



Written contribution of Defenders for Human Rights Organization

Review of the initial report of the Kingdom of Morocco

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General context

The spread of gross human rights violations in the Kingdom of Morocco after its independence until the 1990s¹, hastened the intensification of national demands to correct the human rights path in Morocco, calling for the establishment of new approaches that respect the rules of practicing political affairs, far from waves of political repression and silencing of opposing voices in all regions of Morocco.

The adoption of a new approach by the Moroccan authorities, aiming for equity and reconciliation², to establish a transitional justice process, has brought relief to the Moroccan active forces, the victims' community, and their family members, through their follow-up of the Moroccan state's handling of the past of serious violations committed during what is known as the "Years of Lead", with the painful events that accompanied that.

Victims' associations, their families, and other components of the national and international legal and political spectrum have worked to track and monitor the various measures taken by the Kingdom of Morocco, whether to document that period of Morocco's history or individual and collective compensation for the victims and their families, as well as acknowledging the state's responsibility for what happened, revealing the full truth, or at the level of cutting off those practices and providing guarantees that what happened will not be repeated.

The Kingdom of Morocco's attention to its past to address the heavy legacy of serious violations and establish national reconciliation, compensate the victims, offer an official apology for what happened during that period, and establish a comprehensive transitional process to revising the legislation from impurities and adopting constitutional and legal guarantees to promote and protect human rights, and opens the way for citizens to participate in public affairs without fear of an unknown fate that may befall them as a result of their involvement in political matters.

¹ The political situation during the period of Morocco's independence was characterized by instability, as the political conflict between the various political parties led to the spread of a cycle of violence and tension within the framework of each party's attempt to seize power and consolidate it in the face of the other party on the one hand, and the repeated coup attempts by the military forces during the reign of King Hassan II, on the other hand.

These events combined led to severe repression of political opponents, as well as strict but coercive control over various sites of political action. These events and contexts left a heavy legacy of serious violations, tearing apart Moroccan society and leaving deep wounds in the souls of the victims, their families, and various social groups that were harmed by the violations committed in their regions.

² The Moroccan authorities established an Equity and Reconciliation Commission to turn the page on a painful past. As the first truth commission in the MENA region, the Equity and Reconciliation Commission sought to address the legacy of more than forty years of repression and human rights violations known as the "Years of Lead."

The commission was part of a gradual process of coming to terms with the past that began in the early 1990s. Since the completion of the commission's final report in 2005, the Moroccan state has taken further steps toward coming to terms with the past.



The Equity and Reconciliation Commission has largely responded to the aspirations of the Moroccan human rights movement, by bringing about a radical change in the state's dealings with individuals, groups, and the human rights movement in general.

The adoption of a final report of the Equity and Reconciliation Commission includes recommendations related to the need to acknowledge the responsibility of the state and its institutions, reveal the truth of what happened, and organize public hearings to enable the community of victims and their families to talk about their suffering and what they endured during their years of secret detention.

In addition to all of this, there is the will of the Moroccan state to complete the national reconciliation process, crowned by the Moroccan authorities' efforts to implement the Commission's recommendations related to legislative and institutional reform to ensure the consecration of this transitional reform process, which will not be completed without including constitutional and legal provisions in the Moroccan legal system, in harmony with the basic international human rights conventions.

The issuance of the final report of the Equity and Reconciliation Commission is considered a major determinant of the Moroccan authorities' orientations in the field of human rights, and the consecration of the transitional justice experience in Morocco, despite the lack of authority to prosecute perpetrators, with the accompanying measures to follow up on the Commission's recommendations, as it is impossible to prevent the recurrence of human rights violations such as enforced disappearance and kidnapping, guided by the momentum created by the establishment of the Equity and Reconciliation Commission and the subsequent institutional reforms and enactment of laws related to the protection of rights and freedoms.

The preparation of a parallel report by Defenders for Human Rights Organization³ falls within the framework of the organization's interaction with the review of the initial report of the Kingdom of Morocco before the Committee on Enforced Disappearances and includes the observations and recommendations of the Defenders for Human Rights Organization regarding the process of Morocco's ratification of the relevant convention.

³ Defenders for Human Rights is a non-profit, independent, and non-governmental organization dedicated to promoting and protecting the rights of human rights defenders in the North African region and internationally. Its members work to disseminate knowledge and protect human rights. The purpose of this organization is to provide human rights educational resources and activities that inform, assist, and unite individuals, educators, organizations, and government bodies in promoting and embracing the Universal Declaration of Human Rights at all levels of society.



This report aims to track and monitor the Kingdom of Morocco's compliance with Articles 1, 2, 5, 24, and 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the applicability of the Convention's articles to the Sahara region in southern Morocco.

The report also includes an assessment of civil society participation in monitoring the Moroccan state's compliance with its obligations under the International Convention for the Protection of All Persons from Enforced Disappearance in the Sahara region.



1. Regarding Articles 1 and 2 of the International Convention for the Protection of All Persons from Enforced Disappearance

1. After the issuance of the final report of the Equity and Reconciliation Commission, as a major determinant of the Moroccan authorities' orientations in the field of human rights, and the consecration of the transitional justice process in the country, and the accompanying measures to follow up on the Commission's recommendations, which resulted in comprehensive constitutional reform, and the full inclusion of the requirements of international human rights law and international humanitarian law, the constitutional document came forward in its treatment of the problem of enforced disappearance in the North Africa and Middle East region, as the constitutional text explicitly criminalized enforced disappearance, describing it as the most serious of crimes⁴.
2. While our Organization notes positively the inclusion of the Equity and Reconciliation Commission's recommendations related to adopting legislation that is consistent with the International Convention for the Protection of All Persons from Enforced Disappearance, in terms of explicitly criminalizing enforced disappearance in the constitutional document, the criminal law legislation is still not in line with the provisions of the Convention, despite the existence of a draft criminal law and criminal procedure that includes all the provisions stipulated in the Convention.

However, it has not yet been subject to the ratification procedure in the House of Representatives to make it effective, which explains the slow pace of implementing the Commission's recommendations contained in its final report.

Based on the above, Defenders for Human Rights encourages the State party to expedite the adoption of the draft Penal Code and Criminal Procedure Code in a manner consistent with the provisions of Articles 1 and 2 of the International Convention for the Protection of All Persons from Enforced Disappearance.

⁴ Article 2 of the Constitution of the Kingdom of Morocco states that "No person may be arrested, detained, prosecuted or convicted except in cases and under procedures provided for by law. Arbitrary or secret detention and enforced disappearance are among the most serious crimes, and their perpetrators are subject to the harshest penalties."



2. Regarding Article 5 of the Convention

3. The principles of the International Convention for the Protection of All Persons from Enforced Disappearance are based on international humanitarian law, in addition to the possibility of using the principles and rules of international criminal law in interpreting the crime of enforced disappearance.
4. The widespread and systematic practice of enforced disappearance constitutes a crime against humanity and entails consequences stipulated in applicable international law⁵, as declared by the International Committee of the Red Cross during the negotiations that led to the signing of the International Convention for the Protection of All Persons from Enforced Disappearance, considering this crime a violation of international humanitarian law and human rights, whether in international armed conflicts or non-international conflicts and violating several basic customary rules such as the prohibition of arbitrary deprivation of liberty, the prohibition of torture and other cruel or inhuman treatment, as well as the prohibition of executions.

Leaving families without news of the status and whereabouts of their loved ones not only places them in an intolerable state of uncertainty but also represents a denial of the right to family life and the right of families to know the fate and whereabouts of their loved ones⁶.

To strengthen the guarantees of protection against enforced disappearances, Defenders for Human Rights organization would like to draw the Committee's attention to encourage the State party to review its criminal law legislation to include the criterion of State participation or acquiescence in the classification of enforced disappearance, and thus distinguish between this crime and abduction committed by individuals, which will contribute to improving the accuracy of statistics on cases of enforced disappearance in the country and monitoring the State party's compliance with its obligations under the Convention.

⁵ See Article 5 of the International Convention for the Protection of All Persons from Enforced Disappearance.

⁶ Statement of the International Committee of the Red Cross to the United Nations Human Rights Council on the draft International Convention for the Protection of All Persons from Enforced Disappearance, Geneva, 27 June 2006.



3. Regarding Article 24 of the Convention

5. The inclusion of the crime of enforced disappearance in the Moroccan constitution and the demands to include it in the criminal law legislation, without being able to define the victim and the rights associated with the recognition of the commission of the crime of enforced disappearance, such as the right to know the truth, the progress of the investigation and its results, and the fate of the disappeared persons, including the appropriate measures and procedures to confront this serious violation, renders the efforts of the state under review incomplete.
6. Including a full definition of victim in the situation of enforced disappearance is part of strengthening the protection of persons subjected to this grave violation and protecting their right to know the truth, to be released, to receive redress, and to obtain fair and adequate compensation.

The Defenders for Human Rights Organization notes the absence of any definition of victims of enforced disappearance in the national legislation of the Kingdom of Morocco and calls on the Committee to draw the attention of the State party to the need to adopt a definition of the victim in Moroccan criminal law that is consistent with the requirements of Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance.

4. Regarding Article 31 of the Convention

7. Defenders for Human Rights Organization recalls that the Kingdom of Morocco ratified the International Convention for the Protection of All Persons from Enforced Disappearance, without issuing a declaration under Article 31 of the Convention relating to the Committee's competence to receive and consider communications⁷.

⁷ Morocco ratified the International Convention for the Protection of All Persons from Enforced Disappearance on May 14, 2013, without issuing a declaration recognizing the competence of the Convention's committee to receive and consider complaints from individuals subject to its jurisdiction, which deprives victims and their families of the possibility of seeking redress before the treaty committee.



8. In line with the will of the Moroccan state expressed in the final report of the Equity and Reconciliation Commission and the establishment of a committee to follow up on the implementation of its recommendations and the Kingdom of Morocco's engagement in all basic human rights conventions and their additional protocols, and the development of the conventional practice that has contributed to improving the climate of rights and freedoms in Morocco, the duty to complete the measures and procedures for implementing the obligations of the Moroccan authorities under the International Convention for the Protection of Human Rights requires the State party to issue an explicit declaration accepting the competence of the Committee to receive and consider individual complaints.

The organization therefore recommends that the Committee invite the State party to make the declaration provided for in Article 31 of the Convention regarding the competence of the Committee to receive individual communications.

5. Regarding the situation in the Sahara region

9. The continuation of the conflict between the Kingdom of Morocco and the Polisario Front, supported by the Algerian Republic, has been accompanied by many allegations related to the Moroccan authorities committing serious human rights violations, after the democratic change that took place in Morocco and the opening of transitional justice process that culminated in the establishment of an equity and reconciliation commission whose mission is to reveal the truth about the events of political violence and serious human rights violations committed between 1956 and 1999.
10. However, the allegations directed against the Kingdom of Morocco have not stopped, despite Morocco's expression of a supreme will to respect and promote human rights, and its involvement in establishing a culture of human rights in legislation and practice.
11. Dealing with the issue of enforced disappearance in the context of the Sahara region is of utmost importance, as many stakeholders resort to using the human rights paper on the report on the situation in the Sahara to embarrass Morocco in international forums, and their reports rely on unreliable and inaccurate sources, especially in the field of the monitoring of the allegations of violations committed in the Sahara region.
12. International NGOs have been publishing allegations of enforced disappearances in the Sahara region of southern Morocco⁸ without being able to prove them.

⁸ In this regard, the organization Defenders for Human Rights refers to the case of Lahbib Aghrishi, a Sahrawi from the city of Dakhla in southern Morocco, who had disappeared under mysterious circumstances. It was later revealed that the case was related to a murder committed by his partner in commercial and currency exchange activities. However, some parties affiliated with the Polisario organization intensified their efforts to classify the incident as an enforced disappearance to pressure the Moroccan authorities on international forums and mechanisms.



These reports contain false information and fake news about the human rights situation in the Sahara, especially concerning enforced disappearances and torture. The Defenders for Human Rights organization notes that international organizations have included unfounded information about the enforced disappearance of 15 young Sahrawis who disappeared in December 2005, while trying to travel to the Canary Islands, via small boats.

Organizations supporting the Polisario movement have promoted this incident, considering it to be the kidnapping of Sahrawi opposition activists, who were fleeing for fear of being arrested⁹.

13. These organizations have been repeating these allegations on local websites¹⁰, but there is no evidence of this, because many people who are candidates for irregular migration may suffer engine failure or get lost at sea, as was the case with many young people who were rescued at sea by boats belonging to the Moroccan Royal Gendarmerie on several occasions.
14. Concerning the implementation of the mandates and recommendations of the Equity and Reconciliation Commission, organizations supporting the Polisario go so far as to say that Sahrawis are excluded from the work of the Commission, which is contrary to the truth, neither in terms of the composition of the Commission¹¹, nor in terms of dealing with the public hearings¹² that were broadcast on the regional channel of Laayoune, nor through the field visits organized by the Commission's members to the Sahara region, considering it one of the regions that has been subjected to serious violations of human rights, whether at the level of individuals or groups, or its exclusion from any development programs.

⁹ The young men who disappeared while trying to migrate by sea to the Canary Islands are: Hamad Al-Baithi, Sidi Ahmed Abdel-Wadoud Al-Alam, Al-Saddiq Sid Ahmed Boutenguiza, Sidi Ibrahim El Mokhtar Al Youssfi, Abderrahman Sidi Mahmoud Lakhli, Abderrahim Essamlali, Ahmed Azmir, Ali Salem Lafdil Moul Addar, Moustafa Mohamed Fadel Alyoussfi, Khalihenna El Bachir Arrais, Habibou Allah Sidi Mahmoud Lakhli, Laaroussi Mbareak Assouyeh, Ahmed Sidi Ahmed Lakwara, Said Laaroussi Akrita, and Lahbib El Bakai Halab.

¹⁰ See the Algerian newspaper Al-Shorouk, dated August 31, 2023

<https://www.echoroukonline.com/%D8%A7%D9%84%D8%B5%D8%AD%D8%B1%D8%A7%D8%A1-%D8%A7%D9%84%D8%BA%D8%B1%D8%A8%D9%8A%D8%A9-%D8%AD%D9%82%D9%88%D9%82%D9%8A%D9%88%D9%86-%D9%8A%D8%B7%D8%A7%D9%84%D8%A8%D9%88%D9%86-%D8%A7%D9%84%D9%85%D8%AC>

¹¹ The Equity and Reconciliation Commission consists of its late president, Driss Benzekri, and 16 members, including a member from the Laayoune city, namely the former advisor to the Court of Cassation, Mr. Maa El Ainain Maa El Ainain.

¹² It is worth noting that opening a public debate in Laayoune about the past serious violations committed in the Sahara region and the audacity of the Moroccan state in taking this step, provoked the ire of activists loyal to the Polisario's theses, so they issued calls to boycott those direct dialogues with victims, experts, and components of the human rights movement. After the failure of this effort, they issued calls for the necessity of intensive attendance at those meetings to thwart them, as happened in the meeting organized in the city of Smara.



15. In order to dare to open the file of the serious violations committed in the Sahara region, the Commission opened a regional office in the city of Laayoune to receive victims and respond to their needs, and scheduled meetings with groups from the Sahara, victims of those violations, which contradicts the claim of those organizations, that the Sahrawis never wanted to deal with the Equity and Reconciliation Commission, citing separatist tendencies.

In this context, Defenders for Human Rights would like to draw the attention of the Committee on Enforced Disappearances to the need for and importance of verifying and examining false information and fake news provided regarding allegations of enforced disappearances in the Sahara region, because our organization has monitored and documented many pieces of information and news based on false data and facts, and these actions create ambiguity about the true human rights situation in the region.