



Written contribution

From the Moroccan Forum for Truth and Justice within the framework of discussing the report submitted by Morocco to the Committee concerned with enforced disappearances

Pursuant to paragraph 1 of Article 29 of the
Convention

27th session of the committee on enforced
disappearances

General context

- 1- This written contribution is submitted by the Moroccan Forum for Truth and

Justice as part of the discussion of the submitted report

By Morocco to the Committee on Enforced Disappearances under Article 29, paragraph 1, of the Convention, during the 29th session of ;the Committee's sessions

- 2- The Moroccan Forum for Truth and Equity is an NGO that comprises political detainees, exiles, victims of enforced disappearance who ,have been released, the rest of the families of enforced disappearance victims of extrajudicial killings during major social upheavals, and all victims of grave violations in Morocco. It was established in 1999 to strive for an equitable and just turning of the page of grave human rights violations .And launching a transitional justice series The Moroccan Forum for Truth and Equity continues its activity in order to bring to completion the institution of justice for the victims in accordance with the standards of international human rights law, to continue revealing the truth about cases of outstanding gross human rights violations, to put an end to the phenomenon of impunity, and to implement all the recommendations of the Equity and Reconciliation Commission. Follow up on the respect and protection of all rights contained in the International Covenant on Civil and Political Rights and the protocols attached to it, and ensure that social and political conflicts are managed on a peaceful and democratic basis; And -advocating and pressing for the harmonization of national legislation with the standards of international human rights law, international humanitarian law, and international conventions related to gross violations of human .rights

- 3- The Moroccan Forum for Truth and Equity welcomes Morocco's submission of its initial report to the Committee on Enforced Disappearances, pursuant to the first paragraph of Article 29 of the

International Convention for the Protection of All Persons from Enforced ;Disappearance

- 4- The Forum also welcomes the constitutional criminalization of all crimes of gross human rights violations, including the crime of enforced ;disappearance (Article 23 of the Constitution)
- 5- The Forum points out the penultimate response of government to its demands that the National Plan for Democracy and Human Rights include .sections related to security governance and the prevention of impunity
- 6- The Forum also welcomes the positive interpretation of the constitutional criminalization of enforced disappearance contained in the report, which states that enforced disappearance “is equivalent in law, jurisprudence and before-justice, in terms of degree, seriousness and effects, to crimes against humanity and .war crimes” (point 10)
- 7- Also welcomes the provisions relating to the crime of enforced ;disappearance contained in the draft amendment to the Criminal Code
- 8- Finally, it welcomes the various programs aimed at training the personnel of the security bodies (the law enforcement officers) and the judiciary in the areas of human rights protection, including ;protection against enforced disappearance
- 9- We do not agree with the view expressed in the report regarding the delay .in its submission and the reasons for this delay
The desire to prepare it in a manner consistent with efforts to complete“ the results of the transitional justice experience in Morocco” (point 2) does not constitute a justification for delaying the submission of the report that was scheduled to be submitted in 2015, especially since the Equity and Reconciliation Commission has completed its work since 2006 and the initial report on the work of the follow-up body of the Advisory Council For Human Rights(currently the National Council for Human Rights) was presented to the

public in 2009 and 2010, and as for the supplementary report on the work of the body affiliated with the National Council for Human Rights, which was expected to be published more than eight years ago, it has not yet been published

- 10- The delay appears to be the choice of a fixed measure regarding the implementation of the recommendations of the Equity and Reconciliation Commission and the rest of the results of settling the file of gross human rights violations
- 11- Morocco signed the International Convention for the Protection of All Persons from Enforced Disappearance in February 2007, while it only ratified it in December 2013
- 12- Morocco was required to submit the initial report on the work of the International Convention for the Protection of All Persons from Enforced Disappearance to the Committee on Enforced Disappearance in 2015, and ;it was not submitted to it until 2021
- 13- The Equity and Reconciliation Commission ended its work in 2006, and the Moroccan government's commitment to implementing the Commission's recommendations was not included in its government program until 2016 ;A commitment that disappeared in the current government's program
- 14- The 2011 Constitution criminalizes enforced disappearance and other crimes of gross violations of human rights and crimes against humanity .The National Criminal Code has not been adapted to this criminalizationThe draft amendment to the criminal law and criminal procedure has not .yet seen the light of day
- 15- It is hoped that a complementary report on the follow-up work on the file of violations established by the National Council for Human Rights was .completed eight years ago, but it has not yet seen the light

The experience of transitional justice in Morocco

- 16- We also do not agree with the expression in Paragraph 2, “which was mostly done by the end of 2018” (Paragraph 2). In the context of talking ,about completing the results of the Equity and Reconciliation Commission whether in terms of the year referred to or in terms of the idea of ...completion,” which has been talked about for at least the last ten years“ knowing that the supplementary report prepared by the National Council ;for Human Rights more than eight years ago Years still unpublished
- 17- Regarding what was stated in the report regarding investigations into enforced disappearances completed by the Equity and Reconciliation :Commission and the National Council
- 18- The experience of transitional justice in Morocco, at the heart of which was the establishment of the Equity and Reconciliation Commission, constituted a prominent event in the process of addressing the issue of serious violations in Morocco, and important and distinctive .results were achieved
- 19- The work of the Equity and Reconciliation Commission in particular has .enabled significant progress in a number of aspects of transitional justice Truth” has witnessed significant quantitative and qualitative“ development. Dozens of incidents of violations, their places and times, and the names of their victims were revealed. A number of individual and mass graves were also uncovered, and a number - albeit incomplete - of DNA results for some known victims... These facts were also recorded in

arbitration decisions that served as official quasi-judicial records by the Equity and Reconciliation Commission, and these decisions included in addition Reparations are areas of concern to social, administrative and .health inclusion

The final report of the Equity and Reconciliation Commission included very important recommendations regarding the institutional and political reforms necessary to establish non-recurrence and expand the circle of .rights and democracy

20-However, the commission's work was marred by important deficiencies, such as the weak involvement of the victims' movement and the human rights movement in general, the restriction of the victims' freedom while presenting their testimonies in public hearings, and the failure to adopt judicial research mechanisms such as interrogation, collecting evidence, arguments and evidence, and accessing official archives to enable one to identify various ,sources. And various... and limited itself to documentary research: records archives, documents of associations, international organizations, family documents, and other field research: visits to secret places, access to regular cemetery records, and receiving testimonies from family survivors and .statements from former guards

21-On the other hand, this nature has limited the degrees of involvement of national constitutional institutions: the government, parliament, and political parties. Any reference regarding the report and recommendations of the Justice Commission and the implementation of the recommendations contained therein was not included in most party programs, general and electoral, or in any of the government programs

until the 2016 borders. When, at the insistence of the Forum, the phrase implementing the recommendations of the Equity and Reconciliation“ Commission” was added to the general introduction to the government .program without attaching it to any clear and specific commitments

- 22-Regarding the committees of the National Council for Human Rights to follow up on the implementation of the recommendations of the Equity and Reconciliation Commission, whose continuation is recorded positively by the Forum as the body that maintained the “official” follow-up work to implement the recommendations in all their aspects, the work of these committees was mostly focused on recommendations related to “social ,inclusion and settlement.” “Administrative and reparations” and, secondly ,truth” without recommendations for political and institutional reform“ and no significant and decisive progress in the field of truth occurred .during this period

Recommendations

- 23- It is necessary to complete the disclosure of the fate of the outstanding cases mentioned in the reports of the Equity and Reconciliation Commission and the National Council for Human Rights, and to reveal the personal identities of more than 120 of those who died during social events, and the burial places and graves of more than 460 victims of violations, and to verify the identities of the remains found in the discovered graves with accreditation. In our view , anthropological analysis and advanced technology for DNA analysis need a complementary national effort in the field of truth. A more effective national effort is limited to investigations into what remains of the truth “exclusively.” As for

the rest of the aspects of transitional justice accomplished within the framework of the Moroccan experience, especially its aspect related to reforms. Institutionalization requires continued implementation and only .implementation

- 24- Quitting the practice of enforced disappearance must be a shift of paradigm, in line with the logic of the national experience in the field of transitional justice in particular, and with democracy and human rights as a pillar of the country according to the content of Chapter One of the Constitution. We recommend declaring “the Committee’s competence to receive and consider communications submitted by individuals subject to its jurisdiction or submitted on behalf of individuals subject to its jurisdiction who complain that they are victims of a violation” as stipulated in the first paragraph of Article 31 of the Convention, especially since the operative part of the first and second paragraphs of Article 35 of the Convention is a statement Committee concerned In cases Disappearance Forced about component Specialization Timeline They are clear in limiting the Committee’s jurisdiction to cases of enforced disappearance that began after the entry into force of the Convention, and limiting the obligations of the State Party to cases of enforced disappearance that began after the ;Convention entered into force for it
- 25- For the same reasons and objectives above, and in response to what was stated in the section “Ratified agreements and their place in the constitution and the law,” and since the recommendations of the Moroccan transitional justice, established “the increasing adherence to international human rights law and that it is one of the “basic foundations of constitutional reform to the extent described in the speech of the Head of State, His Majesty The King on March 9, 2011 b: “The appropriate

recommendations of the Equity and Reconciliation Commission.” We believe that Morocco must expand guarantees

26-Confirming the break with the crime of enforced disappearance by ratifying a system in implementation of the second recommendation of the Equity and Reconciliation Commission regarding continuing to .adhere to international human rights law conventions

Whereas the general or systematic practice of enforced disappearance is a crime against humanity according to Article 5 of the Convention and according to the positive interpretation of the constitutional criminalization of enforced disappearance contained in (point 10) of this initial report; Since the subject of the jurisdiction of the Rome Statute is precisely crimes against humanity, and since the temporal jurisdiction of the Convention begins after the completion of its ratification of the Rome Statute; Ratifying the Rome Statute will support the transitional justice experience in Morocco and provide an additional .support against the possibility of relapse

27-Within the framework of Morocco’s implementation of its contractual obligations regarding the Convention for the Protection against Enforced Disappearance, ratification must be expedited to bring the national criminal system into line with the requirements of the Convention and the .requirements of the Moroccan Constitution as soon as possible

28-In this context, and in order to overcome the political considerations that may be the reason for the repeated postponement of amending the national criminal system, and in order to accelerate the implementation of Morocco’s obligations towards the Convention for the Protection against Enforced Disappearance, it may be wise to implement a partial amendment to the criminal law and criminal procedure that concerns the relevant

articles of the subject, as has been done. On the issue of criminalizing
.money laundering, for example