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Morocco/Western Sahara: Deliver on promises of equity and reconciliation

In a new report issued today, on the fourth anniversary of his speech marking the end of the work of the Equity and Reconciliation Commission (Instance Equité et Réconciliation, IER), Amnesty International called on King Mohamed VI to honour the expectations raised by this groundbreaking initiative. With the establishment and work of the IER, the Moroccan authorities promised to tackle the legacy of gross past human rights violations in Morocco and Western Sahara which prevailed during the period known as the “years of lead” and provide an effective remedy to its thousands of victims. Despite these promises, only partial truths about violations of the past have been revealed, justice has not been addressed and much needed institutional and legal reforms to ensure that such violations do not recur have not been implemented.

The IER, which was mandated to investigate cases of enforced disappearance and arbitrary detention that occurred between 1956 and 1999, helped shed light on the scale and seriousness of human rights violations in the past. Its final report, made public in January 2006, acknowledged the responsibility of the Moroccan authorities in the commission of gross human rights violations, recommended reparation for victims and called for further actions by the Moroccan authorities to guarantee that such violations do not recur. The Advisory Council on Human Rights (Conseil Consultatif des Droits de l'Homme, CCDH), the national institution for the protection and promotion of human rights, was tasked by the King to follow-up on the IER's work and recommendations. Amnesty International welcomed the establishment and work of the IER. The organization enjoyed a constructive dialogue with the IER and its follow-up mechanism hoping to contribute to their work by providing recommendations in light of human rights law and standards.

In a new report entitled *Broken Promises: The Equity and Reconciliation Commission and its Follow-up*, Amnesty International provides an assessment of the work of the IER and its follow-up. The organization warned that four years after the IER completed its work, its achievements risk being debilitated by the lack of political will. Today, the onus is on the Moroccan authorities to deliver on promises and implement key recommendations made by the IER to ensure non-repetition.

In order not to undermine the progress made since the inauguration of the IER by King Mohamed VI in January 2004, it is crucial that the Moroccan authorities tackle the shortcomings and gaps in the process of addressing the legacy of the past. Amnesty International believes that there can be no genuine reconciliation without restoring the dignity of victims by providing a full explanation of reasons why they were victimized. Without holding perpetrators accountable for their crimes and introducing real safeguards to protect society from the recurrence of such gross human rights violations, talk of a genuine desire to face the past in the aim of building a better future seems hollow.

The IER investigated hundreds of cases of enforced disappearance which occurred in Morocco and Western Sahara particularly between the mid-1960s and the early 1990s. It said that it had resolved 742 cases. The 66 pending cases were investigated by the CCDH, of which it confirmed to have resolved about 60. However, in spite of repeated promises, a list of all clarified cases has not been published to date. While regrettable in itself, this failure is highly

symbolic of undelivered promises of taking concrete measures to genuinely and transparently address the legacy of the past.

Furthermore, many families of victims of enforced disappearance have been disappointed by the results of the investigations, particularly by the lack of sufficient information. Information they received at the end of investigations frequently mirrored what they already knew or had themselves given to the IER or its follow-up mechanism. This is partially explained by the fact that neither institution had the power to compel officials to collaborate with the investigations.

A major shortcoming of the IER was its failure to address justice. Notwithstanding that it was born with a serious flaw as the identification of perpetrators of human rights violations was excluded from its mandate, it failed even to recommend to the Moroccan authorities to bring perpetrators to justice. Neither did it recommend establishing a vetting mechanism to ensure that those reasonably suspected of serious human rights violations do not hold positions of authority – particularly disappointing as some Moroccan high-level serving officials are alleged to have been responsible for such abuses. Without accountability for human rights violations, a culture of impunity continues to prevail in Morocco and Western Sahara.

An area where the IER and its follow-up mechanism made headway is that of reparation for victims of human rights violations. In addition to awarding financial compensation, some victims also received medical and social rehabilitation. Nonetheless, the reparation programme has been marred by some gaps and complaints that it does not fully meet victims' needs. The lack of an appeal mechanism enabling victims to challenge the decisions in their cases is particularly disappointing given that concerns persist regarding the transparency and equity of the reparation programme. Its other major shortcoming is the treatment of victims in Western Sahara. Despite the fact that the region suffered and continues to suffer disproportionately from human rights violations at the hands of the Moroccan authorities, Western Sahara was excluded from collective reparations designed for areas particularly affected by repression. Also, no public hearing allowing victims to recount their suffering was organized in Western Sahara on par with six regions in Morocco where such hearings were held.

Despite endless talks by the Moroccan authorities and the CCDH on the need to reform and the launch of official reform initiatives notably in the sector of justice, the overwhelming majority of the IER's recommendations to improve the institutional and legal structure that facilitated the commission of human rights violations have not been put in place. This failure to deliver even on less sensitive recommendations such as the ratification of additional international human rights instruments reveals a lack of political will to put in place effective safeguards for the protection of human rights and to change the political structure that allowed violations to occur in a climate of virtually total impunity.

The fact that human rights violations continue to take place today in Morocco and Western Sahara – albeit at a reduced scale compared to the period falling under the IER's mandate – highlights the importance of delivering on the promises of the IER and ending the culture of impunity.

Amnesty International made a series of recommendations in its report to ensure that the gains made in the process of addressing the legacy of the past are consolidated, including:

For the CCDH to:

- publish without delay the list of all cases of enforced disappearance brought to the attention of the IER and the CCDH. The list should contain the names of the disappeared, the circumstances of their disappearance, the information gathered in each case, and whether the case has been transferred to the authorities for further investigations.

For the Moroccan authorities to:

- ensure that full, impartial and independent investigations are conducted into all cases of human rights violations committed between 1956 and 1999. The investigative body

- should have the authority to compel witnesses including past and current state officials and powers of subpoena, search and seizure;
- bring suspected perpetrators to justice in fair proceedings without further delay and establish a vetting system to ensure that those reasonably suspected of crimes under international law or human rights abuses are not placed in positions where they could repeat such violations;
 - establish an appeal mechanism to enable victims of human rights violations who feel that their claim for reparation had not been examined adequately to challenge the decision; and
 - implement the recommendations of the IER to reform the judicial system and ensure its independence in line with international law and standards.

Unless the Moroccan authorities show the necessary political will to implement these recommendations without further delay, there is a risk that the process initiated six years ago with the inauguration of the IER will be perceived as a public relations exercise designed to improve Morocco's image and pacify victims with financial compensation and other benefits.