

2 Morocco's Equity and Reconciliation Commission: An Entry-Point to Security Sector Reform

FINDING THE TRUTH

In 2004, Morocco initiated a transitional justice process that led to the establishment of the Equity and Reconciliation Commission (ERC). The Commission was mandated (1) to investigate allegations of past human rights abuses by the security forces, (2) to establish the truth about these abuses, (3) to provide reparations to victims and their families, and (4) to formulate recommendations to prevent repetition of such violations in the future.

The Commission examined more than 22,000 claims, found 16,000 individuals entitled to receive compensation, and elaborated a set of recommendations. In November 2005, it submitted its final report to King Mohammed VI, who endorsed it.

THE RECOMMENDATIONS OF THE EQUITY AND RECONCILIATION COMMISSION

In its final report, the Commission established that non-existent or inadequate oversight of security forces had made large-scale human rights violations possible. The ERC concluded that strengthening governance of the security sector was imperative. The following recommendations are particularly relevant for security sector reform:

- Develop a public national security policy
- Clarify and publish the legal framework regulating the institutional attributions, decision-making, and supervision and evaluation mechanisms of all security forces and administrative authorities

- Oblige the government to inform the public and Parliament about any event that required the intervention of security forces
- Establish just and transparent internal control mechanisms within security forces

Section 3 of this leaflet groups the ERC's recommendations according to the four phases of a model security sector reform process. It shows that Morocco's recommendations are aligned to international best practice and cover key areas of reform.

IMPLEMENTING THE RECOMMENDATIONS OF THE EQUITY AND RECONCILIATION COMMISSION

Civil society and members of parliament call for the full implementation of the ERC's recommendations. However, progress has so far been slow. In order not to lose the momentum, the government should adopt a transparent communication policy outlining a clear agenda for the implementation of the ERC's recommendations.

Want to Know More?

DEVELOPING POLICY INSTRUMENTS

Undertaking Security System Reform Assessments (Section 3), in OECD DAC Handbook on Security System Reform: Supporting Security and Justice, OECD, 2007, pp. 41-56.

National Security Policy, DCAF Backgrounder Series, DCAF, 2008.

The Role of the Parliament in the Development of a National Security Policy in the Arab Region, Conference Proceedings, DCAF, 2007.

LEGISLATING FOR THE SECURITY SECTOR

Legislating for the Security Sector, DCAF Toolkit Series, DCAF, 2008.

DEVELOPING MANAGEMENT AND OVERSIGHT INSTITUTIONS

Parliamentary Oversight of the Security Sector, DCAF & IPU, 2003.

Parliamentary Committees on Defence and Security, DCAF Backgrounder Series, DCAF, 2008.

Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies, DCAF, University of Durham, Parliament of Norway, 2005.

Public Oversight of the Security Sector: A Handbook for Civil Society Organizations, DCAF & UNDP, 2009.

IMPLEMENTING CHANGE AT THE FORCE LEVEL

Contemporary Challenges for the Intelligence Community, DCAF Backgrounder Series, DCAF, 2006.

OECD DAC Handbook on Security System Reform: Supporting Security and Justice, OECD, 2007.

MEASURING SUCCESS OF SECURITY SECTOR REFORM

Governance Matters: Worldwide Governance Indicators 1996 - 2007, World Bank Institute, 2008 (www.govindicators.org)

Governance Indicators: A Users' Guide, UNDP & European Commission, 2004.

ABOUT DCAF

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes good governance and reform of the security sector. The Centre conducts research on good practice, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and the security forces.

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SECURITY SECTOR REFORM

in Light of the Recommendations of Morocco's Equity and Reconciliation Commission

1 Security Sector Reform



WHAT IS SECURITY?

More and more Arab citizens see security as a public service provided by the state - no different than health care or education. They demand professional, effective and transparent security services which are responsive to their needs. They want police and security organisations to abide by the law and human rights norms and to be accountable for their performance and conduct.

WHAT IS THE SECURITY SECTOR?

In general, the security sector consists of the core justice and security providers, i.e. the armed-, police and security forces as well as prison services and their oversight and management bodies.

In Morocco, the core justice & security providers comprise:

- Royal Armed Forces (FAR), Royal Gendarmerie, Royal Guard, Directorate-General for National Security (DGSN), Directorate-General for Territorial Surveillance (DGST), Directorate-General for Studies and Documentation (DGED), Military Police, Military Intelligence, Auxiliary Forces, private security companies
- Justice and law enforcement institutions (the judiciary, prison and correctional services, prosecution services)

The management and oversight bodies comprise:

- Executive management and oversight bodies (e.g. King, Prime Minister, Ministries of Interior, Justice and Finance, Administration of the National Defense)
- Legislative management and oversight bodies (Parliament and its specialised committees)

- Additional national oversight bodies (Advisory Council on Human Rights (CCDH), ombuds-institutions: Diwan Al Madhalim)

- Informal oversight bodies (human rights NGOs, media, research organisations, advocacy groups, political parties)

WHY REFORM THE SECURITY SECTOR?

Countries engage in security sector reform for a variety of reasons:

- To adapt to change at the international and domestic level
- To increase the legitimacy of the government and its security forces
- To avoid the repetition of past human rights violations committed by security forces
- To ensure the efficient allocation of scarce public resources

HOW TO REFORM THE SECURITY SECTOR?

Each state has to develop its own solutions that take into account its specific cultural and political environment. Any solution should be based on a national vision defining the type of security a state and its citizens want.

Security sector reform often begins with an assessment of the performance of the security sector and a policy review. This allows to compare the security needs of citizens with the state's capabilities. The review may reveal the need to (see also chart above):

- Legislate for the security sector
- Develop management and oversight institutions
- Implement change at the force level



DEVELOPING POLICY INSTRUMENTS

ANALYSIS OF ENVIRONMENT	ASSESSMENT OF GAPS & CAPABILITIES	IDENTIFICATION OF GAPS & REFORM NEEDS	DEVELOPING A SHARED VISION	PLANNING FOR CHANGE & IMPLEMENTATION
What are current security needs?	What are strengths of justice & security providers?	Which deficiencies need to be addressed?	Who develops the national vision of security?	What political strategy for managing change?
What are future security needs?	What are weaknesses of justice & security providers?	Which strengths should be further developed?	Who needs to be consulted?	What design of organisations and systems?
What is change?	What are strengths of oversight institutions?	What are reform priorities?	Who validates and adopts the vision?	What resource strategies need to be developed?
What are regional & international security expectations?	What are weaknesses of oversight institutions?		How to secure broad popular support?	Is there a planning for review?
What are threats to security?				

RECOMMENDATIONS OF THE EQUITY & RECONCILIATION COMMISSION:¹

- ✓ Develop a national security policy (III.8.4)
- ✓ Clearly define a 'crisis situation' and determine appropriate and proportional measures for responding to it (III.8.4)

¹ Numbers in brackets refer to relevant section of the *Final Report, Volume I 'Truth, Justice and Reconciliation'*, Chapter IV (Rabat: Equity and Reconciliation Commission, 2005, Arabic version).

LEGISLATING FOR THE SECURITY SECTOR

SEPARATION OF POWERS	EXECUTIVE & LEGISLATIVE MANAGEMENT	JUSTICE SYSTEM	ORGANISATION & MISSION OF SECURITY FORCES	OVERSIGHT LAWS	SERVICE LAWS
Constitution	National Security Council	Criminal Code	Armed Forces	Armed Forces	National Service
Constitutional Laws	Ministries of Interior, Justice, Finance	Civilian Courts	Police	Police	Armed Forces
	Administration of National Defense	Military Criminal Code	Intelligence	Intelligence	Police
	Parliament	Military Courts	Other Security & Justice Providers	Other Security & Justice Providers	Intelligence
		Administrative Tribunals	Private Security Companies	Private Security Companies	Other Security & Justice Providers

RECOMMENDATIONS OF THE EQUITY & RECONCILIATION COMMISSION:¹

- ✓ Improve security sector governance at the constitutional level (III.1)
- ✓ Strengthen the constitutional principle of the separation of powers, notably that of the judiciary (III.1)
- ✓ Strengthen the respect for human rights and define the scope of liberties and fundamental rights at the constitutional level (III.1)
- ✓ Harmonise national human rights legislation with international obligations (III.2)
- ✓ Harmonise Morocco's criminal code with international norms and obligations (III.3.2)
- ✓ Clarify and publish the legal framework and texts regulating the attribution of powers, decision-making processes, mode of operation, and supervision and evaluation mechanisms of all security forces and administrative authorities in charge of maintaining public order (III.8.3)

DEVELOPING MANAGEMENT AND OVERSIGHT INSTITUTIONS

EXECUTIVE AUTHORITIES	LEGISLATIVE AUTHORITIES	JUDICIAL AUTHORITIES	ADDITIONAL NATIONAL OVERSIGHT BODIES	CIVIL SOCIETY
King	Committee on Foreign Affairs, National Defense and Islamic Affairs	Civilian Courts	Advisory Council on Human Rights (CCDH)	Research & Training Centres
Ministry of Interior	Committee on Justice, Legislation and Human Rights	Military Courts	Diwan Al Madhalim	Advocacy Groups
Ministry of Justice	Committee on Internal Affairs, Decentralisation and Infrastructure	National Audit Court		Political Parties
Administration of National Defense	Committee on Finance and Economic Development			Media Outlets
Ministry of Finance				

RECOMMENDATIONS OF THE EQUITY & RECONCILIATION COMMISSION:¹

- EXECUTIVE AUTHORITIES**
 - ✓ Hold the government responsible for maintaining security and law and order (III.1 + III.8.1)
 - ✓ Devise a national strategy to ensure accountability of the security forces and the executive (III.3.2)
 - ✓ Develop efficient and coercive measures and transparent and just control mechanisms to hold the security forces and the executive accountable (III.8.6)
 - ✓ Obligate the government to inform the public and Parliament about each event that required the intervention of the security forces (incl. circumstances of the incident, the response of the security forces, and the results) (III.8.1 + III.8.4 + III.8.5)
 - ✓ Establish provincial and local oversight committees to oversee security forces under the command of provincial and local authorities (III.8.5)
- LEGISLATIVE AUTHORITIES**
 - ✓ Strengthen parliamentary oversight of the security sector (III.8.2)
- ✓ Establish the political responsibility of Parliament to protect human rights and fundamental freedoms (III.8.2)
- ✓ Empower Parliament to summon and question all members of the executive and the security forces (III.8.2)
- ✓ Develop parliamentary inquiry committees (III.8.2)
- JUDICIAL AUTHORITIES**
 - ✓ Strengthen judicial control of the constitutionality of laws and decrees adopted by Parliament and the executive (III.1)
- CIVIL SOCIETY**
 - ✓ Enhance civil society's oversight capacity by providing access to the legal framework governing the security forces (III.8.3)

IMPLEMENTING CHANGE AT THE FORCE LEVEL

ARMED FORCES	POLICE	INTELLIGENCE SERVICES	OTHER JUSTICE AND SECURITY PROVIDERS	PRIVATE SECURITY
Royal Armed Forces (FAR)	Directorate-General for National Security (DGSN)	Directorate-General for Studies and Documentation (DGED)	Prison & Correctional Services	Private Security Companies
Royal Gendarmerie	Military Police	Directorate-General for Territorial Surveillance (DGST)	Civil Protection	
Royal Guard		Military Intelligence (2ème Bureau)		
Auxiliary Forces				

RECOMMENDATIONS OF THE EQUITY & RECONCILIATION COMMISSION:¹

- ✓ Define the mission, structure, and oversight mechanisms of all security forces (III.8.3)
- ✓ Establish transparent internal oversight and accountability mechanisms within the security forces (III.8.6)
- ✓ Ban verbal orders and instructions, except in the case of a serious and imminent danger (III.8.6)
- ✓ Promote good governance in the security sector and human rights within the security forces (III.8 + III.8.7)
- ✓ Develop and disseminate best practice guides for the various security forces (III.8.7)
- ✓ Make human rights training mandatory for police officers (III.8.6)
- ✓ Ensure that every organ or agent of the security forces systematically conserves all orders and decisions leading to a coercive intervention or the use of force (III.8.6)
- ✓ Put in place severe disciplinary and penal sanctions for attempts to cover up the loss of human life or material damage resulting from excessive use of force (III.8.6)