



**Tindouf Camps Watch**

DIGNITY FIRST



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المنظمة الإفريقية لحقوق الإنسان والتعمية

الشبكة الدولية  
لحقوق الإنسان  
والتعمية



Réseau International  
des Droits de l'Homme  
et de Développement

**Written contribution of the NGO Coalition for Dignity**

# **Review of the initial report of the Kingdom of Morocco**

**27th session of the Committee on Enforced  
Disappearances**

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## **Presentation of the NGO Coalition for Dignity**

This written contribution is prepared by Africa Watch, the International Network for Human Rights and Development (RIDHOD), and the Tindouf Camps Watch, as part of the review of the initial report of the Kingdom of Morocco before the United Nations Committee on Enforced Disappearances. It is a multinational coalition of three non-governmental organizations dedicated to promoting and defending human rights at the national and international levels (hereinafter referred to as the NGO Coalition for Dignity).

Since its creation in 2019, this coalition has been described as a space for the expression of victims and human rights defenders, working to uncover cases of enforced disappearance, tracking the cases of victims' relatives, and providing support to them.

It has main objectives related to identifying the position of enforced disappearance issues on the human rights agenda in North Africa, monitoring this reality, and working to build and disseminate proposals and actions to raise awareness, support victims' demands, and combat impunity for crimes of enforced disappearances.

## General context

The Kingdom of Morocco has ratified the International Convention for the Protection of All Persons from Enforced Disappearances<sup>1</sup>, in implementation of the recommendations of the Equity and Reconciliation Commission, after adopting a transitional justice process, which was considered the fruit of the demands of the Moroccan human rights movement for four decades, in order to settle the past of serious human rights violations, including the practices of enforced disappearances that occurred between 1956 and 1999.

The Equity and Reconciliation Commission<sup>2</sup> worked to turn the page on the past of serious violations related to enforced disappearances and arbitrary detention. Its work was based on revealing the truth, redressing the material and moral damage to victims and their families, preventing the recurrence of what happened, formulating recommendations and proposals in the areas of democracy, building a state of law and institutions, and respecting human rights.

This has been an ongoing process since 2006 after the establishment of a follow-up committee at the National Human Rights Council, which was entrusted with the tasks of following up on the implementation of the Commission's recommendations related to programs for redressing individual and collective damages, revealing the truth in the remaining cases, and following up on reform programs and preserving memory.

On this occasion, the NGO Coalition for Dignity has the honor to present its observations, concerns, and recommendations regarding Morocco's implementation of its obligations under the International Convention for the Protection of All Persons from Enforced Disappearance, as follows:

### 1. Regarding Articles 1 and 31 of the Convention

1. The Kingdom of Morocco has recognized in its 2011 Constitution<sup>3</sup> the principle of the supremacy of international conventions over national law, and Article 23 of the Constitution includes an explicit criminalization of enforced disappearance, and considers it a serious crime, in line with the requirements of Article 1 of the Convention.

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<sup>1</sup> Morocco signed the International Convention for the Protection of All Persons from Enforced Disappearance on February 6, 2007, and ratified it on May 14, 2013.

<sup>2</sup> In the Kingdom of Morocco, a gradual process of addressing repression and human rights violations began in the early 1990s. This process culminated in the release of hundreds of political prisoners in 1991, and the establishment of the Advisory Council on Human Rights.

The establishment of this institution represented the first official step towards dealing with past human rights violations, in addition to the Moroccan state's expression of a supreme will to turn the page on the painful past, and the growing role of national human rights organizations and political movements in pressuring for change and opening files of serious violations, in addition to Morocco's ratification of several international human rights conventions, all of which led to the establishment of the Equity and Reconciliation Commission in 2004, which is the first truth commission in the Arab world.

The Equity and Reconciliation Commission was established after King Mohammed VI ascended the throne, by Royal Decree No. 1.04.42 of April 10, 2004. Its initial mandate was nine months, then extended until November 2005. It was the first truth commission established in the Arab world to investigate human rights violations that occurred between 1956 and 1999.

However, according to the definitions contained in Article 5 of the Dahir, this commission only applied to victims of arbitrary detention or enforced disappearance. In response to this narrow definition of victim, the Equity and Reconciliation Commission applied the definition contained in the Basic Principles (UN General Assembly 2005) which expanded its scope.

The Equity and Reconciliation Commission also recommended a collective reparations program, which was a great innovation, by linking collective reparations to those areas that had particularly suffered from systematic human rights violations.

<sup>3</sup> The Constitution of the Kingdom of Morocco was approved in a referendum on July 1, 2011.

Article 1 of the Convention stipulates that “no one shall be subjected to enforced disappearance,” but the current Penal Code does not include anything that explicitly criminalizes the crime of enforced disappearance, in accordance with the Constitution and the Convention.

2. While the Coalition appreciates the Kingdom of Morocco’s ratification of the International Convention for the Protection of All Persons from Enforced Disappearance<sup>4</sup>, it regrets the Moroccan government’s failure to recognize the competence of the Committee on Enforced Disappearances to receive and consider complaints submitted by or on behalf of missing persons, under Article 31 of the Convention, a measure that the Coalition believes will enhance confidence in the effectiveness of the guarantees granted to individuals and groups in national legislation and their compatibility with international human rights conventions.

**Accordingly, the NGO Coalition for Dignity recommends that the Committee on Enforced Disappearances encourage the Kingdom of Morocco to recognize the Committee’s competence to receive individual complaints.**

## **2. Regarding Articles 2 and 4**

3. The Coalition notes that the current national criminal legislation does not include a definition of the crime of enforced disappearance following the definition contained in Article 2 of the Convention, nor does it provide for the crime of enforced disappearance as a separate crime under Article 4 of the Convention. On the other hand, the Coalition appreciates the Moroccan government’s initiative to review the national criminal legislation, especially at the level of criminalizing enforced disappearance and establishing appropriate penalties for the acts that constitute it, in line with the provisions of the Constitution (Article 23) and the definition contained in Article 2 of the Convention.

**For this reason, the Coalition would like to draw the attention of the Committee on Enforced Disappearances to the need to urge the Moroccan government to accelerate the legislative process related to amending the Penal Code, while accelerating the amendment of the Code of Criminal Procedure to keep pace with the legislative review that the Penal Code has undergone.**

## **3. Regarding Article 24**

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<sup>4</sup> The Kingdom of Morocco signed the International Convention for the Protection of All Persons from Enforced Disappearance on February 6, 2007. The efforts and struggles of the Moroccan human rights movement, coupled with the supreme will of the state to implement the recommendations of the Equity and Reconciliation Commission, resulted in the final ratification of the Convention on May 14, 2013, prior to hosting the World Human Rights Forum organized in the city of Marrakech in 2014, in the Kingdom of Morocco.

4. The process of equity and reconciliation in Morocco was launched, as a culmination of the struggles of victims of enforced disappearance and arbitrary detention in Morocco and their families, with the establishment of the Equity and Reconciliation Commission in 2004, as a transitional justice mechanism to turn the page on the past of serious violations, based on revealing the full truth, providing justice to the victims, rehabilitating and integrating them, providing them with treatment, and ensuring that what happened in the past is not repeated.

Considering that the Equity and Reconciliation Commission, in its handling of cases of enforced disappearance that occurred in the past, adopted a concept of victim that is consistent with international human rights standards, a direct victim and an indirect victim, which is not included in current criminal legislation.

**On this basis, the coalition would like to draw the attention of the Committee to recommend to the Moroccan government that the Criminal Code include a definition of victim in line with what is stipulated in the first paragraph of Article 24 of the Convention.**

5. In the context of revealing the truth about the serious violations that occurred in Morocco during the period covered by the report of the Equity and Reconciliation Commission, between 1956 and 1999, the commission was able to clarify the truth regarding 742 cases<sup>5</sup>, through reasoned arbitration decisions, due to what they include in terms of a summary of the facts, and what they reveal about the truth regarding the violations that the victims were subjected to, as well as the acknowledgment of the responsibility of state institutions for those violations. However, many families of the disappeared victims are still demanding that the truth about the fate of their relatives be revealed, as the Commission was unable in all the cases presented to it to determine the burial places of the victims or verify their identities and recommended completing the investigation and inquiry into them.

**Therefore, we draw the Committee's attention to the importance of: Calling on the State party to continue research and investigation into the remaining cases and clarify their fate to complete the reparation program and complete the transitional justice process, in order to establish a state of law and justice.**

6. Concerning the program to redress the damage caused to areas affected by serious violations in the past, despite the efforts made by the State party to develop these areas and preserve their memory, some of them still suffer from the effects of the past. Therefore, the coalition recommends to the committee that:

**Urging the Moroccan government to work on rehabilitating all areas that were the scene of enforced disappearances in the past, following the recommendations of the Equity and Reconciliation Commission<sup>6</sup>, by enacting a participatory approach that ensures economic and social development for those areas.**

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<sup>5</sup> Book One of the Final Report of the Equity and Reconciliation Commission, p. 78.

<sup>6</sup> See Book I of the Final Report of the Equity and Reconciliation Commission, p. 103.

7. As for guarantees of non-repetition, despite the efforts made by the State Party to provide guarantees to prevent the recurrence of serious human rights violations, by strengthening the convention practice, and the amendments included in the Constitution, which approved the principle of the supremacy of international conventions over national law, the coalition notes a delay in the procedures for lifting reservations or ratifying international conventions, in addition to the weakness of activating the observations and recommendations of the United Nations mechanisms, on the occasion of reviewing the periodic reports submitted by the Kingdom of Morocco.

**Accordingly, the coalition would like to draw the Committee's attention to: Encourage the Moroccan government to continue implementing the recommendations of the Equity and Reconciliation Commission as well as the recommendations of the UN mechanisms for the protection of human rights, and to develop a national strategy to combat impunity to enshrine the principle of non-recurrence.**

### **The situation in the Sahara region**

8. The coalition records the participation of victims from the Sahara region and their family members in the process of democratic change in Morocco and their involvement in the work of the Equity and Reconciliation Commission, as a quasi-judicial body to study the files of enforced disappearances and arbitrary detention during the period of the Years of Lead, in preparation for establishing transitional justice, which changed the political, economic, social and legal landscape of the Kingdom of Morocco, and became a best practice in the field of successful transitional justice experiences in the world.
9. It is noteworthy that the work of the Commission has gone beyond its competencies organized by the founding decree to include compensation for victims and their families of enforced disappearance who were detained by the Polisario Front on the territory of the region, within the framework of the Sahara conflict, given the Commission's sense of the need to include them based on the theory of risks that assigns the responsibility for their protection to the Moroccan state.
10. Based on the work of the NGO Coalition for Dignity to protect and promote human rights and the interaction of its components with treaty bodies and Special Procedures of the Human Rights Council and monitoring and documenting what has been happening in the Sahara region for two decades, the Coalition confirms

that no case of enforced disappearance has been recorded in which the Moroccan state bears responsibility or an employee or agent in its name is involved in actions that establish this crime.

11. The coalition also expresses its deep regret that supporters of the Polisario have resorted to spreading false information and fake news on a large scale, about the occurrence of cases of enforced disappearances on social media and in the official press of the country hosting the Tindouf camps, intending to mislead and push the UN mechanisms to adopt these cases, as the components of the coalition of non-governmental organizations for Dignity have documented attempts to convince experts of the Human Rights Committee with fake news about the existence of systematic practices of enforced disappearance in the Kingdom of Morocco during the past decade, which contradicts the reality in the Sahara region.

**Accordingly, the coalition calls on the Committee on Enforced Disappearances to investigate and scrutinize the information and cases provided concerning what is happening in the Sahara region and the Tindouf camps, because adopting any false information and fake news would negatively affect efforts to promote and protect human rights in the region.**

12. Some activists are promoting growing feelings of marginalization of Sahrawis in the work of the Equity and Reconciliation Commission and minimizing their suffering due to their exposure to serious violations during the period covered by the Commission's report.

These allegations lack accuracy, because the Commission's activities, the volume of its work, the files studied, and individual and collective redress for harm, prove beyond a doubt that the Sahara region was no exception in the Commission's work and that files that met the conditions of acceptance and study were considered, whether they concerned victims from the north of the Kingdom or others from the Sahara region.

13. The coalition stresses that the cases and victims of gross human rights violations in the Tindouf camps do not prove the responsibility of the Kingdom of Morocco in refusing to settle them and deal with them within the framework of the Commission, or through the National Human Rights Council's follow-up to implement its recommendations. After all, the individuals and victims who claim to have been subjected to violations, the Commission or the National Human Rights Council could not communicate with them, because they are subject to the legal and judicial jurisdiction of the State of Algeria.

14. Settling their files also requires going to the headquarters of the National Human Rights Council or its regional committees located in the Sahara region to study their complaints and allegations indicating that they were subjected to enforced disappearance or arbitrary detention during the period of jurisdiction of the Equity and Reconciliation Commission.

However, the Polisario Front, as a non-state actor, has been and continues to prevent Sahrawis residing in the Tindouf camps from communicating with their families in the region and with human rights and governance institutions and bodies in the Kingdom of Morocco, most notably the National Human Rights Council as the body responsible for following up on the implementation of the recommendations of the Equity and Reconciliation Commission.

**In this regard, the Coalition calls for the need to inform the committee of the challenges associated with implementing the recommendations of the Equity and Reconciliation Commission for victims and their families residing in the camps, represented by the repercussions of the political exploitation of the files of victims of the painful past.**

15. The NGO Coalition for Dignity appreciates the openness of the National Mechanism for Reporting, and Follow-up in Morocco to various components of civil society working in the field of human rights, on the preparation and drafting of the Kingdom of Morocco's initial report on the implementation of the Convention.

This was done through the invitation to participate in the consultative meeting organized in Rabat on June 4, 2021, on preparing for the submission of the initial report, and then by sharing the results of this meeting with the Coalition, with a copy of the draft initial report for comments, observations, and recommendations.

**The NGO Coalition for Dignity, while appreciating the approach of engagement, consultation, and open dialogue with the components of the civil space in the Sahara region to contribute to the process of promoting and protecting human rights in the region in the right manner, calls on the Committee to urge the State party to strengthen its efforts aimed at encouraging and supporting the contributions and roles of civil society in the region to spread knowledge of the content of the International Convention for the Protection of All Persons from Enforced Disappearances, and to facilitate its means of cooperation with the institutions and bodies involved in the region to improve the work of civil society organizations working in the field of human rights.**