into the cases of forced disappearances and for determining responsibilities, it also found itself facing varied and extremely complex cases. As a result, there were certain cases where the findings did not present constituent elements of the crime of disappearance.

Based on its analysis and findings related to those cases that are clear cases of forced disappearances, it is clear that this type of violation was used as a means of repression meant to instill fear and terror among political opponents and the society at large.

Based on its analysis of the cases of forced disappearances and its investigations, the Commission found that this form of violation was practiced against individuals and groups and was often related to political events that occurred during the period covered by the Commission. This conclusion has brought it to consider such cases as cases of forced disappearances as per the definition in its basic structure. Nonetheless, there were cases of disappearances whose victims had no direct affiliation to any political, communal or union activity.

Another conclusion it came to as a result of its findings, is the fact that forced disappearances were generally practiced upon isolated individuals, following their abduction from their places of residence or in unclear circumstances, and their detention in illegal places.

Taking into account that the period covered by the Equity and Reconciliation Commission is the longest compared to similar experiences (43 years), that the various crises of political violence have caused gross human rights violations, involving state actors and sometimes non-state actors too, and the lack of reliable records and academic

studies covering specific periods in the contemporary history of Morocco, the Commission's truth-seeking mission took on various aspects.

The hearing sessions with the victims, made public by way of the media, 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 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 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, most notably the issue of forced 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 adopted a work methodology based on field investigation coupled with records-based research.

- **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 Hocēima, 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. Excepting 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 died during armed clashes: the identity and places of burial 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 giving reason to believe that they are cases of forced 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 of certain oral testimonies and their fragility. However, these were overcome by referring to written sources. Other difficulties relate 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.

2. Arbitrary detention

Unlike forced disappearances which are practiced to strip the victim of any form of legal protection, and whereby all the actions perpetrated against the victim fall outside the scope of law, arbitrary detention is most often practiced within the realm of the law, with the violation of some or all of its clauses. In Morocco, there have been cases violating the law in order to place individuals under police custody. And as such, arbitrary detention was practiced in all its forms since the early 1960s, especially with cases of a political nature falling within the scope of ordinary courts. It is safe to say that arbitrary detention was practiced by granting extensive powers to the public authorities and the judicial police, exceeding those acknowledged for courts of appeal and of first instance which are required to issue sanctions hindering individuals' freedom only within the framework of penal law.

The circumstances of detention during the pre-trial stage in cases supposedly of police custody were generally characterized as follows:

- Detainees were forced to remain still and in one position, either seated or lying on the floor, hand-tied and blindfolded, from the time of their transfer to the illegal detention center, except when they were being subjected to torture
- Prohibition to talk and communicate with other prisoners
- Ill-feeding, both in quality and quantity
- Prohibition to go to the washrooms, except on rare occasions or depending on the warden's choice
- Lack of basic hygiene conditions and prohibition to wash during first months of detention. This situation caused women moral suffering, especially during menstruation periods
- Spread of lice and other insect pests
- Lack of medical treatment in case of illness, and in cases of extreme emergency, it was provided too late

- Sometimes depriving women from medical assistance in cases of miscarriage or birth

During the course of its investigations, the Commission inspected illegal as well as legal detention centers that were used for arbitrary detention purposes, in addition to the centers that were used for detention in cases of forced disappearances.

The information obtained from the victims and witnesses, as well as the Commission's field investigations, allowed to locate a number of places and centers that were used for arbitrary detention. It appeared that during periods of severe violations, certain security forces took full control over these places to ensure that the violations practiced within their walls remained undisclosed. This concealment also covered special sections used to receive victims of torture in hospitals and places of burial.

3. Torture and ill-treatment

Based on the files it was presented with, the oral testimonies collected during public and closed hearing sessions in its offices and on the victims' descriptions, the Commission determined the torture methods used on detainees to coerce them to confess or to punish them, and came to the following conclusions:

- Methods of torture were varied and aimed at inflicting physical or moral damage, or both together
- Methods of physical torture include:
 - The method known as "Hanging", whereby the victim is lifted above the ground, hands and feet tied in a way that is very painful. The victim is then beaten on his feet and other parts of his body
 - Burning with cigarettes
 - Pulling out nails
 - Forcing victims to drink polluted substances
 - Forcing victims to sit on a bottle

In addition to the great psychological and physical pain, these methods have also led to serious injuries in certain cases, causing moral damage, permanent damage, and even in certain cases, causing death.

- Methods of psychological torture practiced on both men and women include:
 - Threatening to kill
 - Threatening to rape
 - Insults, slander and various forms of humiliation
 - Isolation from the outside world and the ensuing feeling of insecurity
 - Deprivation of sleep
 - Absolute prohibition to communicate with other detainees
 - Torture members of the family, or relatives or threaten to do so

Torture was the preferred method to interrogate detainees on issues of a political nature. The goal was not only to extract confessions, but also to punish, take revenge and inflict physical and psychological humiliation. It is to note the determination to obtain confessions by any means possible, the unpredictability and unprofessional attitude, are all factors that contributed to augmenting the scope of practice of torture to the point where it was practiced even on individuals accused of common crimes.

Women suffered even greater pains than those inflicted by the methods aforementioned, and this is due to the fact that they were victims of particular forms of torture during the pre-trial period. This is mainly due to the fact that the perpetrators were men, and no consideration whatsoever for the victim's dignity, whereby she sometimes had to remain naked in front of her torturers, which naturally involved serious threats of rape that were sometimes translated into acts.

Women further suffered considerably when they were deprived of the minimum conditions of hygiene during their menstruation periods, which was an extreme method of torture.

4. Deprivation from the right to live, as a result of the public authorities' excessive and inadequate use of force

Based on the findings about the gross violations being covered by the Commission and obtained from various sources, as well as the investigations, it was possible to determine the responsibility of various security forces for these violations, and in most of the cases presented to the Commission. The Commission often found evidence of shared responsibility, and in certain cases, with the complicity of various forces.

Based on the cases it examined, which are related to the events of 1965, 1981, 1984 and 1990, and on the investigations and studies carried out, the Commission presents the following conclusions:

- Severe human rights violations occurred during these events, mainly characterized by the abuse of many citizens of their right to live, including children, and individuals who did not participate in any way in these events;
- These abuses resulted from the disregard of international human rights principles related to the conditions set for the practice of force by public authorities. Indeed, public forces exerted inadequate and excessive force, sometimes leading to death;
- Based on the investigations and the findings related to these events, it appears that the authorities fired live bullets in many cases, while failing to resort to other means for dispersing demonstrations without incurring deaths;
- Based on various records and testimonies related to these events, it appears that many victims died from bullets found in their skull, rib cage or stomach;
- The Commission noted a significant number of children among those deceased, some less than 10 years old

- In certain cases, the forces fired bullets inside houses through open windows or doors, injuring people inside, including children, elderly people and women. Some of them died from their bullet wounds. Testimonies made before the Commission, as well as records obtained from morgues, both confirm cases whereby corpses were dragged out from their houses;
- In the cases of victims who died inside their houses, the forces involved prohibited the victims' families from knowing where they were being taken and the places of burial; in fact, the authorities refused to register the deaths at the adequate administrations;
- The authorities failed to provide assistance and help to the injured, including to children who died as a result of bullet wounds;
- The Commission noted certain cases whereby the public forces paid no heed to the respect of the dead, as corpses sometimes piled up in trucks;
- The Commission inspected the places of burial of a large number of victims who fell during social riots, and it noted that despite the attention given to religious rituals and the fact that they were official graves, the burial was carried out at night, without notifying families and in their absence. The Commission also noted cases whereby these rituals were not respected, and victims were not buried in an orderly fashion;
- In all the cases it investigated, the Commission ascertained that the security forces did not notify the public prosecution of the deaths, the numbers and causes, except in one case only. This was why burials took place without the public prosecution's knowledge, and without the medical authorities carrying out their examination as per the law. Also, the prosecution did not open an investigation into the events mentioned above, despite official accounts that mentioned the fact that deaths were occurring;
- The official accounts that were published following these events, excepting one case (Nathour, 1984) contained information that did not reflect the facts on the ground as far as the number of deaths and their causes.

5. Conclusions

The Commission's mission represents 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.

Oral testimonies, as one of the sources of the Commission, contributed to clarifying certain ambiguities around the events covered by the investigations. However, in certain cases, these testimonies were limited and fragile in as far as those who witnessed these events described the same events in different ways, even in contradicting ways sometimes. Therefore, these testimonies are only partially useful in uncovering the truth in certain cases. This obstacle was overcome by cross-checking facts included in these testimonies and information from other sources, namely from official records.

Official records helped in establishing the truth about many facts related to cases which would have remained unclear had it not been for the information drawn from records controlled by various state organs. However, the Commission often had to grapple with the deplorable state of the archives and a non-regulated legal framework to control these sources and to impose sanctions in case of damage incurred or destruction. Furthermore, it was unable to access part of official records that supposedly exist, either because of the hesitations or slowness in delivering them, or because it was unable to make full use of the archives due to the limited period of its mandate (such as the military archives related to the history of the armed conflict in the Kingdom's Southern provinces).

The cooperation of central and regional organs affiliated to the Ministry of Interior significantly helped in the Commission's field work. Furthermore, this cooperation helped the Commission gain access to many witnesses from various administrative ranks and levels, whose testimonies have contributed to obtaining many of the facts.

In addition, working sessions were organized with the general directorate of studies and references and the general directorate of national security, which contributed to opening new channels of investigations for many cases by facilitating hearing sessions with former officials, and by visiting certain centers and "fixed points" that were used in the 1960s and the 1970s for detainment purposes. It is to note however, that not all state organs provided this level of cooperation, whereby some offered incomplete answers to cases they were presented with.

The high-level working sessions organized with the Royal Armed Forces at an early stage of the Commission's work were useful in the truth-seeking mission about cases of the missing or in elucidating the contexts of torture in the Southern provinces.

The closed sessions with some former officials contributed to achieving progress in certain cases, but in other cases the testimonies were incomplete.

Also, certain former officials refused to testify before the Commission - a fact that deprived the latter from sources that could have contributed to establishing the truth about certain facts it was investigating.

Because of the number of security forces involved in maintaining public order during the social riots, whether they acted in an alternating, parallel or overlapping fashion, the Commission was unable to determine the level of responsibility of each organ for the severe violations that occurred during these events.

Part II: Victims Reparations and Equity

The concept of reparations represents all measures and processes aimed at establishing the rights of victims of human rights violations. These measures and processes generally assume various forms, whether in the classical form of financial compensation or other forms of reparations such as rehabilitation, reinsertion, restoration of dignity or of confiscated rights, and recuperating whatever victims of violations lost or missed.

Based on a comprehensive approach to the issue of reparations, the Commission sought to relate this issue to other aspects of its truth-seeking mission, as well as promote justice and advance reconciliation. As such, it was especially cautious on treating the issue of reparations in a symbolic and material form, involving individuals, communities and regions. It further considered the issue of reparations as one of the key elements towards bringing the state to assume responsibility for what happened.

Moreover, the reparations program is perceived as a key factor for the reform process aimed at ensuring the non-repetition of what happened and fostering solid grounds for building a future. In this context, the process of restoring trust cannot be limited to providing material compensation or social services, but also has to guarantee the victims, as citizens, their full rights, including the right to participate in the reform process to advance a state of law and institutions.

1. Basic references

With regards to the issue of reparations, the Commission particular focused on the existing international legal framework, and since the beginning of its mandate, it took note of the latest developments in international law, as far as theory and practice. Following a thorough study of related documents and sources of references, the Commission reached the following conclusions:

- The international law includes important principles and norms in various international and regional covenants related to human rights. These include clear clauses stipulating the right of victims of gross violations to bring forth their complaints before the national competent parties. In fact, certain covenants include clear clauses stipulating the right of victims to demand compensation and reparations;
- The Human Rights Committee as well as the other committees involved in this issue shed particular importance in their efforts made both at the judicial and theoretical levels. Thus, along with the political efforts that the committee aforementioned deployed, a document was adopted, stipulating the basic principles according to which victims of human rights violations can bring forth complaints in view of obtaining reparations, as per international law and international humanitarian law;
- This document is one of the most important documents that the Commission has prepared, considering the principles and notions it stipulates that pertain to

the issue. This document enabled the Commission's in its approach to the issue of reparations.

2. Overview of Truth Commissions around the world

The Commission paid particular attention to the issue of reparations through the experiences of truth commission that were formed across the world, and this, through the studies it carried out and in-depth consultations in cooperation with experts from the International Center for Transitional Justice. Thus, the Commission concluded that there is no one model that can be adopted. Thanks to this, the Commission was able to:

- Determine the positive points and the gaps of certain experiences, as well as additions that the Commission could benefit from;
- Draw conclusions related to the philosophy and scope of the issue of reparations, particularly in how it relates to the issue of truth and how to face past violations in the context of what has become familiarly known as transitional justice.

3. Assessment of the former arbitration board

One of the Commission's tasks, stipulated in its statutes, is to draw a comprehensive assessment of the process of settling the past gross human rights violations, including an assessment of the former arbitration board. Thus, the Commission achieved the following:

- Study and analyze all the files that the arbitration board handled to settle the material and moral damage of victims and their right-holders, who suffered from forced disappearance and arbitrary detention. This included examining the decisions made by the board to compensate, disregard or cast as not falling under its jurisdiction. By this, the Commission formed a sensible opinion about the nature and quality of the efforts made by the former arbitration board;
- Take note of the former board's general approach, including the principles and rules it applied in view of assessing and determining the compensations to be made to the victims and their right-holders. In this context, the Commission prepared a document about the former arbitration board, which was used as a resource in assessing the national experience of settling past gross human rights violations. Furthermore, this document shed light on certain factors and conditions to assess this experience, and facilitated the process of relating it to the new elements of reparations, in the context of the expanded scope of jurisdiction of the Equity and Reconciliation Commission.

4. The reparations' policy and programs

A major part of the Commission's meetings and activities was devoted to preparing its approach and policy towards the issue of reparations. In a bid to include the national

general public, the Commission took note of the opinions put forward by national legal organizations, working at a national level or abroad, and this, by holding direct meetings with some of these organizations or through the memorandums and suggestions presented to the Commission.

Moreover, the Commission classified and analyzed the files presented to it and falling within its field of jurisdiction. It thus compiled the facts and statements included in these files about the violations and damages attributed to these violations and inflicted on the victims and their right-holders.

Based on its compilation of studies, research and assessments, the Commission thereafter worked on developing a general approach and specific programs to address the issue of reparations.

The Commission viewed the issue of financial compensation as one of the basic rights of victims of gross human rights violations. As such, it adopted the adequate principles and accounting norms to ensure equity and consistency between victims, and established the bases for compensating victims. Moreover, consistent with its comprehensive approach, the Commission gave equal importance to the remaining issues related to reparations. Thus, it included other elements in its reparations program, such as medical and moral rehabilitation, social reinsertion and settling the employment problems, administrative and financial issues as well as settling legal issues and expropriation cases.

The Commission gave equal importance to the issue of restoring dignity, by way of truth seeking, eliminating the aftereffects of violations and preserving memory as an essential component of its reparations approach.

Compared to other Truth Commissions experiences, the Commission adopted the following specific elements:

- Communal reparations aimed at rehabilitating regions that suffered gross violations and consequent damages such as marginalization and exclusion;
- Integrating a gender approach by focusing on women who were victims of gross violations.

Overall, the Commission's approach to reparations, including financial compensation, is based on the following principles:

- Justice and equity;
- International law on human rights, Morocco's international commitments, the lessons and experiences drawn from transitional justice processes around the world;
- To admit to the violations, establish the truth and ensure the non-repetition of what happened;
- Take measures to provide communal and individual reparations;
- Integrate a gender approach in the reparations policy and programs;

- Develop an approach specific to communal reparations,
- Involve the civil society;
- Determine the responsibilities in the individual and communal reparations;
- Restore trust in the rule of law and institutions;
- Honor the victims and rehabilitate them, and foster their sense of citizenship;

5. Preparing the files

The Commission first classified and conducted a preliminary analysis of all the files it received, numbering 20,046. These files were then brought down to the number of 16,861 in accordance to the conditions of acceptance. Most requests were merely letters containing little information on the identity of the victims. Therefore, once the Commission completed the process of opening the cases for the requests it received, it went on to complete the information and related accounts by:

- Organizing field visits to the regions from where a large number of demands were made; listening to the people directly involved, in view of completing the information included in their files;
- Corresponding with the remaining applicants in view of completing the accounts and documents in their files;
- Receiving them in the Commission's offices to complete the information included to their files;
- Preparing reports and studies, and conducting investigations and hearings. This was aimed at clearing out any uncertain facts or events, such as the locations where the violations occurred, their nature and scope, as well as the parties perceived as responsible for the violations, the number of victims and their ages, and the duration of their detainment.

The Commission classified the files it received in two sections:

- The files deemed as complete as far as the accounts and documents. In such case, the facts were then double-checked and summaries made, thus enabling the Commission to form an opinion on the alleged violations and take the adequate decisions;
- The files deemed as incomplete, therefore lacking the necessary information to confirm or negate the allegations made. In this case, the files were classified in such a way as to proceed with the necessary investigations.

In this course of this process, the Commission solicited the help of professors, academic researchers and lawyers, under the supervision of the team work especially assigned for the issue of reparations.

6. Settling the reparations files

The process aforementioned helped in specifying and limiting the files to those that do not require any scope of jurisdiction falling outside the Commission's statutes; were also

classified those that do require a specific field of jurisdiction and that identify those applicants whose claims to compensation are accepted as per the norms and assessment elements adopted by the Commission. On the other hand, this process singled out those files that require further evidence in order to either confirm or deny the allegations made by victims of human rights abuse.

On this basis, the Commission determined the financial compensations to be made and the remaining elements of reparations for all the files it retained.

6.1. Financial compensation

The Commission issued resolutions specifying the compensations due in all the cases for which the right-holders were proven to have been victims of violations.

6.2. Remaining elements of individual and communal reparations

A. Remaining elements of individual reparations

With regards to settling the legal situation, the Commission achieved the following:

- It prepared the list of people who face obstacles to their freedom of movement, and worked with the Ministry of Interior towards lifting these obstacles upon the victims' exit and entry into the country, as well as lifting the obstacles stopping certain victims of violations from their right to hold their passports;
- It prepared a draft memorandum to explain the comprehensive propriety amnesty issued on July 4 1994 and to explain its contents.

B. Settling the employment issues from an administrative and financial level

- Were identified the files related to individuals suspended or fired from an employment in the public or semi-public sector, and whose cases were not settled either partly or totally, based on the facts contained in the files and the accounts presented to the Commission;
- Were issued recommendations and memorandums about the cases and suggested measures to be taken by the adequate state organs.

C. Social reinsertion

- A list was prepared of those individuals who can claim to the social reinsertion program, as per the conditions stipulated in the remaining reparations program;
- The Commission held working sessions with the competent state organs and the Mohammed VI Institution for Solidarity, as well as the institutions responsible for employment and the public federation of contractors, in view

of reaching solutions for those victims who need to be socially reinserted or to undergo a professional rehabilitation program;

- The Commission presented suggestions in view of helping victims or the children of certain victims enter either educational programs or professional training programs, depending on their age;
- Expropriation cases were handled by preparing technical documents detailing the factual and legal situation of each case, according to the following criteria:
 - Cases of state expropriation, as a result of the violations inflicted on the victims;
 - Cases of financial assault on real estate property, during the victims' detention;
 - Cases of expropriation to public benefit, whereby suggestions were made to settle the cases with the competent authorities;
- Prepare memorandums with the recommendations made.

D. Medical rehabilitation

Medical rehabilitation was one of the Equity and Reconciliation Commission's main priorities. As such, it included this constituent in its comprehensive reparations approach by way of determining the specific medical problems that the victims or their right-holders face, and of seeking ways to resolve them.

In order to diagnose the state of the victims with possible physical or moral damage, the Commission examined the information contained in the medical files of each of the cases and prepared a preliminary report on the medical situation of the victims of human rights violations.

This report assesses the nature and level of the diseases inflicting the victims of human rights violations, and suggests alternatives and strategies for the permanent treatment of those suffering from diseases or disabilities, or for all the victims and their right-holders.

Results of the Study

Out of the 15,592 cases of victims or right-holders reviewed by the Commission, 9,992 cases (or 64.1% of the cases) include medical problems. Out of these, 2,006 files (or 20.1%) contain medical records that either totally or relatively provide evidence for the victims' medical situation. These victims underwent medical tests, either at the medical unit affiliated to the Commission, or as part of the medical tests carried out on the field by the Commission in cooperation with the Ministry of Health (in the Southern provinces).

A team of general practitioners and specialists, commissioned by the Ministry of Health and put at the disposal of the Commission, examined the medical records and issued their diagnoses and conclusions for each of the victims.

The results of the diagnoses of the 2006 victims were classified according to the International Classification of Diseases (10th edition). This enabled the Commission to determine the general medical damage incurred by the violations, and specify its various forms, particularly chronic diseases related to age for one group of victims, which grew more severe because of the physical and moral damage they suffered.

In addition to the Commission's efforts during the course of its mission to provide medical treatment in emergency cases, the Commission recommends that all those victims who were proven to have suffered from violations, and who amount to the number of 9,779, benefit from medical treatment.

7. Communal Reparations

The Commission's statutes mention the notion of reparations at a public or communal level. On such grounds, the Commission integrated in its approach its conclusions drawn from its field visits to those regions that suffered gross violations, or where the illegal detention centers were located. In parallel, the Commission benefited from the existing studies and researches, as well as analyses and ongoing debates, all of which helped it develop an arbitration mechanism in the realm of economic and social development in these regions.

Another key constituent in this new methodology was the Commission's inclusive approach. Indeed, all those concerned with the ongoing activities in the regions aforementioned participated in the Commission's activities, namely in the truth-seeking investigations about the gross violations or the research to complete the files' information, or still, to settle the cases related to the burial sites or the holding of public hearing sessions.

The Commission further took care to involve non governmental organizations active in the sectors of human rights, local development, as well as other agencies and development organizations active in these regions.

Thus, the Commission, with the participation of all these parties, was able to develop adequate economic development plans consistent with the comprehensive notion of communal reparations. This process led the Commission to issue recommendations towards strengthening already existing projects as well as adopting other projects that had not been planned, all of which bolstered the communal reparations approach and the related arbitration mechanism.

8. Results of the Commission's reparations approach

8.1. Individual reparations

A. Number of files presented to the Commission: 16,861

B. The files that received positive answers are classified as follows:

Decision taken	Number of files	Percentage
Financial compensation	6,385	38.7%
Financial compensation with other forms of reparations	1,895	11.5%
Recommendation only	1,499	9.1%
Total	9,779	58%

C. Classification of remaining files

Decision taken	Number of files	Percentage
Not applicable and transfer to competent authorities	66	0.4%
Retained	18	0.1%
Refused	854	5.2%
Dismissed	150	0.9%
Not accepted	927	5.6%
Not applicable	4,877	29.6%
Total	6,892	41.7%

8.2. Communal reparations

Based on the conviction that certain communities and regions believe 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;
- 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: Advancing Reform and Reconciliation

1. The process and constituents of reconciliation

The reconciliation process in Morocco took off in the early 1990s, assuming multiple facets and covering various sectors. This process was grounded in the appeal of certain constitutional laws, reaching a peak with the 1996 constitutional reforms, which brought the opposition into the government and resulted in a consensus over a set of laws related to the state of institutions and human rights.

During this process, major legal reforms were adopted, including the enactment of laws guaranteeing public freedoms, the elections, the abolishment of laws enacted during the colonialist period, reaching to the fundamental consensus among the various political and ideological currents to reform the personal status code.

Moreover, major institutional developments were achieved in order to advance and safeguard human rights. This started with the creation of the Consultative Council on Human Rights and its development in the context of the Paris Principles. Other developments included the institution of administrative courts, the creation of the Royal Center for Amazight Language and Culture, as well as the Higher Council for Audio-Visual Communication.

These developments significantly contributed to citizens' awareness about the importance of their participation in public, national and local affairs. They further contributed to strengthening freedoms of expression, of the press, of association and of demonstrating.

These changes illustrate the Moroccans' reconciliation with their past, a reconciliation confirmed by the speech of His Highness the King of Morocco, upon the creation of the Equity and Reconciliation Commission.

In the context of these political and institutional developments, the issue of human rights took a great leap forward at both an intellectual and cultural level. As a result, the legal process took act of the latest international principles and schools of thought on human rights laws as well as transitional justice processes across the world, in a bid to face Morocco's past gross human rights violations.

In agreement with the Moroccan people's reconciliation with their past, Morocco opted for the path of peaceful reconciliation, justice and equity to face the past violations. It chose reconciliatory justice over an accusatory justice, and historical truth over judicial truth. Indeed, such kind of justice cannot be dealt with in courtrooms but only in the public space, to include the social, cultural and political realms.

The Commission's statutes, namely paragraph 7 of chapter 9, stipulates one of the Commission's strategic goals, namely "contributing to the development of the culture and means of dialogue, fostering the constituents of reconciliation, bolstering the democratic

transition in our country based on a state of justice and law, and advancing the values and culture of citizenship and human rights”. Based on the conviction that reconciliation is a continuous process, the Commission adopted an inclusive approach in all of its programs and activities, whereby it immediately sought to foster the right environment for free discussions and serious dialogue about the factors of reconciliation. It did this by holding several seminars, meetings and field visits covering almost all of the national territory, coupled with a work methodology rooted in the close and continuous collaboration of the multiple actors brought together by a common understanding. This methodology contributed to better understanding what happened with regards to the violations, flaws, and breaches and paves the way towards building a common memory, often lacking in times of repression.

The Commission believes that the process of building a common memory takes its roots in free and democratic debates, which build up a common identity viewed as one of the main pillars of a nation. In other words, the Commission believes that the truth-seeking process and understanding of past violations are essential to an in-depth and long-lasting restoration of this memory and for achieving full reconciliation in its social and cultural meanings. Such principles, it is convinced, are more effective than any form of individual pardons or peacemaking between victims and those allegedly responsible for the violations.

In an effort to bolster the process of reconciliation and communal memory-building, the Commission expanded the scope of beneficiaries from the reparations programs, by integrating regions in which residents felt they had been marginalized as some form of communal punishment, either because of specific past events that saw gross human rights violations, or because former secret detention centers were located there. As such, the communal reparations program was formulated as an effort to translate on the ground the spirit of positive citizenship and social solidarity and to bolster the judicial approach and participatory democracy in the socio-economic development plans being carried out in Morocco.

As such, the Commission gave a priority to the rehabilitation of victims of gross human rights violations, through rehabilitation and reinsertion programs, efforts to restore their dignity, through communal reparations empowering the society at both the local and national levels towards participating in the ongoing democratization of the country, to restore trust in a state of institutions and the rule of law, and to ensure their effective participation by way of a sense of citizenship that fosters social justice and the belief in a truly modern democratic society.

In its truth-seeking mission about past violations, the Commission opted for an open methodology that integrates open and in-depth debates and encourages the participation of the society at large. This strategic choice gave precedence to the principle of state responsibility rather than individual responsibility.

Reconciliation is a crucial factor in guaranteeing the non-repetition of past events. As such, the Commission believes that the reform process initiated in the 1990s must carry

on towards establishing the full respect of human rights in the law and by way of institutions and practices and building a state of law. This is essential for democracy to be real, not just a mere sequence of mechanisms and forms.

The Equity and Reconciliation Commission was therefore tasked to carry out the truth-seeking mission and establish equity for victims of violations, in order to alleviate their sufferings, enable them to restore their dignity and sense of citizenship as well as contribute to the society's understanding of past events and pursue its efforts to foster human rights as one of the main bases for national solidarity and social cohesiveness. The Commission is convinced that this is all necessary to create the genuine conditions to overcome the tension, mistrust and despair within the society and to avert the inclination to settle conflicts through violence.

2. Bases for Reconciliation

2.1. Public acknowledgement of what happened: public hearing sessions

In the context of the reconciliation process, the Commission held seven public hearing sessions in six parts of the Kingdom with groups of victims of past gross violations, in a bid to restore the victims' dignity and moral rehabilitation, preserve a common memory, and share the pains and sufferings of the victims and alleviate the ensuing moral damage. These sessions further fulfilled an educational role towards the parties responsible, the public at large and future generations, thus marking a crucial step in the process of equity and reconciliation.

It was the first time that victims were allowed to speak out publicly. Their testimonies increased awareness about past violations and the ensuing sufferings, and the absolute need for the state and society to work together to avoid the repetition of past events. The first two sessions, held in Rabat on 21 and 22 December, 2004, marked the beginning of the "national dialogue" on past sufferings towards a genuine reconciliation of the Moroccan people with their past and between themselves. These sessions also contributed to exposing Morocco's experience and asserting its determination to build a truly democratic and modern state.

Moreover, these sessions convinced both the state and society even more of the need to adopt and safeguard human rights. Thus, it became a deep-rooted conviction to work on decisively turning the page on the gross violations and ensuring their non-repetition, and this, by way of publicly and officially admitting the scope of these violations and the sufferings brought upon the victims, their families, relatives and acquaintances, as well as their psychological, moral and financial damage at both the local and national levels.

In parallel, the Commission held open sessions with local actors in several Moroccan cities and villages, consulting with them and taking note of their opinions about possible means to ensure communal reparations to their regions and the citizens' reconciliation with their space and history.

2.2. National dialogue on reform and reconciliation

Since its inception, the Commission worked on creating the adequate conditions to foster free and serious debates about the factors of reconciliation. It did this by organizing several seminars, meetings and field visits across the country.

In this context, the Commission members carried out field visits to the regions that suffered gross human rights violations in the past, in order to communicate directly with the victims and their families. These visits marked a crucial opportunity to hear what the victims have to say or to support them morally and socially, or still, to complete the accounts already existing in their files. Furthermore, the Commission set up centers, in cooperation with the Ministry of Interior, to receive applicants and their right-holders and obtain their testimonies, in Azilal and Beni Mellal, and in the Southern and Northern provinces of the Kingdom.

It also held discussions in these regions with the victims and their right-holders; these discussions were conducted in an open and transparent atmosphere, and soon became similar to healing sessions for the victims, thus completing the role that the public hearing sessions played.

During these visits, the Commission members also coordinated with political and union representatives, with civil society actors and locally elected representatives in these regions. These encounters were focused on explaining the bases of Morocco's experience with transitional justice, and the importance of the reconciliation process with history and the self in promoting the democratic transition.

The Commission firmly believes that turning the page on the past and building a modern and democratic state and society in which rights and duties are respected is first and foremost a social issue that engages all Moroccans, either through their social, political or communal channels. As such, the Commission organized a series of consultative and academic meetings in a number of universities and with political, union and communal institutions. It also relied on the national cognitive and scientific expertise to carry out studies and projects necessary for its final report, and related to issues such as forced disappearances, arbitrary detention, education in human rights, social gender and violations, as well as to supplement the Commission's recommendations and suggestions.

The Commission held four academic and scientific seminars in Rabat, Marrakech, Tangiers and Casablanca, addressing the following points:

- Examine and criticize the literature of political detention
- The problematic of state violence from a theoretical, legal, political and historical point of view
- The trials and prosecutions of a political nature that took place in Morocco, during the period covered by the Commission and falling within its jurisdiction
- A national forum on reparations

Human rights and civil society activists participated in these events, as well as numerous intellectuals, academic researchers and practitioners.

It also held five discussion sessions in the form of public debates that were aired by media and posted on the Commission's website.

These sessions sought to include the general public in an open and responsible debate about the political, intellectual and historical aspects of the human rights violations that took place in Morocco since the independence, and about the causes that led to these violations and the repercussions they had on the country's political development. They further aspired to develop programs and practical plans towards establishing a state of law and institutions that safeguard freedoms and ensure the non-repetition of violations.

Cognitive and field experts participated in these sessions, as well as individuals active in the civil and political societies. The Commission deployed great efforts to analyze the political, economic and social contexts of the violations, and to search for effective means to overcome the sanctioning tools violating human rights. The sessions concluded with recommendations for institutional, legal and educational reforms that guarantee the respect of freedoms and the establishment of a state of law.

2.3. Preservation of memory and of the archives

Reconciliation with the past necessitates facing the past, namely the successive generations' experiences, and fostering communication between them in view of preserving memory. This process requires a comprehensive review of the public archives and setting the adequate conditions for an overhauling reform of their state.

To that end, the Commission held a seminar about archives in Morocco, with the participation of historians, archive and documentation experts who sought the following:

- Create a national interest among those involved in the need to organize the archives;
- Organize the archives and the national institution in charge of the archives, in a clear and transparent legal context, that ensures the maintenance and preservation and development of the archives; organize visits of citizens, researchers and institutions;
- The advancement of training programs for human resources specialized in that field, which possess the required know-how and expertise for the management of the archives.

With regards to the issue of arbitrary detentions, the Commission carried out a new approach to the goal of preserving memory, and this, by suggesting the transformation of the former detention centers into productive projects that would help in preserving memory. It thus held meetings and consultations with local actors, namely elected representatives, organizations, parties, and local authorities in the regions where these

centers were located, in addition to individuals and groups in those regions whose residents believe they were being marginalized and isolated as a result of the violations, these regions being in the Middle Atlas, the Rif, the East and South-East and Hawz.

3. Summary of recommendations and guarantees for non-repetition of past events

In the context of its recommendations, the Commission based itself on the following:

- International norms related to human rights and past experiences of transitional justice, as well as efforts achieved in the realm of human rights and democracy in the context of the United Nations or international parliamentary commissions;
- The conclusions of the Moroccan experience on the issue of the gross violations committed in the past, as far as their forms, scope and the institutional responsibilities related to them as well as the gaps in the sectors of law, justice and security;
- Studies and academic research addressing the judicial and organizational body of texts related to human rights, highlighting those that potentially hinder or, on the contrary, impact positively the respect of human rights. This enabled the Commission to determine those texts that should be strengthened and those that should be cancelled, or even those that need to be completed or enacted as guarantees and norms;
- Studies allowing to determine the prerogatives and responsibilities of human rights activists;
- Discussions and consultative meetings with political parties, non-governmental organizations and public authorities, thus enabling the Commission to receive varied recommendations about the issue;
- In-depth and phased debates between the Commission members, either collectively or through its teams and the experts, until the final agreement on the contents of the report and its formulation;

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 Commission of Equity and Reconciliation makes a set of recommendations about institutional reforms and a national strategy to struggle against impunity and pursue the implementation of 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 internal law, and the presumption of innocence and the right to a fair trial. The Commission also recommends reinforcing the principle of separation of powers, and prohibiting constitutionally 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 like 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, by making the penal law consistent with Morocco's international commitments, by:

- Incorporating and defining the responsibility and sentences as stipulated in international tools;
- Making responsible any employee in the public sector empowered 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 civilian parties to appeal for justice for 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 security organs, 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. Strengthen 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. To readapt the penal politics and the legislation. 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

Its mission being completed, the Commission recommends the adoption of mechanisms and norms to follow-up the following issues:

- Implement the decisions related to compensations, and follow-up 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 process with regards to still unresolved cases;
- Implement the Commission's recommendations related to reforms;
- Preserve the Equity and Reconciliation Commission's archives and public archives.