



Dahir approving Statutes of the Equity and Reconciliation Commission¹

Dahir No 1.04.42 of the 19th of Safar 1425 (10 April 2004)

Approving Statutes of the Equity and Reconciliation Commission

The Kingdom of Morocco

The Equity and Reconciliation Commission

The National Commission for Truth, Equity and Reconciliation

Dahir

Praise be to God

(The Big Seal of His Majesty the King Mohammed VI)

It is to be known by the present Dahir, may God elevate and strengthen its content,

That His Cherifian Majesty

Considering the provisions of the Dahir No 1.00.350 of the 15th of Muharrem 1422 (10 April 2001) reorganizing the Consultative Council of Human Rights and in particular its article 7,

Considering Our high approval of the recommendation made by the Consultative Council of Human Rights concerning the creation of the "Equity and Reconciliation Commission" and including its attributions,

Taking into account Our high decision to approve the appointment of this Commission and the content of Our royal speech of the 7th of January 2004 on the occasion of its installation, especially with regard to the fact that we considered it to be

¹ Posted by USIP Library on: May 5, 2009

Source Name: Dahir No 1.04.42 of the 19th of Safar 1425 (10 April 2004), Approving Statutes of the Equity and Reconciliation Commission, The Kingdom of Morocco, The Equity and Reconciliation Commission, The National Commission for Truth, Equity and Reconciliation

Date downloaded: June 6, 2008

Source URL: http://www.ier.ma/article.php3?id_article=1395

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a truth, equity and reconciliation commission,

Has decided the following:

The statutes of the Equity and Reconciliation Commission annexed hereby are approved. As they hold that the Commission has the obligation to abide by its attributions and to establish its internal regulations, they will serve as the Statutes of the aforesaid Commission and will be published in the Official Gazette.

Enacted in Rabat on the 19th of Safar 1425 (10 April 2004)

Statutes of the Equity and Reconciliation Commission

Preamble

Basing itself on the royal speech delivered in Agadir by His Majesty the King Mohammed VI on the 7th of January 2004, given that it constitutes a reference for the Equity and Reconciliation Commission whose work and activities aim at strengthening and consolidating the “acquisitions” and at completing the extrajudicial equitable settlement of the gross human rights abuses that occurred in the past, and this within the framework of a comprehensive approach which is intended to heal the wounds of the past, compensate for the damage, establish the facts and learn the lessons of the past in order to reconcile the Moroccans with their history and themselves and release their creative energies;

Considering the royal decision of the 6th of November 2003 approving the recommendation made by the Consultative Council of Human Rights in accordance with article 7 of the Dahir No 1.00.350 reorganizing the Council, which Dahir is based on article 19 of the Constitution that provides that His Majesty the King is the protector the rights and freedoms of the citizens, social groups and communities;

Basing itself on the approval given by his Majesty to the appointment of the president and the sixteen members of the Equity and Reconciliation Commission and to the setting up of the aforesaid Commission, composed of members from different tendencies, experiences and special fields, chosen in equal numbers among the members of the Consultative Council of Human Rights and from outside the Council, all united around the same objectives of protection and promotion of human rights;

With a view to implement the philosophical import of the profound vision developed by His Majesty the King in the royal speech delivered in Agadir on the occasion of the installation of the Commission, which has endowed it with a historical dimension and entrusted it with eminent responsibilities, especially when His Majesty defined it as a truth and equity commission;

Basing itself on the final report of the Independent Commission of Arbitration previously in charge of the compensation of the victims of forced disappearance and arbitrary detention dated the 20th of November 2003 and submitted to His Majesty the

King;

Taking into account the memorandums of national human rights organizations, the representatives of the victims, the Bar Associations of Morocco, and of all involved national institutions, stating their conceptions and propositions concerning the methods for justly and equitably settling cross human rights abuses that occurred in the past;

Basing itself on the constitutional commitment of the Kingdom of Morocco to human rights as they are universally recognized as well as the adherence of Morocco to the international instruments on the subject;

Inspired by the principals and provisions of the international legislation of human rights and the regulations and rules provided for within the context of the United Nations in that regard, as well as the principal lessons drawn from the different experiences of the nations involved in reconciliation processes, in order to preserve the memory, to do justice to the victims and consolidate the national unity by the creation of truth and reconciliation commissions governed by the rules of justice and equity, through an extrajudicial settlement of the cross human rights abuses;

In order to perfect the Moroccan experience regarding justice and reconciliation as an integral part of the national civilizational project of constructing a better future to allow our country to face the internal and external challenges, and this within the context of a democratic transition initiated by a population that, far from being prisoner of the negative aspects of its past, fully accepts it and endeavor to draw from it strength and dynamism to institute a democratic society in which all citizens exercise their rights and fulfill their duties freely and responsibly in a State that respects the rule of law.

Taking into account all these considerations, the Equity and Reconciliation Commission whose members' names follow drew up and adopted unanimously the present statutes:

President: Driss Benzekri; Members: Ahmed Chawki Benyoub; Abdelaziz Benzakour; Mohamed Mustapha Raissouni; M'barek Bouderkka; Mahjoub El Haiba; Mohamed Berdouzi; Latifa Jbabdi; Mustapha Iznasni; Abdeltif Menouni; Brahim Boutaleb; Mae El Ainine Mae El Ainine; Salah El Ouadie; Abdelaziz Bennani; Driss El Yazami; Abdelhay Moudden; Mohamed Nesh-nash.

First Chapter: General Provisions

Article 1

The present statutes establish, on the Commission's attributions basis, its principal rules of operation, the decision-making modes and the means of communication and management of its administrative and financial matters.

Article 2

The President of the Commission supervises its work, direct its meetings, and acts as its spokesperson. He assumes the supervision and the follow up of all the contacts the Commission has undertaken with the governmental departments, the public and administrative authorities concerned. He reports on the progress of the Commission's work to the Consultative Council of Human Rights, during the latter's sessions according to the provisions of the dahir reorganizing the Council.

The President may delegate some of its prerogatives to one or more members of the Commission.

Article 3

The members of the Commission fulfill their missions independently, impartially and objectively. They commit themselves, during their term in office, to work as a group, in a spirit of solidarity, and imbued with the human rights spirit and values.

Article 4

The Commission's deliberations are confidential. All members are bound by the absolute confidentiality of the information sources and the development of the investigations.

Article 5

For the purposes of these statutes, the following expressions mean:

- "Gross human rights abuses ": the forced disappearance or the arbitrary detention as defined below in the sense that they constitute categories of massive and wholesale violations;
- "Forced disappearance": the abduction or arrest of one or more persons and their illegal restraint, against their will, in a secret place by unduly depriving them of their freedom through the act of government officials, individuals or groups acting on behalf of the state, or the denial of these acts and the refusal to disclose their fate which deprive them of any legal protection;
- "Arbitrary detention ": any illegal restraint or detention not in conformity with the law and occurring in violation of the basic principals of human rights, in particular the individuals ' rights to freedom, life and bodily integrity and on the grounds of their political, trade-union, or association activities;
- "Victim": person who was subject to arbitrary detention or forced disappearance as specified above;
- "Reparation of damage": all measures taken for the victims because of the

material and moral damage sustained by them or by their legal successors as a result of forced disappearance or arbitrary detention, as well as the general and collective measures. The reparation of damage may take different shapes and be put into practice through various measures such as compensation, readjustment, reintegration, rehabilitation, the preservation of memory and guarantees against the repetition of the violations. In case the victim died or her fate could not be determined, the reparation of the damage will be affected in favor of his/her heirs or legal successors.

Chapter II Prerogatives

Article 6

The prerogatives of the Equity and Reconciliation Commission are nonjudicial and do not call into question the individual responsibility for the violations.

These prerogatives include the inquiry, the investigation, the assessment, the arbitration, and the recommendation.

Article 7

The Equity and Reconciliation Commission, after examining the work done by the former Independent Commission of Arbitration in charge of compensation, carries out a comprehensive assessment of the process of settlement of the forced disappearance and arbitrary detention problem, in consultation with the government, the public and administrative authorities concerned, the human rights organizations, the victims, their families and their representatives.

Article 8

The Equity and Reconciliation Commission is competent to deal with the violations committed during the period from the independence to the date of the royal approval creating the Independent Commission of Arbitration in charge of compensation of the victims of forced disappearance and arbitrary detention.

Article 9

The Equity and Reconciliation Commission undertakes, within the framework of its prerogatives, the following missions:

1- To establish the nature and the scale of the gross human rights abuses committed in the past, examined within their context and in the light of the human rights rules and values as well as the principles of democracy and the rule of law, through investigation, information gathering, consulting the official archives and collecting from any party information and data useful to determine the truth.

2 - To continue the investigations on the cases of forced disappearance whose fate remains undetermined, to put in all efforts to investigate the facts that have not been elucidated yet, to reveal the fate of the disappeared persons and propose the appropriate measures for the cases in which the death is established.

3 - To determine the responsibilities of the state organs or any other party in the violations and facts subject to the investigations.

4 - To compensate for the material and moral damage sustained by the victims or their legal successors by carrying on with the work of the former Independent Commission of Arbitration in charge of compensation and by giving decisions on all the requests:

- Submitted to the aforesaid Commission after the deadline that was formerly the end of December 1999.
- Submitted to the Equity and Reconciliation Commission within a new period of one month between the 12th of January 2004 and Friday the 13th of February 2004.
- Or submitted by the legal successors in cases in which the fate of the victims of forced disappearance is still unknown or their death has been established after the necessary inquiries and investigations are carried out.

5 - To see to it that the other injuries suffered by the victims of forced disappearance are repaired by formulating propositions and recommendations for the psychological and medical rehabilitation and social reintegration of the victims who need it, and the completion of the process of settling the administrative, legal and professional problems as well as the questions relating to the restitution of property.

6 - To draft a report as an official document setting out the conclusions of the inquiries, investigations and analysis on the violations and their context and to formulate recommendations and propositions to preserve the memory and guarantee the non repetition of the violations, repair the effects of the violations and restore confidence in the supremacy of law and respect for human rights.

7 - To develop and promote a culture of dialogue and set up the basis of a reconciliation process oriented toward the consolidation of the democratic transition in our country, the strengthening of the rule of law and the propagation of citizenship and human rights values and culture.

Article 10

In order to achieve the objectives of these statutes and to implement the high royal decision creating the Equity and Reconciliation Commission, all state authorities and institutions bring their support to the Commission and provide it with all information

and data allowing it to accomplish its missions.

Article 11

The Commission holds two sorts of plenary meetings:

- Ordinary plenary meetings held once every month to assess the work that has been accomplished and take the necessary decisions concerning the cases under investigation.
- Extraordinary plenary meetings convened by the President or the third of the members to resolve urgent questions

Article 12

The Commission's meetings are convened by its president. The notification to attend the ordinary meetings with the agenda and the related documents are sent to the members of the Commission a week, at least, before the date of the meeting. The meetings are considered valid when attended by two-thirds of the members of the Commission.

The extraordinary meetings of the Commission are convened by its President or one third of its members. The notification to attend the extraordinary meetings is sent with the agenda forty-eight hours, at least, before the date of the meeting. These meetings are valid when attended by half of the members of the Commission.

Article 13

The Commission endeavors to take its decision by consensus. If necessary, it may take its decisions by a majority of two-thirds of the members attending the meeting. If the Commission considers it necessary, the vote will be secret.

Article 14

The Commission appoints two general rapporteurs who draft reports of the meetings. It may appoint among its members a special rapporteur to follow up a particular case. It may appeal to specialized experts for assistance in its various field of competence.

Article 15

The Commission is organized in working groups:

- The working group in charge of investigations;
- The working group in charge of reparation;
- The working group in charge of studies and research.

Each group appoints among its members a rapporteur who coordinates its work. The Commission may adopt other organizational measures it may consider appropriate.

Article 16

The working group in charge of investigation undertakes the following tasks:

- Investigate the cases of forced disappearance victims whose fate is undetermined, whether they are still alive or dead.
- Gather all information and documents, and collect testimonies concerning events and facts related to different type of violations committed in the past.

Article 17

The working group in charge of reparation undertakes the following tasks:

- Continue the work of the Independent Commission of Arbitration in charge of compensation with regard to the compensation for the material and moral damage sustained by the victims of forced disappearance and arbitrary detention and by their legal successors on the same arbitral basis and in accordance with the principles of justice and equity.
- Pursue the reparation of the other injuries suffered by the victims of forced disappearance and arbitrary detention mentioned in paragraph 5 of article 9 above.

Article 18

The working group in charge of studies and research undertakes the following tasks:

- Conduct research and studies necessary for the accomplishment of the Commission's missions.
- Gather and analyze all data, information and conclusions obtained by the other working groups with the prospect of the drafting of the final report by the Commission.

Article 19

The President organizes a weekly meeting for the rapporteurs of the working groups and the two general rapporteurs of the Commission in order to coordinate its activities.

Any member of the Commission may attend this meeting.

At the end of the meeting an informational report is sent to all the members of the

Commission.

Article 20

The drafts of the decisions or the propositions are submitted to the periodical meetings of the Commission in order to be examined or approved.

Chapter IV Administration and the Financial Management

Article 21

The Commission has an administration composed of administrative and technical staff as well as agents.

It may appeal to experts and advisors to assist it.

The Commission examines and approves the propositions and drafts relating to its administrative management submitted by its President.

Article 22

The Commission's administration is organized according to the requirements of its missions and the progress of its work.

Standing orders governing the administrative organization and the work of the Commission will be established.

Rules guarantying the confidentiality of the Commission's work and binding on all the members of its administration and those collaborating with it will be established.

Article 23

The Commission has a special budget allocated for equipment and running expenditures.

The President is the one entitled to authorize expenditures.

The President submits a budget proposal to be examined and approved by the Commission.

The President presents a detailed report on the budget management.

Chapter V Communication and Information

Article 24

In order to guarantee the interaction and the participation of all sectors of society in its work, the Commission undertakes to set up a communication plan oriented towards the victims or their families and representatives, the audiovisual media, the press and all segments of civil society.

Chapter VI Final Provisions

Article 25

The Commission establishes standing orders and procedures to facilitate the accomplishment of its various missions.

Article 26

The Commission issues, upon the completion of its work, a special recommendation concerning the future of its archives.

Article 27

The present statutes are submitted to His Majesty.