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Conseil national des droits de l'Homme

Unprecedented Confrontations at the
Melilla Crossing :
Preliminary report of the Fact-Finding
Commission

13 July 2022

Table of Contents

I)	Why a fact-finding mission?	2
1)	Rationale of the mission:.....	2
2)	Establishment of the Commission:	2
3)	Methodology of the Commission :	3
II)	Migration in the Province of Nador	4
III)	Multiple confrontations.....	5
1)	Background:.....	5
2)	Examination of video evidence:.....	7
3)	Intervention of the public forces and use of force against migrants :	8
4)	Repercussions of the confrontations:	8
5)	Testimonies from injured migrants:	11
IV)	Judicial investigation	11
V)	Testimonies of non-governmental organizations (NGOs)	12
1)	Meeting with members of the Nador branch of the Moroccan Association of Human Rights (AMDH):	12
2)	Meeting with members of the Thissaghna Association for Culture and Development:.....	13
VI)	Media Monitoring and Social Media Tracking.....	14
VII)	Preliminary conclusions.....	15
VIII)	Preliminary propositions.....	17
IX)	Annex: Barrio Chino Crossing and the Fence Surrounding Melilla:	19

The National Human Rights Council (CNDH) established a fact-finding mission following the violent and tragic confrontations that occurred on Friday morning 24th of June 2022, at the crossing area separating Melilla from Nador and the crossing point known as “Barrio Chino”. These events left 23 migrants dead and 217 with injuries of varying degrees of severity among migrants and members of the public forces. Images of the incident were circulated by national and international media and sparked reactions from various actors.

I) Why a fact-finding mission?

1) Rationale of the mission:

Pursuant to article 161 of the Constitution and articles 4 and 5 of the Law No. 76.15 on the Reorganization of the National Human Rights Council (CNDH)¹, and in accordance with the relevant provisions of the UN General Assembly resolution 48/134 on the Principles relating to the mandate of National Human rights Institutions² (“Paris Principles”), in particular those relating to the protection of human rights and the priorities of National Human Rights Institutions (NHRIs) that are accredited with ‘A’ status;

Given the importance national and international public opinion attaches to migration issues, and in view of Morocco’s unwavering determination to work towards protecting migrants' rights and providing for their integration into society;

In view of the particular attention the CNDH attaches to migration issues and to the protection and promotion of migrants’ rights, to which it devotes, since 2019, a part of its annual report and on which it issues recommendations;

Considering the requirements dictated by the CNDH’s position as chair of the Working Group on Migration of the Network of African National Human Rights Institutions (NANHRI), of adopting innovative initiatives aimed at coordinating NANHRI’s actions in the field of migrants' rights and strengthening intervention mechanisms of African NHRIs;

2) Establishment of the Commission:

The Fact-Finding Commission, mandated by the CNDH President, is composed of Mr. Mohamed Amarti, the Commission’s Coordinator and President of the Regional Human Rights Commission (CRDH) of the Oriental Region and member the Committee on Economic, Social

¹ https://www.cndh.org.ma/sites/default/files/loi_76-15_relative_a_la_reorganisation_du_cndh_1.pdf

² <https://www.legal-tools.org/doc/b38121/pdf/>

and Cultural Rights; Mr. Mohamed Charef, President of the CRDH of Souss-Massa and member of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Mr. Abderrafie Hamdi, Director of Human Rights Monitoring and Protection at the CNDH and member of the national commission against human trafficking, Dr. El Adel Esshaimi, Doctor and Member of the CRDH of the Oriental Region, and Ms. Malika Elkihel Daoudi, Member of the CRDH of the Oriental. The Commission' mandate is to shed light on the causes and circumstances of the events, on the basis of data collected from local authorities, testimonies from various official sources and civil society actors working in the field of migrants and refugees' rights in Nador, as well as testimonies from injured migrants.

The aim is to clarify, identify and determine the facts; understand their context, location, chronology, and the parties involved; as well as to collect data about the tragic events that were characterized by severe and unprecedented violence, especially on June 24th, 2022 in the "Barrio Chino" crossing point between the cities of Nador and Melilla and which resulted in deaths and injuries of varying degrees of severity.

The CNDH established a fact-finding commission in an attempt to comprehend the unprecedented nature of the attempted crossing which resulted in violent confrontations, including those that occurred prior to June 24th, 2022. The Commission's chief objectives are to:

- Ascertain the truth about the allegations regarding the failure to provide first aid and assistance to injured migrants, burial of the deceased and use of live bullets, as well as to identify possible human rights violations during the intervention of public forces;
- Verify the truthfulness of the circulating information about these events including information published in the mainstream press and on social media;
- Investigate into the circumstances of the events that transcended the usual attempts of crossing in a peaceful and collective manner.
- Inquire about the relations between the attack on the fence and what has been reported to resemble the work of organized and trained groups.

3) Methodology of the Commission :

The Commission tailored its fact-finding methodology to the extent and nature of the events. Meetings were held with the governor of the Nador Province, the Prosecutor General at the Court of Appeals in Nador, the Acting Regional Delegate of the Ministry of Health, the doctor/director of El Hassani Regional Hospital in Nador and with a number of local civil society representatives working in the field of migration. The Commission heard the testimonies of several injured migrants and visited several departments of the Regional Hospital in Nador and its mortuary. The Commission also visited the crossing area "Barrio Chino" and the fence separating Nador from Melilla which migrants attempted to climb on Friday June 24th, 2022. The Commission visited the

area adjacent to “Barrio Chino” to inspect a section of the road taken by migrants to reach the crossing area and the fence and conducted another visit to the “Sidi Salem” cemetery.

Based on the facts and data collected by the Fact-finding Commission and after cross-checking the information with various sources, the CNDH presents to public opinion and observers its findings and preliminary conclusions.

II) Migration in the Province of Nador

Local authorities provided data related to the crossing attempts of the iron fence surrounding the city of Melilla. Data confirms that these attempts, which started in 2005, have steadily increased due to migration dynamics towards the north, caused by wars, poverty, and climate change. The attempts were marked, since the early 2000s, by a large presence, of migrants from West Africa in particular.

During the past year and the beginning of this year, the region has witnessed the sudden arrival of large numbers of migrants from East Africa, especially from Sudan and Chad. It is worth noting that migrants from East Africa use Libya as a main crossing point on their way to Europe.

Migrants use the vast forests of the Nador province as a rear base to launch well-organized campaigns to storm the fence surrounding the city of Melilla.

Local authorities attributed the difficulty of curbing the phenomenon in the province to three main causes:

- The phenomenon of migration in the province, which has taken a "criminal" character, given the links between a group of these migrants and human trafficking networks and mafias. In this regard, the authorities have dismantled several networks and organizations and brought them to justice. Based on information available, authorities have dismantled more than 1300 human trafficking networks during the past five years, including 256 networks in 2021 and 100 networks as of May 2022;
- The length of the iron fence surrounding the city of Melilla (13 km) makes it difficult to control;
- The continuous influx of migrants into the province, especially through the eastern borders of the Kingdom.

Migration in the province can be classified into three patterns:

- 1st Pattern: Some migrants, usually those who possess the financial means, resort to networks specialized in human trafficking by sea. Traffickers surreptitiously transport them on fast boats across the sea for a fee, and as soon as they cross the maritime border

between the Kingdom of Morocco and the Kingdom of Spain, they establish communication, via satellite phones, with Spanish migration organizations that inform Spanish authorities of their location in order to rescue the migrants at sea;

- 2nd Pattern: or the "traditional pattern", consists of climbing the iron fence in large groups late at night while avoiding direct confrontation with the authorities and taking advantage of the element of surprise. This category of migrants retreats and withdraws instead of confronting public forces. According to the authorities, this group of migrants usually originate from West African countries (Mali, Senegal, Guinea, Cameroon, Ivory Coast...);
- 3rd Pattern which is a new and evolving phenomenon, having emerged since March of this year, is used by from Sudan in particular. This group of migrants try to take advantage of their large numbers to attack the fence in broad daylight in well-organized attempts and in a clear defiance of the public forces, and they head for the gates and try to force them open, without necessarily climbing them. They usually make use of violent means in order to cross the border, as was the case during the March 2022 incursions.

III) Multiple confrontations

1) Background:

The information and data obtained by the Commission from the Territorial Administration agency shows that migration in the province has witnessed changes in the recent period, especially following the arrival of a new wave of migrants to the region starting from mid-2021. Migration began to acquire a “violent character” after migrants seized control of water supply points and prevented the local population from using them. Moreover, some residents complained of being victims of threats and provocation from certain migrants.

After a period of calm that followed the storming of the fence in March 2022, migrants of Sudanese nationality continued to arrive in Nador via trains and buses starting from mid-June, despite measures being taken to tighten the control in train stations, public transports, roads and city entrances, especially on the Eastern side, in order to prevent the recurrence of violent confrontations like those that took place in March 2022.

As a result, the migrants changed their methods in reaching the province of Nador and started to move at night through non-controlled routes, individually or in small groups of no more than five people, heading towards specific meeting points in the forest.

In view of the change in the modus operandi, especially the new routes taken by migrants, authorities intensified their search and sweep operations to monitor the areas where they have

settled, most notably in the “Bokoya” forest, which became a new settlement area for migrants, and whose heights became their new hiding place. Roadblocks and stones were placed on the paths leading to their location.

On **June 18th, 2022**, local authorities organized a search and sweep operation in the Bokoya forest that led to a clash with migrants who barricaded themselves at the top of the mountain and used extreme violence in order to avoid being relocated, especially by throwing stones and rocks, even after public forces had retreated. During the confrontations, the migrants showed *“a thorough organization that indicates knowledge of specific tactics and roles distribution, as well as an experience in rugged areas, which allowed them to besiege public forces from various sides, but also undergo a tactical retreat to the top of the mountain to lure them, where they became easy prey for attack.”*³

Moreover, on the day of June 18th, 2022, **the migrants held 5 members of the public forces hostage** in addition to seizing numerous law enforcement equipment such as helmets and protective shields⁴, which forced the public forces to retreat and negotiate with the migrants. Four hostages were then released without conditions while one was kept hostage and was exposed to serious harm. He was later released following negotiations that also led to the recovery of the seized equipment.

Furthermore, during this operation, 56 members of the public forces sustained injuries of varying degrees of severity and were subsequently transported to El Hassani Regional Hospital in Nador to receive the necessary medical care. We do not know how many migrants sustained injury during these clashes.

Following this operation, the migrants withdrew in small groups and in different hours to the neighboring forests and barricaded themselves in the "Aznouden" forest, which is part of the "Ihaddaden" municipality, about 20 km from the city of Melilla. This area has a very rugged and high terrain and represents a strategic location that enables the monitoring of movement from long distances.

With the aim of neutralizing the danger posed by an extremely violent group of migrants, public authorities swept the Aznouden Forest on **June 23th, 2022**, but were met, again, with severe violence, resulting in 116 injuries among public forces, including 7 serious cases.

On the morning of Friday, June 24th, 2022, close to 2000 migrants moved on foot in separate and organized groups from the Aznouden forest towards the city of Melilla, about 20 km from the crossing, where they were seen in the Oulad Salem area at around 6:30 AM before they continued their way toward the iron fence at around 7:00 AM. They divided themselves into two groups, the first headed to one of the gates of the fence, while the second group headed to the "Barrio Chino" passage before the entire group reached the crossing area to climb its walls. As soon as they gained

³ According to local authorities' statements

⁴ Video: <https://youtu.be/1cUOvb7CwBl>

access to the crossing area and headed to the firmly closed turnstiles separating the city of Melilla from Nador (they have been closed for more than three years), they were stuck in a cramped and closed space.

2) Examination of video evidence:

The fact-finding mission team reviewed 11 videos taken by the authorities and citizens and which can be divided into two sets:

- The first set of videos: documents migrants' confrontation with public forces during the two operations carried out by the authorities in the mountains of Bokoya and Aznouden on the 18th and 23rd of June 2022 and shows clashes between security forces and migrants in forested areas during which public forces used truncheons and tear gas to face well-organized migrants carrying sticks and stones. The migrants took advantage of the rugged terrain, their superiority in numbers, and their positions in the heights to lure members of public forces and trap them. It also appears in the recordings that migrants seized some of the security members' equipment such as helmets and protective shields. Another video shows a group of migrants holding a member of public forces hostage before they enter into negotiations with the authorities about his release. Masked members leading the negotiations on the part of the migrants, represent, according to authorities, the leaders of the group. Another recording shows several members public forces with injuries resulting from the confrontations in addition to equipment (helmets and protective shields) that was later recovered from the migrants.
- The second set of videos: of the attack on the fence on June 24th , 2022, shows a large crowd of migrants descending from neighboring mountains carrying sticks and wearing backpacks (loaded with stones). In the video, large crowds appear to be moving towards the iron fence while law enforcement members are retreating due to the large number of migrants throwing stones at them and to which they responded by using tear gas. Then, a group of migrants attacks the iron gate of the crossing while another group moves to climb the fences surrounding it. Due to the large number of migrants climbing the fence that tops the walls, part of it collapses with migrants still hanging on to it.

Other videos show migrants gathering inside the crossing area, some of them climbing the iron fence surrounding the city of Melilla while members of public forces remain outside the crossing. Another video shows migrants gathering inside the separating area in the crossing which includes the closed turnstiles.

Due to the narrowness of the area and the insistence of the migrants to cross to Melilla, a large number of migrants sustained injuries of varying degrees of severity as a result of the stampede, which necessitated their transport to El Hassani Regional Hospital for treatment. 23 migrants were declared dead afterwards. 140 members of the public forces and 77 migrants sustained injuries of

varying degrees of severity. 5 seriously injured cases which necessitated urgent surgical intervention were transported to Mohammed VI University Hospital in Oujda.

3) Intervention of the public forces and use of force against migrants :

Having examined information received and collected, the Commission ascertains those public forces were carrying truncheons and tear gas but not firearms, **and that the intervention did not involve any use of live bullets.** The Commission also found that the members of public forces were responding to the immediate danger posed by the large number of attackers armed with sticks and stones (about 600 sticks were counted from the remnants of the attempt).

The confrontation between migrants and law enforcement forces was marked by severe violence and an unusual character in terms of time and place, as the incursions usually took place at night and at other points of the iron fence.

Regarding a few circulating videos showing violence being used against migrants lying on the ground, local authorities stated that these cases are isolated and individual. The CNDH considers, however, that the use of force in these individual instances is unjustified.

4) Repercussions of the confrontations:

The Fact-finding Commission conducted visits and meetings in the aftermath of the confrontations:

Visit to El Hassani Regional Hospital in Nador: The Commission met with the Acting Regional Delegate for the Health ministry and the hospital Director along with her medical staff. The Director of the hospital briefed the members of the Commission on all the measures taken to provide medical care for the injured. The hospital director confirmed that immediately after receiving news on the presence of injured victims as a result of the confrontations between members of public forces and migrants, contacts were initiated with a doctor and his team from a health center near the events. Victims were triage according to the severity of their injuries and transported to the appropriate units.

Medical assistance and care: upon examination of the files relating to the injured persons and following interviews with them and with the regional representative of health and the director of the hospital, the Commission did not find any evidence that the necessary medical assistance and proper care failed to be provided to the wounded. The necessary treatment and surgical interventions were provided in the regional hospital in Nador and in the Mohammed VI University Hospital in Oujda.

Activation of the Emergency operations Plan: The special disaster response plan was activated and the command and coordination unit was operationalized. Medical, nursing, and administrative staff were mobilized and the emergency department personnel was reinforced. Moreover, all non-urgent medical and hospital procedures were postponed to a later date, including radiological, biological and surgical ones.

Triage of the injured: In view of the increasing number of admissions to the hospital in the morning of June 24th, a second triage was carried out in order to classify the wounded victims, each according to his condition and severity of injury. Upon browsing through the hospital information system and reviewing available records of all departments visited by the Commission, including the emergency room, reception and remaining hospital services, and upon consulting the documents provided to the members of the Commission, it was found that the following measures had been respected:

Providing first aid and medical care to the injured: The Commission ascertained that first aid and medical treatment to all the injured was provided immediately after the attempted crossing, to the extent of available resources. Local authorities mobilized 20 ambulances to transport the injured to El Hassani Regional Hospital. In addition, a considerable number of ambulances belonging to the Civil Protection, local communes and the private sector contributed to transporting the injured, including 5 severely injured to Mohammed VI University Hospital in Oujda.

The medical staff of the regional hospital was mobilized to accompany the relief and rescue operations that allowed most cases to be treated. Two migrants suffering from head injuries required neurosurgery.

23 deaths during the attempt: Having met with various actors, examined the various hospital documents and analyzed the information obtained during its visit to the mortuary, the Fact-finding Commission documented the death of 23 migrants who attempted to breach the crossing, classified as follows:

- 5 cases died before reaching the hospital;
- 13 of them died despite all medical efforts to rescue them;
- 5 others died in the early hours of the following day.

Circumstances of death: The doctor/ member of the Fact-finding Commission explained that upon full examination of the migrants' bodies, it was found that there were no traces of bruises, lacerations, wounds or external bleeding. The external signs of the examined bodies are medically consistent with cases of death from mechanical asphyxia. Indeed, all the examined bodies showed signs consisting of:

- Cervicofacial congestion;
- Redness, cyanosis of the nails and lips;

- Cyanosis of the face.

Only an autopsy can accurately determine the exact individual causes of death.

The number of deaths can be attributed to the severe overcrowding and stampede that occurred during the crossing attempt as a result of a large number of migrants being packed into the narrow crossing area whose doors remained tightly closed.

The asphyxiation that led to the demise of the 23 migrants was most likely caused by a tremendous thoracoabdominal compression caused by the cramming of a large number of victims in a sealed space, with panic movement of the crowd (mass disaster).

Care for the injured: The Commission inspected all hospital departments where the wounded are treated and examined all cases including: skull fractures and brain concussions; emergency surgeries; upper body injuries; fractures treated with casts; surgeries performed to treat fractures; nose, teeth and facial bone injuries requiring orthodontic surgical intervention which were to be performed in the coming days.

The hospital received 140 wounded members of the public forces:

- 12 were hospitalized in various hospital departments;
- 35 were referred to the traumatology department to get medical casts after sustaining bone fractures;
- 93 members with bruises were treated without needing to be hospitalized.

The hospital also admitted 77 injured migrants:

- 27 cases were in critical condition and required medical intervention in the ICU. 13 of them died despite all the medical efforts to save them;
- 9 migrants were hospitalized in the Intensive Care Unit upon admission. 5 among them died in the early hours of the following day and 4 were hospitalized in the ICU. Out of the 4 cases, 2 were placed under artificial respiration;
- 5 migrants were transported to Mohammed VI University Hospital in Oujda on the same day to receive specialized treatment;
- 10 cases were hospitalized in of orthopedics and traumatology department, neurosurgery department, and the ophthalmology and otolaryngology departments;
- 16 cases were given first aid and medical care and were discharged from the hospital due to the non-severity of their injuries;

According to data reviewed by the Fact-finding Commission; 18 cases were registered in several departments of the hospital as they required different specialized medical interventions. A total of 197 injured among migrants and public forces underwent X-ray examination, and 47 cases underwent emergency brain scans.

5) Testimonies from injured migrants:

During its visit to El Hassani Hospital in Nador, the Fact-finding Commission checked on the health of the injured and the conditions of their hospitalization and held interviews with nine of them who were stable.

Having introduced themselves to the migrants and informed them about the nature of their mission, the members of the Commission inquired about the circumstances of the injuries. Two of the migrants confirmed that they were trying to cross the iron fence in large numbers and that they did not remember the details on how they fell. They stated that they regained consciousness at the hospital. They are still undergoing treatment at the hospital.

Four injured migrants (three of them from Darfur and one from Omdurman) stated that they had left Sudan in 2019 without specifying when they arrived in Morocco. They stated that on Friday June 24th, 2022, they were trying to cross the border, but due to the narrow space, the large number of migrants, and the insistence of everyone to cross at the same time and by any means; and in view of their fear of being arrested and prosecuted, a huge stampede occurred. As the doors could not be opened, a large number of them fell and they violently stepped and tripped over each other. The result was numerous deaths and injuries of varying degrees of severity, in addition to severe asphyxiation and fainting.

IV) Judicial investigation

The Commission held a meeting with the Prosecutor General at the Court of Appeals in Nador, which focused on the following points:

Use of force: The Prosecutor General stated that **public forces carried out their duty in full respect of the law and did not resort to the use of excessive force despite the violent nature of the attackers and their large numbers**, as they were confronted with about 2,000 migrants armed with stones, sticks and bladed weapons. Additionally, he confirmed that law enforcement members did not resort to the use of firearms, and that the deaths among the migrants were the result of a massive stampede inside the crossing area and the narrow corridor leading to the iron gate, all controlled by Spanish authorities.

Prosecuted individuals and fair trial guarantees: The Prosecutor General reported that Public Prosecution charged 65 migrants who got arrested. 29 of them were referred to the Criminal Chamber of the Nador Court of Appeals on charges related to felonies, while 36 were referred to the Court of First Instance on charges related to misdemeanors.

The Prosecutor General affirmed that the defendants will have access to lawyers within the framework of legal assistance provided by the Court and that the necessary autopsies will be conducted to determine specific and individual causes of death.

Identification of the detainees and the deceased, medical autopsy and DNA testing: The Prosecutor General pointed out that detainees stated their nationalities. Four of the 65 are of Chadian nationality, while the rest of them are of Sudanese nationality.

Regarding the causes of death, the official confirmed that the Public Prosecution had ordered an autopsy to determine the causes of death as well as DNA testing, with the aim of guaranteeing the deceased families' rights.

Visit to the Sidi Salem cemetery: The Commission visited the Sidi Salem cemetery, where they witnessed a group of workers digging graves. the Commission inquired about the digging operation. The cemetery workers stated that it was a daily routine to prepare new burial grounds.

The Fact-finding Commission confirms that none of the migrants who died during the attempt to cross the fence have been buried, and that the bodies of the deceased are still in the mortuary.

Situation of uninjured migrants: According to the collected and cross-checked data, some migrant groups were able to return to the mountains near the city of Melilla while the authorities transported the rest of the migrants to other cities via bus trips.

V) Testimonies of non-governmental organizations (NGOs)

The Commission held two meetings on June 28th, 2022 with four representatives of the Nador branch of the Moroccan Association of Human Rights (AMDH) and representatives of the Thissaghness Association for Culture and Development (ASTICUDE). A meeting with another NGO in Nador could not take place.

1) Meeting with members of the Nador branch of the Moroccan Association of Human Rights (AMDH):

The members stated that the branch had concluded, through its field work in the last three months, that authorities intensified the transport of migrants to other regions and “*chased the migrants through the mountains more than 20 km from the crossing, especially during the month of March and on June 18th and 23rd, 2022, in alignment with the gendarme role played by Morocco for Europe*”.

The members of the AMDH Nador testified that the events of Friday, June 24th 2022, are unprecedented in the history of migration flows to the Beni Ansar fence, as they are characterized by “*extreme violence*” from the migrants the public forces alike. The AMDH members added that, during the storming of the crossing area, public forces retreated before surrounding migrants inside it and resorted to the use of truncheons and tear gas, which led to injuries.

The members of the AMDH Nador branch also stated that, although the authorities provided about 20 ambulances to transport the injured, the large number of the injured and the lack of on-site medical care equipment led to a higher death toll.

Meanwhile, members of the AMDH’s office noted the mobilization of the medical teams in the regional hospital, which performed an excellent work that enabled treatment of a large number of the injured, despite limited available resources.

The Association attributed the number of casualties to several reasons including the severe stampede inside the crossing, the violence perpetrated by public forces following the collapse of the iron fence, and the lack of necessary on-site medical assistance.

The Association's branch confirmed that they inspected 15 bodies of migrants inside the mortuary.

2) Meeting with members of the Thissaghna Association for Culture and Development:

The Association’s members expressed their surprise regarding the unprecedented degree of violence observed during the attempt on June 24th, 2022, from both sides, but especially from migrants. The Association considered that the violent methods emerged with the influx of Sudanese migrants to the region starting from February 2021. Since then, these migrants have taken the mountains adjacent to the city as a settlement location, in isolation from other nationalities. The members of the association declared that this group of migrants rely on their large numbers and do not hesitate to engage in confrontations and use force to reach the iron fence.

According to the Association, this behavior was subject to criticism among migrants of other nationalities (West African migrants in particular), as they consider it a reason behind the tightening control from official authorities and removal procedures from the province, especially following the confrontations during the attempts carried out by Sudanese and Eritrean migrants during the month of March 2022.

According to the same association, this factor explains the absence of other nationalities in the attempt to storm the fence on June 24th , 2022.

Representatives of the Association added that the specificity of migrants from Sudan lies in the fact that a large number of them bear the status of “asylum seeker”. In addition, they belong to a young age group not exceeding 35 years-old with the near absence of women and children (their number does not exceed a few individuals). Most of them speak Arabic and a minority speaks English. Several of them had previously informed the Association that they arrived in Morocco through Libya and Algeria.

During the crossing attempt on June 24th, 2022, the Association witnessed the use of violence from both sides, as the migrants, estimated at 1,300 individuals by the Association, used sticks, stones and sharp tools, and public forces used truncheons and tear gas. The Association confirmed that it did not observe nor receive any testimonies of Moroccan forces shooting live ammunition, while eyewitnesses confirmed to them the use of rubber bullets by Spanish officers.

The Association, through its members who happened to be in the regional hospital on the day of the events, recorded that they observed the arrival of ambulances carrying the injured throughout the day.

VI) Media Monitoring and Social Media Tracking

In addition to field monitoring by the Fact-finding Commission, the CNDH was keen on monitoring publications in the national and international press and on social media platforms. The CNDH took note of images and videos containing misinformation or spreading fake news on the events and their consequences.

Having followed the most prominent hashtags regarding the confrontations, the CNDH’s team notes the following:

- Photos and videos were edited in order to inflate the number of victims;
- Images and clips unrelated to the confrontations, including images of previous incidents and attempted crossings, were used;
- The context of published videos was manipulated by adding different texts and messages with the aim of disinformation;
- Estimates were provided without relying on any verified sources, including on social media accounts of civil society actors that rushed to provide unrealistic data and exaggerates the number of deaths, which further mislead news websites and news outlets.

VII) Preliminary conclusions

The collected data and testimonies on the methods and tactics used to attempt crossing from Nador and Melilla provide insights on the new developments that will inevitably characterize future forms of migrants' crossing attempts.

Reiterating its deepest condolences to the families, the National Human Rights Council, hereby presents the preliminary findings and conclusions of its fact-finding mission:

- In total, 23 people died following the tragic and violent incident. 217 people were injured, including 140 law enforcement officers and 77 migrants;
- According to the medical examination of the victims' bodies, the main cause of death is that Mechanical asphyxia caused by the massive stampede and crowding of a large number of victims in a narrow and sealed space whose doors were firmly closed (mass disaster). Several migrants fell from the top of the fence while they were trying to climb it, which led to thoraco-abdominal compression resulting in suffocation. Only an autopsy can accurately determine the exact causes of death for each individual case;
- For a few migrants admitted to the hospital, the fact-finding mission couldn't determine whether their injuries were due to the massive jostling and falling as the fences failed, or to a disproportionate use of force by police members;
- None of the deceased have been buried. The fact-finding mission visited the mortuary and checked the number of dead bodies on site.
- The commission met with authorities, NGOs, and injured migrants at the hospital. They all confirmed that law enforcement forces did not use lethal weapons or firearms.
- The necessary medical treatments and surgical interventions were provided during the attempted crossing and in its aftermath.
- The CNDH notes the Prosecutor General's instruction for an autopsy by a medical commission that includes a forensic doctor, in order to accurately determine the causes of death and nature of injuries;
- The CNDH notes with satisfaction the decision to perform DNA testing in order to identify the deceased.

- Based on testimonies and gathered information, in particular from NGOs, the Commission invokes the hypothesis of violence beyond the fence due to the Spanish authorities' reluctance or hesitation to provide the necessary assistance and medical care despite the stampede and large jostling among crowded migrants at the metal revolving doors, which remained hermetically sealed; probably leading to a higher death toll and injuries.
- The (Spanish) Guardia Civil patrols the fences and controls the borders 24h/24. The consecutive upgrades in surveillance technology, from 1998 to 2018, have not deterred migrants from crossing. Deaths continue to be recorded, and hundreds of migrants continue to be deported back to Nador;
- During its meetings, the fact-finding mission collected information testifying that large numbers of Sudanese migrants have started arriving in Morocco since early 2021. Some of them have recently entered the country and hold "asylum seeker" status. According to the information, Sudanese migrants have attempted crossing back in March 2022. This could be considered as a change in migrant communities usually present in Nador;
- The CNDH takes note of the emerging fundamental change marking the attempts to cross from Nador to Melilla. Attempts are now sudden, well-organized and unusual in terms of time (daytime), place (targeting the crossing station instead of the fence), the form (storming the crossing instead of climbing the fence) and composition (the absolute majority of migrants are from one country/citizenship);
- The unprecedented confrontations with law enforcement officers were characterized by an extreme violence simultaneously perpetrated by a large number of migrants (about 2000) armed with stones, sticks, and sharp weapons;
- The CNDH regrets the detainment of five members of law enforcement as hostage, seriously putting the life of one of them at risk, and forcibly seizing their equipment;
- The CNDH deplors the publication of disinformation and misinformation during this tragic incident, which exacerbated the confusion of national and international public opinion. These include, in particular, spreading fake news about the use of live ammunition and allegations of inadequate medical care;
- The CNDH hereby informs public opinion that the Regional Human Rights Commission in the Oriental Region appointed a task force to observe the trials of migrants brought before the Court of first Instance and the Court of Appeals of Nador. A report on trial proceedings will be published by the CNDH;

VIII) Preliminary propositions

Based on the verified facts hereby presented, as well as information collected during the interviews conducted by the Commission, the CNDH:

- Stresses the importance of carrying an impartial judicial investigation to include all aspects of the confrontations, most prominently as regards the disproportionate use of force. The findings of this investigation should be published ;
- Calls on all relevant authorities and stakeholders to reconsider the way order is maintained at the fence and crossing stations. Safety of migrants must always prevail;
- Regrets that migration is mainly managed, at the international level, within a security-based approach, especially for migrants from the Middle East and Africa. Migration should remain a Human Right which governments should strive to protect;
- Recommends that Moroccan authorities launch new consultations with the European Union in order to achieve an effective and shared partnership in terms of joint responsibilities and management, on a basis that would allow the full implementation and application of the provisions of the Global Compact for Safe, Orderly and Regular Migration;
- Calls on the African Union Commission to propose effective measures aimed at guaranteeing a serious commitment of States in the continental management of migration, in such a way that can help ensure the safety and dignity of African citizens;
- Recommends that the African Union insures the implementation by the States of the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the United Nations Convention against Transnational Organized Crime;
- Takes note of the major changes impacting migration dynamics and sounds the alarm with regards to the exponential evolution in migration flows caused by poverty, drought, conflicts and climate change;
- Urges the relevant authorities to speed up the necessary procedures in order for the African Migration Observatory to fully fulfill its mandate and prerogatives;
- Highlights the need for the effective implementation of the international standards on the protection of all migrants, regardless of their legal status and nationality, wherever they are;

- Emphasizes the need to ensure and strengthen the protection of migrants and asylum seekers against human trafficking networks, by guaranteeing, in particular, conditions of stay that respect human dignity for migrants, and urges the adoption of the bill on asylum and the bill relating to the entry and stay of foreigners in a manner that ensures their conformity with the Moroccan Constitution and international standards protecting refugees;
- Recommends the intensification of national, continental and international efforts to combat and prevent human trafficking;
- Calls on local authorities to take the necessary measures to provide adequate and appropriate logistical means to manage the new forms of transit of migrants and asylum seekers;
- Stresses the need to always abide by the principles of necessity and proportionality in the use of force, regardless of circumstances and at all times, in order to protect migrants' physical integrity.

IX) Annex: Barrio Chino Crossing and the Fence Surrounding Melilla:

Prior to Spain's accession to the Schengen Treaty in 1991, the 13-kilometer-long area around Melilla was not closely monitored. Starting in 1998, the first fence was built, which was later reinforced with a second 3-meter-high barrier.

In 2005, a third 6-meter-high fence was built. Between the fences stands a network of underground movement detection devices . The Spanish Civil Guard conducts patrols along the fence and monitors it around the clock via watchtowers and infrared cameras (**Figure 1**). On the Moroccan side, the Royal Gendarmerie conducts patrolling .

Until 2018, the Chinese Neighborhood (Barrio Chino) crossing was one of 4 border crossings on the 13-km fence surrounding Melilla, which are:

- The main crossing of Beni Ansar, which was restored in 2014 in order to keep pace with the increasing influx of individuals and goods.
- The "Farkhana" crossing, designated for citizens of Nador and Melilla and can only be crossed by car.
- The "Mariguari" crossing, which is only used by Moroccan students in Melilla and their parents to reach their educational institutions. This crossing point is closed during holidays.
- Finally, the Barrio Chino crossing, which is a pedestrian border crossing and is intended for transporting goods through pedestrian corridors. It is an entry and exit point, exclusively for Moroccan citizens coming from Nador, who do not need a visa to enter Melilla.

The border crossing can be considered as being designed with the aim of better directing and controlling the exit lanes for goods, thus allowing to reduce congestion at the Beni Ansar crossing. It consists of four areas: (Figure 1).

Area 1: Measuring about 100 m², this area is a buffer zone or a facade with a physical divider that controls entrances and exits via three separate corridors, fenced with razor wire and unidirectional iron turnstiles allowing one person to pass at a time. It is separated from the second area by iron doors topped with barbed wire (Picture 1), through which one can see the buffer zone and where the stampede occurred (Picture 2) (Picture 3).

Area 2: consists of an area of about 800 square meters, comprising two courtyards separated by an iron fence with doors, and topped by an iron roof. It was previously dedicated to organizing the passage of merchandise. It is surrounded on the west by a high wall topped by an iron fence that separates the area by a road and connects Nador with Beni Ansar (part of the iron fence that tops the wall collapsed due to the large number of migrants who tried to climb it). It is bordered on the east by Area 4 (Picture 4).

Area 3: a narrow passage surrounded by an iron fence that allows the passage of one person at a time along the walls of the administrative offices of the Customs and the General Directorate of National Security (DGSN).

Area 4: a trench with barbed wire separating the second area (the crossing square) from the iron fence surrounding the city of Melilla (Picture 5).

During its visit to the crossing, the Fact-finding Commission inspected the collapsed part of the fence that tops the wall surrounding the crossing yard. It also examined the remains of clothes, wooden sticks and backpacks stuck to the barbed wire on top of the doors and on the fence (Picture 6).

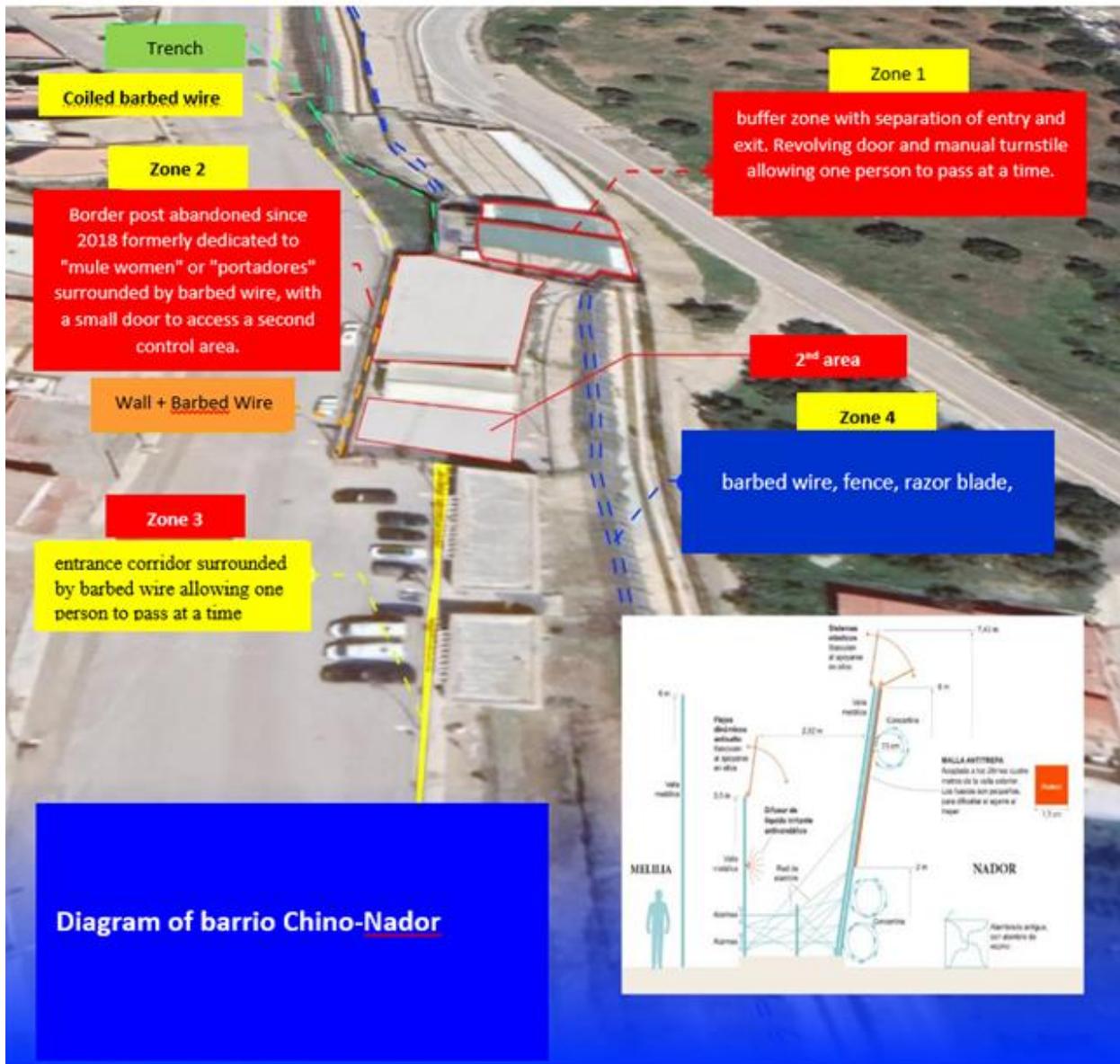


Figure 1: The four zones of the “Barrio Chino” border crossing + characteristics of the Melilla iron fence



Picture 1: The gates of the buffer zone are topped with barbed wire that still carries some torn clothing



Picture 2 : Buffer zone where the revolving iron doors are located



Picture 3: Hermetically closed unidirectional turnstiles where migrants were trapped.



Picture 4 : The collapsed part of the fence that tops the walls of the crossing yard



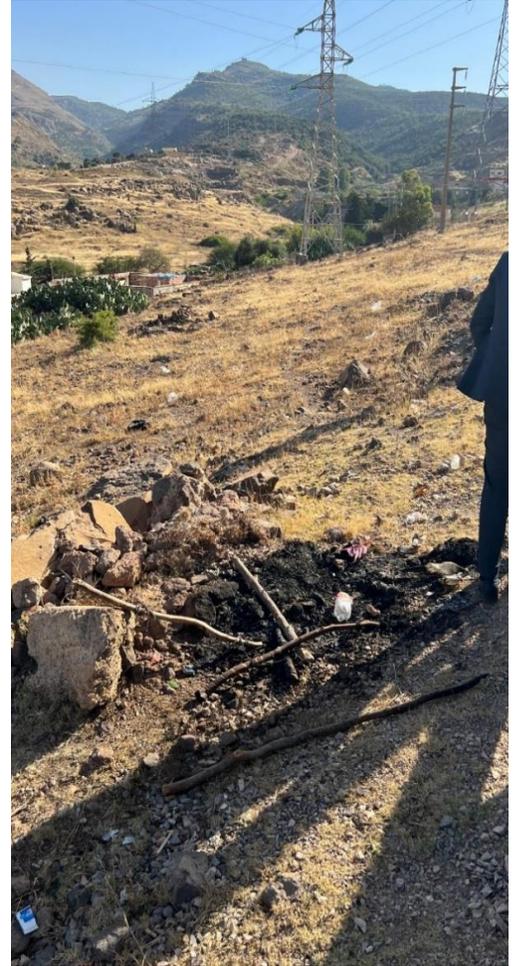
Picture6 : A ditch with barbed wire separates the crossing yard from the iron fence surrounding Melilla



Picture 5 : Remnants of clothing, wooden sticks and backpacks stuck to the barbed wire over the doors and on the fence

The movement path of migrants towards the crossing

The Fact-finding Commission inspected part of the path that the migrants took to reach the crossing, where they noticed, on the sides of the road leading to the slopes of Mount Gourougou, that there were several points with remains of sticks and backpacks (Picture 7) (Picture 8).



Pictures 7 and 8: The remains of sticks and backpacks on the side of the road leading to the slopes of Mount Gourougou.