



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

Distr.: General  
30 September 2024

Original: English

---

## Committee on Enforced Disappearances Twenty-seventh session

### Summary record of the 495th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 24 September 2024, at 3 p.m.

*Chair:* Mr. de Frouville

## Contents

Consideration of reports of States parties under article 29 (1) and additional information under article 29 (4) of the Convention (*continued*)

*Initial report of Morocco*

---

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties under article 29 (1) and additional information under article 29 (4) of the Convention** *(continued)*

*Initial report of Morocco* (CED/C/MAR/1; CED/C/MAR/Q/1; and CED/C/MAR/RQ/1)

1. *In accordance with rule 48 (1) (a) of the Committee's rules of procedure, Mr. Ayat withdrew during the consideration of the initial report of Morocco.*
2. *At the invitation of the Chair, the delegation of Morocco joined the meeting.*
3. **A representative of Morocco**, introducing his country's initial report (CED/C/MAR/1), said that Morocco had been an early signatory of the Convention. Since then, not only had it engaged positively with the Committee in a number of ways but, alongside other States, it was part of a global initiative to encourage universal ratification and was participating in the organization of the forthcoming World Congress on Enforced Disappearances, which was due to be held in January 2025. Morocco was also a supporter of the treaty body reform process and had been one of the first States to establish a national mechanism for implementation, reporting and follow-up. Stakeholders from government, parliamentary and national institutions had all contributed to the initial report, in particular the National Human Rights Council and 28 civil society organizations from across the nation, including groups representing victims and their families.
4. During the reporting period, Morocco had ratified protocols to a number of international instruments, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It had also welcomed eight country visits from special procedure mandate holders, some of which had a direct bearing on the Convention, such as the Working Group on Arbitrary Detention and the Subcommittee on Prevention of Torture. In 2009, in the first visit of its kind to the region, the Working Group on Enforced or Involuntary Disappearances had visited Morocco and expressed its appreciation for the progress made by the transitional justice process. In fact, many of the recommendations that the Group had subsequently made were consistent with existing recommendations of the Equity and Reconciliation Commission. The Working Group had also held its 108th annual session in Morocco in 2016.
5. As part of the transitional justice process, Morocco had acknowledged the gross human rights violations of its past, provided redress to victims and their families, and striven to achieve national reconciliation and effective justice. The preservation of national memory, the restoration of dignity and the protection and promotion of human rights now underpinned the foundations of the modern State of Morocco. Cases of enforced disappearance in Morocco had been relatively few in number and, even during the 43 years of repression, the location of places of detention had been known to journalists and to society at large. Most of the victims had survived and had thus been able to participate in the fact-finding process and to benefit from redress and rehabilitation.
6. The Equity and Reconciliation Commission applied the definition of enforced disappearance enshrined in the Convention and awarded reparation that reflected the seriousness of the offence and its effect on the victims. Moreover, the Commission addressed all cases irrespective of whether or not they had been submitted within the legal deadline or whether or not the statute of limitations had expired. The Commission's mandate covered human rights violations of all kinds, including not only enforced disappearance but also arbitrary detention, torture, forced displacement and extrajudicial execution. In addition, the Commission had taken a gender-based approach to its duties, embraced the principle of good faith, adopted burden-of-proof requirements favourable to victims and applied the concept of communal reparations in areas where detention centres had been located.
7. Thanks to the work of the Commission, more than 27,000 victims or their families had received compensation amounting to a total of around \$212 million. In addition, 20,000 persons had been provided with healthcare coverage, and 13 provinces had received communal compensation amounting to more than \$16 million. The Commission had also launched regional development programmes, repurposed former detention centres and taken

action to preserve the memory associated with them. Other national reforms had addressed the concept of authority, the administration of public affairs, linguistic rights and human development. That process had culminated in 2011 with the adoption of the new Constitution, which formalized many of the recommendations made by the Equity and Reconciliation Commission, thus embodying national consensus and laying the foundations for a State built on the rule of law and respect for human rights.

8. The 2011 Constitution upheld the right to life and to physical and moral integrity and included explicit provisions intended to prohibit and prevent enforced disappearance, torture and other gross human rights violations. It also envisioned greater parliamentary oversight over law enforcement and security agencies accompanied by strict standards of responsibility and accountability. It included, moreover, guarantees for the independence of the judiciary and established strict norms of conduct for judges and prosecutors. Acting on recommendations of the Equity and Reconciliation Commission, Morocco had undertaken an extensive overhaul of its judicial system, including a revision of the Code of Military Justice, which was now applicable exclusively to military offences committed by military personnel. Other laws had also been issued that regulated the action of judges and prosecutors and the work of the Supreme Council of the Judiciary.

9. **Mr. Diop** (Country Rapporteur) said that he was encouraged by the claim that no cases of enforced disappearance had been referred to the national courts since Morocco had become a party to the Convention in 2013. He also wished to commend the State party for its efforts to address the unresolved humanitarian issues of the past, known as the *passif humanitaire*, through the work of the Equity and Reconciliation Commission.

10. He would like to know whether the State party intended to make the declarations provided for in articles 31 and 32 of the Convention relating to the Committee's competence to receive and consider individual and inter-State communications. While recognizing the pluralism and diversity that characterized the membership of the National Human Rights Council, he wished to know what authority was responsible for appointing members to the Council and the degree of independence members had vis-à-vis that authority once they had been appointed. It would also be helpful to know whether appointments were for a fixed term and whether members enjoyed immunity from arbitrary dismissal during that term. The Committee wished to know which administrative or judicial body was responsible for managing the electronic databases on missing persons.

11. Amendments to the Criminal Code that included a definition of enforced disappearance consistent with the Convention seemed to have been under discussion since at least 2009. He wondered if those amendments had finally been submitted to Parliament and if the delegation could explain the reason for such a long delay. He would be interested to learn of the exact definition of enforced disappearance that had finally been chosen for inclusion in the amendments. In order to reflect the gravity of enforced disappearance, it was important that, under a civil law jurisdiction such as that of Morocco, it should be characterized as a "*crime*" rather than a "*délit*". The Committee was concerned by a provision contained in article 225 of the Criminal Code according to which subordinates who committed an arbitrary act that violated the rights or freedoms of others had statutory grounds for exemption from punishment if they could show that they were acting under orders from a superior. He invited the delegation to explain how that provision was consistent with article 6 of the Convention, according to which no order or instruction from any civilian, military or other authority could be invoked to justify an offence of enforced disappearance.

12. **Mr. Albán-Alencastro** (Country Rapporteur) said that he would like to know whether Moroccan criminal law contained provisions that specifically regulated the application of the statute of limitations in cases of enforced disappearance, in accordance with article 8 (1) of the Convention. It would be useful for the delegation to explain what remedies, other than civil claims for compensation, were available to victims of enforced disappearance during the term of limitation. In view of the fact that enforced disappearance was not defined as a specific offence under Moroccan law, he wished to learn whether the State party had taken steps to establish its jurisdiction over all acts of enforced disappearance committed in the national territory, regardless of the perpetrator's nationality. Details of any mechanisms set up to prosecute the perpetrators of such acts if they were committed on Moroccan territory or if they were committed elsewhere by Moroccan nationals would be welcome.

13. The Committee would be grateful for information on the legal, administrative and judicial measures in place to ensure that, in all cases involving individuals detained on suspicion of committing acts of enforced disappearance, a preliminary inquiry or investigation was conducted to establish the facts of the case. It was the Committee's understanding that the legal provisions applicable to cases of enforced disappearance were those penalizing abduction and unlawful detention; accordingly, it would be helpful for the delegation to clarify whether the military courts were competent to investigate and prosecute soldiers accused of those offences.

14. He wished to know what the State party had done to guarantee the investigation of all complaints of enforced disappearance, what measures were in place to ensure that searches began as soon as the authorities became aware of a possible disappearance and whether a mechanism had been established to ensure the exclusion from the investigation of any public officials suspected of being involved in the act. The delegation might also wish to explain whether national law provided for the suspension of such public officials for the entire duration of the investigation. He would welcome an update on the current status of the criminal investigations into the disappearances that had occurred between 1956 and 1999 and the efforts made to investigate disappearances in Western Sahara and search for the victims. It would be helpful to receive information on the steps taken to ensure that victims were able to participate in, and be informed of, the outcomes of any investigations and searches. The Committee would appreciate concrete examples of the measures adopted by the authorities to fulfil their duty to protect complainants and their families, in addition to any relevant statistical and other information on the effectiveness of those measures in preventing reprisals.

15. It had been brought to the Committee's attention that more than 100 migrants seeking to reach Spain had disappeared following three incidents in 2022 and 2023. In view of those reports, the Committee would like to know whether the State party had initiated investigations and searches in that connection and, if so, what progress had been made and whether the victims' relatives and representatives had been able to participate.

16. He wished to learn what had been done to incorporate enforced disappearance as an extraditable offence into the treaties concluded by the State party and other States, regardless of whether the latter were party to the Convention. He wondered whether the delegation knew of any potential obstacles to the extradition of individuals suspected of committing acts of enforced disappearance and whether the fact that those acts were not specifically established as a criminal offence impeded such extraditions. Information on any measures taken to ensure the smooth functioning of mutual legal assistance and cooperation processes would be welcome, as would an explanation of the restrictions or conditions that could be imposed on such processes in cases of enforced disappearance. In view of reports that the State party had failed to respond to requests for assistance in cases involving disappeared persons in Western Sahara, it would be helpful to hear about any steps, taken or envisaged, to assist victims of enforced disappearance by searching for, locating and releasing them and, in the event of death, exhuming, identifying and returning their remains to their families.

17. **Ms. Lochbihler** said that she would like to know whether the State party had taken steps to give effect to the recommendations contained in the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration. She wondered whether the State party had specific information on the case of Mr. Mazen Dafallah Haroun Dafallah, who had been disappeared since attempting to cross into Melilla in June 2022 and was the subject of a request for urgent action.

18. **Ms. Villa Quintana** said that she wished to know whether the State party had disseminated the Committee's Guiding Principles for the Search for Disappeared Persons among the relevant bodies in order to assist them in developing strategies for searching for such persons and taking immediate action. An explanation of the relationship between the ordinary justice system and the military justice system would be appreciated. Given that acts of enforced disappearance were not established as specific crimes under Moroccan law, it would be interesting to learn about the State party's application of the principle of double criminality in extradition cases.

*The meeting was suspended at 4.05 p.m. and resumed at 4.25 p.m.*

19. **A representative of Morocco** said that efforts to reform the Moroccan Criminal Code had begun in 2004 with the establishment of the Equity and Reconciliation Commission and its issuance of recommendations on the amendments to be made. A bill that would introduce provisions on the criminalization of enforced disappearance had been prepared in 2014 but had since been withdrawn. In its place, the Ministry of Justice had drafted a new bill comprising around 900 articles that would comprehensively amend the Criminal Code. That bill, which was pending approval by the Government Council, would establish enforced disappearance as a specific offence, using the definition set out in the Convention, and a crime against humanity. It would provide for sentences ranging from 5 years' to life imprisonment and define the aggravating circumstances that would result in tougher penalties. Such circumstances would be applicable in cases in which the victims had been pregnant women, children, persons with disabilities or older persons, in addition to those in which the act had been committed by a public official or an individual in uniform or clothing carrying an official insignia.

20. A procedure for the determination and application of the statute of limitations had been established by legislators. The statute of limitations was 4 years for minor offences and 15 years for serious crimes. It began to run on the day on which the crime was committed. It was not applicable, however, in cases involving crimes for which the international treaties ratified by Morocco and published in the Official Gazette established that there should be no statute of limitations. As was the case with the crime of abduction, no statute of limitations would be applicable to the crime of enforced disappearance.

21. The military courts were not competent to hear cases of enforced disappearance committed by soldiers, since it was not considered to be a purely military offence. Provisions on the handling of crimes committed outside Moroccan territory were contained in the Code of Criminal Procedure. Morocco had a strong record of judicial cooperation, was party to regional and international instruments aimed at promoting such cooperation and had concluded around 90 bilateral agreements on extradition or the transfer of prisoners. Moroccan law contained no provisions that would prevent the authorities from responding positively to extradition requests or requests for legal assistance. Extradition requests were refused, however, if the individual concerned was considered to be at risk of torture or enforced disappearance if returned to the requesting country. The authorities also responded positively to requests for assistance in searches, investigations and prosecutions; the delegation could provide the Committee with statistics in that regard.

22. **A representative of Morocco** said that, in 2022, Morocco had acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Government remained committed to cooperating with all United Nations mechanisms that were competent to receive individual communications. It took all steps necessary to ensure the implementation of the international instruments ratified by Morocco and the gradual alignment of national laws therewith.

23. The National Human Rights Council was a pluralist, independent body responsible for promoting and protecting human rights pursuant to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It had been accredited with category A status by the Global Alliance of National Human Rights Institutions. The Council comprised a President, a Secretary-General, regional representatives and 27 other members who were appointed based on their experience, integrity and respect for human rights. Eight members were selected from among professionals such as journalists, lawyers and doctors. Another eight were appointed from among representatives of civil society organizations. Vacancies were published on the Council's website, and efforts were made to take into account criteria such as intellectual pluralism, parity and linguistic diversity and to ensure the representation of Moroccans from all regions, those living abroad and young people when selecting candidates. The independence of the Council and its members was guaranteed by law. Its rules of procedure set out the steps to be taken in the event that a member had died, was found to be physically or mentally incapable of performing his or her role, was prevented from doing so for legal or moral reasons or had committed acts that were in breach of the obligations associated with that position.

24. The texts of the international human rights instruments ratified by Morocco were published in the country's Official Gazette. Those texts and the observations and recommendations of human rights bodies addressed to the Government were published on the websites of relevant State institutions, including that of the Ministry of Justice. Law enforcement and prison service officials received training in human rights and the application of international human rights instruments as part of their basic and in-service training. The Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration had been shared with law enforcement officials working in that area and was used in their training.

25. **A representative of Morocco** said that article 23 of the Constitution established that enforced disappearance was a crime and, while the Criminal Code did not define enforced disappearance as a separate offence, its constitutive elements were classified as criminal in nature. The Criminal Code established the criminal responsibility of any person who was an accomplice to, or had participated in, a crime or who knew about the commission of a crime but failed to inform the authorities of it. Article 255 of the Criminal Code did not establish an exemption for persons acting on the orders of a superior in cases of enforced disappearance; no order or instruction from a superior could be invoked to justify the offence of enforced disappearance. In cases of enforced disappearance, the statute of limitations began once the victim of the crime had been released or discovered. Reparation was available to all victims who had suffered bodily, moral or other forms of harm. There was no time limit for filing for reparation, and the termination of criminal proceedings did not result in the extinguishment of the right to reparation. The incident in Melilla in 2022, when a number of migrants and asylum-seekers had been injured or killed after a crowd crush at the border fence, had been a one-off situation. Thanks to diplomatic cooperation and the efforts of the Public Prosecution Service, the bodies of 23 deceased migrants had been identified by their families. Efforts to locate and identify other migrants who had gone missing following the incident were still under way. All available information on the case of Mazen Dafallah had already been provided to the relevant parties.

26. **A representative of Morocco** said that his country had an electronic database in which all search notices were registered. The information in the system was provided by the criminal investigation police or drawn from reports of disappearances filed by a missing person's family. The database was managed by a coordinating body that worked with all law enforcement agencies. The relatives of missing persons were informed of the progress of the search for their loved ones. If no trace of the missing person could be found, the Public Prosecution Service redoubled its search efforts in close cooperation with the person's family and friends. An initiative focusing on the protection of children from enforced disappearance had recently been launched. The Government used social media as a tool to protect children from all forms of abuse and had recently signed an agreement on child protection with Meta, the company that ran Facebook.

27. **A representative of Morocco** said that the experience of the Equity and Reconciliation Commission was a unique one. Unfortunately, he would not have time to give full details of the results of its work at the current meeting. In 1991, all secret prisons in the country had been closed, and 511 persons who had been reported missing and had been held in those prisons had been released. There was no written documentation on the operation of such prisons, but the released prisoners were a living reminder of the past, and their stories served to elucidate the fates of those missing persons who had not been found. With the help of the authorities, the Commission had uncovered 55 mass graves in Casablanca and elsewhere. The Commission had travelled to the southern provinces three times to meet with victims of historical human rights violations there, bringing the equipment necessary to put their accounts on record.

28. **A representative of Morocco** said that the parliamentary Justice, Legislation and Human Rights Committee had a constitutional mandate to oversee the application of international human rights instruments, the work of the judiciary and the activities of civil society in all the regions of Morocco, conducting hearings and surveys and issuing reports, for example, on the human rights situation in the country's prisons. It was currently working on the topic of forensic medicine in Morocco. The Government and the Parliament had in recent years called for the full reform of the judicial branch. A legislative review was under

way, and various bills were being drafted, including a bill on alternatives to deprivation of liberty.

29. **A representative of Morocco** said that work was under way to strengthen scientific research facilities and thereby improve the effectiveness of investigations. Various forensic methods were used to identify bodies, including fingerprint and dental analyses and DNA sampling.

30. **A representative of Morocco** said that the Government was working on a bill that would establish a national database of genetic information.

31. **Mr. Diop** said that he would welcome further information on the results of the transitional justice process, including information on any efforts to identify and prosecute the perpetrators of enforced disappearance, in accordance with the State's obligation to take measures to investigate acts of enforced disappearance committed by non-State actors without the authorization, support or acquiescence of the State and to bring those responsible to justice. He wondered whether the State was of the view that individual reparations for the victims of enforced disappearance constituted guarantees of non-repetition. He wished to know whether the Moroccan State intended to recognize the competence of the Committee to consider complaints from individuals or groups of individuals. It would also be useful to receive clarification regarding the criminal classification of enforced disappearance, in particular whether it was considered a crime or a lesser offence. Lastly, he would be grateful if the delegation could clarify exactly which authority served as the coordinating body for the database containing information on missing persons.

32. **Mr. Albán-Alencastro**, speaking in follow-up to a previous question, said that he wished to know exactly which conditions would have to be met in order for the State party to declare that it recognized the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claimed to be victims of a violation by the State party of the Convention. He also wished to know whether article 23 of the Constitution, under which crimes against humanity such as enforced disappearance were explicitly made punishable by law, was, on its own, sufficient to secure the conviction and punishment of persons responsible for an enforced disappearance.

33. It would be helpful to learn whether the investigation into the migrant deaths at the Melilla border fence in 2022 had begun and, if so, whether the persons responsible for the incident had been identified. A comment on how the State party could be sure that an abduction, for example, or an arbitrary arrest was not a case of enforced disappearance would also be welcome. It would likewise be interesting to know more about the mechanism for the collection of DNA samples mentioned by the delegation. He wondered, for example, how many such samples had been collected. Lastly, he wished to know how, if enforced disappearance was not a separate crime in the State party, the Moroccan authorities responded to requests for the extradition of persons accused of subjecting others to enforced disappearance in jurisdictions where that conduct did constitute a specific criminal offence.

34. **Ms. Villa Quintana** asked what crime a Moroccan national who had committed the crime of enforced disappearance in another jurisdiction would be tried for in the State party's courts if, as had been noted, the State party did not extradite its nationals or classify enforced disappearance as a crime under its criminal law.

35. **A representative of Morocco** said that eight members of the Equity and Reconciliation Commission, including its presiding officer, had been victims of serious human rights violations. The Moroccan Truth and Justice Forum brought together groups representing victims of enforced disappearance.

36. As the experiences of Chile, South Africa and other countries had shown, there was little point to trying a handful of torturers and making scapegoats of them. The State bore responsibility for the serious human rights violations committed by its officials.

37. The National Human Rights Council had been established in 1990 and, since then, political prisoners had been released and political exiles had been given leave to return. A national strategy to combat impunity and ensure that serious rights violations did not recur had been implemented. No one, not even an agent of the State, could expect to obey an illegal order with impunity.

38. **A representative of Morocco** said that, if the country was not otherwise bound by the provisions of an international instrument that it had ratified, the terms of limitation that applied were those provided for in national law. The authorities had received an extradition request in connection with a case of enforced disappearance and, while double criminality was required for an extradition to proceed, the requesting State and the extraditing State did not have to define a crime in exactly the same terms in order for an extradition to be approved.

39. A number of legislative matters, including in respect of the Criminal Code and the Code of Criminal Procedure, would have to be resolved before the country could recognize the competence of the Committee to receive and consider individual communications. Steps would be taken to ensure that the crime of enforced disappearance was defined as in the Convention.

40. **A representative of Morocco**, noting that there had been a thorough investigation into the incident at the Melilla border fence, said that a crowd crush at the fence had led to the asphyxia that, according to autopsy reports, had been the proximate cause of death of the 23 migrants who had lost their lives in the incident. The 2,000 or so migrants, some of them armed with knives or clubs, who had attempted to break through the fence had been organized by criminal groups. There was no proof that the migrants who had gone missing in the wake of their attempt to push through the fence had returned to Morocco.

41. For the Moroccan authorities, it was important for the families of the victims to know what had happened to their loved ones. Accordingly, every effort was being made to shed light on the incident and trace the migrants who had disappeared immediately thereafter.

42. **A representative of Morocco** said that no term of limitation applied to the crime of enforced disappearance in Morocco, which was defined as a crime in the Constitution.

43. **A representative of Morocco** said that his country, which sought to have an exemplary human rights record, had recognized its responsibility for what had happened before 1999. It had undertaken not to allow the repetition of those human rights violations.

44. All Moroccan citizens were entitled to equal rights. The country, which was no longer merely a transit country, was dealing with large immigration flows, much of which were irregular. Tens of thousands of residence permits had been issued, and healthcare was provided even to illegal migrants. Irregular migration was often associated with organized crime and trafficking of various sorts, including of arms and people. The many Sudanese migrants who had entered Morocco would be returned to their country when the war in the Sudan ended. That war, however, was but one of many crises unfolding in Africa. In any event, the Moroccan authorities were making every effort to manage migration, which should be of benefit to all, without violating migrants' rights.

45. **A representative of Morocco** said that, in 2023, the authorities, with the support of the International Organization for Migration, had dismantled more than 200 human trafficking networks. On 23,000 separate occasions, attempts to migrate had been thwarted. Thousands of irregular migrants had agreed to be returned to their countries of origin.

46. Work on a bill on migration was under way. It was recognized in the bill, for the first time in the country's history, that migrants had certain rights, such as the rights to employment and education.

*The meeting rose at 6 p.m.*