

NO MORE HALF MEASURES

ADDRESSING ENFORCED DISAPPEARANCES
IN MOROCCO AND WESTERN SAHARA

AMNESTY
INTERNATIONAL



“RECONCILIATION WILL HAVE A MEANING ONLY IF IT FITS INTO A FRAMEWORK OF TRUTH AND JUSTICE”

Hadj Ali El-Manouzi, whose son disappeared in 1972

In a significant break with the past in Morocco and Western Sahara, King Mohamed VI established the Equity and Reconciliation Commission (Instance Equité et Réconciliation, IER) in 2003 to investigate cases of enforced disappearances and arbitrary detention that occurred between 1956 and 1999. But the hopes initially raised by this initiative have been marred by an inability to adequately deliver truth, justice and reparation to the many

“YEARS OF LEAD”

While the entire period between Morocco’s independence in 1956 and the end of the reign of King Hassan II in 1999 was marked by repression of political dissent, it is the period between the 1960s and early 1990s, known as the “years of lead”, when reports of human rights violations reached their highest level. Systematic use of torture and other ill-treatment, enforced disappearances and arbitrary detention of thousands of individuals characterized this gloomy period. Hundreds disappeared between the mid-1960s and the early 1990s at the hands of the Moroccan security services, especially at times when the Moroccan authorities felt threatened by internal or external opposition. Victims of enforced disappearance included supporters of coups d’état, activists in opposition parties, trade unionists and even farmers who had led demonstrations. The phenomenon disproportionately affected Sahrawis – people of Western Saharan origin. Most of them are thought to have disappeared because of their real or suspected support for the independence of Western Sahara, a territory Morocco annexed in 1975. Others, including elderly people and children, disappeared because of their family links with known or suspected opponents to Moroccan rule in Western Sahara.

victims and families of the disappeared. Moreover, undelivered promises and other shortcomings in the process risk overshadowing whatever progress has been made to date.

The IER has shed light on the hundreds of enforced disappearances that were committed between 1956 and 1999, particularly between the 1960s and early 1990s, a period known as the “years of lead”, and acknowledged the suffering endured by victims and their families. The president of the body mandated to follow up the work of the IER now claims that the task is almost complete, arguing that the majority of cases of enforced disappearance have been resolved, reparation awarded and reform plans initiated. Many victims, families and NGOs disagree. The whole truth in all cases of enforced disappearance has not been established, gaps and lack of clarity hang over the reparation programme, justice has not been addressed, and much needed legal and institutional reforms are still at an embryonic stage. Even today, human rights violations continue in Morocco and Western Sahara, albeit not on the same scale as during the “years of lead”. Further steps are therefore essential to ensure an end to impunity and that gross human rights violations are not repeated.

TOWARDS EQUITY AND RECONCILIATION

The IER, which focused on uncovering “historical truth” and not on identifying and bringing perpetrators of human rights violations to justice, completed its investigations in November 2005. According to its final report, the cases of 742 missing people had been resolved and 66 other cases remained pending.



The report recommended further actions to the Moroccan authorities to guarantee that grave human rights violations would not be repeated. The recommendations included consolidating constitutional guarantees to human rights, developing and implementing an integrated national strategy to combat impunity, and a number of institutional and legal reforms in the sectors of security, justice, law and penal policy.

This was not the first attempt by the Moroccan authorities to address the legacy of the past. In 1999, King Mohamed VI established an Arbitration Commission on Compensation to decide on compensation claims for victims of enforced disappearance and arbitrary detention. Financial compensation was awarded in hundreds of cases, but without investigations into each case and therefore without taking into account the gravity of the violation and the



harm suffered. The Commission was severely criticized because claimants had to sign a waiver recognizing its decision as definitive. It was also criticized for providing only a monetary form of compensation and for the absence of an appeal mechanism. Many victims complained of vast discrepancies in the amount of money awarded to victims of similar human rights violations.

The Follow-up Committee of the Advisory Council on Human Rights, Morocco's national institution for the promotion and protection of human rights, was tasked with following up the work of the IER. The Committee is responsible for continuing investigations into the 66 pending cases of enforced disappearance, of which it says it has resolved around 60. It is also charged with implementing the decisions made by the IER on financial compensation and other forms of individual and collective reparation, and advocating for

recommendations on legal and institutional reforms. Since its inception in January 2006, little progress has been made in providing victims with effective access to justice and holding individual perpetrators to account. The long-term institutional and legal reforms recommended by the IER have yet to be implemented.

above: Agdez palace, used as a detention centre from 1976 to 1982.

cover: Equity and Reconciliation Commission investigations revealed that 32 people, including 27 Sahrawis, were buried at the cemetery of Agdez after dying in custody at the Agdez detention centre between 1976 and 1980. The detention centre is pictured in the background.

THE RIGHT TO A REMEDY: TRUTH, JUSTICE AND REPARATION

The right to an effective remedy is enshrined in Article 8 of the Universal Declaration of Human Rights and Article 2 (3) of the International Covenant on Civil and Political Rights, to which Morocco is a state party. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law were

adopted by the UN General Assembly in December 2005. Morocco is bound by its international human rights commitments to ensure that the truth is told, that justice is done and that reparation is provided to all victims of human rights violations without discrimination. An end to impunity will only be guaranteed when victims' rights to an effective remedy are fully upheld.



ESTABLISHING THE TRUTH

TRUTH: ESTABLISHING THE FACTS ABOUT VIOLATIONS OF HUMAN RIGHTS THAT OCCURRED IN THE PAST

Families of the disappeared in Morocco and Western Sahara spent years, sometimes decades, searching for their missing loved ones. That search, which so often led nowhere, culminated in an anguished and powerful call for the truth about their relatives – the truth about what happened during the “years of lead”. Establishing the truth and revealing it to the public is not only essential for the victims’ families and for the collective history of Moroccans and Sahrawis, but it is also a vital safeguard against the recurrence of violations.

In the course of its investigations, the IER travelled throughout Morocco and Western Sahara, meeting victims and relatives of the disappeared. The IER also held seven televised hearings in six regions of Morocco where several dozen victims and relatives of the disappeared spoke about their experiences. A planned hearing in Laayoune, Western Sahara, was cancelled without official explanation, despite the fact that the majority of the disappeared were Sahrawis, leaving many victims and families from Western Sahara feeling marginalized.

Many victims, families and NGOs remain disappointed by the process and results of the IER’s investigations, particularly the lack of sufficient information about the fate of their relatives. Frequently, the information

THOSE WHO REAPPEARED

In Morocco and Western Sahara, hundreds of disappeared people were released between the mid-1980s and early 1990s, many of them following a royal pardon in 1991, but they were generally not given an explanation for their arrest, arbitrary detention or release. This development followed campaigning on their behalf by families of the disappeared and human rights groups working at the national and international level, including Amnesty International. These victims have been instrumental in providing information on other disappeared, on the use of torture and other ill-treatment, on detention conditions and on the physical

and psychological damage resulting from years spent in secret detention.

Soukaina bint Jed-Ahlou ould Sid, a Sahrawi woman from Smara, spent 10 years in secret detention centres in Qal’at Mgouna and Agdez before being released in 1991. She was subsequently rearrested with her son in 1992 and held for two more years. She believes that she was targeted for supporting Western Saharan independence. She believes that the IER failed to respond to her and other victims’ and families’ demands for adequate reparation, and continues to call for her perpetrators to be brought to justice.

above: Victims, families and human rights activists demonstrate in front of the former secret detention centre, Tagounit, south-eastern Morocco. According to the findings of the Equity and Reconciliation Commission, seven men and one woman died in secret detention in Tagounit during the “years of lead”. Survivors helped shed light on the human rights violations that took place in Tagounit and other secret detention centres. Many of them are still calling on the Moroccan authorities to disclose the whole truth.

families received after investigation was identical to the information they already had – information that in many cases they themselves gave to the IER.

Moreover, they are disappointed that both the perspective of those responsible for human rights violations and the state's account of and explanation of the “years of lead” are missing from the IER's findings. This lack of vital information is, in part, a consequence of the IER's restricted mandate. The IER did not have the power to identify perpetrators of human rights violations or to force state officials to collaborate with the investigations. During the public hearings, the IER directed those providing testimonies not to name individual perpetrators – to the dismay of some victims and human rights organizations.

In cases which the IER or the Follow-up Committee of the Advisory Council on Human Rights considers to be resolved, victims and families have been provided with an arbitration decision summarizing the conclusions of their investigations and, where relevant, acknowledging state responsibility, deciding on financial compensation and

recommending other forms of reparation. However, many families of the disappeared in particular feel they have not received sufficient or adequate information about the steps taken during the investigations into the disappearance of their loved ones or copies of any official documents uncovered. They also feel dissatisfied that any information they have received beyond the arbitration decision has not been communicated in writing. This failure to transparently communicate to the families full details about the process and outcome of investigations undermines the whole equity and reconciliation initiative.

In addition, the Follow-up Committee of the Advisory Council on Human Rights is yet to publish the list of “resolved” cases, despite repeated promises that it would. Publication of this list, including the names of the disappeared, the circumstances of their disappearance and the information gathered in each case, would clarify for victims and the public at large how the IER had undertaken its investigations and help restore faith in this initiative. The collective dimension of the right to truth and the right to information is also severely undermined by the fact that IER archives containing

details of these investigations, currently entrusted to the Advisory Council on Human Rights, are not accessible to the public.

“I KNOW MY TRUTH, BUT I STILL DON'T KNOW WHAT THE STATE'S TRUTH IS.”

Former victim of enforced disappearance, March 2008

The information gathered by the IER and the Follow-up Committee of the Advisory Council on Human Rights on human rights violations committed during the “years of lead” and on individual cases of enforced disappearance and other abuses must be made available to individual victims, to the public and to judicial authorities for further investigations. It should serve as a basis for establishing responsibility. While the responsibility of the Moroccan state in these grave human rights violations has been fully recognized by the IER, responsibility was neither attributed to specific state organs nor to individual perpetrators in the particular events investigated.

FARAJI MUHAMMED SALEM BEH-BREIKA



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Faraji Muhammed Salem Beh-Breika, a 33-year-old businessman, was taken from his house on 4 June 1976 at about 1am by members of the Moroccan army. An hour later, 12 men in plain clothes believed to be members of the General Directorate of National Security, or police, came looking for him, searched the house and roughed up his family. The next morning, two plain-clothes policemen took his wife to the police station and questioned her about the circumstances of her husband's disappearance. The questioning continued on a daily basis for about six weeks by both the Royal Gendarmerie and the police.

In 1999, the family wrote to the Arbitration Commission on Compensation, demanding that the truth about Faraji Muhammed Salem Beh-Breika be disclosed. In 2003, they refused the financial compensation proposed. Having

been warned not to talk about the issue of enforced disappearances and Faraji Muhammed Salem Beh-Breika's case, his daughter was summoned in 2003 by the police in Laayoune and asked why the family would not accept financial compensation. She was again threatened not to talk to human rights organizations and to stop looking for her father. Despite this, the family wrote to the IER in 2004. They were contacted three times by phone in 2005, 2006 and 2007, when his wife was told that he was dead and was asked to provide a list of inheritors for the financial compensation process. No details were given about what had happened to him. Between 2005 and 2007, almost on a monthly basis, the Follow-up Committee of the Advisory Council on Human Rights called his daughter to explain how to obtain compensation, which the family refuse until the truth is disclosed.





Victims and families of the disappeared speak about their experiences during televised hearings held by the Equity and Reconciliation Commission in Errachidia, Figuig, Houceima, Khénifra, Marrakesh and Rabat. No hearings were held in cities in Western Sahara.



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NO JUSTICE FOR THE VICTIMS

JUSTICE: INVESTIGATING PAST VIOLATIONS AND PROSECUTING THE SUSPECTED PERPETRATORS

Providing justice for victims and families was excluded from the mandate of the IER from the start. It was argued that the focus should be on “reconciliatory justice rather than accusatory justice”. The IER failed to even recommend that the Moroccan authorities bring perpetrators to justice. No Moroccan officials, including members of the security forces, are known to have been prosecuted for having committed violations during the “years of lead”.

This situation leaves the burden of calling for further investigations and prosecutions to victims and their families – many of whom feel that the judicial system has already failed them. The IER and the Advisory Council on Human Rights have both said that victims are free to file complaints against suspected perpetrators in the courts. However, neither institution is known to have systematically forwarded information and evidence gathered establishing criminal responsibility to the judicial authorities.

Until the Moroccan authorities bring suspected perpetrators to justice in fair trials, citizens will not trust that the abuses of the past are really over. The authorities should also introduce a vetting mechanism, or other similar administrative measures, to ensure that those responsible for human rights violations do not hold positions in state institutions. This is all the more crucial given that some high-level officials, still in post today, are alleged to have been responsible for violations during the “years of lead”.

Even though state responsibility was acknowledged and suspected perpetrators were not exempted from future prosecution through amnesty measures, the issue of impunity still hangs over Morocco and Western Sahara. The truth and reconciliation process cannot be complete without ensuring accountability for human rights violations.

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Families of the disappeared demonstrate in Casablanca, May 2009. In the centre is the mother of Houcine El-Manouzi (see case, right) who continues to call on the Moroccan authorities to disclose the truth about her son's disappearance.



HOUCINE EL-MANOUIZI



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In October 1972, while on a trip to Tunis, Houcine El-Manouzi, 32, (pictured with his mother, 1964), was abducted from a friend's house and taken to Rabat. A trade unionist, he was also an active member of the socialist opposition party, the National Union of Popular Forces. Prisoners detained with him indicated that Moroccan security forces were behind his disappearance.

IER investigations confirmed what the family already knew: that Houcine El-Manouzi had been held at the detention centre Point Fixe 3, a villa in Rabat. In July 1975, he escaped custody but was recaptured some days later. He was then held in secret detention until August 1975, when he was transferred to an unknown location and all trace of his whereabouts was lost.

At a private meeting, his family were given the names and positions of those who were responsible for his disappearance. However, the alleged perpetrators have not been brought to justice. The Follow-up Committee of the Advisory Council on Human Rights continues to investigate his case. The family are calling on the Moroccan authorities to disclose the whole truth about the disappearance of Houcine El-Manouzi, to identify his burial place and remains, to present public apologies and to bring those responsible to justice.

REPARATION TO VICTIMS

REPARATION: PROVIDING FULL AND EFFECTIVE REPARATION TO THE VICTIMS AND THEIR FAMILIES, IN ITS FIVE FORMS: RESTITUTION, COMPENSATION, REHABILITATION, SATISFACTION AND GUARANTEES OF NON-REPETITION

In a welcome move, the IER adopted a holistic approach to reparation for victims of human rights violations, recognizing that financial compensation alone is not enough to remedy the harm done and restore victims' dignity. It recommended that reparation also includes medical, physical and psychological rehabilitation, and social reintegration for loss of jobs, income or property.

The Advisory Council on Human Rights has been implementing the reparation

programme. It determined and distributed the amount of financial compensation awarded to survivors and victims' families, and recommended whether they should receive other forms of reparation. Some victims, particularly in Western Sahara, feel they have not received adequate compensation, and are not clear on how or what criteria were applied when decisions were made. There is no appeal mechanism for victims to challenge these decisions. Families of victims of enforced disappearance who had not submitted their applications by the deadline imposed by the IER are no longer eligible for financial compensation, although the Follow-up Committee said that it would still investigate their cases and seek to establish the truth.

Some victims and their relatives were awarded health care cards for medical insurance. In addition to difficulties in the distribution of the cards, many victims who have received them have complained

that they do not cover all their medical costs and that in many cases they did not work when they first tried to use them in hospitals or clinics. The IER's recommendation to set up a permanent medical centre to assist victims of human rights violations has not been implemented to date.

Collective reparations were put in place to preserve memory and to address the marginalization and socio-economic deprivation of certain regions disproportionately affected during the "years of lead". Eleven regions were identified, none of them in Western Sahara. This left some victims feeling excluded from the collective reparations programme and reinforced a sense of marginalization among Sahrawis. A number of human rights NGOs and associations of victims and their families also complain that they have not been consulted on or integrated into the process of designing and implementing the programme.

BACHRI ALAMIN ALAMIN BOUJEMAA

Bachri Alamin Alamin Boujemaa, 23, was arrested on 10 July 1976 at his shop by two members of the Royal Gendarmerie. He was then transferred to the military barracks of the 6th regiment in Smara. During his detention there he was reportedly tortured and otherwise ill-treated. Six months later, he was transferred by plane to the Civil Prison in Laayoune – today called the Black Prison by many in Western Sahara – with scores of other imprisoned Sahrawis. Several victims of enforced disappearance who were detained with him in Smara and Laayoune and later released believe that Bachri Alamin Alamin Boujemaa died in custody under torture in 1977.

A formal apology to victims is a crucial and highly symbolic form of reparation that has not been implemented despite the IER's recommendation for the Prime Minister to do so. King Mohamed VI, as head of state and instigator of the IER process, should also present a public apology to restore public trust and demonstrate that the page has finally turned on past abuses.



above: Fatimatu Alamin Alamin, sister of Bachri Alamin Alamin Boujemaa

In 2007, his family received confirmation from the Follow-up Committee of the Advisory Council on Human Rights that Bachri Alamin Alamin Boujemaa had died under torture in custody. The Committee promised to provide information about where he is buried, but gave no details on the circumstances surrounding his death. The family have still not been told where his body is located. The family were due to receive 50,000 dirhams (around US\$6,400), but consider the amount to be insufficient and have no way to appeal against the decision. The family continue to demand that the full details of what happened to Bachri Alamin Alamin Boujemaa be disclosed as they consider the truth more important than any amount of money.

REFORMS FOR A BETTER FUTURE

To ensure that violations of the past are not repeated, the IER recommended the adoption of a vast programme of legal and institutional reforms, such as the inclusion of additional human rights principles and provisions in the Constitution; specific reforms of the judiciary, prisons and the security sector; and the ratification of international human rights conventions. Despite making some progress – legislation criminalizing torture was adopted in 2006 –

most reforms have not yet been implemented. The slow pace of reform, more than three-and-a-half years after the release of the IER's final report, raises questions about the political will of the Moroccan authorities to end impunity and ensure respect for human rights.

The implementation of such reforms is crucial in light of continuing human rights violations committed in Morocco and Western Sahara. Allegations of excessive use of force by law enforcement officers, unexamined claims of torture and other ill-treatment, violations of the rights to freedom of assembly, expression and association particularly on sensitive or taboo issues such as the status of Western Sahara – these are all violations that were common during the “years of lead” and which persist albeit on a reduced scale.

The IER recognized the role of an independent judiciary as instrumental in combating impunity and guaranteeing human rights protection. Following the King's call for reform of the judiciary in 2007, the Minister of Justice presented his reform proposals in April 2009 to an inter-ministerial committee responsible for the task. However, no date has been set for the draft to be presented to parliament. Even less progress has been made in another long-awaited recommendation set forth by the IER relating to the reform of the security and law enforcement sector. Such delays undermine the successes of the process launched with the establishment of the IER.

In a welcome step, the Moroccan authorities extended an invitation to the Working Group on Enforced or Involuntary Disappearances, who visited Morocco between 22 and 25 June 2009. Ratifying the International Convention for the Protection of All Persons from Enforced Disappearance would send a strong signal that the authorities are committed to ensuring this grave violation does not recur.

ABDELHAQ ROUISSI

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Abdelhaq Rouissi, (pictured in 1964), a 24-year-old bank employee in Casablanca and activist in the Moroccan Labour Union, was arrested on 4 October 1964. There were no known witnesses to his arrest, but traces of blood were found in his flat. Confirmation that he had been arrested and subsequently held in secret detention centres came over the past three decades from testimonies of former detainees.

Since his disappearance, his family filed two complaints with the general prosecution in 1964 and 1993. Despite rumours that he had died in a secret detention centre, the authorities continued to deny their involvement in his disappearance until 1998, when his name was included in a list of individuals presumably subjected to enforced

disappearance published by the Advisory Council on Human Rights. In January 2006, a body was exhumed from the cemetery of Sbata, Casablanca. The grave, identified by the IER, was dated 16 November 1964. In July 2009, DNA results confirmed that the remains were those of Abdelhaq Rouissi. Almost 45 years after his disappearance, his family is now able to hold a funeral ceremony and mourn their loss.

UN INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

SIGNED BY MOROCCO ON 6 FEBRUARY 2007. NOT YET RATIFIED.

ARTICLE 2

“For the purposes of this Convention [United Nations International Convention for the Protection of all Persons from Enforced Disappearance], “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

ARTICLE 6(1)(a) AND 6(1)(b)

“ 1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

- (i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;
- (ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and
- (iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution”.

ARTICLE 24(2)

“Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person.”



Families of the disappeared demonstrate in Laayoune, May 2002.

RECOMMENDATIONS

Amnesty International calls on the Follow-up Committee of the Advisory Council on Human Rights to:

- publish without delay the list of all cases of enforced disappearances, including the names of the disappeared, the circumstances of their disappearance, and the information gathered in each case
- communicate full, detailed results of the investigation to the victims and their relatives in writing, including the methods of investigation and any official documents uncovered.

Amnesty International calls on King Mohamed VI, as head of state, to:

- issue a formal public apology to victims of past human rights violations
- ensure that a mechanism to allow victims to appeal against decisions on reparation is established.

Amnesty International calls on the Moroccan authorities to:

- establish a vetting system to ensure that those reasonably suspected of human rights abuses are not placed in command positions or lower-level positions where they could repeat their crimes and abuses

- investigate all past human rights violations on the basis of the evidence and information forwarded by the Follow-up Committee of the Advisory Council on Human Rights and bring suspected perpetrators to justice without further delay
- reform the justice system to ensure its independence in line with the UN Basic Principles on the Independence of the Judiciary and reform the security and law enforcement sector
- ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

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Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights.

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