



A counter-investigation into the racist massacre of 24 June 2022

June 2024 \

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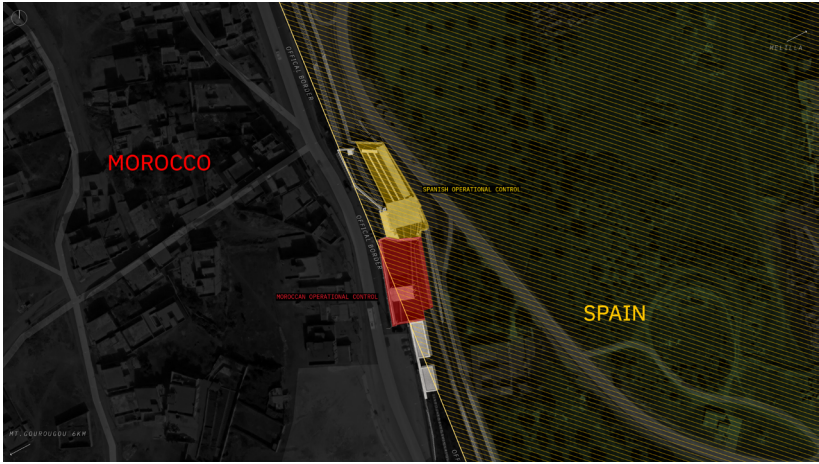
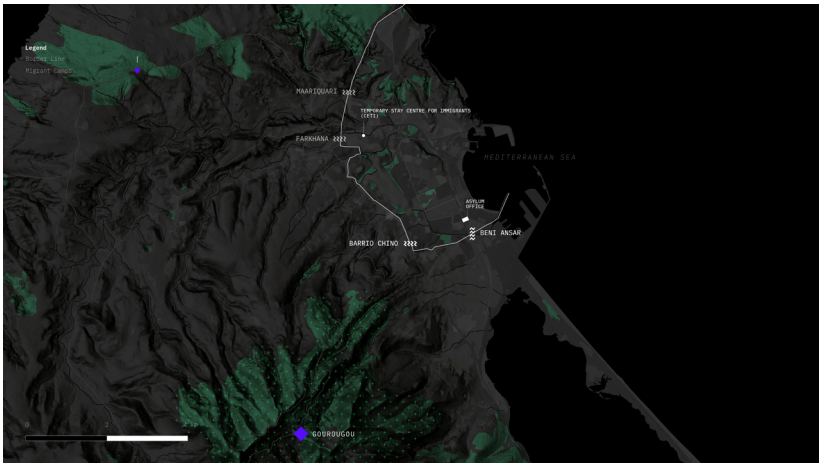
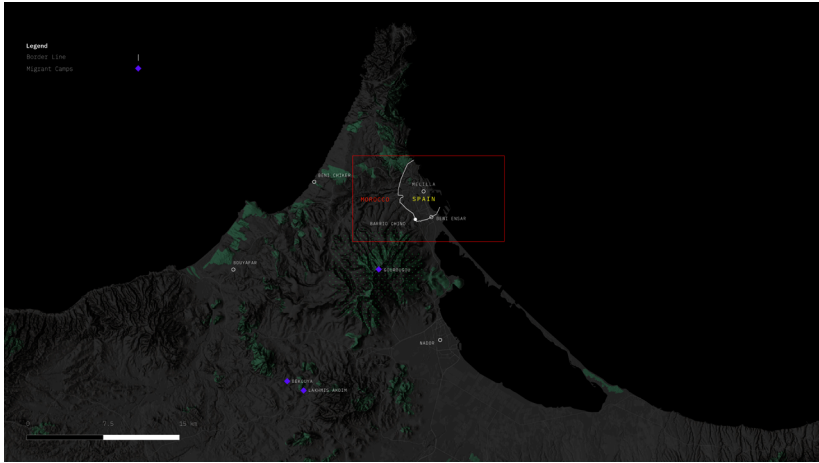


SUMMARY

On 24 June 2022, some two thousand migrants attempted to cross the border fence separating the city of Nador, in the northeast of Morocco, from the Spanish-controlled enclave of Melilla. The violent repression inflicted on them by Moroccan and Spanish law enforcement agents turned the Barrio Chino border crossing into a death trap and resulted in a mass grave. The Moroccan authorities have acknowledged 23 deaths, but according to the Moroccan Human Rights Association in Nador at least 27 people were killed, and more than 70 remain disappeared to this day. What happened on 24 June 2022? How and by whom was the Barrio Chino border post turned into a death trap?

To answer these questions, for more than a year Border Forensics investigated with Irídia-Center for the Defense of Human Rights and the Moroccan Association for Human Rights (AMDH), as well as other civil society actors on both sides of the border. Furthermore, we benefited from the additional advice of the European Center for Constitutional and Human Rights (ECCHR). By articulating our analysis of the massacre across different spatial and temporal scales, we attempted to understand not only the sequence of events and the practices of the actors present on 24 June 2022, but also the structural conditions that made the massacre possible, and the political conjuncture that shaped this extreme intensity of violence. We also analysed the violence that continued after 24 June, through the failure to identify the deceased and the disappeared, the impunity for the massacre, and the judicial harassment against the migrants themselves.

Although many grey areas remain, the facts that we reconstructed by cross-referencing numerous pieces of evidence are damning, for both the Moroccan and Spanish authorities, as well as for the European Union which supports them politically and financially. The authorities on both sides of the border must shed full light on this massacre and finally respond to the victims' and their families' demands for truth and justice.



Maps at successive scales locating the Nador-Melilla border. Border Forensics, 2024.

Locating the Nador-Melilla border. Border Forensics, 2024.

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INTRODUCTION

On 24 June 2022, almost two thousand people tried to cross the border fence separating the Moroccan town of Nador from the Spanish-controlled town of Melilla. The migrants' attempted crossing, which occurred at the Barrio Chino border post, was violently repressed by Moroccan and Spanish law enforcement agents. Only 134 people managed to enter Melilla and seek asylum. 470 people were deported back to Morocco by Spanish and Moroccan officials after they had crossed over to the Spanish-controlled side of the border fence. The violence inflicted on migrants by Moroccan and Spanish law enforcement agents that day turned the Barrio Chino border crossing into a death trap, and resulted in the formation of a mass grave. The Moroccan authorities have acknowledged 23 deaths, but the Moroccan Human Rights Association in Nador has counted at least 27 people killed on that day, and more than 70 remain missing to this day.



Video still from footage shot by Moroccan law enforcement agents showing migrants climbing the wall demarcating the Barrio Chino border post at around 8.10 AM. @mellaliertfier, Facebook, 27.06.22.



Video still from footage shot by a Spanish helicopter showing migrants trapped inside the court-yard under Moroccan operational control at 8.39 AM. Guardia Civil, 24.06.22.



Video still from footage shot by a Spanish drone at around 9 AM showing Spanish law enforcement agents having formed a cordon to prevent the migrants from advancing and to be able to expel them back across the border fence. Guardia Civil, 24.06.22.



Video still from footage shot by a Moroccan journalist in the early afternoon showing the mass grave formed in and outside the Barrio Chino border post as living and dead migrants are piled on top of each other. Airdbladi Press, Facebook, 24.06.22.

Despite the many images filmed by various actors and several reports published by official bodies, associations and journalists,¹ there are still many grey areas concerning the course of events on that day. The Moroccan and Spanish authorities are far from having shed full light on the facts, and have instead prevented independent investigations from gaining access to a many essential elements of evidence.

“How was this outburst of violence possible? Through what specific acts did it take place? Who was responsible? How and by whom was the Barrio Chino border post turned into a death trap?”

Two years after the events, these questions have yet to be answered, and the demands for truth and justice from the survivors of the massacre and the families of the dead and disappeared have gone unheard. On the contrary, instead of using the judicial institutions to determine those responsible for the massacre, Morocco has used its judicial system to continue repressing the survivors of the massacre, several dozen of whom have been sentenced to prison for alleged acts of violence and other offences. The Spanish prosecutor has not found any evidence of violations and has closed his investigation. Moreover, far from being dismantled, the border fence has been reinforced and, although border crossings have decreased since 24 June 2022, the system of racist repression at the border remains unchanged.

It is to support the demand for truth and justice of the victims of the 24 June 2022 massacre and their families, and to combat this regime of impunity that allows the border violence to be perpetuated, that Border Forensics, in collaboration with Irídia and the Moroccan Association for Human Rights (AMDH), as well as other civil society actors on both sides of the border, has conducted a counter-investigation for over a year, while benefiting from additional advice from the European Center for Constitutional and Human Rights (ECCHR). Together, we assembled a transdisciplinary team made up of members of human rights associations, journalists, researchers specialising in critical analysis of the borders of migration policies and anti-Black racism, as well as experts in spatial and visual reconstruction, statisticians, architects and documentary film-makers.

1 AMDH Nador, “La tragédie au poste frontalier de Barrio Chino”, 2022, <http://amdh.org.ma/img/upload/contents/fichiers/532/d36ba0efb926c6cfb0705be188d7916c.pdf>; AMDH Nador, “Rapport annuel 2022 sur la migration”, 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>; IRIDIA, “Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 – 2022”, 2023, <https://iridia.cat/es/publicaciones/vulneracion-de-derechos-humanos-en-la-fs-del-estado-espanol-2021-2022>; Caminando Fronteras, “Informe – Víctimas de la frontera Nador – Melilla el 24/6/2022”, 2022, <https://caminandofronteras.org/wp-content/uploads/2023/01/Informe-Masacre-Nador-Melilla-ES.pdf>; Amnesty International, “‘Ils l’ont frappé à la tête pour voir s’il était mort.’ Éléments attestant de crimes de droit international commis par le Maroc et l’Espagne à la frontière à Melilla”, 2022, <https://www.amnesty.org/fr/documents/mde29/6249/2022/fr/>; BBC Africa Eye, “Death on border”, 2022, <https://www.bbc.co.uk/programmes/p0dbnttd>; Lighthouse Reports et al., “Reconstructing the Melilla Massacre”, 2022, <https://www.lighthousereports.com/investigation/reconstructing-the-melilla-massacre/>



Commemoration of the massacre by survivors on 29 June 2022 in front of the CETI in Melilla. Photograph: Cléo Marmié, 2022.



Researchers Elsa Tyszler, Maite Daniela Lo Coco and Sani Ladan interviewing M., one of the survivors of the massacre. Border Forensics, April 2023.

By articulating our analysis of the massacre across different spatial and temporal scales, we have attempted to understand not only the *sequence of events* and the practices of the actors present at the scene on 24 June 2022, but also the *structural conditions* that made the massacre possible, as well as the political *conjuncture* that shaped this unprecedented intensity of violence. We also analysed the violence that continued after 24 June, through the failure to identify the dead and missing, and the impunity and judicial targeting against the migrants themselves.

Our analysis shows that the many dead and missing during the massacre of 24 June 2022 were no accident. On the contrary, the migrants were repeatedly directed towards the Barrio Chino border crossing, and violently repressed by Moroccan and Spanish law enforcement agents once they were trapped there. But the death trap into which the migrants fell goes beyond the architecture of the border crossing or the chain of events that took place on 24 June. It has woven by policies and practices operating in an extended space-time, including European and Spanish policies of externalising migration control established over more than two decades, Moroccan migration diplomacy, impunity for violence perpetrated over many years, and the daily racist repression deployed against Black people in the area. All these elements combined to form a death trap, which the Spanish and Moroccan law enforcement agents executed on 24 June 2022.

Although there are still grey areas, the facts that we have reconstructed by cross-referencing numerous pieces of evidence are damning, both for the Moroccan and Spanish authorities and for the European Union, which supports them politically and financially. The authorities on both sides of the border must be brought to account for this massacre and finally respond to the victims' and their families' demands for truth and justice.



The Nador-Melilla massacre is, by virtue of the outburst of direct violence, the acts of racism and extreme dehumanisation and the large number of dead and disappeared, one of the most serious crimes perpetrated as part of the discriminatory and militarised management of Europe's borders over the last 30 years. However, beyond its exceptional nature, this massacre exemplifies in an exacerbated way a wider trend towards the brutalisation of the management of borders and the normalisation of the violations perpetrated in the name of their "protection". By precisely documenting the events of 24 June 2022 and analysing the conditions that made them possible, it is also these wider trends that we seek to challenge.

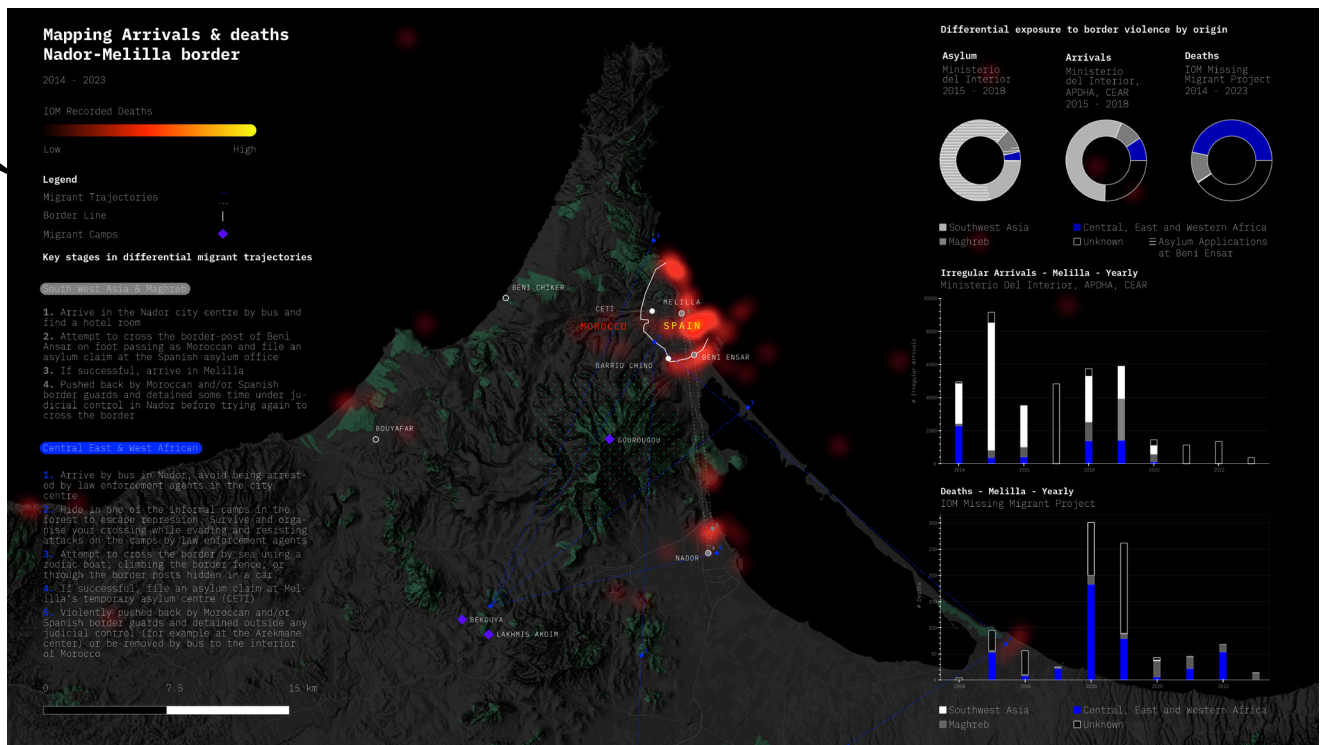
REPORT OUTLINE

In order to answer our main question “How and by whom was the Barrio Chino border post transformed into a death trap?” we divided our analysis of the politics and practices of anti-Black violence into several chapters, each of which reflects a distinct temporality and spatiality: (1) the *long duration* of coloniality and anti-Black racism at the border, which created the conditions of possibility for the massacre; (2) the particular conjuncture of changing diplomatic relation between Morocco, Spain and the EU in *the months* leading up to 24 June, and the resulting oscillations in the intensity of repression; (3) *the day of the massacre*; and (4) the violence to which the victims of 24 June continue to be subjected two years *after the event*.

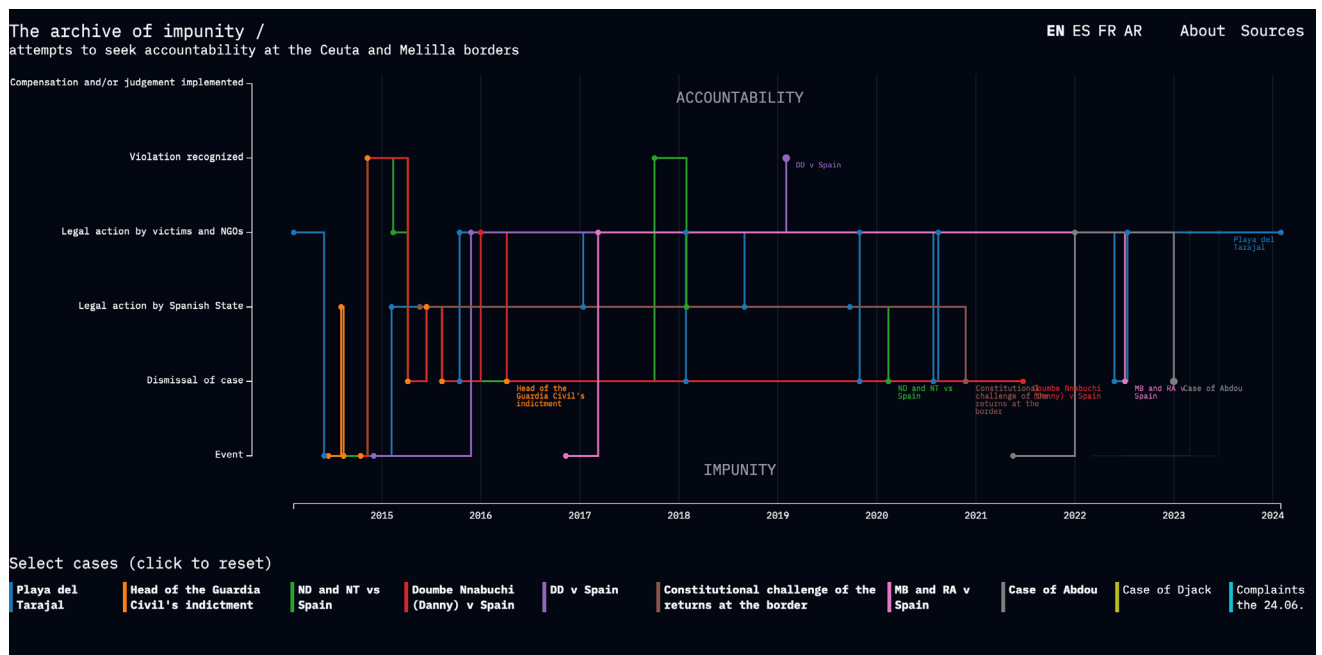
In **Chapter 1**, which is primarily based on Elsa Tyszler’s doctoral research,² the historical, political, and repressive context of the Nador-Melilla border is outlined. Delving back into its history reveals the long-standing racial and colonial dimension of this border. The analysis of the evolution of legislations, policies and practices enables us to grasp the racist nature of the anti-migratory repression that was put in place by Spain around the enclaves of Ceuta and Melilla from the 1990s, and then from the 2000s onwards on the Moroccan side. What emerges and consolidates over this time on both sides of the border is a consensus around a Black figure of migratory danger. The specific repression targeting so-called “Sub-Saharan” people can be seen both in the daily security harassment of Black people in the Nador area, and in the spikes in violence represented by the massacres recorded since 2005, particularly around the border barriers. Our geostatistical analysis corroborates the analysis of migrants themselves, researchers and associations concerning the overexposure of Black migrants to violence. Our analysis of the data collected by the IOM since 2014 shows that of the 892 documented cases of people who died at the border, at least 406 came from Central, East and West Africa, representing 46%. What thus emerges is a regime of racial domination instituted on both sides of the border against Black people, which, as discussed in Chapter 3, we describe in terms of “border apartheid”.

Despite numerous complaints by migrants about violations of their rights at the border, the rights of migrants and the national and international standards that should protect them are regularly flouted, and a regime of impunity has been consolidated, as our analysis together with ECCHR of over 10 years of litigation reveals.

² Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, Université Paris 8, 2019 ; Elsa Tyszler, *Se battre aux frontières de Ceuta et Melilla*, Presses Universitaires de Vincennes, 2024.



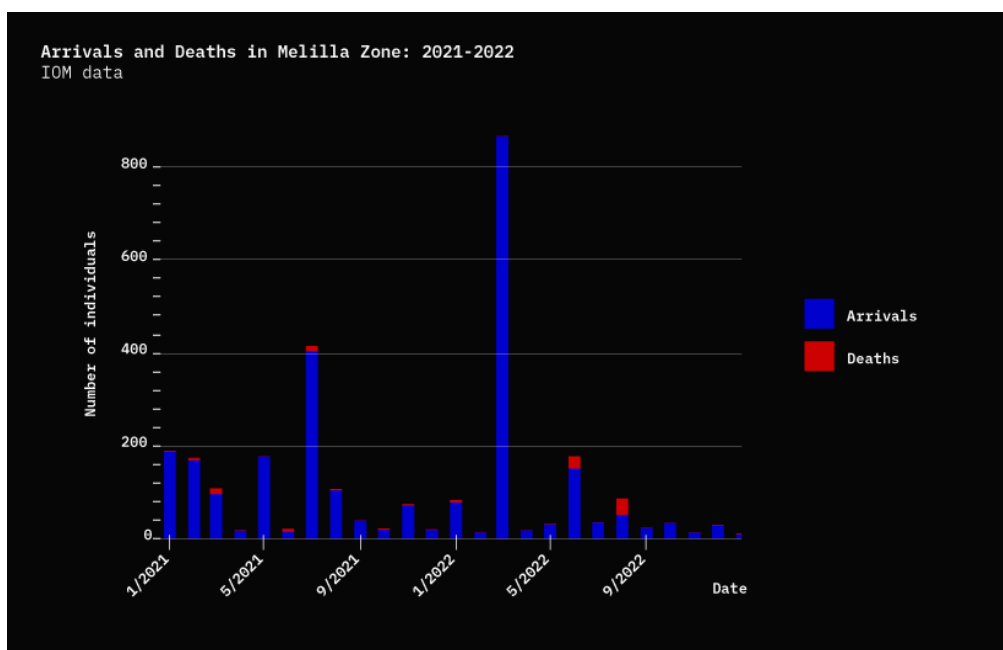
Map and statistical graphs analysing the differential crossing strategies at the Nador-Melilla border for Black and non-Black migrants, and the heightened exposure to border violence and death for Black migrants. Border Forensics, 2024.



Interactive timeline displaying key stages and outcomes for attempts to seek accountability for cases of violence and violations at the Ceuta and Melilla borders for the period 2014-2022. Border Forensics, 2024.

The denial of Black migrants' shared humanity through every-day racism and violence on the one hand, and the denial of their rights through the regime of impunity that has been consolidated around this violence on the other, have combined to define a population – Black migrants – *as massacrabable*.

Chapter 2 shows that while anti-Black violence is continuous at the border, its intensity varies considerably depending on the conjuncture of diplomatic relations between Morocco and Spain, and between Morocco and the European Union. The analyses produced by Sani Ladan and Maite Daniela Lo Coco of Irídia and the members of the AMDH-Nador on which this chapter is based show that the particular conjuncture of diplomatic relations during the period 2021-2022, oscillating between tensions, ruptures and reconciliations between Rabat and Madrid, had a fundamental influence on the unprecedented level of repression observed on 24 June 2022. While in a context of diplomatic rupture since May 2021 Moroccan authorities had been allowing more migrants to cross the border, following the diplomatic reconciliation between Rabat and Madrid in April 2022, Moroccan law enforcement agents once again intensified their repression, prompting Black migrants to attempt the crossing.



Statistical graph displaying arrivals and deaths for the period 2021-2022. Border Forensics, 2024.

In addition, the testimonies we gathered, and the analysis of satellite images reveal a high degree of preparation, or even premeditation, on the part of the Moroccan authorities. On the one hand, they appear to have sought to influence the migrants to attempt to cross the border fence without the usual equipment, making them more vulnerable, and on the



The comparison between satellite imagery for the 16 and 23 June 2022 reveals the deployment of military trucks, buses, tents and other equipment. Satellite images taken at 10:59 UTC on 16 June 2022 and 11:09 UTC on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.

other hand to have stepped up the militarisation of the border in the days leading up to 24 June, thereby widening the gap in the already deeply unequal balance of power between migrants and law enforcement agents.

Chapter 3, which is based on the analysis of all partners in the investigation, provides a detailed account of the sequence of events of 24 June 2022. By cross-referencing numerous pieces of evidence, in particular the testimonies of survivors gathered in Morocco and Spain, the analysis of official documents, the analysis of numerous photographic and video-graphic images taken by different actors, and by locating these sources in time and space, we map each stage of the events, making it possible to analyse the practices of violence at work.

Our systematic reconstruction provides new evidence as to the responsibilities of Moroccan and Spanish authorities and makes it possible to refute their versions of the facts, which absolve them of any responsibility. Here too, our analysis reveals a veritable strategy, insofar as the Moroccan law enforcement agents deliberately allowed the migrants to approach the border that day and then directed them, using the threat of repression, towards the Barrio-Chino border post. Channelled inside the border post from which they were trying to cross the border into Melilla, the migrants were first targeted by the use of riot gear deployed from all sides by Moroccan and Spanish forces. The intense gassing in

The Nador-Melilla massacre

Map of the chain of events

This map illustrates the sequence of events during the Nador-Melilla massacre. Key locations include MT. GOURUGOU (6KM), MOROCCO, SPAIN, BARRIO CHINO BORDER CROSSING, and the BORDER FENCE. The timeline shows the following events:

- 04:00: Initial location near MT. GOURUGOU.
- 08:00: Migrants crossing the border.
- 08:04: First confrontations with Moroccan forces.
- 08:10-08:15: Migrants force open the gate.
- 08:27: Moroccan operational control established.
- 08:42: Migrants force open the gate.
- 09:00: The Guardia Civil forms a cordon.
- 09:30: HOT returns to Morocco.

Legend:

- MOROCCAN FORCES
- SPANISH FORCES
- MIGRANTS
- STATE VIOLENCE & PUSHBACK
- MIGRANTS CROSSING

Scale: 0 to 50m.

Map of the chain of events based on our analysis of the 24 June 2022 massacre. Border Forensics 2024.

a confined space, and the panic during the crossing attempt, certainly produced the first deaths in this massacre. Then came the beatings, perpetrated mainly by the Moroccan forces, of those who remained inside the post and of those who were violently turned back jointly by the Spanish and Moroccan forces, which constituted the main moment, lasting several hours, of deadly violence. No images of this phase of the events have yet been made public. While this outburst of violence can thus not be made visible, we make it audible through the testimonies of the survivors. We further reveal that Spanish law enforcement agents themselves perpetrated numerous acts of violence and violations, in particular by inflicting inhuman and degrading treatment onto the intercepted migrants. By sending the migrants back to Morocco despite knowing that they would be subjected to extreme violence, the Spanish agents contributed to this violence. Finally, we show that while the majority of the deaths took place while the migrants were under the control of Moroccan agents, these deaths were all on Spanish territory. Although some grey areas remain, the facts we have reconstructed are damning, both for the Moroccan and Spanish authorities, and for the European Union, which supports them.

Chapter 4 analyses the violence that continued to affect the survivors after the 24 June massacre. In particular, on the basis of the work of the AMDH – Nador and other civil society actors, it looks at the forced displacements organised by the Moroccan authorities immediately after the massacre and the obstacles to access to hospitals and health services for some of the injured survivors. It addresses the question of the opaque management of the corpses resulting from the massacre and the obstruction of the possibilities for the families of the victims to identify and trace the dead and missing, making it impossible for them to mourn. It also highlights the judicial harassment experienced by dozens of survivors who are now in Moroccan jails. Through these various practices, the violence of 24 June continues to cause suffering for the victims and their families.

| | | | | |
|----|---|---|------------|---|
| 02 |  | Mohannad Maamoun Aissa | Soudanaise | Plusieurs témoignages de survivants notamment celui de son frère nous ont confirmé sa mort au poste frontalier de bario chino du côté espagnol. Son cadavre a été récupéré par les militaires marocains lorsqu'ils ont traversé la frontière. Cependant son cadavre n'était pas parmi les 23 photos présentées par la police judiciaire de Nador aux familles venues identifier leurs proches |
| 03 |  | Abderrahim Abdellatif Ali Ibrahim Surnommé Hanine | Soudanaise | Plusieurs témoignages de survivants nous ont confirmé sa mort au poste frontalier de bario chino. Selon eux, il saignait à cause d'une grave blessure au niveau de la poitrine. Cependant son cadavre n'était pas parmi les 23 photos présentées par la police judiciaire de Nador aux familles venues identifier leurs proches |
| 04 |  | Abdenasser Mohamed Ahmed | Soudanaise | Mort après son embarcation dans le bus de refolement alors qu'il souffrait de grand malaise selon les témoignages des survivants qui étaient avec lui dans le bus. Ces derniers ont demandé vainement et à plusieurs reprises aux membres de la police présents dans le bus de le transporter vers l'hôpital. Demande restée sans réponse jusqu'à son décès. A ce moment sa dépouille a été descendue du bus. La mort d'Abdenasser nous a été confirmée aussi par le chauffeur et le propriétaire du bus de refolement. |

List of migrants confirmed dead on 24 June 2022 established by the AMDH-Nador, updated on 10 April 2023.

The conclusion links together these chapters and their different spatial and temporal aspects. Our research shows that the colonial situation of this border, the European and Spanish policies of outsourcing migration control, Moroccan migration diplomacy, the impunity for the violence perpetrated over the last two decades, the daily racist repression deployed against Black people in the border zone and the border architecture, together formed a death trap that the Spanish and Moroccan law enforcement agents executed on 24 June 2022. Our reconstruction of the events provides terrifying confirmation of the anal-

ysis of Black Studies according to which “Black Death is not an event, but a *continuum*”³. The massacre of 24 June began long before that fateful day and continues to this day. In light of our analysis, we formulate a series of demands and recommendations to address the 24 June 2022 massacre and finally bring violence at the Nador-Melilla border to an end.

Throughout our counter-investigation, we give a central place to the words, experiences, analyses and demands of the survivors of the massacre. This counter-investigation is dedicated to all the survivors, who are fighting against racism, for their dignity, and for the recognition of their humanity and rights.



The demand for truth and justice of the survivors of the massacre. Video by Border Forensics, in collaboration with Iridia and AMDH.

3 Norman Ajari, “Forms of Death: Necropolitics, Mourning, and Black Dignity”, *Symposium: Canadian Journal of Continental Philosophy* 26(1), 2022, p. 175.

INVESTIGATION METHODOLOGY


While we describe the specific methods we have used in each chapter, here we present more broadly the methodological issues we encountered, and the methodological orientations we adopted as a result. Our investigation had to respond to a fundamental methodological and political challenge: despite the international dissemination of images documenting the 24 June 2022 events, this massacre has remained unpunished, is there a way of documenting and analysing the events that could effectively contribute to challenging the racist violence to which the events of 24 June 2022 bear witness? This challenge can be broken down into several key questions that have influenced the direction of our research. Our response can be summed up by combining methods of investigation and forensic reconstruction of border violence and violations with a critical analysis of colonialism and anti-Black racism.

Faced by the profusion of images from 24 June, what remains to be revealed?

Given the investigations of the events of 24 June published before ours, and in particular the video footage produced by several actors filming from different points of view, initial questions arose: what more could our investigation reveal when the violence seems to have been almost completely documented? Can our investigation still contribute to the quest for truth and justice? Today we can answer affirmatively. On the one hand, our method of systematic spatial and visual analysis, which we have deployed to cross-reference all the available evidence, offers the most complete reconstruction of the events in space and time to this day. Our reconstruction sheds new light on state responsibility. On the other hand, our systematic approach has brought to light images that have been rendered inaccessible concerning the moments of greatest intensity in the unleashing of violence against migrants. We emphasise these concealments, which were made more difficult to perceive by the profusion of images and the resulting impression of total documentation of the facts.

Why continue to expose violence and violations when faced with a regime of impunity?

The dissemination of images documenting the violence and extreme dehumanisation of migrants during the events of 24 June, and the lack of justice and interruption of violence at the border despite this, raises another problem. Can more detailed documentation of the events, such as we have tried to produce, put an end to the regime of impunity for the deaths and violations at this border? Can it contribute to bringing this violence to an end? While we are committed to mobilising different legal strategies and advocacy, we publish this investigation with pessimism with regards to the future responses of governments, at least for the time being. As we show below, the regime of impunity at national and European level for violations at this border is long-established. The anti-Black racism



that underpins the violence at the Nador-Melilla border is also present in legal institutions. Moreover, border violence is structural and widely accepted by European citizens and states alike as a necessary evil to “protect” Europe from the “threat” that the arrival of migrants from the global South is supposed to pose.

While the possibility of profound change bringing violence at the border to an end thus seems remote, we nevertheless see political and legal institutions at national and European level as important arenas for struggle, and are determined to use the various tools of legal litigation and advocacy to defend the rights of migrants. Moreover, despite these limitations, we none the less believe that our counter-investigation is essential to respond to the demand for truth and recognition expressed by many of the survivors of the massacre as well as the families of the dead and disappeared, and to support their quest for justice in the face of the crime that was committed.

What are the possible ambivalences associated with the revelation of violence?

The critical analysis formulated by Black Studies, from which this investigation draws inspiration, poses yet another challenge: is it possible that the documentation and dissemination of representations of anti-Black violence may not only be powerless to put an end to it, but may actually aggravate it? In the United States, Black studies have shown that the hoped-for and assumed effects of disseminating images of violence – that it would lead to at least public, if not legal, condemnation, and ultimately to the cessation of the violence – are not realised when the targets of the violence are Black people. On the contrary, it is possible that the dissemination of these images of violence against Black people contributes to its normalisation and thus to its perpetuation.⁴

This critique is fundamental to us, and as we will discuss below, has led us to develop alternative strategies of mobilisation of the images from 24 June. We analysed them, notably in dialogue with the survivors of the massacre, as essential sources of evidence for understanding the facts. However, our analysis also attempts to put them at a distance in order to question their production and dissemination as participating in the violence they document. Refusing to reproduce a surveillance, sensationalist, or voyeuristic gaze, and exercising the “disobedient gaze” that Border Forensics has developed in the course of its investigations, we attempt to make visible the violence and the responsibility of States, while protecting the identity of the people and respecting their dignity by hiding certain parts of the images.⁵

⁴ Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, Oxford University Press, 1997; Christina Sharpe, *In the Wake: On Blackness and Being*, Duke University Press, 2016.

⁵ Charles Heller and Lorenzo Pezzani, “A disobedient gaze: strategic interventions in the knowledge(s) of maritime borders.” *Postcolonial Studies* 16(3), 2013, pp. 289-98.

Beyond the event of the massacre, what are its conditions of possibility?

Finally, the critical approach developed by Black studies poses yet another challenge to our analysis and reconstruction of the events of 24 June, and to our objective of analysing the violence and responsibility of States. Indeed, Black studies emphasise that “Black death is not an event, but a *continuum* that intimately informs Black existence”.⁶ Although cases of violence targeting Black people can be spectacularly revealed during specific events – such as the massacre of 24 June 2022, but also during the many cases of racist police violence – the violence that permeates the daily lives of Black people is often far less spectacular and documented. Yet this everyday violence – often invisible and unrecognised – is essential to take into account. If, as the philosopher Norman Ajari notes, “the way in which a Black person dies in a racist world is in continuity with the way in which he is bound to live in it”,⁷ we must extend our analysis beyond the space-time of the massacre of 24 June 2022. Our counter-investigation thus also aims to reconstitute, through different temporalities and spatialities the *conditions of possibility of the massacre*, or what we propose to refer to as the *massacrability* of Black subjects at the border.⁸ In particular we analyse the daily racism and dehumanisation experienced by Black people on the Nador-Melilla border, as well as the regime of impunity for the violence and violations targeting them. To this end, we combine throughout this counter-investigation qualitative research methods such as interviews, which are essential in order to reconstruct the experiences Black people as well as their analyses, with the visual and spatial reconstruction tools and geostatistical analysis of events developed by Border Forensics, making it possible to assess the evolution of structural practices and the over-exposure of Black people to different forms of violence at the border over time. In this sense, our approach attempts to articulate the analysis, on the one hand, of the “minimal causality” of the blows inflicted by the law enforcement agents onto migrants during the event of the massacre and, on the other hand, of the “maximal causality” of structural violence operating in an extended space-time.⁹ The latter also includes the post-massacre phase, to the extent that the absence of truth, recognition and justice following the massacre, the failure to identify the dead and disappeared, and the judicial harassment suffered by the victims perpetuates the violence in other forms.

6 Norman Ajari, “Forms of Death: Necropolitics, Mourning, and Black Dignity”, *Symposium: Canadian Journal of Continental Philosophy* 26(1), 2022, p. 175.

7 Norman Ajari, *La dignité ou la mort. Éthique et politique de la race*, 2019, p. 100.

8 We propose the concept of ‘massacrability’ following the concept of ‘exterminability’ formulated by Ghassan Hage drawing inspiration from the analyses of the philosopher Etienne Balibar. For Hage, exterminability refers to the preparation of subjects for extermination by marking them institutionally as potential future victims, in particular through racial categorisation. Exterminability is not yet extermination, but it creates the conditions that make possible the triggering of future extermination processes. Similarly, through the concept of *massacrability*, we designate the preparation of subjects – in this case Black migrants – for massacres targeting them. See Ghassan Hage, “Chapitre 9: Rappeler l’antiracisme: vers une anthropologie critique de l’exterminabilité” in *L’Alterpolitique: Anthropologie critique et imaginaire radical*, EuroPhilosophie Éditions, 2021 ; Etienne Balibar, “Difference, Otherness, Exclusion”, *Parallax* 11(1), 2005, pp.19-34.

9 Matthew Fuller and Eyal Weizman, *Investigative Aesthetics: Conflicts and Commons in the Politics of Truth*, Verso, 2021.



What could a critical, anti-racist and decolonial forensic investigation be?

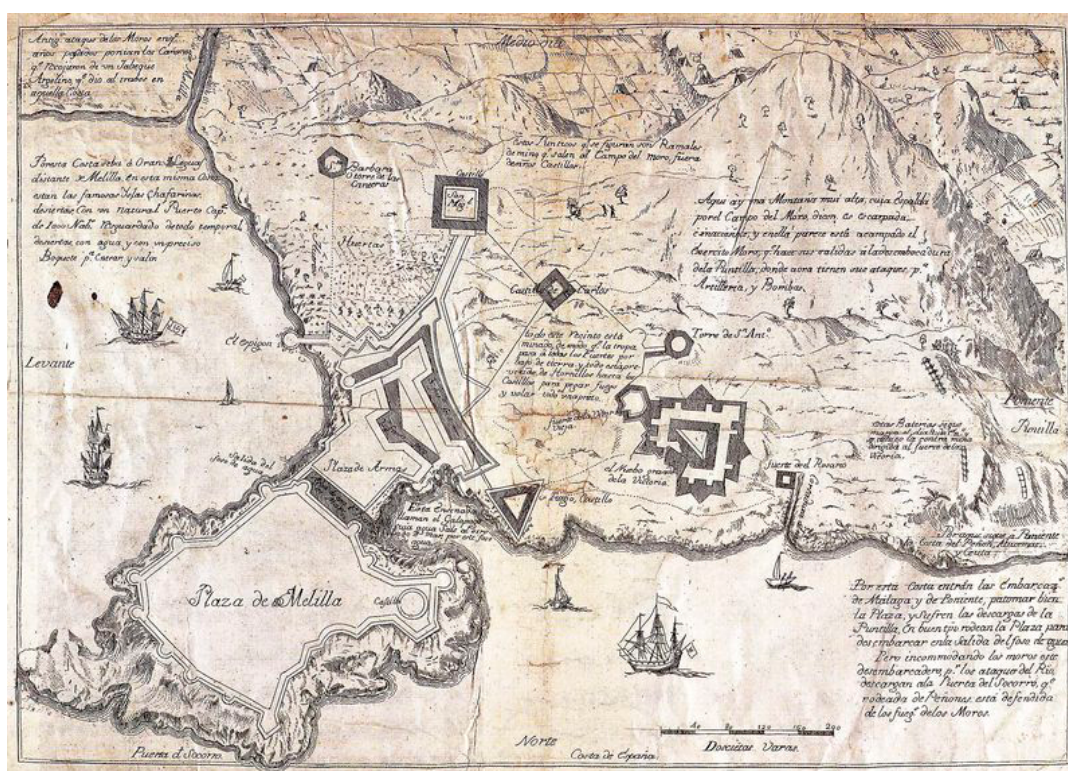
While critical studies of racism and decolonial approaches have influenced the definition of the subject of our counter-investigation as well as our methodologies, we have also tried to let these perspectives influence the constitution of our team and our research process. On the one hand, within the limits of fundamentally different legal, social, and material conditions, we have sought to collaborate as closely as possible with the survivors, and to account for their experiences, analyses, and resistance. On the other hand, we attempted to assemble a research team across the boundaries of citizenship, race, and class, while acknowledging and attempting to minimise the inequalities arising from our different and asymmetrical social positions. Together we have constituted a large team made up of human rights associations, journalists, and researchers specialising in the critical analysis of borders, migration policies and racism, experts in spatial and visual reconstruction, statisticians, architects, and documentary filmmakers. Our work was spread over several phases: data collection, particularly on the ground (February – June 2023); data analysis (September – December 2023); drafting of the report and production of the visual and spatial reconstructions (January – April 2024).

Our research process within this large and diverse team has been long, difficult, and sometimes fraught with tension. But it has constituted a stage in the experimentation with a critical, anti-racist and decolonial approach to forensic investigation.

Our approach also finds expression in the writing style adopted throughout this report. A neutral and descriptive tone usually prevails in human rights reports, which tends to erase the social position of the authors and their political leanings. On the contrary, we assert our position, our commitment, and our perception not only of the violations of the law but also of the injustice that was committed. We further adopt a reflexive stance with regard to the ambivalences that our research process brings to light. Acknowledging our position is part of our methodological rigour and provides a transparent account of our perspective on the facts.

CHAPTER 1. STRUCTURAL CONDITIONS: A COLONIAL AND RACIAL BORDER

The racial dimension of the repression at the border, dramatically revealed on 24 June 2022, is deeply influenced by the colonial history of the Spanish enclaves of Ceuta and Melilla. Our analysis therefore begins with this colonial context and its long-term evolution.



Map of Melilla, 1774-1775. Museos de Historia, Arqueología y Etnografía de Melilla.

THE COLONIAL MATRIX OF THE BORDER

Spanish presence on this coast of North Africa began at the end of the Middle Ages. In 1415, Portuguese troops conquered Ceuta. This was followed by other conquests along the Atlantic coast of North Africa by the Portuguese monarchs in the following decades. In the meantime, the kingdom of Castille was intermittently advancing on the territory of the Nasarite kingdom of Granada. Granada was conquered in 1492, thus ending the last Muslim-ruled kingdom of Al Andalus. The kingdoms of Castille and Aragon joined in that year forming what would become the kingdom of Spain. The military advance of the kingdom of Spain then extended to the northern coast of Africa. The aim was to set up military posts to protect the Andalusian coast from pirates threatening the trade routes

(and in particular the Spanish galleons laden with gold from the “Indies”, i.e. the Americas), but also to counter the growing influence of the Ottomans seeking to secure control of trade in this part of the Mediterranean.¹⁰

Melilla was conquered by the Spanish in 1497 and became the first Spanish *frontera*. At the time, the term *frontera*, a term used to designate an advanced military position in enemy territory¹¹. From the enclave of Melilla, the Spanish sovereigns attempted to establish themselves all along the Mediterranean coast towards Tunisia. Conquered in 1415 by the Portuguese, Ceuta passed into Spanish hands in 1668.

The offensive aspect of the *fronteras* was soon transformed into a defensive situation, as the Spanish and Portuguese were unable to occupy the hinterland and were faced with resistance from the indigenous population: the Rifans. The name *presidios*, for both enclaves, refers to a prison, as the two functions were soon combined in both enclaves.¹² In 1889, Ceuta officially became a colonial prison where Spanish dissidents from the colonial order were imprisoned, as well as those from American territories, such as those banished from Cuba, and in particular freed Black slaves.¹³

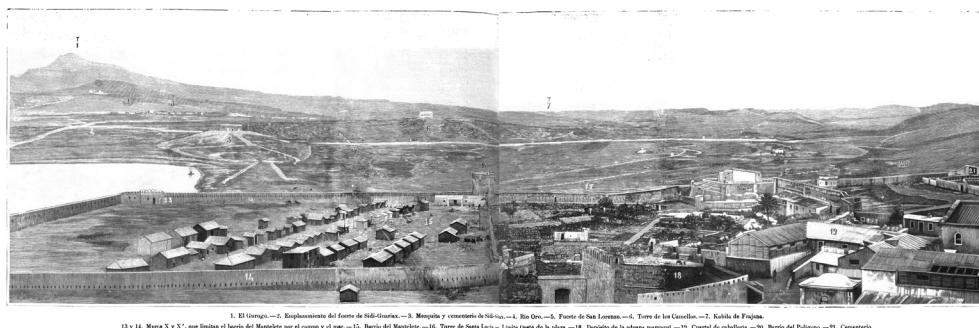


Illustration based on a photograph showing Melilla. Venancio Álvarez Cabrera. “Posesiones españolas en el Rif”. La Ilustración Española y Americana XXXVII, number 40.

10 This chapter of history segues with the global imperial expansion of the Spanish and Portuguese kingdoms, toward the Americas and along the coast of Africa respectively. Inter-imperial conflict for new conquests between Spain and Portugal, and with the Ottoman empire, lead to a series of violent campaigns- of expansion abroad but also of consolidation of power internally. This was most evident in the edicts that lead to forced conversions or expulsions of Jewish and Muslim residents of the Iberian Peninsula, between the end of the 15th and the 17th centuries. Notedly, over the 16th and 17th centuries, these policies of internal homogenization of religious identity, began to be less and less about religious practice and increasingly about blood lineage. This marked a racialization of religious identity (even against religious authorities at the time) and a proto-national racial identity at the height of imperial expansion. See Maribel Casas et Sebastian Cobarrubias, “Articulating Europe from the Sephardic Margin: Restoring Citizenship for Expulsed Jews, and not Muslims, in Spain?” in Loftsdóttir, K., Hipfl, B., and Ponzanesi, S. (eds.) Creating Europe from the Margins, Routledge, pp. 25-40.

11 Yves Zurlo, Ceuta et Melilla. Histoire, représentations et devenir de deux enclaves espagnoles, L’Harmattan, 2005.

12 Xavier Ferrer-Gallardo and Lorenzo Gabrielli, Estados de excepción en la excepción del Estado. Ceuta y Melilla, Edición Icaria, 2018.

13 Romy Sánchez, “Ceuta: quand la barrière de l’Europe était un bagne colonial”, Mélanges de la Casa de Velázquez 48(1), 2018, pp. 331-339.

Throughout the centuries of Spanish occupation, the military played an important role in Ceuta and Melilla. With the emergence of the *Africanistas*¹⁴ officers, the most famous of whom was Francisco Franco – the future dictator – a new generation of soldiers found their *raison d'être* in colonial action and put pressure on the political authorities to continue the military penetration of Morocco from the mid-19th century onwards. Ceuta and Melilla became the real bridgeheads of Spanish colonial penetration, which began with a murderous war against the resistance of Abdelkrim El Khattabi, known as the leading figure of the Rif movement.¹⁵ In 1921, there was a Spanish defeat at Annoual (near Melilla), known as the “Annoual disaster”, which left between 9'000¹⁶ and 13'000¹⁷ dead in the Spanish ranks – the figure remain unknown on the Rif side. The “Annoual disaster” gave rise to a “compulsive revenge syndrome”¹⁸ within the Spanish army in Africa, reflected in its obsession with the *castigo* (punishment) of the *moro rebelde* (rebel Moor) during Spanish counter-offensive in the Rif.¹⁹ After several bloody wars and a Franco-Spanish alliance against the Rif resistance – notably in the Rif war (between 1921 and 1927), during which chemical weapons were used²⁰ – a dual Spanish-French protectorate was established in Morocco.

The racialization of the Muslim enemy is historically part of the Spanish colonial project in Morocco. In the case of the enclaves, if the methods used to dominate the conquered populations were diverse and heterogeneous – depending both on the sub-groups targeted and on how the stakes and interests changed over time – the processes were marked by military violence and repression, including bloodshed, applied to a group constituted as the Muslim Enemy, and then, more specifically, the Rifain.

14 Mateo Dieste, La ‘hermandad’ hispano-marroquí. Política y religión bajo el Protectorado español en Marruecos (1912-1956), Bellaterra, 2003; Yves Zurlo, Ceuta et Melilla. Histoire, représentations et devenir de deux enclaves espagnoles, L'Harmattan, 2005; Mimoun Aziza, “Un orientalisme ‘périphérique’: l'orientalisme espagnol face au passé arabo-musulman de l'Espagne”, Maghreb et sciences sociales 1, 2012; Fernández Parrilla and Cañete, “Spanish-Maghribi (Moroccan) relations beyond exceptionalism: A postcolonial perspective”, The Journal of North African Studies 24(1), 2019.

15 Zakya Daoud, Abdelkrim. Une épopée d'or et de sang, Editions Séguier, 1999.

16 Luis Miguel Francisco, Morir en África, Editorial Crítica, 2014

17 Manuel P. Villatoro, “En 1921, los rifeños abrieron a los soldados españoles en canal y les quemaban vivos”, ABC Historia, 12.08.2016, https://www.abc.es/historia/abci-desastre-annoual-1921-rifenos-abrieron-soldados-espanoles-canal-y-quemaban-vivos-201608120201_noticia.html

18 Sebastian Balfour, Deadly Embrace: Morocco and the Road to the Spanish Civil War, OUP Oxford, 2002.

19 Moro is the term that was historically used in Spain and its Moroccan colonies to designate a person of the Islamic religion. The word Moor comes from the Latin *maurus*, which referred to the inhabitants of the ancient Roman province of Mauritania. Today, its use in Spain to designate Muslims is understood to be racist. See for example Mateo Dieste, El ‘moro’ entre los primitivos: el caso del protectorado español en Marruecos, Fundación “la Caixa”, 1997; Francisco Javier García Castaño and Antonia Olmos Alcaraz (eds.), Segregaciones y construcción de la diferencia en la escuela, Trotta, 2012. The term is also heard during racist interactions/aggressions, see for example Inigo Alexander, “Espagne: une vague de crimes islamophobes balaie le sud du pays”, Middle East Eye, 02.08.21, <https://acquiaproduct.middleeasteye.net/fr/reportages/espagne-crimes-islamophobes-attaques-musulmans-marocains-murcie-vox>

20 Vincent Courcelle-Labrousse and Nicolas Marmié, La guerre du Rif. Maroc 1921-1926, Tallandier, 2008; Mohamed Charqi, Armes chimiques de destruction massive sur le Rif, Le monde amazigh, 2015; Badiha Nahhass and Zakaria Rhani, “Akhenzir. Le cancer au Rif et ses mémoires coloniales”, Revue d'histoire 20 & 21 158(2), 2023.

With the exception of a few categories of indigenous people who were useful to the army or the Spanish trade, the Muslim population was banished from the enclaves until the end of the 19th century.

AFTER MOROCCAN INDEPENDENCE, RACIAL SEGREGATION IN CEUTA AND MELILLA

Despite Moroccan independence in 1956, the two towns remained under Spanish control. During the 20th century, Ceuta and Melilla were gradually populated by civilians from the Spanish Peninsula and Morocco. The so-called Muslim population grew rapidly to meet the labour needs of the capitalist expansion of the two cities. But the Muslim populations were to experience continuous racial segregation in the enclaves, tracing a continuity with their colonial history. However, the violence targeting people of Moroccan origin was no longer so much physical as symbolic, rooted in their non-inclusion in the community of citizens of the enclaves and of Spain²¹.

In 1958, for example, the Spanish authorities introduced a “statistics card” – in fact a simple census card – for Muslims in Melilla, which gave them no rights whatsoever: no legal residence, no access to property and no right to travel in Spain. The aim was to control a part of the demography, that of the population of Moroccan origin.

In 1986, the first statistical study of the Muslim population in Ceuta and Melilla²² showed that over 75% of the Muslim population of the two cities were born there. However, the percentage of Spanish nationals among them was very low: less than 16% in Ceuta and 34% in Melilla. This discrepancy illustrates the reluctance of the administration at the time to grant Spanish nationality, a desire to prevent Muslims from entering municipal institutions and the reactions of the Spanish-speaking sector of public opinion, which feared a “silent invasion”.²³ As a result of these actions by the governments of Ceuta and Melilla, many of the Muslim population are stateless, even though they live and were often born in these reclaimed Spanish territories. Spatially, this population is also located on the geographical, economic, and political margins of the two cities.²⁴ From 1985 onwards, a social movement began to take shape, seeking recognition of the legal, politi-

21 Yves Zurlo, *Ceuta et Melilla. Histoire, représentations et devenir de deux enclaves espagnoles*, L'Harmattan, 2005; David Moffette, “Muslim ceuties, migrants and porteadores: race, security, and tolerance at the spanish-moroccan border”, *Cahiers canadiens de sociologie* 38(4), 2013; Alicia Fernandez Garcia, *Vivre ensemble. Conflit et cohabitation à Ceuta et Melilla*, L'Harmattan, 2017.

22 Instituto Nacional de Estadística, *Estudio estadístico de las comunidades musulmanas de Ceuta y Melilla*, 1987.

23 Yves Zurlo, *Ceuta et Melilla. Histoire, représentations et devenir de deux enclaves espagnoles*, L'Harmattan, 2005, p. 48.

24 Ana Planet, *Melilla y Ceuta: espacios-frontera hispano-marroquíes*, Biblioteca de Melilla, 1998

cal, and social rights of Muslim residents of the enclaves.²⁵ However, this movement was met with great hostility from a section of the population, particularly from the right-wing and far-right political groups in both towns.²⁶ It was not until the 1990s that several thousand naturalisations were granted, but this in no way resolved the social and political injustice experienced by the Muslim population of Ceuta and Melilla.



Photograph of a 1985 demonstration led by the Muslim population of Ceuta and Melilla to demand legal, political, and social rights for Muslim residents of the enclaves. Photograph: XXX, 3 November 1985.

The constantly growing population of Moroccan origin still gives rise to fears in some quarters that the enclaves will lose their “Spanishness”. Social and spatial segregation²⁷ and discrimination at all levels persist and are regularly denounced by Muslim residents.

25 A young economist from the Spanish Socialist Workers’ Party, Aomar Mohammedi Duddu, published an article in the newspaper El País entitled “Legalizar Melilla” in which he denounced all the injustices suffered by the Muslim population of Melilla: Aomar Mohammedi Duddu, “Legalizar Melilla”, El País, 11.05.1985. Together with Hamed Subaire in Ceuta, Duddu became the leader of the social movement to demand the rights of Muslim residents in the enclaves.

26 Duddu, the leader of the protests in Melilla, was himself forced to take refuge in Morocco in December 1986, after being the subject of an arrest warrant, like other members of the social movement. In Ceuta, a peaceful demonstration by Muslim women was violently repressed: Avelino Gutierrez, “La policía reprime en Melilla con porras y botes de humo una manifestación pacífica de mujeres musulmanas”, El País, 21.01.1986. In January 1987, during a demonstration in Melilla, a young Muslim was killed and several Muslim leaders were arrested and accused of sedition. They were released the following month, but tension remained palpable in both towns.

27 See David Mofette, “Muslim ceuties, migrants, and porteadores: Race, security, and tolerance at the Spanish-Moroccan border”, Canadian Journal of Sociology 28(4), pp. 601-622, 2013; Alicia Fernández García, Vivre ensemble: conflit et cohabitation à Ceuta et Melilla, L’Harmattan, 2017. See also: DN, “Molina: “Los musulmanes soportamos ser ciudadanos de segunda en Melilla””, El Faro de Melilla, 20.08.16, <https://elfarodemelilla.es/molina-los-musulmanes-soportamos-ser-ciudadanos-de-segunda-en-melilla/>.

Although some Muslim have now become political representatives and have obtained seats in the Assembly or the administrations of the enclaves, the overall condition of Muslim residents demonstrates the enduring coloniality of the power that still governs Ceuta and Melilla, which also organises the heightened control of movement across the borders of these enclaves, including for residents of the Rif from the neighbouring regions.

For almost 40 years, with the status quo respected between Morocco and Spain, and the status of the two cities remaining unchanged, a certain “coexistence” seems to have been established between the two countries around the enclaves. In 1991, the two kingdoms signed a treaty of friendship, good neighbourliness, and cooperation.²⁸ But in 1995, as part of the completion of the administrative and political organisation of the Spanish State, Ceuta and Melilla were granted autonomous status and became “autonomous municipalities” (Ciudades Autónomas). With this new status, Spain sought, according to Moroccan opinion, to integrate them fully into its national territory in order to prevent any claims by Morocco. Even today, on the Moroccan side, Ceuta and Melilla are still officially considered to be occupied territories.

As far as the enclaves are concerned, while the “Muslim” or “Moroccan” threat continues to be brandished by certain political groups, at the same time a new type of “invader” began to emerge in the mid-1990s: the migrant from so-called “sub-Saharan” Africa attempting to cross the borders of Ceuta and Melilla to reach Europe.

POLITICAL DEVELOPMENTS, EXTERNALISATION OF EUROPEAN CONTROL AND BORDER REPRESSION SINCE 1990.

At the end of the 1980s, the consolidation of an area of free movement for European citizens led to a tightening of entry conditions throughout Europe for the populations of the global South, particularly those from former colonies²⁹. In response to the growing difficulties encountered by these populations in gaining legal access to Europe, new strategies and geographies of migration emerged. Various land and sea areas separating Europe from the global South became places where illegalised migrants attempted to

28 Under which seven general principles are mutually accepted: respect for international law and sovereign equality, non-interference in internal affairs, non-use or threat of use of force, peaceful settlement of disputes, cooperation for development, respect for human rights and fundamental freedoms, and dialogue between cultures and civilisations. See Said Saddiki, “Les clôtures de Ceuta et de Melilla: Une frontière européenne multidimensionnelle”, *Revue Études Internationales* 43(1), 2012, p.64.

29 Zygmunt Bauman, *Vies perdues. La modernité et ses exclus*, Payot, 2006; Henk Van Houtum, “Human blacklisting: the global apartheid of the EU’s external border regime”, *Environment and Planning D: Society and Space* 28, 2010 ; Luna Vives, “White Europe: an alternative reading of the Southern EU border”, *Geopolítica(s). Revista de Estudios Sobre Espacio y Poder* 2(1), 2011.

cross borders³⁰. This is the case of the Spanish enclaves of Ceuta and Melilla, the only land borders between Europe and Africa. After the adoption of the Aliens Act in 1985³¹ and its accession to the Schengen Treaty in 1991³², Spain increasingly implemented a policy of border closure³³.

The migratory trajectories of various populations from the global South whose mobility is illegalised converge towards the border areas of Ceuta and Melilla, which they try to access in order to reach the Spanish peninsula.³⁴ Initially used by Moroccan nationals, this border has since become a transit zone for other people from the rest of the Maghreb (mainly Algeria), Asia (particularly India and Bangladesh) and the Middle East (Syria, Palestine and Yemen, among others).

Relatively unnoticed on the Moroccan side because of their phenotypical resemblance to Moroccans, people from Algeria and the Middle East who have been illegalised by European migration policies usually attempt to cross the border on foot. They blend in with the crowds crossing the border posts at Ceuta and Melilla – counting on the random nature of the checks, carrying false documents to gain entry, or paying bribes to police officers to let them through. Others use vehicles instead, or sometimes try the sea route. Despite the opportunities for these categories of migrants to cross, there have been many cases of difficulties, violence or death, particularly involving Moroccan minors trying to enter Ceuta and Melilla to get on the ferries leaving for the Spanish mainland³⁵. However, the risks of exposure to violence and death for Black migrants are far greater.

The first Central and West Africans arrived in Ceuta and Melilla in the mid-1990s. They were treated differently from other migrants in that they were immediately targeted by state violence.

30 See Migreurop, Atlas des migrants en Europe. Approches critiques des politiques migratoires, Armand Collin, 2017.

31 Ley Orgánica 7/1985, de 1 de julio, sobre derechos y libertades de los extranjeros en España, <https://www.boe.es/eli/es/lo/1985/07/01/7>

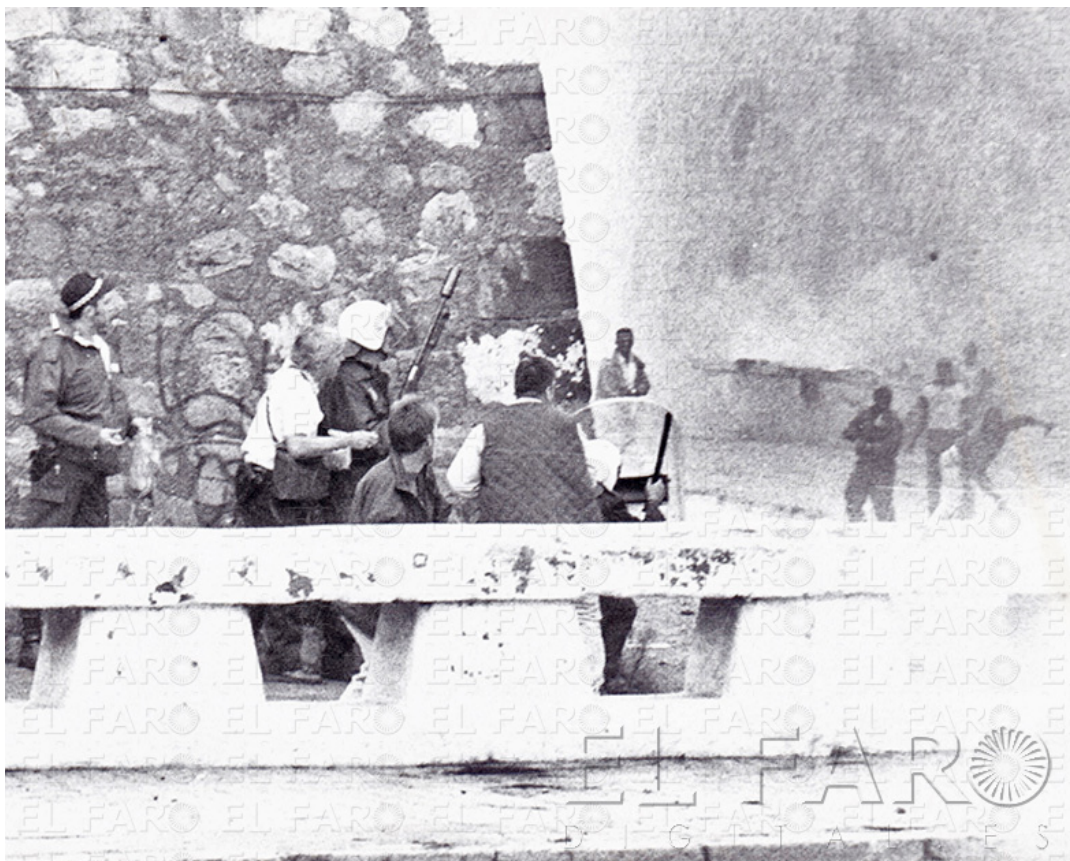
32 Ley Orgánica 7/1985, de 1 de julio, sobre derechos y libertades de los extranjeros en España: <https://www.boe.es/eli/es/lo/1985/07/01/7>

33 Maribel Casas-Cortés et al., "Stretching Borders Beyond Sovereign Territories? Mapping EU and Spain's Border Externalization Policies", Geopolítica(s) 2(1), 2010; Luna Vives, "White Europe: an alternative reading of the Southern EU border", Geopolítica(s). Revista de Estudios Sobre Espacio y Poder 2(1), 2011; Lorenzo Gabrielli, "La construction de la politique d'immigration espagnole : Ambiguïtés et ambivalences à travers le cas des migrations ouest-africaines", thèse de doctorat, Institut d'Etudes Politiques de Bordeaux, 2011.

34 For a detailed analysis of the social processes at work in these transnational migrations, see Mehdi Alioua, "L'étape marocaine des transmigrants subsahariens en route vers l'Europe: l'épreuve de la construction des réseaux et de leurs territoires", sociology thesis, Université Toulouse II, 2011.

35 See the annual reports of the AMDH-Nador, which mention the cases of violence and death of all those who try to cross the border, including Moroccans. See also the work of Carolina Kobelinsky, Elisa Floristan Millan and Cléo Marmié.

In October 1995, in Ceuta, as migrant men protested against the inhumane³⁶ conditions of detention after entering the enclave in a ruined colonial building, they were brutally repressed³⁷, not only by Spanish law enforcement agents but also part of Ceuta's civilian population.



Photograph showing the repression of Black migrants on 11 October 1995 in Ceuta, published in the newspaper El Faro de Ceuta. ©El Faro de Ceuta, 1995.

The repression of Black migrants in Ceuta during these events, which was exceptional at the time, would become commonplace and standard practice with the implementation of violent expulsions around the Ceuta and Melilla border fences over the coming years.

³⁶ See the account by journalist Manolo de la Torre in El pueblo de Ceuta in 2011, quoted in APDHA, "Droits de l'Homme à la Frontière Sud", p. 8, 2014, https://www.apdha.org/media/frontiere_sud%202014.pdf

³⁷ See APDHA, "Droits de l'Homme à la Frontière Sud", 2014, https://www.apdha.org/media/frontiere_sud%202014.pdf; SOS Racismo, "Informe Frontera Sur.1995-2006: 10 años de violación de los derechos humanos", 2006, <https://sosracismo.eu/wp-content/uploads/2016/06/Informe-Frontera-SUR-1995-2006.pdf>

SPANISH REPRESSION FROM THE ENCLAVES AND THE CONSTRUCTION OF THE BARRIERS

Following Moroccan independence in 1956, the Melilla border was only materialised by markers on the ground and a small informal fence, but the arrival of so-called “sub-Saharan” migrants, which Spain and its European counterparts consider to be a cause for concern, changed all that. The Spanish authorities – regardless of the political party in power – sought to improve the impermeability of border areas, with the political and financial support of the European Union, by increasing both material and human systems of control and surveillance. From 1996 onwards, the Spanish authorities erected a border fence, the height and complexity of which continued to increase over the following years.³⁸

In 2020, the border barrier reached 10 metres, becoming the highest border separation barrier in the world. In addition, the equipping of the top of the barrier with the so-called “inverted comb” system designed to prevent the climbing of the fence, which has been progressively extended all around the border since summer 2020, has made crossings almost impossible³⁹. In collaboration with architect Antonio Giraldez López, we have analysed the historical evolution of the Nador-Melilla border fence infrastructure. Our analysis reveals the way the technologies and components of the fence have constantly evolved in relation to changing political conjunctures, as well as in response to migrants’ continued capacity of crossing.

38 On the reinforcement of the borders of Ceuta and Melilla, see for example the works of: Said Sadiki, “Les clôtures de Ceuta et de Melilla: Une frontière européenne multidimensionnelle”, *Revue Études Internationales* 43(1), 2012; Jaume Castan Pinos, “La fortaleza europea: Schengen, Ceuta y Melilla”, Tesis de Doctorado, Instituto de Estudios Ceutíes, 2014; Ruben Andersson, *Illegality, Inc.: Clandestine migration and the business of bordering Europe*, University of California Press, 2014; Xavier Ferrer-Gallardo and Lorenzo Gabrielli, *Estados de excepción en la excepción del Estado. Ceuta y Melilla*, Edición Icaria, 2018; Xavier Ferrer-Gallardo and Lorenzo Gabrielli, “The Fenced Off Cities of Ceuta and Melilla: Mediterranean Nodes of Migrant (Im)Mobility”, in Ricard Zapata-Barrero and Ibrahim Awad (eds.), *Migrations in the Mediterranean: IMISCOE Regional Reader*, Springer, 2023; Cristina Fuentes Lara, “La fronterización o desterritorización de la frontera hispano-marroquí. La singularidad de Ceuta”, *Revista de derecho migratorio y extranjería* 49, 2018; Corey Johnson & Reece Jones, “The biopolitics and geopolitics of border enforcement in Melilla”, *Territory, Politics, Governance* 6(1), 2018; Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, Université Paris 8, 2019; Carolina Kobelinsky, “Les traces des morts: gestion des corps retrouvés et traitement des corps absents à la frontière hispano-marocaine”, *Critique internationale* 83(2), 2019; Miguel Acosta-Sánchez, “Ceuta y Melilla en el Espacio Schengen: situación actual y opciones de futuro”, *EuroMediterranean Journal of International Law and International Relations* 10, 2022. For an architectural approach, see: Antonio Giraldez López, “El dispositivo frontera: La construcción espacial desde el cuerpo migrante”, doctoral thesis, Universidad Politécnica de Madrid, 2020.

39 See: Alicia Martínez, “Colocados los primeros tramos de valla con “peines invertidos””, *El Faro de Melilla*, 25.08.20, <https://elfarodemelilla.es/colocados-primeros-tramos-valla-peines-invertidos/>; Alicia Martínez, “Melilla, “inmersa” en la segunda fase de colocación de peines invertidos en la valla”, *El Faro de Melilla*, 28.02.22, <https://elfarodemelilla.es/melilla-inmersa-segunda-peines-invertidos-valla/>; EFE, “El plan para la valla de Melilla tras los últimos saltos: ‘peines invertidos’, sensores y cámaras”, *El Confidencial*, 09.03.22, https://www.elconfidencial.com/espana/2022-03-09/valla-melilla-3-meses-peines-invertidos-intrusion-saltos_3388680/.

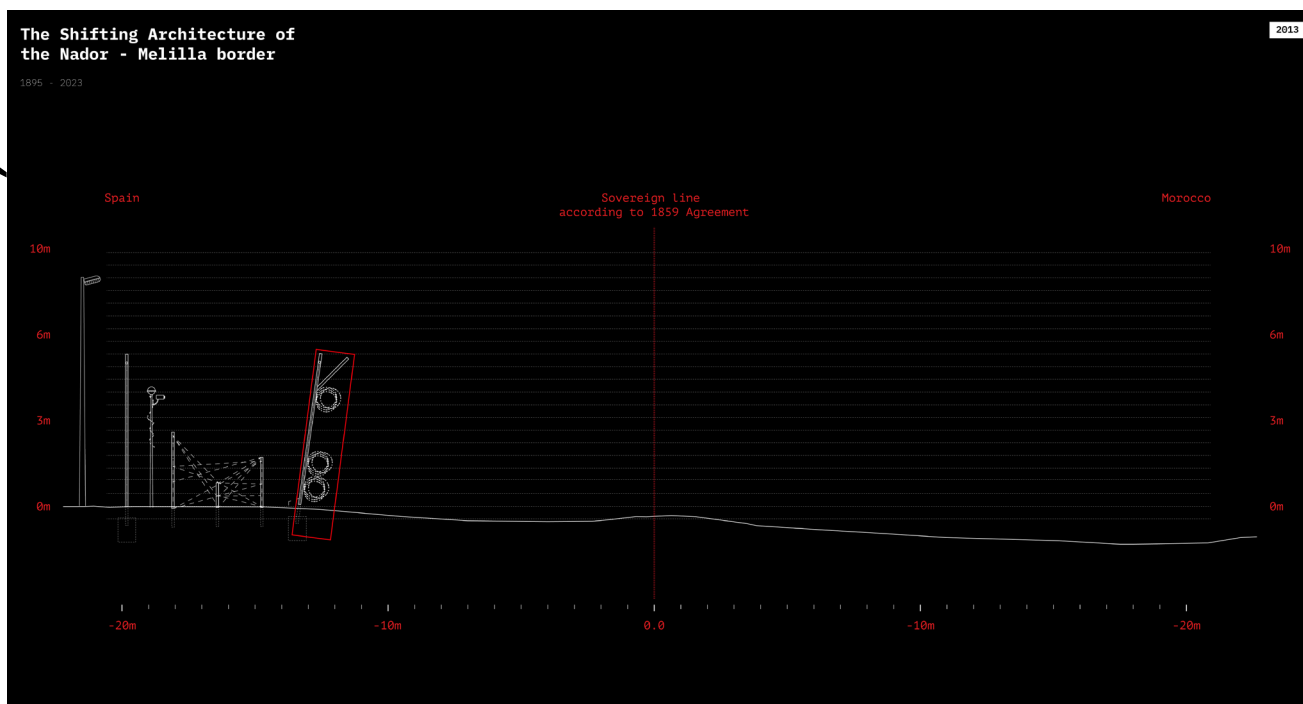


The army installed barbed wire on the border between Melilla and Morocco to “impermeabilise” it at the end of 1996. Photograph: José Manuel Pérez Cabo, 1996.



Photograph of the continuous construction of the border fence surrounding Melilla, January 2021. Photograph: Alicia Hernandez, 2021.

Despite the plurality of migrants at this border, Central and West African nationals are over-visibilised. A whole body of racist rhetoric and imagery surrounding the “assaults” of “sub-Saharan” on the barriers, and specific policies aimed at preventing them are deployed, producing over the years the category of “sub-Saharan migrants” associated with a threat of the highest order.



The Shifting Architecture of the Nador - Melilla border, Architectural analysis of the historical evolution of the Nador-Melilla border fence infrastructure. Drawing and analysis by Antonio Giraldez López, Border Forensics, 2024.

FROM THE 2000s, IMPLEMENTATION OF EXTERNALISATION POLICIES IN MOROCCO


At the end of the 1990s, in addition to the repressive measures put in place by the Spanish authorities, the European Union called on Morocco to contribute to the “fight against clandestine immigration”.

It is through a series of agreements and funding that Morocco is incited by EU Member States, and Spain in particular, to cooperate on “migration management”. Since the 1990s, this cooperation has for example taken the form of participation in the SIVE maritime surveillance system.⁴⁰ Morocco was thus one of the first African countries to be targeted by the European Union’s externalisation policies, through which the EU seeks to delegate control of its borders to non-European actors.⁴¹

This policy has made it possible to strengthen collaboration with the Spanish authorities at the border in the fight against so-called “clandestine” migration to Europe, but also to attenuate Morocco’s claims to “Sebta” and “Mlilya”, which it considers to be occupied territories.

⁴⁰ See: Nora El Qadim, *Le gouvernement asymétrique des migrations. Maroc/Union européenne*, Dalloz, 2015; Leonhard den Hertog, “Funding the eu-Morocco ‘Mobility Partnership’: Of Implementation and Competences”, *European Journal of Migration and Law* 18, 2016; Nora El Qadim, “Lutte contre l’immigration irrégulière et conditionnalité de l’aide au développement”, *Migrations Société* 171, 2018; Lorena Gazzotti, *Immigration Nation. Aid, Control, and Border Politics in Morocco*, Cambridge University Press, 2021; Daniela Lo Coco and Eloisa González Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals* 129, 2021; Mehdi Alioua and Chadia Arab, “Logiques de tri et migrations contrariées au Maroc. Circulations, assignations et contrôles aux frontières de l’Europe”, *Migrations et société* 191, 2023.

⁴¹ See: Daniela Lo Coco and Eloisa González Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals* 129, 2021.


 In 2003, law n°02-03 was promulgated in Morocco and was identified as a concession to European demands for a stricter law on migration issues.⁴² Since then, and despite a new Moroccan migration policy initiated in 2013⁴³, an increased repression at the borders targeting Black people has been observed. The practices of “hot return” at the barriers, carried out in conjunction with Spanish law enforcement agents and which we discuss further on in this chapter, have become recurrent.⁴⁴

Through its cooperation with Spain and the EU, Morocco is often described as “Europe’s gendarme”, a simplistic and Eurocentric view in which EU policies are unilaterally imposed on Morocco. This characterisation must be nuanced.⁴⁵ It is important to recognise the way in which Morocco exercises its agency within this asymmetric relation,⁴⁶ and has developed a genuine migration diplomacy that navigates between constraints and opportunities. As we shall see for the year 2022, Moroccan involvement in the repression of the borders of Ceuta and Melilla fluctuates considerably, depending on the state of Moroccan-Spanish and Moroccan-European diplomatic relations and the advantages negotiated. Indeed, a precarious and shifting balance between “migratory pressure” and border repression is necessary for the Moroccan and Spanish States to be able to negotiate and influence bilateral diplomatic relations with the EU and its Member States.

The analysis of diplomatic relations between Morocco and Spain and between Morocco and the European Union over a long period of time, reveals the lives of migrants at the border, and Black Africans in particular, as “pawns” on a political chessboard, as often analysed by migrants themselves.⁴⁷

42 Abdelkrim Belguendouz, “Expansion et sous-traitance des logiques d’enfermement de l’Union européenne: L’exemple du Maroc”, Cultures & Conflits 57, 2005; Mehdi Alioua, “L’étape marocaine des trans migrants subsahariens en route vers l’Europe: l’épreuve de la construction des réseaux et de leurs territoires”, thèse de sociologie, Université Toulouse II, 2011.

43 Nadia Khrouz, “La pratique du droit des étrangers au Maroc. Essai de praxéologie juridique et politique”, thèse de doctorat, Université Grenoble Alpes, 2016; Mehdi Alioua and Jean-Noël Ferrié (dir.), La nouvelle politique migratoire marocaine, Konrad Adenauer Stiftung, 2017 ; Yousra Abourabi and Jean-Noël Ferrié, “La nouvelle politique migratoire comme instrument diplomatique”, in Mehdi Alioua and Jean-Noël Ferrié (dir.), La nouvelle politique migratoire marocaine, Konrad Adenauer Stiftung, 2017 ; Sara Bendjelloun, “Mise en œuvre et enjeux diplomatiques de la nouvelle politique migratoire” in Mehdi Alioua and Jean-Noël Ferrié (dir.), La nouvelle politique migratoire marocaine, Konrad Adenauer Stiftung, 2017.

44 The reports from associations on both sides of the border are unanimous, see for example the numerous reports from APDHA, GADEM, AMDH Nador, Amnesty International and IRIDIA.

45 Nora El Qadim, Le gouvernement asymétrique des migrations. Maroc/Union européenne, Dalloz, 2015

46 Nora El Qadim, “La politique migratoire européenne vue du Maroc: contraintes et opportunités”, Politique Européenne 31, 2010.

47 GADEM, “Coûts et blessures”, 2018, <https://www.gadem-asso.org/couts-et-blessures/>; Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, Université Paris 8, 2019.

CONSENSUS AROUND A BLACK FIGURE OF MIGRATORY DANGER

Since the 1990s, Spanish and Moroccan racist and repressive logics have converged towards the repression of Black migrants at the Ceuta and Melilla borders.⁴⁸ This convergence, which is taking place despite long-standing and ongoing conflicts between Morocco and Spain over the status of the Spanish-controlled enclaves, is made possible by the fact that Black people are a consensual figure in their respective racist logics.

The Moroccan racial order has pre-colonial roots – linked to several centuries of slavery of Black people in the Arab-Muslim world⁴⁹. The Spanish racial order, for its part, has a pre-colonial and colonial genealogy – the one we mentioned above for the enclaves of Ceuta and Melilla, but which also extends across its vast empire⁵⁰. At the border, these two racist orders overlap and converge around the figure of Black migrants.

48 Elsa Tyszler, "Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole", thèse de doctorat en sociologie, Université Paris 8, 2019; Elsa Tyszler, *Se battre aux frontières de Ceuta et Melilla*, Presses Universitaires de Vincennes, 2024. On the racial dimension of migration control on the Spanish-Moroccan border, see also among others: Luna Vives, "White Europe: an alternative reading of the Southern EU border", *Geopolítica(s). Revista de Estudios Sobre Espacio y Poder* 2(1), 2011; David Moffette, "Muslim ceuties, migrants and porteadores: race, security, and tolerance at the spanish-moroccan border", *Cahiers canadiens de sociologie* 38(4), 2013; Lorena Gazzotti, "Deaths, Borders, and the Exception: Humanitarianism at the Spanish-Moroccan Border", *American Behavioral Scientist* 64(4), 2019; Jeffrey K. Coleman, *The Necropolitical Theater. Race and Immigration on the Contemporary Spanish Stage*, Northwestern University Press, 2020; Leslie Gross-Wyrtzen, "Bordering Blackness: The Production of Race in the Morocco-EU Immigration Regime." PhD thesis, Clark University, 2020; Debarati Sanyal, "Race, Migration, and Security at the Euro-African Border." *Theory & Event* 24(1), 2021; Sani Ladan, *La luna está en Duala: y mi destino es el conocimiento*, Plaza y Janés, 2022; Maite Daniela Lo Coco, "Colonialidad y racismo en el sistema de deportación español: prácticas excepcionales y violencia durante las deportaciones a Marruecos", *Migraciones. Publicación Del Instituto Universitario De Estudios Sobre Migraciones* 58, 2023; IRIDIA, "Vulneración de derechos humanos en la Frontera Sur del Estado español 2021-2022", 2023, <https://iridia.cat/es/publicaciones/vulneracion-de-derechos-humanos-en-la-fs-del-estado-espanol-2021-2022/>.

49 It should be emphasized that the movement of people between the regions of Central and West Africa and Morocco goes back a very long way and reflects deep-rooted racialization processes. Between the 7th and 19th centuries, forced movements took place as part of the trans-Saharan slave trade, and raids were carried out by African monarchs and Arabo-Maures (Ould Cheikh, 1985; Ndiaye, 2008; El Hamel, 2012). Over this period, the various Muslim slave trades are said to have led to the deportation of around 14 million people (Grenouilleau, 2018). While the lack of research on the slave trade in the Muslim worlds of North Africa and the Orient remains decried (Trabelsi, 2016), we do know that these systems organized relationships of submission and slavery, reduced the indigenous Black populations of the Sahara to servitude (Timera, 2011) and produced a Black diaspora internal (Naïmi 2004; El Hamel, 2006) to Moroccan Arab-Berber society.

50 See for example: Grunberg, Bernard, "L'esclave noir dans la législation de l'Amérique espagnole des XVIe et XVIIe siècles". Grenouilleau, Olivier. *Esclaves: Une humanité en sursis*. Rennes: Presses universitaires de Rennes, 2012, pp. 141-160; Rodrigo Y Alharilla, Martín. "Les factoreries négrières espagnoles des côtes africaines (1815-1860)", *Outre-Mers*, 410-411(1), 2021, pp. 143-167. It should also be remembered that Equatorial Guinea was the second Spanish colony in Africa, along with Morocco. It was not decolonised until 1968. On Spanish colonisation of Equatorial Guinea, see for example De Castro, M. y Ndongu D., 1998; or Álvarez Chillida, Gonzalo. "Les Missions claretaines et l'administration coloniale en Guinée espagnole. Une relation conflictuelle (1883-1930)", *Histoire, monde et cultures religieuses*, 31(3), 2014, pp. 113-131.

This convergence makes it possible to target Black migrants on both sides of the border, since neither Morocco nor Spain is accused of abusing “sub-Saharan illegal immigrants”. By cracking down on Black migrants, Spain and Morocco can perform their respective sovereignties and their involvement in the fight against so-called illegal immigration, while maintaining their common interests at the border.⁵¹



Spanish and Moroccan law enforcement agents collaborating in violently repressing an attempt to cross the Melilla border fence. Photograph: Jesús Blasco de Avellaneda, 15.06.17.

51 Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, Université Paris 8, 2019; Elsa Tyszler, “Se battre aux frontières de Ceuta et Melilla”, Presses Universitaires de Vincennes, 2024. Daniela Lo Coco y Eloísa González Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, CIDOB, n°129, 2021; Daniela Lo Coco, “Colonialidad y racismo en el sistema de deportación español: prácticas excepcionales y violencia durante las deportaciones a Marruecos”, Migraciones. Publicación Del Instituto Universitario De Estudios Sobre Migraciones, n°58, 2023.

Visible because of the racialization to which they are subjected and hounded by law enforcement agents, Black migrants are treated differently from other migrants at the border, and overexposed to violence. Unlike other populations – particularly Moroccans, Algerians, and Syrians, who manage to attempt to cross the border with varying degrees of difficulty – access to the “normal” gates of the Ceuta and Melilla enclaves is in practice impossible for Black people⁵². The closer they get to the borders, the more they encounter forms of repression and coercion that specifically target them. As a result, Black people have many more opportunities to be subjected to violence and to die than other people in exile who try to cross these borders. In the face of the repression that targets them, Black migrants organise themselves at the border and beyond, in particular by forming migrant-led organisations.⁵³

52 See for example: GADEM, Migreurop, APDHA, La Cimade, “Ceuta et Melilla, centres de tri à ciel ouvert aux portes de l’Afrique”, 2015, https://www.gadem-asso.org/wp-content/uploads/2021/05/fr_rapportconjoint_ceutamelilla_decembre2015.pdf; the intervention of the Council of Europe Commissioner for Human Rights: <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-human-rights/16806dac25>; the complaint lodged with the UN against Spain for racial discrimination at the border: https://www.eldiario.es/andalucia/discriminacion-racial_1_2604747.html; the survey conducted by Forensic Architecture: <https://forensic-architecture.org/investigation/pushbacks-in-melilla-nd-and-nt-vs-spain>; the figures from the Melilla border asylum office illustrating the impossible access of black people to the border: https://www.eldiario.es/desalambre/solo-subsah-arianos-asilo-inauguracion-melilla_1_3136315.html; IRIDIA, “Frontera Sur – Accesos terrestres”, 2017; Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, doctoral thesis in sociology, Université Paris 8, 2019. See the statements by the Council of Europe’s Commissioner for Human Rights, published in November 2022 after her visit to Spain: “there is no real and effective access to asylum at the border between Nador, Morocco, and Melilla. “In practice, it seems that there is no other way to enter Melilla and request protection from the competent authorities than by swimming or jumping the fence, risking one’s life.”: <https://www.coe.int/en/web/commissioner/-/spain-should-advance-social-rights-better-guarantee-freedoms-of-expression-and-assembly-and-improve-human-rights-of-refugees-asylum-seekers-and-migran>; Amnistía Internacional, Irídia, SIR[A], Mundo en Movimiento, la APDHA, Solidary Wheels, el Institut de Drets Humans de Catalunya, SOS Racismo Madrid, “España: violaciones al derechos a la vida, uso ilegítimo de la fuerza y la expulsión violenta, sumaria y colectiva en el puesto fronterizo de barrio chino, en melilla, el 24 de junio de 2022”, informe para el Comité contra la tortura de la ONU, 7º periodo de sesiones, pp.10 – 28, July 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FESP%2F53034&Lang=en

53 For example, The Council of Sub-Saharan Migrants in Morocco (CMSM) and the Collective of Sub-Saharan Communities in Morocco (CCSM) were set up in 2005, and many other collectives have since been formed. See the recent website of CCSM: <https://ccsmmaroc.org.com/> On the mobilisation of migrants, see for example the works of: Mehdi Alioua, “Le “passage au politique” des transmigrants subsahariens au Maroc. Imaginaire migratoire, réorganisation collective et mobilisation politique en situation de migration transnationale.” In *Le Maghreb à l’épreuve des migrations subsahariennes*, edited by A. Bensâad, Karthala, 2009; Mehdi Alioua, “L’étape marocaine des transmigrants subsahariens en route vers l’Europe : l’épreuve de la construction des réseaux et de leurs territoires”, thèse de sociologie, Université Toulouse II, 2011 ; Sebastien Bachelet, “Irregular sub-Saharan migrants in Morocco : Illegality, immobility, uncertainty and “adventure” in Rabat”, PhD in Social Anthropology, University of Edinburgh, 2016; Emmanuel Mbolela, “Réfugiés”, Editions Libertalia, 2017; Cynthia Magallanes-Gonzales, “Sub-Saharan Leaders in Morocco’s Migration Industry: Activism, Integration, and Smuggling”, *The Journal of North African Studies*, 2020.

ANTI-BLACKNESS AT THE BORDER, FROM DAILY HARASSMENT TO MASSACRES. THE CASE OF THE NADOR-MELILLA AREA.

While Black people may be subject to migration controls over a large part of Morocco⁵⁴, the closer they are to the borders of Ceuta and Melilla, the greater the controls.

Violence specifically targeting Black people is particularly noticeable in the region around the Moroccan town of Nador, close to Melilla. Here, the fight against so-called illegal immigration is described as a “hunt for Black men” by migrants who suffer from it and for whom the border constitutes “a racist system”⁵⁵. As the AMDH-Nador denounced on social networks in 2017: *“Whether or not they are regularised, whether or not they are students, whether or not they have a tourist visa, people are arrested, even inside their homes, on the basis of a single criterion: the black colour of their skin”*.

State and racist repression operates at every stage of the trajectory of Black people in this border zone, from their arrival in the region to their attempt to cross. We analyse each of these stages in turn.

Arriving in Nador, being hunted

Arriving in the region usually by bus, migrants generally get off before Nador, because of the high risk of being checked or arrested as soon as they set foot in the town. The Moroccan auxiliary forces, military support forces usually responsible for maintaining law and order in the Kingdom, have a specific mission in border areas. In Nador, the work of these soldiers is mainly focused on migration control. Since 2015, special units have been dedicated to tracking down “sub-Saharan”, as reported by migrants and AMDH members observing the situation on site. As a result, people can be arrested on the basis of their appearance at any time. This is why people immediately head for the migrant camps located far from urban centres and in the forest.

54 See: GADEM. 2023. Note from the Groupe antiraciste d'accompagnement et de défense des étrangers et migrants (GADEM - Morocco) for the attention of the International Committee on the Elimination of All Forms of Racial Discrimination (CERD) with a view to the consideration of the nineteenth to twenty-first periodic reports of Morocco during the 111th session of CERD, <https://www.gadem-asso.org/note-du-gadem-a-lattention-du-cerd/>.

55 For example, The Council of Sub-Saharan Migrants in Morocco (CMSM) and the Collective of Sub-Saharan Communities in Morocco (CCSM) were set up in 2005, and many other collectives have since been formed. See the recent website of CCSM: <https://ccsmmaroc.org/> On the mobilisation of migrants, see for example the works of: Mehdi Alioua, “Le “passage au politique” des transmigrants subsahariens au Maroc. Imaginaire migratoire, réorganisation collective et mobilisation politique en situation de migration transnationale.” In Le Maghreb à l'épreuve des migrations subsahariennes, edited by A. Bensâad, Karthala, 2009; Mehdi Alioua, “L'étape marocaine des transmigrants subsahariens en route vers l'Europe : l'épreuve de la construction des réseaux et de leurs territoires”, thèse de sociologie, Université Toulouse II, 2011 ; Sebastien Bachelet, “Irregular sub-Saharan migrants in Morocco : Illegality, immobility, uncertainty and “adventure” in Rabat”, PhD in Social Anthropology, University of Edinburgh, 2016; Emmanuel Mbolela, “Réfugiés”, Editions Libertalia, 2017; Cynthia Magallanes-Gonzales, “Sub-Saharan Leaders in Morocco's Migration Industry: Activism, Integration, and Smuggling”, The Journal of North African Studies, 2020.

Hiding, surviving, and organising in forest camps

To try to escape the hunt which targets them and cross the border, people from Central and West Africa have built camps in the forests close to the border. For a long time, the Gourougou camp – located on the mountain of the same name and close to the Melilla barriers – concentrated the majority of Central and West African nationals present in Nador. However, over the years and as a result of the repression, the camps have been dispersed and moved further away from the border, making survival and organisational conditions increasingly difficult. Two types of camp can be distinguished in the border forests: those where people plan to cross by sea or by car, with a mixed gender population, and those from which (almost exclusively) men attempt to cross the barriers by land. The social organisation of these different types of camps is similar, with camp leaders and both relations of power and solidarity between them and the rest of the people wishing to cross the border. In and through these various encampments, which are more or less ephemeral, Black people contest, negotiate and occupy space where no legitimate space is provided for them⁵⁶.



Video stills from the film "Les Sauteurs", directed by Estephan Wagner, Moritz Siebert and Abou Bakar Sidibé, 2016.

⁵⁶ The reality of life in Gourougou in 2014 is captured in a documentary co-directed by one of the Black migrants who lived there at the time in *Les Sauteurs* (Those who jump), by Aboubakar Sidibé, Moritz Siebert and Estephan Wagner, 2016, <https://www.berlinale.de/de/2016/programm/201609714.html>; on the following years see, Elsa Tyszler, "Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole", thèse de doctorat en sociologie, Université Paris 8, 2019.

Military harassment and raids in the forest

However, migrants are not safe in the camps where they hide and from where they organise their passage. The repeated and unannounced interventions by the auxiliary forces in the forest, particularly in the early hours of the morning, make daily life unbearable and exhausting for those affected. In the forest camps, there is no access to drinking water, hygiene facilities or refreshment points. The “*forest is for animals, not people*”, as those encamped on the Moroccan side have been lamenting for years⁵⁷. The security harassment carried out in particular by the Moroccan auxiliary forces also takes the form of the regular destruction of camps by arson.



Photograph showing migrants arrested during a raid in the forest by Moroccan law enforcement agents. Photograph: Abou Bakar Sidibé, 2016.

⁵⁷ Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, Université Paris 8, 2019.

Thrift of migrants' belongings, in particular phones and money, and the destruction of identity documents, residence permits or papers relating to an asylum application, are frequent practices carried out by the auxiliary forces. Sexual assaults by soldiers on women in the camps are also regularly reported⁵⁸.

Repression of attempts to cross the barriers at Melilla

The time-space of the most intense repression to which Black people are exposed is that of the border crossing, through which they try to exercise the freedom of movement that they are legally denied.

While other, non-Black, populations manage to access the "normal" entry gates to the enclaves of Ceuta and Melilla, as a result of the repression targeting them it is impossible in practice for Black people to do so and therefore to submit an asylum application at the dedicated office – which has been located at the Beni-Ansar border crossing since 2015⁵⁹.

The Spanish authorities know perfectly well that Black people cannot arrive at border crossings posts, given the hunt for Black people organised by the Moroccan authorities as part of their collaboration in the fight against immigration to Spain/Europe. This segregation of border crossing methods is recognised and described by law enforcement officers. In 2015, the colonel of the Guardia Civil in Melilla explained to an association delegation:

58 MSF, "Violence sexuelle et migration: la réalité cachée des femmes subsahariennes arrêtées au Maroc sur la route de l'Europe", 2010, <https://www.msf.fr/actualites/violence-sexuelle-et-migration>; MSF, "Violences, vulnérabilités et migration : bloqués aux portes de l'Europe. Un rapport sur les migrants subsahariens en situation irrégulière au Maroc", 2013, <https://www.msf.fr/communiques-presse/violences-vulnerabilite-et-migration-bloques-aux-portes-de-l-europe>; Smain Laacher, "De la violence à la persécution, femmes sur la route de l'exil", La Dispute, 2010; Jane Freedman, "Analysing the gendered insecurities of migration: a case study of female Sub-Saharan african migrants in Morocco", International Feminist Journal of Politics, n°14(1), 2012; Caminando Fronteras, Tras la Frontera, 2017, <https://caminandofronteras.org/tras-la-frontera/>; Alianza por la solidaridad & Helena Maleno Garzon, "Alzando Voces", 2018, <https://www.alianzaporlasolidaridad.org/axs2020/wp-content/uploads/Informa-Helena-Maleno-2018-Alzando-voces.pdf>; Elsa Tyszler, "Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole", thèse de doctorat en sociologie, Université Paris 8, 2019 ; Elsa Tyszler, "Nous sommes des battantes." Expériences de femmes d'Afrique centrale et de l'Ouest à la frontière maroco-espagnole, Genre, Sexualité & Société, n°25, 2021.

59 See: Speech by the Council of Europe Commissioner for Human Rights: <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/16806dac25>; the complaint lodged with the UN against Spain for racial discrimination at the border: https://www.eldiario.es/andalucia/discriminacion-racial_1_2604747.html; GADEM, Migreurop, APDHA, La Cimade, "Ceuta et Melilla, centres de tri à ciel ouvert aux portes de l'Afrique", 2015, https://www.gadem-asso.org/wp-content/uploads/2021/05/fr_rapportconjoint_ceutamelilla_decembre2015.pdf; survey conducted by Forensic Architecture and ECCHR: <https://forensic-architecture.org/investigation/pushbacks-in-melilla-and-nt-vs-spain> figures from the asylum office at the Melilla border illustrating the impossible access of Black people to the border: https://www.eldiario.es/desalambre/solo-subsaharianos-asilo-inauguracion-melilla_1_3136315.html; Elsa Tyszler, "Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole", thèse de doctorat en sociologie, Université Paris 8, 2019 ; Amnistía Internacional, Iridia, SIR[A], Mundo en Movimiento, la APDHA, Solidary Wheels, el Institut de Drets Humans de Catalunya, SOS Racismo Madrid, "España: violaciones al derechos a la vida, uso ilegítimo de la fuerza y la expulsión violenta, sumaria y colectiva en el puesto fronterizo de barrio chino, en melilla, el 24 de junio de 2022", informe para el Comité contra la tortura de la ONU, 7° período de sesiones, pp.10 – 28 jul 2023, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FESP%2F53034&Lang=en.

“There are a number of entry routes used by sub-Saharan Africans: jumping the fence, using boats at sea, hiding in vehicles. Unlike the Syrians, who go through the border checkpoint, usually with forged or stolen passports. Here, yes, there are whites and blacks, sub-Saharan can’t come by walking”.⁶⁰

Members of the Association of Civil Guards (AUGC) working at the Melilla gates confirmed this observation:

“There really is a question of whites and blacks. That’s politics, giving priority to some people and not others. Why does the issue focus on certain people of colour and not others? In fact, no Black person is going to apply for asylum because they’re not going to be allowed to approach just because they’re Black, whereas if they’re Syrian... The asylum office at the border: it’s just to shut people up. Why open an asylum office at the border if people can’t go near it? Come back in four years’ time and ask whether a black person was able to claim asylum. It’s all a big lie(...).”⁶¹

This discrimination has also been recognised by several institutions at national and European level: in 2015 Spain was denounced before the United Nations for violating the right to non-discrimination. The complaint by the René Cassin Committee, an NGO of independent lawyers, contrasted the appropriate reception of Syrian asylum seekers with the impossibility of access to the Ceuta and Melilla asylum offices for “sub-Saharan Africans”, highlighting the racial discrimination against the latter.⁶² In 2016, Spain’s Ombudsman stated that “sub-Saharan Africans” do not have access to the border posts of the two enclaves and therefore do not have access to asylum procedures.⁶³ The representatives of the Secretary General of the Council of Europe for Migration and Refugees came to the same conclusion after his visit to Melilla in September 2018.⁶⁴ This is also what the Council of Europe’s Commissioner for Human Rights said in 2022 after her visit to Spain: “In practice, it seems that there is no other way of entering Melilla and request-

60 Extract from an interview transcribed by Elsa Tyszler for the joint report: GADEM, Migreurop, APDHA, Cimade, Ceuta & Melilla, centres de tri à ciel ouvert aux portes de l’Afrique, 2015, https://www.gadem-asso.org/wp-content/uploads/2021/05/fr_rapportconjoint_ceutamelilla_decembre2015.pdf

61 Extract from an interview transcribed by Elsa Tyszler for the joint report: GADEM, Migreurop, APDHA, Cimade, Ceuta & Melilla, Centres de tri à ciel ouvert aux portes de l’Afrique, 2015, https://www.gadem-asso.org/wp-content/uploads/2021/05/fr_rapportconjoint_ceutamelilla_decembre2015.pdf

62 See: El Diario, “España, denunciada ante la ONU por discriminación racial en la frontera con Marruecos”, 26/06/2015: https://www.eldiario.es/andalucia/discriminacion-racial_1_2604747.html

63 See: https://www.defensordelpueblo.es/wp-content/uploads/2016/07/Asilo_en_Espa%C3%B1a_2016.pdf; https://www.eldiario.es/desalambre/defensora-pueblo-subsaharianos-ceuta-melilla_1_3895808.html

64 See: <https://www.ecoi.net/en/document/1443311.html>

ing protection from the competent authorities than by swimming or jumping the fence, at the risk of one's life".⁶⁵

The impossibility for Black migrants to cross at the border crossing formally established for this purpose is used by the authorities to criminalise their mobility and delegitimise their asylum applications.⁶⁶



Photograph of Beni Ensar taken from the Spanish side.
Photograph: Jesús Blasco de Avellaneda



Image taken by security cameras showing migrants crossing the Melilla fence at night. Guardia Civil, 28.08.05, published in El País.

In the face of repression, three main tactics have been developed by nationals of Central and West Africa to attempt to cross the border in spite of everything. The most fortunate attempt entry – with less risk to their lives – via a border post, caged in the double bottom of a vehicle. Otherwise, they have to attempt for a fee the sea crossing – usually on an inflatable zodiac – either to one of the enclaves or directly to the Spanish mainland. Crossing the barrier is the means of entry used by the least well-off, as it is “free”. Attempting to cross the Melilla border fence is one of the main tactics used by Black men – women, considered less physically fit, are more likely to use the sea route.

65 See: <https://www.coe.int/en/web/commissioner/-/spain-should-advance-social-rights-better-guarantee-freedoms-of-expression-and-assembly-and-improve-human-rights-of-refugees-asylum-seekers-and-migrant>; see also: https://www.eldiario.es/desalambre/solo-subsaharianos-asilo-inauguracion-melilla_1_3136315.html

66 Shortly before the inauguration of the asylum offices at the Ceuta and Melilla borders, Spain's Minister of the Interior, Jorge Fernandez Diaz, stated that “it is very clear that those who try to enter Spain, Europe and the Schengen area illegally through the border perimeters of Ceuta and Melilla will not have the right to apply for asylum and international protection, since there are now authorised offices at the border for this purpose”. This statement, that illegal entry does not entitle people to apply for asylum, has no legal basis (this is the case for most asylum seekers in Europe), and the minister's comments serve to legitimise the repression carried out at the barriers. El Diario, “Fernández Díaz dice que “quedará claro” que los que saltan la valalla no tendrán derecho a pedir asilo”, February 2015, https://www.eldiario.es/desalambre/gobierno-oficinas-fronteras-ceuta-melilla_1_4384327.html

When attempting to cross the barriers, which have become increasingly dangerous as the architecture of the border has been strengthened, the men are not supposed to show any signs of aggression towards the soldiers who assault them. Numerous past examples show that those who dared to defend themselves, using stones or other objects, were immediately put in prison for “criminal organisation”. Against them, the law enforcement agents carry and use weapons, and sometimes even kill migrants, to defend the border. The accounts of the men who tried to cross the barriers at Melilla all converge on the same analysis of the violence used against them: it is often described as intentionally excessive – whether it comes from Moroccan or Spanish forces – and injuries and deaths are frequently the result⁶⁷.

Hot returns after crossing the border fence

Those who manage to cross the border fence surrounding Melilla are not immune from immediate and summary expulsions to Morocco, and this despite the provisions of international and European Union law.

Under international and EU law, once migrants have crossed the Spanish border, the duty of the Spanish officers is to facilitate the registration of potential asylum claims, while they are forbidden from handing back the migrants to Moroccan forces, in view of the principle of non-refoulement and the prohibition of torture.

However, in Ceuta and Melilla, the official role of the Guardia Civil has long been to prevent entry at all costs. To implement this role and evade their legal obligations, Spanish authorities have developed the concept of an “operational border” or “*frontera chicle*”⁶⁸ (chewing gum border), which, as Ayten Gündoğdu argues, constitutes “a legal fiction that turns the border from a fixed line into a continuously fluctuating one”.⁶⁹

Thus, the borderline is defined in each instance on an ad hoc basis, depending on the situation the Guardia Civil faces at the border fence structure. Internal Guardia Civil documents obtained in the context of criminal proceedings for the death of migrants revealed that there, the “operational border” was defined by the most inner fence of the border fence structure for land entries, and the first line of defence of standing officers for maritime entries. However, in practice, only people who manage to reach the Temporary Stay Centre for Immigrants (CETI) are sheltered from immediate, summary expulsions.

67 Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, thèse de doctorat en sociologie, 2019.

68 See the legal study: <https://docta.ucm.es/rest/api/core/bitstreams/12990807-af76-4f48-81fd-8c687dc408e3/content>

69 Ayten Gündoğdu. “From the Colony to the Border: Lawful Lawlessness of Racial Violence.” In *Lawless Zones, Rightless Subjects: Migration and Asylum in De- and Re-territorialized Borders Regimes*, ed. Ayelet Shachar and Seyla Benhabib (Cambridge University Press), 2024.

Under this concept of border control, which severs “the close connection between territory and jurisdiction that is central to modern conceptions of law and politics” to undermine migrants’ “rights to have rights”⁷⁰, the Guardia Civil is able to intercept and systematically and immediately deport them to Morocco by handing them over to the Moroccan authorities through the border fence structure. This practice has been denounced for years by civil society organisations and legal academics for its illegality and the violence used by the forces that carry it out⁷¹.



Photograph showing Spanish agents returning a migrant to Morocco through the Barrio Chino border post. Photograph: Jesús Blasco de Avellaneda, 01.05.14

- 70 Ayten Gündoğdu. 2024. “From the Colony to the Border: Lawful Lawlessness of Racial Violence.” In *Lawless Zones, Rightless Subjects: Migration and Asylum in De- and Re-territorialized Borders Regimes*, ed. Ayelet Shachar and Seyla Benhabib (Cambridge University Press), 2024.
- 71 See for example: APDHA, “Derechos Humanos en la Frontera Sur,” 2013-2023 ; Migreurop, “70 organisations espagnoles se joignent à Migreurop pour exiger la fin des refoulements illégaux et le respect des législations nationale, européenne et internationale”, 2014 <https://migreurop.org/article2554.html>; Amnistía Internacional, “El coste humano de la fortaleza europea”, 2014 <https://www.amnesty.org/es/documents/EUR05/001/2014/es/>; GADEM, APDHA, Migreurop, La Cimade, “Ceuta et Melilla : centres de tri à ciel ouvert aux portes de l’Afrique”, 2015 <https://www.gadem-asso.org/ceuta-et-melilla-centres-de-tri-a-ciel-ouvert-aux-portes-de-lafrique-2/>; IRIDIA, “Frontera Sur – Accesos terrestres”, 2017 ; Caminando Fronteras, “Vida en la necrofrontera”, 2020 <https://caminandofronteras.org/vida-en-la-necrofrontera/>; IRIDIA, “Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 - 2022”, 2023 <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe-FS.pdf>; Margarita Martínez Escamilla et al, ‘Hot Returns’: When the State acts outside of the law. Legal Report. (Annex 29 to ND’s Application), 27 June 2014.

On 1 April 2015, the Spanish government grounded this informal practice which was known as *devoluciones en caliente* (“hot returns”) in Spanish legislation, renaming it *rechazos en frontera* (“border returns”)⁷², a strategy designed to give legal backing to illegal practices. Though the law clearly states that these “returns” must comply with international law⁷³, it provides no safeguards for the same, leading to an absurd situation of legal provisions theoretically reaffirming basic fundamental rights but practically there to circumvent them.

The practice was further cemented by the European Court of Human Rights’s stand in *ND and NT v Spain* (which we discuss further on in this chapter), where the Court refused to apply the safeguards of the European Convention on Human Rights on the grounds that the migrants were “culpable” for crossing the border irregularly.

Thus the practice of immediate and summary expulsions to Morocco remains unchanged and continues on a regular basis at the borders of the two enclaves, both on land and at sea⁷⁴. The principle of non-refoulement (established by the Geneva Convention relating to the Status of Refugees) and the prohibition of torture, as enshrined in Spanish law, are not respected, since even refugees are not given the possibility to seek protection. This practice is also in violation of the European Convention on Human Rights.

In addition to being against international law, these “returns at the border” are also carried out in the least dignifying way, in complete disregard of the bodies of those returned, with unsafe and non-homologated use of anti-riot material (such as pepper spray directly in the faces of persons barely stable on fences 6 metres high), or by carrying people out of Spain in extremely dangerous and painful positions, even when these persons are unconscious, sometimes even dragging their faces on the ground. The dehumanisation of Black persons at the Spanish-Moroccan border was noted by one of the ECtHR judges in a concurring opinion: “To allow people to be rejected at land borders and returned without assessing their individual claims amounts to treating them like animals. Migrants are not cattle that can be driven away like this.”⁷⁵

72 Tenth additional provision of Organic Law 4/2000, of 11 January, introduced by Organic Law 4/2015, of 30 March, of the Citizen Security Act 4/2015.

73 “1. Foreigners detected at the territorial demarcation border of Ceuta or Melilla while attempting to overcome the border restraints to cross the border illegally may be returned in order to prevent their illegal entry into Spain. 2. In all cases, people will be returned in accordance with international human rights and international protection standards, of which Spain is the guarantor. 3. Applications for international protection will be formalised in the appropriate areas at border crossings and will be processed in accordance with current legislation on international protection.” (free translation of the Spanish law).

74 See: Solanes Corella, A., “Contra la normalización de la ilegalidad: la protección judicial de los extranjeros frente a las expulsiones colectivas y las devoluciones “en caliente””. Cuadernos Electrónicos de Filosofía del Derecho, 2017 ; Sosa Navarro M., “Devoluciones en caliente a la luz de la doctrina de la conducta culpable: el asunto N.D. y N.T. contra España ante el TEDH”, Revista de Derecho Comunitario Europeo, 2020 ; IRIDIA, Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 - 2022, 2023 ; Marco Aparicio, “Las “devoluciones en caliente” y la fría razón de Estado. Un análisis de las implicaciones de la jurisprudencia del Tribunal de Estrasburgo en el contexto de la política de fronteras de la Unión Europea”, 13(3), 2023.

75 Judge Pinto de Albuquerque, Concurring opinion in *MA v Lithuania*, ECtHR judgment of 2018, §29.

After deportations to Morocco: arrests, detention and forced eviction far from the border

Those who are intercepted or deported are locked up in the Nador region before being forcibly moved by bus to different regions of Morocco, far from the border. They can be held for up to a week in police and gendarmerie cells or in unofficial locations such as the Arekmane summer camp⁷⁶. Without judicial review or legal procedure, those arrested are photographed and fingerprinted before the authorities remove them by bus to southern Morocco⁷⁷.

MAPPING THE CONTINUUM OF ANTI-BLACK VIOLENCE

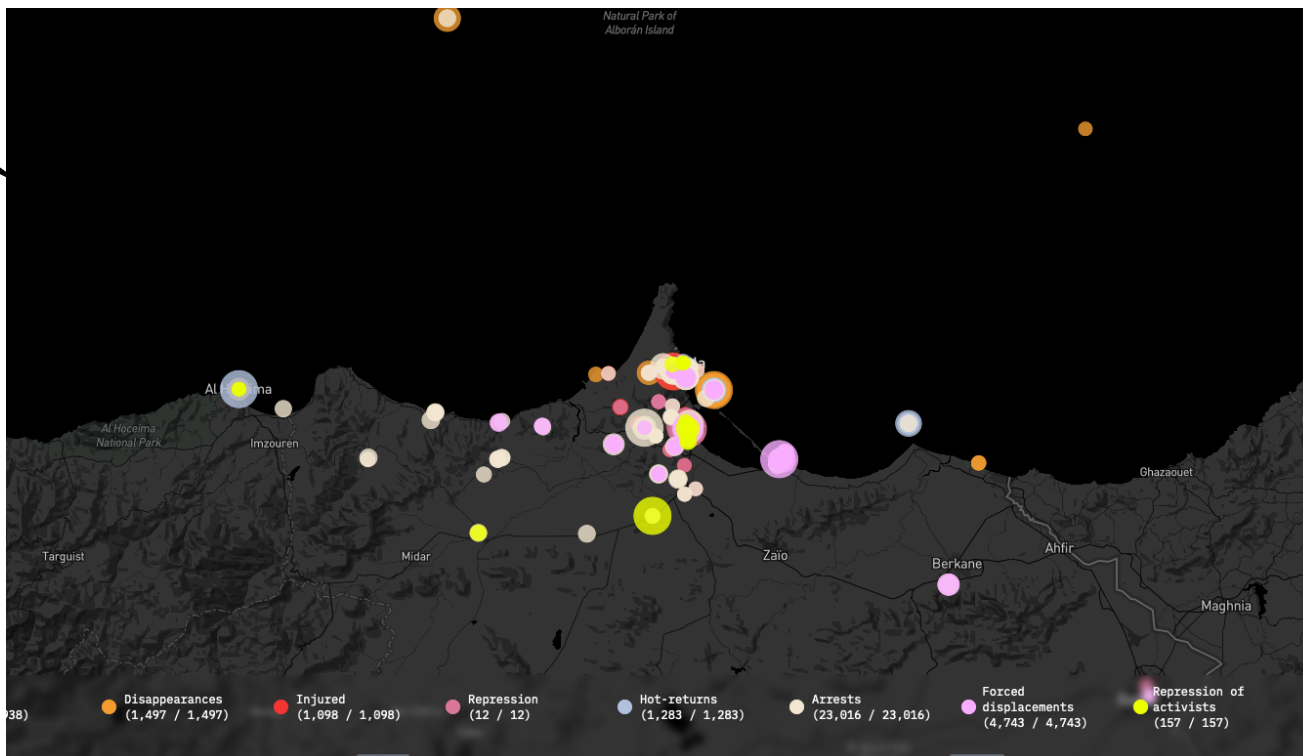
The long-standing documentation and analysis by civil society actors and researchers reveals a continuum of violence targeting Black people, before, across and after the Nador-Melilla border.

We have collected, analysed spatially and visualised a number of data sources which, using geostatistical analysis methods, make it possible to account for the everyday nature and spatial distribution of the various forms taken by repression at the border, as well as its racist nature.

Since 2014, the AMDH-Nador has been the human rights organisation that most regularly and closely documents and analyses the repression of Black migrants at this border. In addition to its annual reports, the AMDH-Nador has a strong presence on social networks, particularly Facebook. We have listed all the association's Facebook posts referring to the various forms of repression at the border, then after categorising, quantifying and geolocating them, we mapped them. Although the AMDH-Nador's data is not exhaustive, it demonstrates the pervasiveness of repression at the border zone, as well as its spatial distribution, thus giving a visual and analytical form to the reality experienced and described by Black migrants for many years.

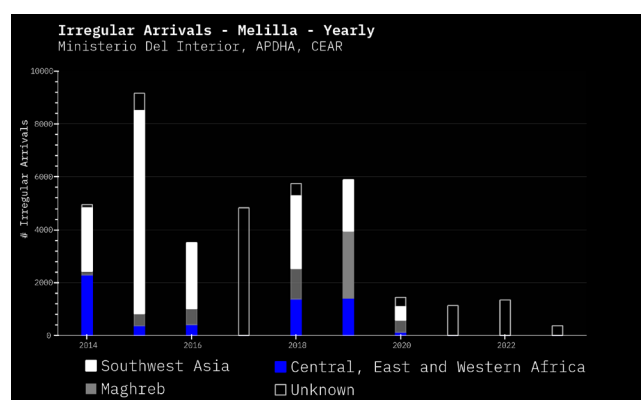
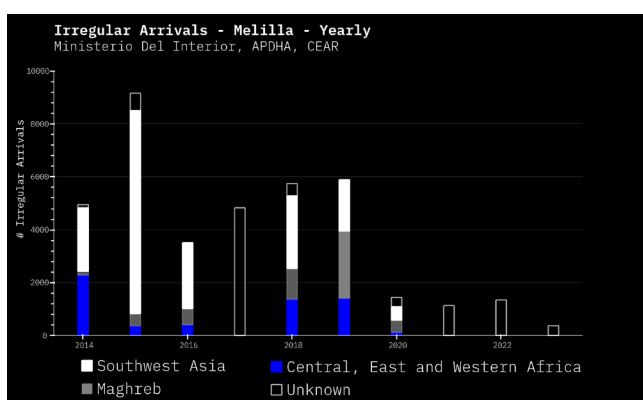
⁷⁶ As regularly documented by the AMDH-Nador.

⁷⁷ See the reports of GADEM or: https://euromedrights.org/wp-content/uploads/2021/04/EN_Chapter-2-Re-returns-Spain-to-Morocco_Report-Migration.pdf

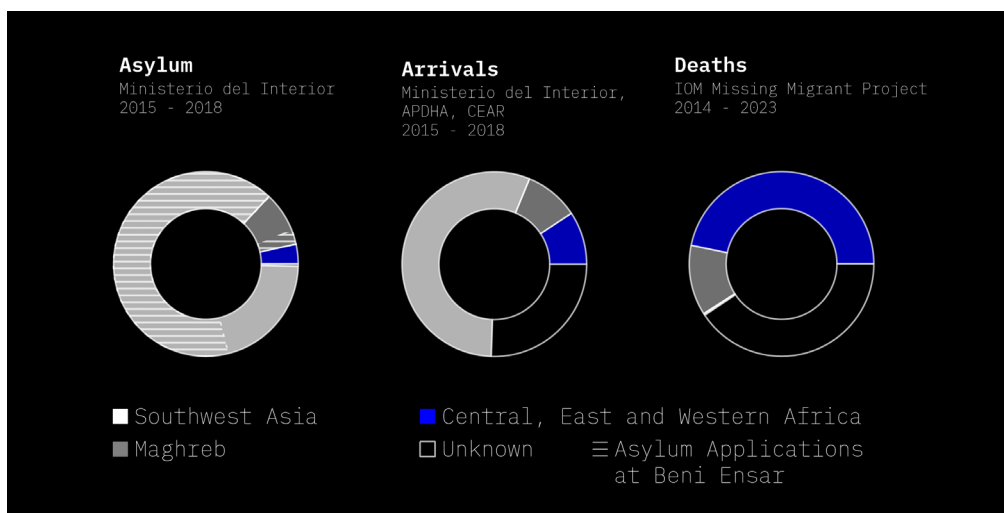


Interactive mapping platform showing the pervasiveness of different forms of repression since 2014 based on Facebook posts by AMDH-Nador. Border Forensics, 2024. Find fullscreen experience [here](#).

Furthermore, we were able to statistically demonstrate the differential trajectories of migrants at the border according to their origin described above, and in particular to statistically demonstrate the systematic exclusion of Black people from safe migration areas via the Beni-Ensar border crossing, where it should be possible to submit an asylum application. Between 2015 and 2018, only 35 Black people out of more than 524 asylum seekers (7%) were able to file an asylum application at the Beni-Ensar border crossing, whereas more than 80% of people from South-West Asia were able to lodge their asylum application at this crossing, without being subjected to lethal migratory trajectories.

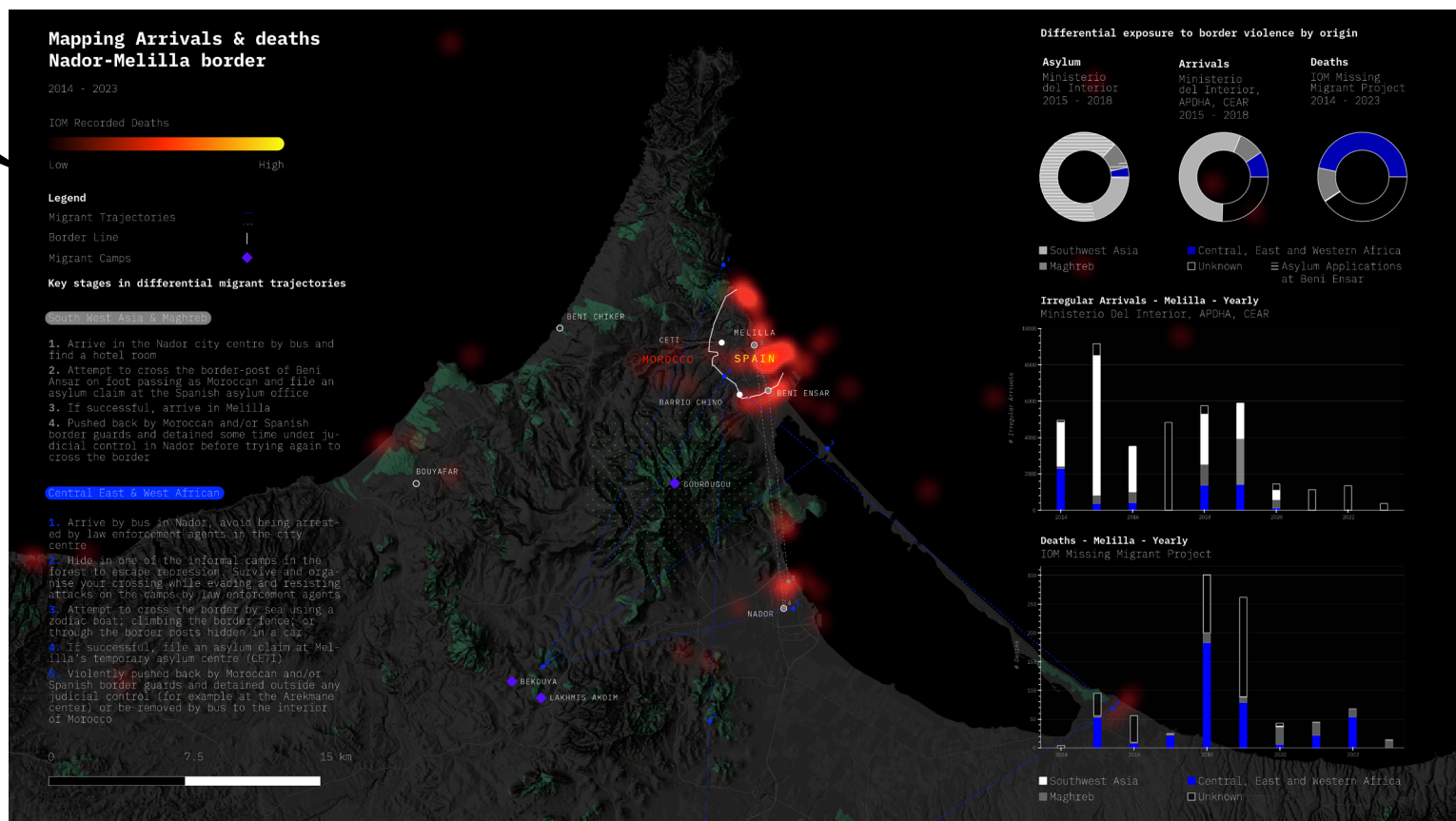


Statistical graphs displaying yearly data concerning arrivals and deaths between 2014-2023, disaggregated according to origin. Border Forensics, 2024.



Statistical graphs displaying the total number of recorded arrivals and deaths for the period 2014-2023, disaggregated according to origin. Border Forensics, 2024.

Our statistical analysis also reveals that Black migrants are overexposed to violence and death in their journeys, which are made dangerous by this exclusion. Indeed, the analysis of data concerning arrivals in Melilla (Spanish ministry of Interior, APDHA, CEAR) and deaths at the border (IOM) clearly reveals the over-representation of Black people among the deaths at the border. Although these data are not exhaustive, since 2014, the IOM has counted at least 892 people who have died at the border, 406 of whom are Black, representing 46 percent of documented deaths, while this population represents less than 20% of documented arrivals in Melilla. This mortality rate among people attempting to cross the border appears to be unevenly distributed between migrants of different nationalities: this rate is close to 0 for individuals from South-West Asia, and is four times higher for black individuals than for those from Maghreb. It should be noted that these estimates are conservative: the number of people deceased is a minimum observed. The “Unknown” category in the death data likely covers additional Black individuals. Moreover, the arrivals documented by Spain may be overestimated: a person turned away may be counted multiple times in the arrivals. These three factors indicate that the statistics produced are underestimated: it is likely that the over-representation of Black individuals who have died at the border is even greater in reality. These disparities in the death toll according to the origin of the individuals are not a matter of chance: they reflect the racialization of the border.



Map and statistical graphs analysing the differential strategies of crossing at the Nador-Melilla border for Black and non-Black migrants, and the heightened exposure to border violence and death for Black migrants. Border Forensics, 2024.

Elsa Tyszler concludes from her qualitative analysis that “the over-exposure of Black people to violence and death demonstrates the extent to which anti-Black racism structures Moroccan-Spanish policies and practices of control and repression at work on the borders”⁷⁸. Our geostatistical analysis corroborates the results of the qualitative analyses carried out to date, and highlights the link between different forms of repression and violence specifically targeting Black people.

The analysis of the day-to-day violence that takes place on the borders of Ceuta and Melilla is particularly important, as it receives far less attention than the spikes in violence that have punctuated the last 20 years⁷⁹. Among the most high-profile cases were the massacres in 2005, which left at least eleven people dead, and hundreds injured on the borders of Ceuta and Melilla⁸⁰. Another prominent case is that of February 2014, at the border beach of Tarajal (Ceuta), where at least 14 people lost their lives and dozens were injured when the Guardia Civil attacked a group of migrants who were already struggling to stay afloat by shooting over 100 rubber bullets as well as several

⁷⁸ Elsa Tyszler, “Derrière les barrières de Ceuta & Melilla. Rapports sociaux de sexe, de race et colonialité du contrôle migratoire à la frontière maroco-espagnole”, 2019

⁷⁹ Lorenzo Gabrielli, “Récurrence de la crise frontalière: l'exception permanente en Espagne”, 2015 ; Xavier Ferrer-Gallardo and Lorenzo Gabrielli, Estados de excepción en la excepción del Estado. Ceuta y Melilla, 2018.

⁸⁰ Migreurop, Guerre aux migrants. Le livre noir de Ceuta et Melilla, 2007.

gas canisters at them within 21 minutes, thus creating lethal conditions for them⁸¹. The massacre of 24 June 2022 at the Nador-Melilla border, which saw a spectacular outburst of violence, is part of this continuity⁸². However, the everyday racist violence that normalises anti-Black racism and creates the structural conditions that make these massacres possible is often occluded. Our analysis attempts to analyse both the massacre of 24 June and the production of the *massacrability* of Black people at the border, of which daily racist violence is an essential element.

Despite demands for accountability, impunity persists and grows stronger

Despite repeated and documented cases of lethal violence and violations of human rights by both Moroccan⁸³ and Spanish⁸⁴ law enforcement agents, and despite several complaints lodged by the victims and their families with the support of civil society associations, these practices have not been sanctioned by the law and continue to be perpetrated with complete impunity. This is another key factor in the perpetuation and normalisation of violence against Black migrants, which makes the massacres that punctuate the history of the Nador-Melilla border possible.

The fight for accountability at the borders of Ceuta and Melilla has been marked by the tireless efforts of civil society to obtain justice in front of both national courts and international instances. We have collected available information on attempts to seek accountability for human rights violations at the Ceuta and Melilla borders and analysed them together with the ECCHR, reconstructing the key stages and outcomes for each case. Although we have analysed several cases, our list of cases is extensive but not exhaustive, as a result of the limits of access to information concerning national criminal proceedings. In relation to those, information is not public and only accessible if made available by civil society actors or if details of said proceedings are published in judgments of international instances, such as the United Nations Committees or the European Court of Human Rights.⁸⁵

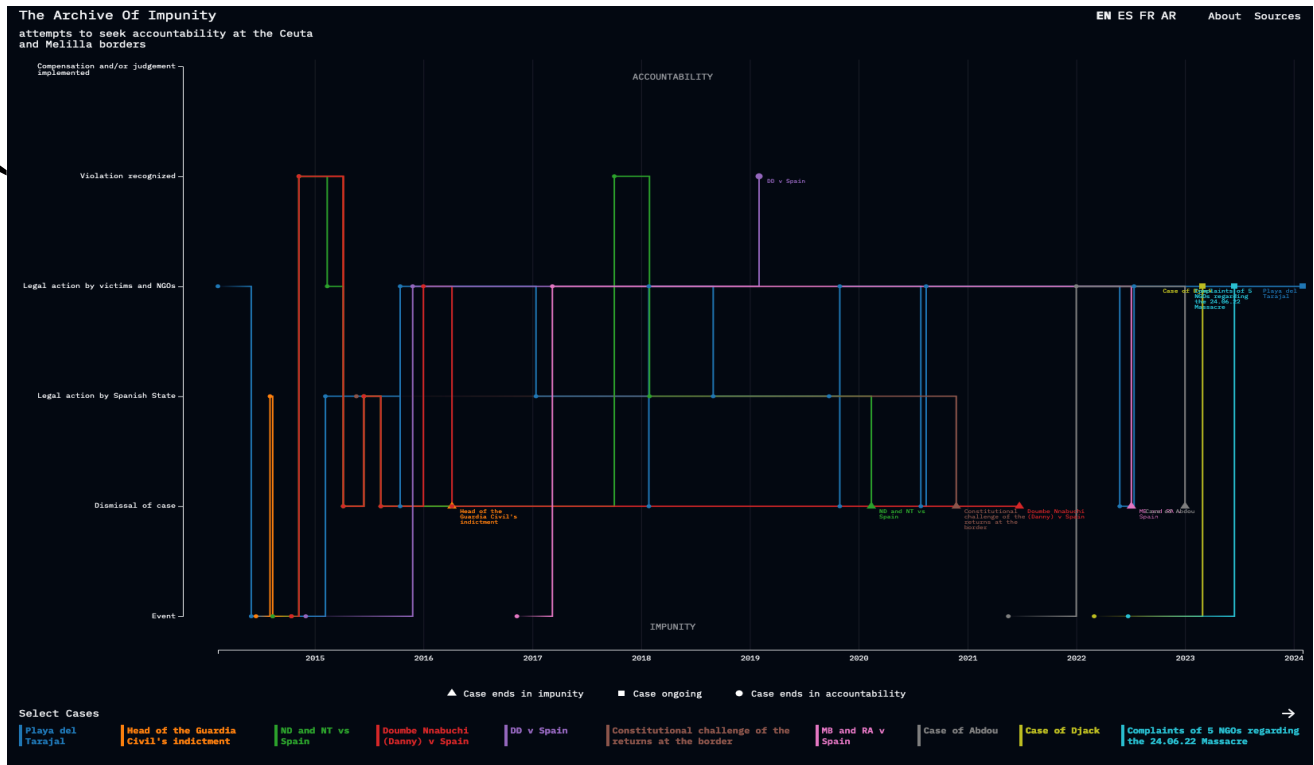
81 Voir Caminando Fronteras, Informe de análisis de hechos y recopilación de testimonios de la tragedia que tuvo lugar el 6 de Febrero de 2014, 2014; Lorenzo Gabrielli, "Récurrence de la crise frontalière: l'exception permanente en Espagne", 2015; Observatorio DESC, Tarajal: Desmontando la impunidad en la frontera Sur, 2017; CEAR, Caso Tarajal: 14 muertes y diez años de impunidad, 01.02.24, <https://www.cear.es/caso-tarajal/>; ECCHR, Case report on el Tarajal, January 2024, https://www.ecchr.eu/fileadmin/user_upload/Case_Report_Ceuta_2024Jan.pdf; Elin and others, Joint submission to the UN Committee against Torture for its examination of Spain's 7th periodic report: Spain's ineffective investigation into the deadly Tarajal events of 06/02/2014, June 2023.

82 Xavier Ferrer-Gallardo et Lorenzo Gabrielli, Estados de excepción en la excepción del Estado. Ceuta y Melilla, 2018.

83 As shown by the numerous publications of Moroccan-based organisations such as AMDH and GADEM, and those of foreign organisations such as Amnesty International.

84 Xavier Ferrer-Gallardo and Lorenzo Gabrielli, Estados de excepción en la excepción del Estado. Ceuta y Melilla, 2018.

85 This has been the case, for example, in *Sonko v. Spain* (UN Committee Against Torture) or in *ND et NT v. Spain et Doumbé Nnabuchi (Danny) v. Spain* (ECtHR), as addressed below.



Interactive mapping platform (<https://melilla-map.vercel.app/>) showing the pervasiveness of different forms of repression since 2014 based on Facebook reports by AMDH-Nador. Border Forensics, 2024.

The first case we have identified is Sonko v. Spain, concerning the drowning of a Senegalese man during a border control operation led by the Guardia Civil in 2007.⁸⁶ While it predates the 2014-2022 period of focus of our study, it is important to mention because it illustrates a pattern that will be repeated time and again. Although an investigation had to be open since the incident involved the finding of a deceased body, it would have been swiftly closed by the investigative judge, had it not been for the intervention of the family through the Spanish Ombudsperson (*Defensora del Pueblo*) and the Spanish Attorney General. Despite the re-opening of a national process, the investigation was characterised by stalling, denial of jurisdiction and a refusal to include survivors and the family of the deceased, who thus took the case in front of the UN Committee Against Torture (CAT) with the help of civil society in October 2008. Although the national proceeding was archived, the case led to Spain being condemned by CAT in November 2011. Despite this victory, the CAT's recommendations on the reopening of the investigation and the payment of damages to the family of the deceased will be ignored by Spain.⁸⁷ The stages and outcomes in this case reveal in a striking way the lack of legal remedy at the Spanish level, but also the lack of implementation of judgements by the Spanish authorities even when accountability is found at a higher level.

⁸⁶ Sonko v. Spain, Un Committee Against Torture, app. 368/2008, adopted views of 25.11.2011 (CAT/C/47/D/368/2008).

⁸⁷ Sonko v Spain, CAT 368/2008, adopted views of 25.11.2011; Rights International Spain, Comments on the report presented by Spain to the UN CAT for the VI periodic review.

Subsequent national investigations will follow similar patterns as the Sonko v. Spain case. Thus, the emblematic case of the Playa del Tarajal presents with the longest proceedings as to violence and death at the Ceuta and Melilla border, namely from 2014 until 2022.⁸⁸ The judicial investigation is also characterised by an initial denial of jurisdiction, followed by the exclusion of the survivors and of the families of the deceased, and the unwillingness to investigate and clarify the most basic of facts. After a series of dramatic closings – including right after the indictment of officers and a decision to open the trial phase – the case will be definitely archived by May 2022. In that process, due to the tirelessness of civil society, some information will be obtained and 2 out of 3 survivors will be heard as witnesses, though their testimonies will be dismissed as worthless on classically anti-Black stereotypes, such as “presenting an attitude”.⁸⁹ The archival of the case has been challenged both nationally in front of the Constitutional Court⁹⁰ and internationally in front of the UN CAT.⁹¹ Both proceedings are pending.

2014 was also the year which saw a series of expulsions giving rise to several related cases, running in parallel in front of both national criminal courts and the European Court of Human Rights, including the defining case of ND and NT v. Spain, which will entrench Spanish impunity at the highest European level (see below). Thus, following three events of expulsions in June, August and October 2014, NGOs filed criminal complaints in front of the judiciary in Melilla, leading to the opening of investigations against both regular officers and the head of the Melilla Guardia Civil. Here too, following the grounding of the practice of hot returns in national law through legislative reform in April 2015, both streams of cases will be archived after having obtained charges against the head of the Guardia Civil in Melilla. In the meantime, three of the persons expelled during these instances of expulsions mentioned above filed cases against Spain in front of the European Court of Human Rights, leading to the respective cases of ND and NT v. Spain and Doumbe Nnabuchi (Danny) v. Spain. ND and NT will first result in a unanimous condemnation of Spain in 2017, to then dramatically take a U-turn and lead to a unanimous legitimisation of the policy by the ECtHR’s Grand Chamber in 2020. A year later, 3 judges decide that Doumbe Nnabuchi – together with a further case concerning hot returns in

88 See CEAR, “Caso Tarajal: 14 muertes y diez años de impunidad”, 01 febrero, 2024, <https://www.cear.es/caso-tarajal/>; Elin, ECCHR and Andalucía Acoge, joint submission to the UN Committee against Torture for its examination of Spain’s 7th periodic report: Spain’s ineffective investigation into the deadly Tarajal events of 06/02/2014, 12.06.2023, https://www.ecchr.eu/fileadmin/user_upload/Analysis_of_Spain_s_ineffective_investigation_into_deadly_2014_Tarajal_events_July_2023.pdf

89 Blake and Epstein, Listening to black women and girls: lived experiences of adultification bias, Georgetown Law Centre on Poverty and Inequality, 2019, pp.4-5, <https://www.law.georgetown.edu/pov-erty-inequality-center/wp-content/uploads/sites/14/2019/05/Listening-to-Black-Women-and-Girls.pdf>; Van Cleve, “Systemic triage: implicit racial bias in the criminal courtroom”, The Yale Law Journal, 2016, p.882, <https://www.courts.ca.gov/documents/BTB24-PreCon2D-3.pdf>; Rachlinski et al., “Does unconscious racial bias affect trial judges”, Cornell Law School, 2009, <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1691&context=facpub>.

90 CEAR, “CEAR celebra que el Tribunal Constitucional admita a trámite el recurso de amparo por el caso Tarajal”, 28.06.2023, <https://www.cear.es/recurso-amparo-caso-tarajal/>.

91 ECCHR, Ludovic N. v. Spain: case summary, 01.02.2024, https://www.ecchr.eu/fileadmin/user_upload/Jan_24_Summary_Ceuta_case.pdf

Ceuta, MB and RA v. Spain – are simply inadmissible and will not be further examined by the ECtHR, on the basis of the 2020 ND and NT judgment.⁹² Subsequent attempts of accountability in front of the ECtHR will be dismissed even quicker. Nationally, the ND and NT Grand Chamber judgement also led to the Spanish Constitutional Court refusing to find the legislative reform entrenching the practice in national law unconstitutional.⁹³

Despite these setbacks, the condemnation of Spain in *Sonko v. Spain* by the UN Committee Against Torture (CAT) stands, as much as that by the UN Committee for the Rights of the Child in *DD v. Spain* for the hot return⁹⁴ of an unaccompanied minor.⁹⁵ In that case, Spain explicitly refused to comply with the UN Committee’s recommendations to compensate the child for his unlawful treatment and take measures to ensure that unaccompanied minors be identified and protected at the Ceuta and Melilla border, referring to the ND and NT ECtHR judgment as entrenching the legality of these practices in the framework of international human rights law.⁹⁶ This conclusion is erroneous, and the condemnations of Spain stand to confirm that these practices are in violation of Spain’s obligations under international human rights law.

Overall, our analysis of the attempts to seek truth and justice by victims of border violence reveals that instead of these practices being curbed, the impunity for violations has allowed practices that are contrary to the standards governing the rights of migrants to be consolidated and institutionalised. In particular, the hot returns carried out at border barriers, without any consideration being given to migrants’ requests for protection, have gradually been formalised in Spanish policies and laws, and partly legitimised by European jurisprudence. The ECtHR’s backing of these practices has further aggravated the situation and contributed to the conditions leading to the 24 June Melilla Massacre. This regime of impunity grounded in the denial of migrants’ s fundamental “right to have rights”⁹⁷ plays a central role in consolidating the conditions of possibility of violence at the border, including in its most extreme form as witnessed during the 24 June 2022 massacre.

92 For a more detailed analysis of these cases and the jurisprudence of the ECtHR, see D. Rodrik and H. Hakiki, “Accessing borders, accessing justice? The European Court of Human Rights’ jurisprudence on pushbacks at land borders,” *Asyl, Schweizerische Zeitschrift für Asylrecht und -praxis Revue Suisse pour la pratique et le droit d’asile*, 1, 2023.

93 El País, El Tribunal Constitucional avala las devoluciones en caliente de inmigrantes, 19.11.2020, <https://elpais.com/espana/2020-11-19/el-tribunal-constitucional-avala-las-devoluciones-en-caliente.html>; for an academic analysis of the Constitutional Court’s decision, see Ana Fernández Pérez, The illegality of border rejection and “hot” refoulement in front of the European Court of Human Rights and the Spanish Constitutional Court, 2021, <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://e-revistas.uc3m.es/index.php/CBT/article/download/6255/5032/&ved=2ahUKE-wiV5e7j07eFAXr1wIHHUzAwIQFnoECA8QAQ&usq=A0vVaw21dFXL6EnYrQHNSky90fdM>

94 Here the term “hot return” is used in its usual rather than legal sense. See comment above.

95 *DD v. Spain*, UN Committee for the Rights of the Child (4/2016), adopted views of 01.02.2019 (CRC/C/80/D/4/2016).

96 Leiden Children’s Rights Observatory, Third Follow-up Progress Report on Individual Communications, 12.04.2022, <https://www.childrensrightsobservatory.org/discussions/third-follow-up-progress-report-on-individual-communications>

97 Hannah Arendt, *The Origins of Totalitarianism*, A Harvest Book Harcourt Brace & company, NY, 1973.

Case ND and NT against Spain⁹⁸: A major setback for migrants' protection

By the European Center for Constitutional Human Rights (ECCHR)⁹⁹

On 13 August 2014, ND and NT, respective nationals of Mali and the Ivory Coast, crossed the border fence at Melilla and entered Spain on 13 August 2014. The Spanish Guardia Civil apprehended them, along with around 70 other Black men who had also climbed over the fences. They were immediately returned to Morocco – without access to any legal process or protection or even identification.¹⁰⁰ The two claimants were represented by ECCHR partner lawyers Carsten Gericke (Hamburg) and Gonzalo Boye (Madrid).

The case was filed in February 2015, within the six-month period following the summary expulsion, which took place in August 2014. In July 2015, the Court informed the applicants that their claim concerning the risks they faced upon expulsion due to racial violence in Morocco, and in particular around the Melilla border, would not be examined as it had been rejected *prima facie* as “manifestly unfounded”, despite the abundant evidence provided.¹⁰¹

Thus, the complaint based on the principle of non-refoulement was not considered, and only the applicants' claim under the prohibition of collective expulsion (article 4 protocol 4) was admitted for examination by the judges.

In October 2017, a chamber of seven judges at the European Court of Human Rights (ECHR) unanimously ruled that Spain's “hot returns” were illegal. But in February 2020, this ruling was unanimously rejected by the Grand Chamber of the ECHR.

98 On this case also see: Sosa Navarro M., «Devoluciones en caliente a la luz de la doctrina de la conducta culpable: el asunto N.D. y N.T. contra España ante el TEDH», *Revista de Derecho Comunitario Europeo*, 2020 ; Marco Aparicio, “Las “devoluciones en caliente” y la fría razón de Estado. Un análisis de las implicaciones de la jurisprudencia del Tribunal de Estrasburgo en el contexto de la política de fronteras de la Unión Europea”, 2023.

99 <https://www.ecchr.eu/en/case/nd-and-nt-v-spain/>

100 For an insight into the factual basis of the case as well as its litigation, see the documentary “The Gourougou Trial”, by Simon Casal and Santi Palacios (2022).

101 In particular the following reports were annexed to the original application: Euro-Mediterranean Human Rights Network, Factsheet: Asylum and Migration in Maghreb – Morocco, December 2012; Rapport du Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, Juan E. Méndez. Additif. Mission au Maroc advance unedited version, A/HRC/22/53/Add.2, February 2013; Médecins Sans Frontières, Violence, Vulnerability and Migration: Trapped at the Gates of Europe, March 2013; AMDH, Rapport parallèle au premier rapport du Maroc sur la mise en oeuvre de la convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille, April 2013 ; M Cherti and P Grant, “The Myth of Transit: Sub-Saharan Migration in Morocco” (Institute for Public Policy Research), June 2013 ; GADEM et al., Rapport sur l'application au Maroc de la Convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille, August 2013 ; GADEM, Note à l'attention du comité de protection des droits des travailleurs migrants et des membres de leur famille sur l'application au Maroc de la Convention sur l'application internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille, August 2013 ; UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Observations finales concernant le rapport initial du Maroc, CMW/C/MAR/CO/1, 8 October 2013 ; 18. Euro-Mediterranean Human Rights Network, Maghnia – Crossing the Uncrossable Border. Mission report on the vulnerability of Sub-Saharan migrants and refugees at the Algerian-Moroccan border, December 2013; Human Rights Watch, Abused and Expelled. Ill-Treatment of Sub-Saharan African Migrants in Morocco, February 2014.

Although the Grand Chamber clearly rejected Spain's claim of an ad hoc border (or "chewing gum border" mentioned above) and a lawless border zone in which the applicability of laws could be suspended, it in fact refused to apply the safeguards provided by the prohibition on collective expulsion to the Spanish-Moroccan land border.¹⁰²

The judgment itself replicated many of the racist clichés which characterise the treatment of Black people, and in particular young Black men, by law enforcers globally¹⁰³ and at that border in particular. Thus, though proof of violence against Black men during that day was part of the evidence submitted,¹⁰⁴ and though it had also been expressly pointed out that there was absolutely no evidence of violence from these Black men on that day against anyone¹⁰⁵, the judgment still qualified them as violent, a word used repeatedly in its text.

Politically, the judgment cemented the legitimacy of the denial of rights and impunity at Spanish and European borders and the idea that migrants are beings without rights, who must be punished for having to cross borders irregularly.

This chapter has demonstrated the colonial dimension of this border over the long term. Looking back at the long history of the occupation of Melilla has enabled us to reveal the long-standing racial and colonial dimension of this border. By analysing the evolution of legislations, policies, and practices, we have been able to grasp the racist nature of the anti-migratory repression that was put in place around the enclaves of Ceuta and Melilla from the 1990s, and then from the 2000s onwards on the Moroccan side. Although Black migrants are not the only ones to suffer from this repression, they are the most visible targets and are exposed to exacerbated forms of violence.


The processes of perpetual racialisation that have been taking place for several decades, through the manhunts specifically targeting Black people in the Nador region, the inhuman and degrading treatment in the forest camps, the paroxysmic violence of law enforcement agents at the barriers, the persistence of hot returns, and the perpetuation of a regime of impunity for the many deaths and violations, demonstrate the coloniality of

102 See for example: Sergio Carrera, "The Strasbourg Court Judgement N.D. and N.T. v Spain: A Carte Blanche to Push Backs at EU External Borders?", 2021.

103 UN Human Rights Council, Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, 28.06.2021, A/HRC/47/CRP.1, https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/A_HRC_47_CRP_1.pdf.

104 Grand Chamber judgment, §27.

105 The Gourougou trial, extracts from the Grand Chamber hearing, also available on the website of the European Court of Human Rights at <https://www.echr.coe.int/w/n.d.-and-n.t.-v.-spain-no.-8675/15->



the condition of Black migrants that is maintained at the border.¹⁰⁶ As we shall discuss in Chapter 3, the regime of racial domination instituted on both sides of the border against Black people can be described in terms of “border apartheid”.

The denial of Black migrants’ shared humanity through every-day racism and violence on the one hand, and the denial of their rights through the regime of impunity on the other, have combined to define a population – Black migrants – as massacrabile. The massacrability of Black people at the border has created the conditions for several massacres that have marked the history of the border, culminating in the massacre of 24 June 2022.

While this massacre was made possible by a structural condition built up over the long term, it materialised in a specific conjuncture in the diplomatic relations between Morocco, Spain, and the European Union. As we show in the next chapter, these changing diplomatic relations played an essential role in modulating the intensity of anti-Black violence at the border.

¹⁰⁶ Elsa Tyszler, “Se battre aux frontières de Ceuta et Melilla”, Presses Universitaires de Vincennes, 2024.

CHAPTER 2. CONJUNCTURE: 2021-2022, THE EBB AND FLOW OF MOROCCAN-SPANISH BORDER COLLABORATION

The repression of Black migrants on both sides of the border has been a constant feature for several decades. Its intensity however varies over time depending on the state of diplomatic relations between Morocco and Spain and between Morocco and the EU. The massacre of 24 June 2022 illustrates precisely these diplomatic oscillations influencing repressive practices. To understand the unprecedented intensity of the violence unleashed onto Black migrants on the 24 June 2022, we must reconstruct the shifts in diplomatic relations and repression that preceded the massacre.

Since the 2000s, two scenarios have emerged at the borders of Ceuta and Melilla. The first is that of good diplomatic relations between Morocco and Spain, as well as with the EU. Morocco then puts on a show of cooperation, which materialises in increased repression of migrants at the border. This was the case in autumn 2005, when deadly peaks of repression took place just before a meeting of the Spanish and Moroccan prime ministers in Seville. Also in 2018, when Morocco signed the fisheries agreement with the EU, a record number of arrests and security operations were recorded in border areas¹⁰⁷. However, for Morocco to demonstrate its willingness to cooperate through repression, there must be a sufficient degree of migratory “pressure” at the borders, even if it means encouraging attempts to cross the Ceuta and Melilla barriers¹⁰⁸.

The second scenario is that of diplomatic crises. The “tap” – as facilitating or preventing migrant crossings is metaphorically called – at the gates of Ceuta and Melilla is a strategy regularly used by Morocco when there are disputes with Spain¹⁰⁹. Morocco reacts vigorously whenever the Spanish government or crown attempts to trivialise its presence in Ceuta and Melilla, which for Morocco remain colonial enclaves. Because of the conflict over the Western Sahara, the reaction is just as strong to any announcement of a gesture or contact between Spain and the Polisario Front¹¹⁰ or a Sahrawi representative. Morocco then lets migrants through more easily, as illustrated by the examples of what were described as “massive” entries into Ceuta and Melilla in 2014, 2018, and again in 2021.

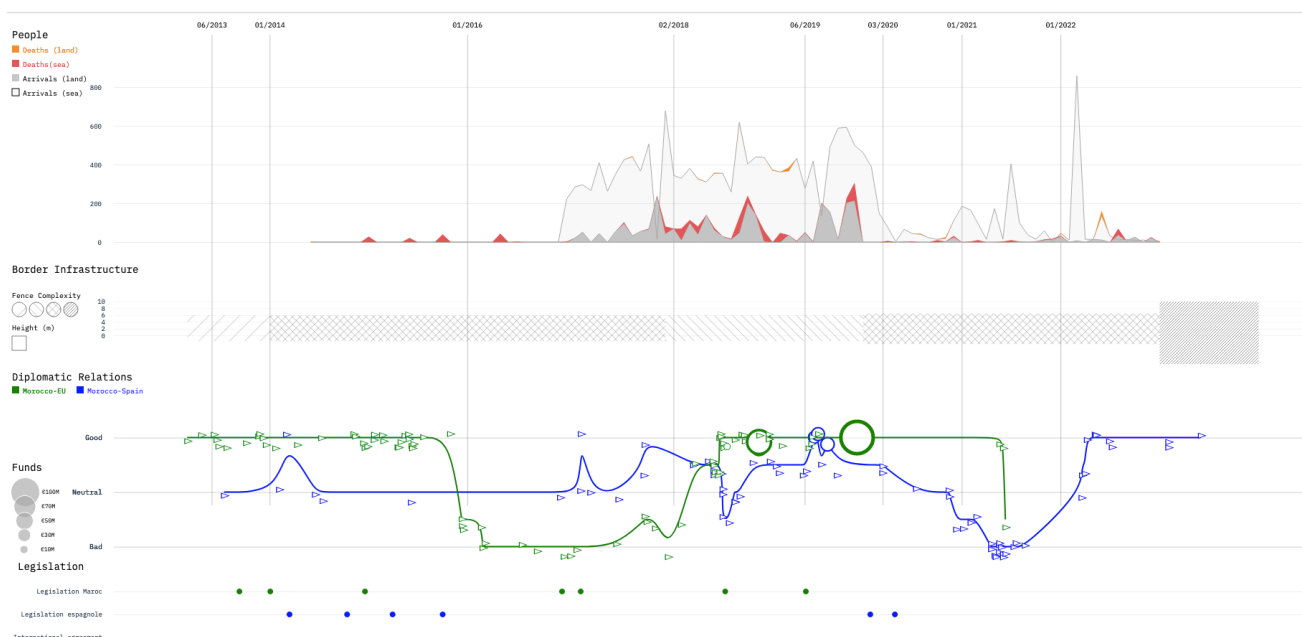
¹⁰⁷ See the reports by the GADEM and the AMDH Nador for this period.

¹⁰⁸ Elsa Tyszler, 2019

¹⁰⁹ For example, in 2014, a major entry through the barriers occurred following an incident: the control of King Mohamed VI's yacht by the Guardia Civil in Ceuta waters. See: El Mundo, “Mohamed VI llamó a Felipe VI para quejarse de que la Guardia Civil le diese el alto frente a Ceuta”, 25/08/2014.

¹¹⁰ A Sahrawi independence movement created in 1973 to fight against the Spanish occupation, it has been opposed to Morocco for control of Western Sahara since 1976.


In these changing political conjunctures, and the resulting variable balance between encouragement and repression, migrants are instrumentalised. Despite this, migrants maintain their capacity for action and implement their own strategies for crossing the border, which are irreducible to the political calculation on either side of the border.



Interactive timeline displaying key trends in border crossings and border violence in relation to changing diplomatic relations between Morocco, Spain, and the EU. Border Forensics, 2024. Fullscreen experience here.

We have analysed the evolution of diplomatic relations between Morocco, Spain, and the EU, as well as various indicators concerning migration dynamics and border repression, in order to better understand the interactions at play. We collected data on arrivals (Ministerio del Interior) in Melilla and deaths (IOM) in the Melilla border area between 2014 and 2023 and disaggregated them by location in order to distinguish between arrivals and deaths that took place on land or at sea. This provides a more accurate picture of the changing spatial nature of migration dynamics and types of repression. It should be noted that from 2014 to end of 2016, only an average monthly value for arrivals could be consulted. In addition, the database of deaths shows us a minimum observed in this area: many people who have died have left no trace.

We also carried out an exhaustive and systematic census of a variety of events linked to the migration context, grouped according to a specific typology: conflicts and politico-diplomatic events as well as economic-political agreements between the EU and Morocco, or Spain and Morocco; inter-governmental funding and legislative developments; legal events linked to complaints lodged by victims of violence at the border.



From this inventory, we built a database and assigned a qualitative score expressing the diplomatic (distance-)proximity generated by the events.

All this data was then represented graphically, allowing us to explore the relationship between the diplomatic relations between the different states and the data on deaths and arrivals at Melilla. By linking this information, we were able to identify several key phases of change in the diplomatic relations between Morocco, Spain and the EU, which have had a significant influence on the dynamics of migration and repression at the border. These distinct phases can be broadly summarised as follows.

Between 2014 and the end of 2015, diplomatic relations between Morocco and the European Union were strengthened, particularly around the issue of Schengen visas and free trade agreements. The improvement in these relations coincided with an increase in violence against Black migrants, with shipwrecks and raids in the forests of Nador, while a large number of arrivals were recorded in Spain, mainly Syrians in need of international protection.

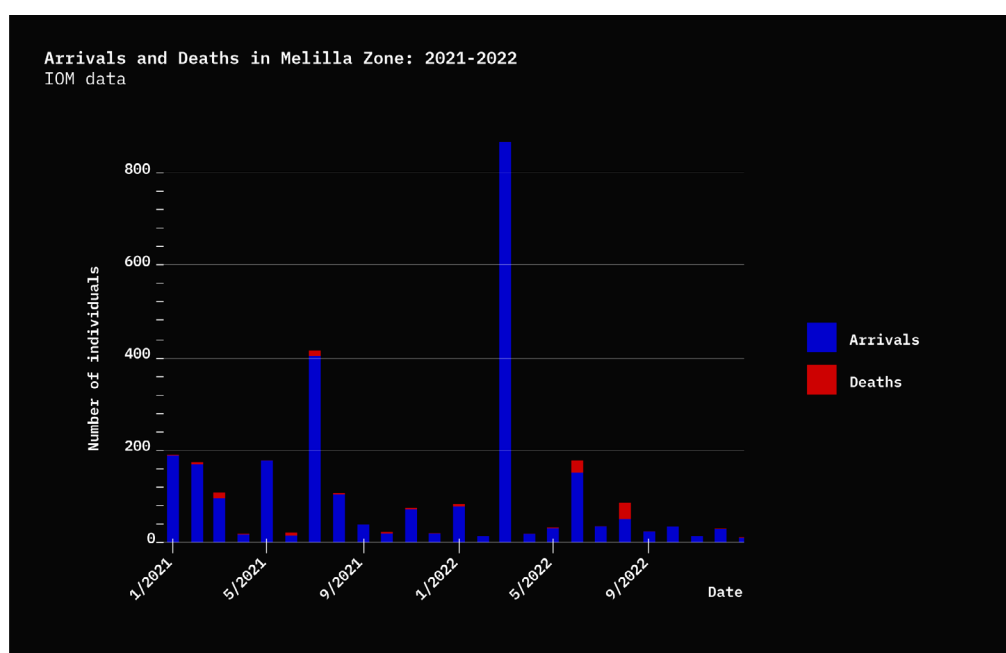
In February 2016, a suspension of relations between Morocco and the EU – following a challenge to the Morocco-EU agricultural agreement and Morocco’s national sovereignty over the southern provinces – triggered a period of diplomatic tension and led to Morocco using migration issues as a pressure strategy to influence the EU and Spain in negotiations on the fisheries agreement and on the issue of sovereignty. In terms of migration, this period was marked by an increase in migrant arrivals and asylum applications in Melilla. Migrant deaths remained rare compared with other periods, occurring mainly at sea.

In 2018, negotiations resumed and led to the signing of new agreements, reflecting a shift from tension to collaboration. At a time when Spain had become the main entry point for migrants to Europe, Morocco positioned itself as a key partner for the EU on migration issues. At the European Council of 28 June 2018, the EU stated that it would support Morocco in particular, to prevent “illegal migration”. During this period, an increasing number of migrant deaths were observed, both at sea and on land, reflecting the intensification of repression on land.

From June 2019 to March 2020, in a context of calmer relations between Morocco and the European Union following the signing of the 2018 fisheries agreement, migration trends underwent significant changes. The good relations allowed Morocco to implement a major crackdown at the land border, documented by the AMDH. During this period, crossings to the Canary Islands intensified again, and there was also an increase in arrivals by sea at Melilla, as well as deaths during these attempts.

At the beginning of 2020, while all government action was suspended to focus on the fight against the coronavirus, there was no relenting in migration and border controls. The very tight controls in the north of Morocco pushed people wishing to reach Europe to take the Canary route. While diplomatic tensions were not explicit, the tightening of border controls lead to a large number of migrant deaths by the end of 2020.

In May 2021, the hospitalisation in Spain of Brahim Ghali, a Saharawi military leader, was seen as an act of aggression by Morocco. This period of growing tension was marked by an increase in the number of arrivals at Melilla, but fewer deaths, as Morocco let migrants pass more easily.



2_B: Statistical graph displaying arrivals and deaths for the period 2021-22. Border Forensics, 2024.

In April 2022, Spain's recognition of Morocco's autonomy plan for the Sahara put an end to the diplomatic crisis between Morocco and Spain. Against this backdrop of Spanish concessions, cooperation on migration issues was re-established between Morocco and Spain. This led to a period of sporadic arrivals and a large number of deaths due to unprecedented violence at the Melilla border – the emblematic case being the massacre of 24 June 2022.

The analysis of the 2014-2022 period thus shows that while migration dynamics and repression at the Nador-Melilla border are influenced by multiple factors and complex interactions, the changing diplomatic relations between Morocco, Spain and the EU play a key role in fluctuations in the intensity of violence at the border. We now must analyse

in more detail the changing political conjuncture during the 2021-2022 phase, and how this translated at the border into a rapid oscillation between a period of laissez-faire (May 2021-March 2022) and intensified repression (April 2022), culminating in the massacre of 24 June 2022.

MAY 2021 - MARCH 2022: DIPLOMATIC BREAKDOWN AND FACILITATED BORDER CROSSINGS

In May 2021, Brahim Ghali, the Sahrawi military leader, was admitted to a Spanish hospital¹¹¹. The “humanitarian” argument put forward by Madrid at the time was deemed inadmissible by Rabat, which promised that this decision would have “consequences”¹¹². This led to the lifting of border controls by Morocco at Ceuta on 18 and 19 May 2021, allowing the entry of more than 8,000 people, most of them young Moroccans¹¹³.

In response to these large-scale arrivals by land and sea, the Spanish government deployed its army, and Morocco was accused by the Spanish authorities of having loosened its control of the border¹¹⁴. But for the Moroccan authorities, this crisis was primarily Spain’s responsibility¹¹⁵, illustrating the diplomatic tug-of-war between the two neighbours. This is a moment of diplomatic rupture between Morocco and Spain, as illustrated by the departure of the Moroccan ambassador from Madrid.

This diplomatic rupture also influenced the degree of repression to which Black migrants were subjected. The years 2020-2021 marked by the Covid-19 pandemic saw a drastic drop in attempts to cross the borders of Ceuta and Melilla. Despite this, Black migrants continued to live in camps in the border area, as demonstrated by the tragedy of a Nigerian woman called Happiness and her three children who were found burnt to death in their shelter in January 2022 in Nador¹¹⁶. From March 2022 onwards, African migrants once again attempted to cross the border at Melilla.

111 <https://www.jeuneafrique.com/1159486/politique/exclusif-algerie-maroc-le-president-de-la-rasd-brahim-ghali-hospitalise-durgence-en-espagne/>

112 <https://medias24.com/2021/05/08/affaire-brahim-ghali-le-maroc-tirera-les-consequences-concernant-la-position-de-lespagne-affaires-etrangees/>

113 https://www.lemonde.fr/international/article/2021/05/19/comprendre-la-crise-migratoire-sans-precedent-a-ceuta_6080732_3210.html

Thanks to the collaboration between Spain and Morocco, law enforcement agents raids and arrests continued for weeks, and around 7,000 people were expelled. See Iridia and Novact, *Vulneración de derechos humanos en la Frontera Sur del Estado español 2021-2022* (report), 2023.

114 https://www.lemonde.fr/afrique/article/2021/05/18/l-entree-massive-de-migrants-a-ceuta-provoque-une-crise-diplomatique-entre-l-espagne-et-le-maroc_6080616_3212.html

115 <https://www.youtube.com/watch?v=r9k8TdMhksw&t=44s>

116 AMDH Nador 2023



Video stills of the Melilla border on 3 March 2022, showing migrants crossing the fence and the important deployment of Spanish law enforcement agents. Video: Alicia Martínez, 2022.

In March 2022, four attempts to cross the border barriers of Nador-Melilla took place in one week: on 2, 3, 4 and 8 March. When these attempts were made, diplomatic relations between Morocco and Spain were still clouded. The AMDH Nador¹¹⁷ observed on the ground that the Black migrants had easily settled in the Gourougou forests before these attempts. Here are a few details – based on information provided by the Spanish authorities – concerning these four days:

- On 2 March, around 2,500 people tried to pass through the barrier – according to information from the government delegation in Melilla¹¹⁸. According to the Spanish authorities, this was the largest attempt ever recorded. 491 people managed to enter on the Spanish side that day.
- The following day, 3 March, another attempt was made by around 1,200 people, 380 of whom managed to get through¹¹⁹.
- On 4 March, another attempt was made by around 1,000 people, but this time none managed to enter.
- On 8 March, another 1,000 people tried to cross, but 400 managed to enter Melilla.

¹¹⁷ AMDH Nador 2023

¹¹⁸ <https://elpais.com/espana/2022-03-02/unas-2000-personas-intentan-acceder-a-melilla-en-un-salto-masivo-a-la-valla.html>

¹¹⁹ <https://www.elmundo.es/espana/2022/03/03/62206c41fc6c83d21b8b45bc.html>

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In total, more than 1,240 people managed to enter Melilla following these four attempts, and the violent repression carried out by the Guardia Civil was denounced on the Spanish side¹²⁰. Although 31 injured people were received by the emergency unit at Nador hospital¹²¹, no deaths or disappearances were recorded.

Several elements draw our attention to the specific circumstances surrounding these attempted crossings. As noted by the AMDH-Nador and various Spanish media, the four attempts took place in broad daylight – a rare occurrence, as they usually take place at night or in the early hours of the morning. Each time, they took place on the same part of the border fence between the Barrio Chino and Beni Ansar border posts, which at the same is the only area where the border fence is not yet equipped with so-called “inverted combs” structures installed to prevent the climbing of the fence.

Furthermore, the number of people making the attempts is very large. Finally, facing the migrants, the Moroccan military force deployed around these attempts in March 2022 was small compared with other attempts¹²². Taken together, these factors suggest that the controls on the Moroccan side were relatively permissive. In fact, M., a Chadian national we met who attempted to cross at the time, explains: “When relations between Morocco and Spain are tense, it’s the officers who suggest we cross.”

On the Spanish side, the measures deployed during these 4 attempts in March are, on the contrary, very significant¹²³. The Spanish authorities are alarmed by these attempts at illegal entry through the barriers, which are the largest ever recorded in Melilla. The Guardia Civil itself calls on the Minister of the Interior to increase the number of its staff and their equipment, and to step up the militarisation of the border¹²⁴. In the wake of the early March 2022 crossings, the Spanish Ministry of Interior reintroduced the possibility of using anti-riot materials at borders.¹²⁵

120 The case was referred to the Human Rights Defender, who lodged several complaints against the Secretariat of State for Security (Ministry of the Interior). See: <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-en-melilla/>. See also the case supported by the IRIDIA organisation of a young Malian who lodged a complaint against the Guardia Civil for having permanently lost the sight in one eye following his repression during the attempt on 2 March 2022: <https://iridia.cat/es/un-joven-que-perdio-la-vision-del-ojo-por-un-golpe-con-una-porra-en-la-cabeza-tras-saltar-la-valla-de-melilla-presenta-una-querella-contra-la-guardia-civil/>; on the disproportionate use of violence against migrants on 2 and 3 March 2022, the organisations Iridia and Solidary Wheels lodged a complaint with the Spanish Ombudsman (file no. 18010408).

121 AMDH Nador 2023

122 AMDH Nador 2023

123 <https://www.elmundo.es/espana/2022/03/02/621f45ed21efa09c158b4594.html>; <https://www.rtve.es/noticias/20220303/migrantes-entran-melilla-segundo-salto-valla/2301161.shtml>

124 <https://www.elindependiente.com/espana/2022/03/03/mas-medios-y-refuerzo-de-personal-las-demandas-de-los-guardias-civiles-que-protegen-la-valla-de-melilla/>

125 The use of anti-riot material had been eliminated after the massacre of Tarajal in 2014. See interview for report by Iridia-Novact Stop Balas de Goma 2021, p. 62. https://iridia.cat/wp-content/uploads/2021/06/Informe-Balas-de-Goma_V2.pdf

While the Spanish authorities are on high alert, the AMDH-Nador¹²⁶ notes that even after four attempts to cross the border, the situation remains fairly calm on the Moroccan side of the border. This allowed hundreds of migrants to settle in the two main camps in the forest in the days and weeks that followed. But the situation changed abruptly in mid-April, following the re-establishment of diplomatic relations between Morocco and Spain.

FROM APRIL 2022, MOROCCAN-SPANISH RECONCILIATION, AND THE RESUMPTION OF FIERCE REPRESSION AT THE BORDER.

In April 2022, after more than ten months of diplomatic crisis, Morocco and Spain stage their reconciliation and jointly declare the start of a “new stage” in relations between the two countries¹²⁷. Madrid has just revised its historic “neutrality” position on the former Spanish colony of Western Sahara to align itself with the Moroccan position. For Spain, one of the main aims of re-establishing relations with Morocco is to secure its “cooperation” in controlling “illegal immigration”¹²⁸, particularly around Ceuta and Melilla. It is certainly with the aim of demonstrating this renewed “cooperation” that, from April 2022, Moroccan authorities will once again intensify the repression of Black migrants in the area of Nador.

As repression intensifies once again, the composition in terms of nationality of the migrants present in the forests of the Nador region has changed, with a greater presence of people from Sudan and South Sudan. This higher prevalence is borne out by UNHCR data on asylum applications in Melilla. While people from Sudan and southern Sudan represented only 0.49% of applications in 2020, this proportion has risen to 7% in 2021, and 13% in 2022, with 411 applications submitted.

Many of the survivors of the massacre we met during our investigation come from different regions of Sudan and Southern Sudan. While some left Sudan during different phases of the conflicts that have affected the country for more than 20 years, others left the country following the repression of the 2018 revolution, as they were threatened by the regime because of their political commitment, particularly within the student movement. All transited through Libya, where they experienced extreme forms of racist violence in detention and failed attempts to cross the Mediterranean. A number of them told us that they had gone to Morocco with the aim of seeking asylum or crossing to Europe. However, in Morocco, the Sudanese quickly acquired the reputation of being a more rebellious

¹²⁶ AMDH Nador, 2023

¹²⁷ See Le Monde, L'Espagne renoue avec le Maroc après un an de brouille, 8 avril 2022

¹²⁸ <https://www.france24.com/fr/afrique/20220407-madrid-et-rabat-scellent-un-nouveau-partenariat-apr%C3%A8s-une-longue-crise>

group than other nationals, and therefore more difficult to control,¹²⁹ for which they were blamed in order to justify the repression to which they were subjected (see box). One of the survivors we met described the arrival of Sudanese in the Nador region in the spring of 2022 as follows: *“Recently, many Sudanese have come to settle in various Moroccan cities such as Rabat, Casablanca etc. Instead of staying here in Morocco without work, we decided to all get together to cross the borders.”* – M.

As the AMDH-Nador notes¹³⁰, from mid-April 2022, in the wake of the reconciliation between Morocco and Spain, law enforcement agents were heavily mobilised in the Nador region. *“For 18 days, attacks were almost a daily occurrence, in an attempt to dislodge the migrants, who did not understand this sudden turnaround in the behavior of the Moroccan authorities, who now wanted to chase them out of the camps.”* The association points out that, unlike previous periods when only auxiliary forces were mobilised for this type of operation, this time all law enforcement bodies are on the ground, under the supervision and with the personal participation of the Governor of Nador and the commanders of the gendarmerie and auxiliary forces¹³¹.

According to AMDH Nador¹³², from May 23 onwards, repression increased in the forests and violent confrontations between the law enforcement agents and migrants took place at the camps. The Moroccan forces used tear gas, while the migrants tried to defend themselves by throwing stones. From late May to mid-June, Black migrants were hunted down and arrested throughout the area. The use of drones is observed by the migrants. Camps were destroyed, and goods and food were confiscated or burnt by law enforcement agents. Over the next few days, some 1,500 migrants re-grouped on the heights of the Lakhmis Akdim and Bekoya camps¹³³.

With the Lakhmis Akdim and Bekoya camps almost 20 kilometers from the Melilla barrier, repression intensifies. The authorities warn shopkeepers in the vicinity of the camps not to sell anything to the Black migrants – including food – and are organizing the cutting off of the water supply to the fountain in Bekoya, where a large number of the migrants were obtaining their supplies¹³⁴. This demonstrates the Moroccan authorities’ strategy, already used in the past in phases of repression, of starving and thirsting migrants so that they leave the camps¹³⁵.

129 See report AMDH 2023, p.29.

130 AMDH Nador, 2023

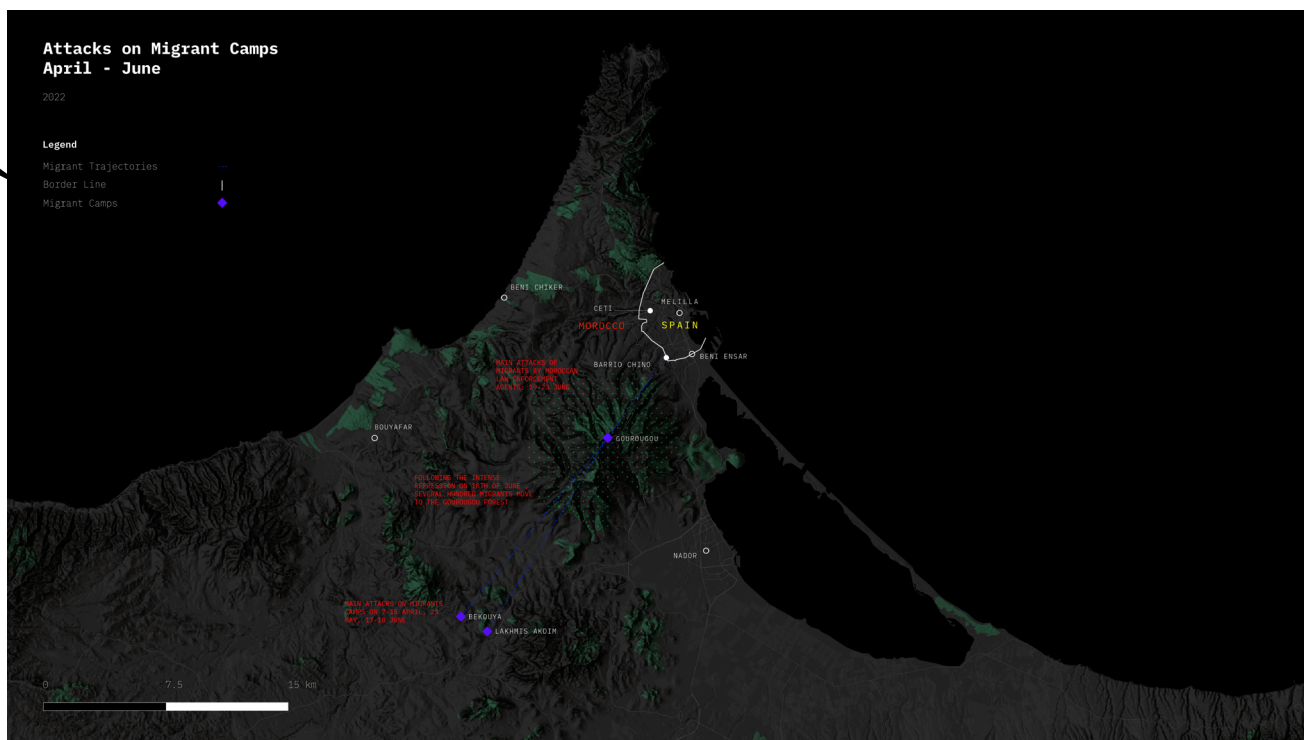
131 AMDH Nador, 2023

132 AMDH Nador, 2023

133 AMDH Nador, 2023

134 AMDH Nador, 2023

135 Tyszler, 2019



Map of repression by law enforcement agents targeting migrants in their informal camps between April and June 2022. Based on data published in AMDH Nador, Annual Report Migration 2022, Mai 2023.

On June 18, another particularly virulent operation by the law enforcement agents took place. The migrants fought back, injuring members of the Moroccan law enforcement agents¹³⁶. According to the Moroccan authorities, several members of the auxiliary forces were kidnapped, then released the same day after negotiations with the migrants¹³⁷.

Migrants' self-defence in the face of a war waged against them

Articles published in the Moroccan media, relaying the discourse of the authorities, recount certain moments of the clashes that took place in the forests of Nador in the weeks and days leading up to 24 June 2022. The comments made in these articles particularly denounce the aggressiveness of the migrants against the law enforcement agents¹³⁸, as will be the case after the massacre on 24 June. However, the unequal means used during the clashes, and the testimonies we gathered, indicate that the migrants were defending themselves in the face of excessive, unjustified, and potentially lethal state violence by law enforcement agents.

136 Courrier n°2077 de la Mission Permanente du Royaume du Maroc à Genève, 9 septembre 2022 ; also see: https://telquel.ma/instant-t/2022/06/20/une-centaine-dofficiers-marocains-blesses-lors-dune-tentative-de-passage-a-melilla_1772314/

137 See: <https://enass.ma/2022/09/07/a-nador-49-victimes-contre-les-refugies-soudanais/>

138 For example: https://telquel.ma/instant-t/2022/06/20/une-centaine-dofficiers-marocains-blesses-lors-dune-tentative-de-passage-a-melilla_1772314/

“On the morning of 23 June, they [the Moroccan forces] surrounded us, they were at the top of the mountain, they attacked us, we defended ourselves but there were more of them than us.”

Moustapha Ali Ibrahim

“The police wanted to get to us, but we had prepared stones. Our aim was to protect ourselves, not to attack. I’m a man of my word, I know what I’m saying. The aim was to save ourselves, to make a move to scare them into retreating. We had no intention of hostility towards these authorities. The important thing for us was that they didn’t get to us.”

A.

“The authorities were fully equipped and hit us with tear gas canisters. They controlled almost the whole camp. The only thing that saved us was that they ran out of tear gas canisters. There was also the courage of the brothers, who confronted them so that they would stop beating us and chasing us. But the authorities still managed to destroy the place where the food was stored. Some of the brothers managed to neutralise several officers, but we then handed them over to the authorities. It was peaceful.”

F.A.

The fact that these migrants, mainly Sudanese, were defending themselves in the face of the repression against them led the Moroccan authorities to see them not as mere migrants but as soldiers¹³⁹. This discursive framing will legitimise the deadly repression of 24 June.

These violent clashes force the migrants to leave the camps. On the night of June 18-19, hundreds of migrants moved to the southern part of Mount Gourougou – close to the douar of Izenouden, around 6km from the Melilla barrier. When they arrived in this area, they were again attacked by the law enforcement agents. A., a Sudanese national we met, recounts:

¹³⁹ See interview with Khalid Zerouali, Wali Directeur de la Migration et de la Surveillance des Frontières au Ministère de l’Intérieur marocain déclare : “Nos services de l’ordre ont agi selon la doctrine qui est une doctrine de maintien de l’ordre. Les gens qui étaient devant eux, c’était des gens aguerris avec une formation militaire. Avec des gens qui ont fait de la guerre, des gens qui ont évolué, qui ont participé dans des zones de tension. Et donc c’est des gens qui n’étaient pas des migrants, je dirais, comme ceux qu’on a d’habitude.” BBC, 1er Novembre 2022, <https://www.bbc.co.uk/programmes/p0dbnttd>

“On June 18, we were attacked in the morning in the forest. There were 15 or 16 law enforcement vehicles. They were throwing stones and sticks at us. So we left this area and went to the Gourougou mountain. We walked for 24 hours until our legs swelled up from the march. We were very tired. But then again, at Gourougou, a lot of Moroccan law enforcement agents came. There were a lot of them, and there were planes up there too. They threw tear gas, sound bombs, rubber bullets and stones at us. Journalists were shooting videos and taking photos. Many of us were injured.”

A.

The operations of repression continued for five days in Gourougou, until June 23, when the repression of migrants in their informal camps reached a climax.

23 JUNE 2022, CLIMAX OF THE REPRESSION AND ULTIMATUM

On 23 June, the people gathered at Gourougou woke up surrounded by soldiers.

“There were so many military cars, an insane number.”

Y.

“We saw the police cars from the top of the mountain. Our leader told a group of us to block off the Moroccan soldiers at the foot of the mountain to prevent them from coming up to us. We were at the top and the mission was to go down and confront the police with stones to prevent them from going back up to the rest of the group. (...) Despite this, they couldn’t stop the soldiers who had shields. They[the soldiers] advanced and we retreated until we reached the top of the mountain. In turn, they reached the camp kitchen and destroyed the food... They destroyed everything.”

Z.

“There were military cars everywhere. The soldiers had sticks and shields. The leaders told us not to move, not to try and run, otherwise they [the soldiers] would chase us. The police started attacking us and throwing stones at us – they destroyed all our food and water – they did this so that we would leave.”

A.

“Some people ran to other mountains to save themselves. It was persecution. For example, ten policemen were chasing one man.”

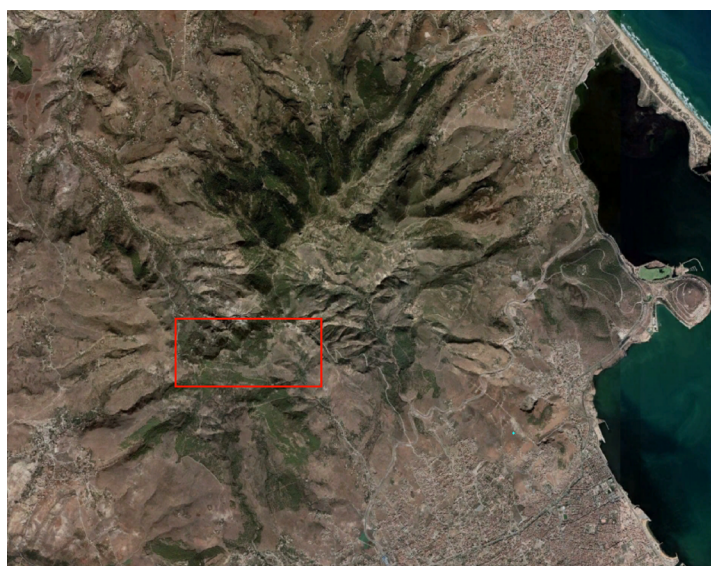
A.

The impressive deployment of law enforcement agents and the clashes with migrants that ensued as these tried to defend themselves were documented in footage published anonymously but probably filmed by Moroccan law enforcement agents.



Video edit of footage probably filmed by Moroccan law enforcement agents showing the operation targeting migrants in the forest of Gourougou on 23 June 2022. Video published by: zapping 2019, “Opération de ratissage, Nador le 23.06.2022”, YouTube, 27.06.22.

The scale of the operation is also conveyed by the analysis of satellite image taken at 11:09 UTC that day, i.e. 12:09 local time.



Satellite image taken at 11:09 UTC (12:09 Moroccan time), on 23 June 2022. The images encompass the towns of Nador and Melilla. At its centre is the Mount Gourougou where Black migrants had set camp as of the 18 June 2022. Google Earth Image ©2022 Maxar Technologies.



Zooming in further into the area of the Gourougou forest, we can begin to identify the personnel, equipment and effects of the law enforcement operation targeting the migrants on 23 June 2022. Satellite image taken at 11:09 UTC (12:09 Moroccan time) on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.



Zooming further into the image reveals the presence of numerous law enforcement vehicles. Satellite image taken at 11:09 UTC (12:09 Moroccan time), on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.



The image also reveals the presence of numerous law enforcement agents walking on the road. Satellite image taken at 11:09 UTC (12:09 Moroccan time), on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.

When the law enforcement agents approached, stones were thrown between the migrants and the agents, who fired rubber bullets and tear gas. Several people also reported seeing a plane spraying gas. According to testimonies we have collected, many people were seriously injured. A group in the mountains set up its own care centre for the injured. Meanwhile, a fire started spreading, which was confirmed by several sources, including the satellite images we have analysed.



The image shows the fire that broke out in the forest of Gourougou. Satellite image taken at 11:09 UTC (12:09 Moroccan time), on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.

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The survivors of the massacre we met believe that the fire in this part of the forest was either started directly by the authorities or was triggered by tear gas and rubber bullets. The dry grass in these forests may have made it easier for the fire to start and spread. The migrants tried to stop the fire, but were unable to do so, as Z. explains:

"The trees were on fire. It must have been the tear gas canisters that caused it. We then got together and agreed to put the fire out so that they wouldn't accuse the Africans and Sudanese of setting fire to the forest. We used earth and tree branches to put out the fire, but it wasn't enough."

"The police set the fire to push us towards the border",

reckons Alfadel Imran Abdurrahman.

The clashes around the Gourougou camp lasted several hours, from morning until late afternoon, according to eyewitness accounts. During these operations, six people were arrested by the Moroccan authorities, while a group of migrants decided to catch apprehend 3 members of the law enforcement agents, including a woman who was quickly released. The migrants kept the other two officers with them, with the aim of imposing negotiations to stop the repression by the law enforcement agents. Z., a witness to these events, recounts:

"There was an old man who was with us. He was reckless. When everyone backed off and started shouting, he stayed there. He ran towards the soldiers, leaned on a stone, and threw himself onto them. Everyone backed away except him. When the young people saw this, they started to encourage each other. They decided to go back to the soldiers and confront them. They said, "Aren't we men like him?" So they returned for the confrontation. Some of the soldiers had fallen after this person had jumped on them. They started exchanging blows with the soldiers, until most of them withdrew. Some of the soldiers stayed on the mountain. The guys took off their shields and sticks. Then someone said to them: "Consider them war hostages and don't beat them up". After the confrontation, the tear gas, the plane filming, and the withdrawal of the soldiers, we saw several ambulances arrive at the bottom of the mountain. Then one of the officers came forward and said he wanted to talk to us. I think he had a loudspeaker."

Negotiations were then conducted orally. According to the accounts of migrants present at the time, the Moroccan spokesman issued a series of conditions, namely that the migrants had to hand over the wounded officers and the seized equipment of the Moroccan forces. Then they must leave the mountains, or the authorities will come back to deal with them, this time with live ammunition. The spokesman for the law enforcement agents issued an ultimatum, as the people we met told us: “You have 24 hours to leave or we will start using real bullets”.

The exchange of people “taken hostage” on both sides was organised between the Moroccan authorities and the group of migrants in the Gourougou forest. The group of migrants also returned the equipment that had been seized, and the Moroccan law enforcement agencies withdrew. Witnesses recount what happened next:

“The authorities have told us: you have 24 hours to leave the premises. After 24 hours, the treatment will be different”. At the same time, there was no more food. Hunger and threats. We all ended up in the same place, on the mountain. I sensed that there was fear. The threat of the authorities opening fire contributed to this. With no food or water, there was no reason to stay. At night, we had to walk from sunset until dawn to get to the border.”

F.A.

At the end of the day, the decision was taken among the migrants to leave, to change mountains and go to the mountain closest to the barrier. And so, after weeks of persecution in the border forests, lack of food and water, exhaustion, and fear, more than 2,000 people headed for the Melilla border on the night of 23 to 24 June 2022. However, several testimonies converge in the description of informants among them and the key role they played in choosing the location and strategy for crossing the border, which would make the migrants particularly vulnerable.

In the camps, people enlisted as informers for the Moroccan authorities

The recruitment of migrants by the Moroccan authorities to provide information on the internal organisation of attempts to cross the barriers at Melilla (and Ceuta) is a long-standing issue. Research and journalistic work have already highlighted this strategy on the part of the Moroccan¹⁴⁰ and Spanish¹⁴¹ authorities. During our investigation, several of the survivors we met mentioned the presence of “moles”, or informers, who

140 https://elpais.com/elpais/2018/01/25/migrados/1516881283_034896.html ; Tyszler, 2019

141 https://www.eldiario.es/catalunya/inmigrante-guardia-civil-devolucion-caliente_1_4324282.html

were among them in the camps. They had apparently been enlisted beforehand by the Moroccan authorities, so that the internal organisation of the migrants, particularly the Sudanese, could be revealed. According to the testimonies gathered, they also helped to shape the way the attempted crossing on 24 June was organised, as well as the repression by Moroccan forces.

"Do you understand the word Gawad? Someone was a snitch... Apparently one of us was telling the authorities everything, I don't know his nationality, I don't know if he was Sudanese or Chadian, he knew all our secrets and he was reporting us. He gave us false instructions, because he told us to go to the border without the necessary equipment that we would need at the fences. So we found ourselves empty-handed, without hooks, in front of the fences. He was taking orders from the authorities and passing them on to us as if he were an ally. I know this because after the attack, I saw an officer ask this Gawad to identify the organisers of the attack. So the Gawad stood up and pointed them out."

M.

"We were also suspicious of the organisers and the fact that some of them had received money from the soldiers. They insisted that we go to the border the next day, and after that we never saw them again. Personally, I didn't see them at the gate. I don't know where they disappeared to. During the attempted crossing, we found some of the organisers talking on the phone to the soldiers. There were two of them."

A.

"At the end of the massacre, you couldn't raise your head or the soldiers would beat you up. But I heard a soldier say to one of us who wasn't lying down: 'Why didn't you call us? The Sudanese replied: I sent you the photos on WhatsApp. He was an informer among us.'"

Z.

Beyond the several converging testimonies concerning a practice which has also been documented in the past, another element that seems to corroborate the allegations of enlisted informers is the high degree of knowledge of the internal organisation of the “Sudanese” demonstrated by the Moroccan authorities in their response to questions from United Nations rapporteurs about the events of 24 June 2022¹⁴².

In short, according to the various accounts we have gathered, the potential informers encouraged all the migrants to go towards the barrier without hooks on that day, and to attempt to pass through a border post, whereas all the previous attempts had been made using these tools, which make it easier to climb the border barriers. On 24 June 2022, the people did not use these tools.

“We found ourselves without hooks, so we had to go to the gatehouse [border post]. If we had hooks, we wouldn’t have had to go all the way to the gatehouse. We had no choice but to try and get in through the door. When we tried to go through the gate, they surrounded us and beat us. The idea of going through the gatehouse hadn’t crossed our minds before. We used to go through the fences, but this time we had changed the plan, claiming that security was reinforced around the fences, but it was at the gatehouse that security was reinforced. It was the Gawad who influenced us, we’re all naked with hooks. I’m one of the former immigrants to Morocco, and it’s the old hands who are in charge and who decide when the attack will take place, who will be in charge of surveillance, and so on. This informant was also an old-timer. So he suggested that we go to the gate and convinced us that all the Sudanese would get through.”

M.

Thus, as a result of the influence of informers, on June 24 the migrants will head for the border fence without the equipment normally used to cross it, making them more vulnerable. Facing them, they will find a reinforced Moroccan military presence along the border.

¹⁴² Letter from the Permanent Mission of the Kingdom of Morocco in Geneva, numbered 2077, in response to joint communication AL MAR 2/2022.

INCREASED MILITARISATION OF THE BORDER BEFORE THE MASSACRE

While repression by Moroccan law enforcement agencies against migrant camps has intensified since the end of April, culminating in the attack on the Gourougou camp, our analysis also reveals a significant strengthening of the Moroccan military presence along the border. In fact, analysis of satellite images from the days preceding 24 June reveals an increase in the number of troops in several areas of the border, as well as the construction of an additional trench on the Moroccan side of the border fence.



Satellite image taken at 11:09 UTC (12:09 Moroccan time) on 23 June 2022. The image covers the town of Melilla and its bordering area. Comparing the various materialisation of border control visible by zooming into the different areas of this image with images of the same areas on 16 June 2022 reveals the substantial increase in the presence of law enforcement agents and equipment and the construction of additional elements of the border control architecture on the eve of the 24 June massacre. Google Earth Image ©2022 Maxar Technologies.



The comparison between satellite imagery for the 16 and 23 June 2022 reveals the deployment of military trucks, buses, tents and other equipment. Satellite images taken at 10:59 UTC on 16 June 2022 and 11:09 UTC on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.



The comparison between satellite imagery for the 16 and 23 June 2022 reveals the construction of a new trench. Satellite image taken at 10:59 UTC on 16 June 2022 and 11:09 UTC on 23 June 2022. Google Earth Image ©2022 Maxar Technologies.

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The additional trench visible on the satellite images is located in the only remaining area of the perimeter of the border fence around Melilla which, in June 2022, was not yet equipped with “inverted combs” and was therefore a potential crossing zone for migrants. As we shall see, it was precisely in this area near the Barrio Chino border crossing that the Spanish law enforcement agents were initially deployed on the morning of 24 June 2022.¹⁴³



Still from video footage of the border showing construction machinery used to dig the trench in front of the part of the border fence not equipped with “inverted combs”. Video: Alicia Martínez, 26.06.22.

This military reinforcement is significant in several respects. On the one hand, it shows that, on the eve of 24 June, faced with migrants who had few resources and had been weakened by weeks of harassment, there was a reinforced military force and law enforcement officers who, as a result of the re-establishment of diplomatic relations and pressure on Morocco, were carrying out a phase of intense repression of migrants at the border. On the other hand, the reinforcement of the military measures on the eve of the attempted crossing on 24 June supports the hypothesis, put forward by several of the migrants we met, of the anticipated and prepared dimension of the repression implemented on the Moroccan side during the massacre of 24 June 2022. On the eve of 24 June, the trap at Barrio Chino had been sprung. The ultimatum given to the migrants at Gourougou encouraged and forced them to throw themselves into it.

¹⁴³ José Bautista, “No entré en la Guardia Civil para esto”: hablan los agentes desplegados en la frontera de Melilla el 24J”, Público, 23.06.2023.

CHAPTER 3. EVENT: 24 JUNE 2022, THE TRAP CLOSES

On 24 June 2022, at around 4 a.m., 2,000 migrants – mainly Sudanese, but also Chadian, Eritrean, Cameroonian and Guinean – left their last camp in the heights of Mount Gourougou, exhausted, hungry and thirsty, and headed for the border surrounding the Spanish-controlled enclave of Melilla. The violence inflicted on them by the Moroccan and Spanish law enforcement agents that day resulted in a veritable mass grave. The Moroccan authorities have acknowledged 23 deaths, but the Moroccan Human Rights Association in Nador has counted at least 27 people killed that day, and more than 70 remain missing to this day.

Despite the many images filmed by various actors and several reports published by official bodies, associations and journalists,¹⁴⁴ many questions about the course of events remain unanswered. They can be summed up in a single question: How and by whom was the Barrio Chino border crossing turned into a death trap? Answering this question is essential, because the victims' demand for truth and justice has gone unheeded until now.

Our analysis of the events of 24 June 2022 is summarised in a cartographic and video-graphic reconstruction, which cross-references all the evidence we were able to access or generate in the course of our investigation, and places it in space and time, to provide the most detailed possible understanding of the sequence of events, actors and practices that led to the death and disappearance of many people.

Our analysis shows that these numerous deaths and disappearances are no accident. On the contrary, the migrants were repeatedly directed towards the Barrio Chino border crossing, and violently repressed by the Moroccan and Spanish security forces once they were trapped there. In this chapter, we present our sources and methodologies, as well as our main conclusions regarding the course of events on 24 June and the possible violations perpetrated by the Moroccan and Spanish security forces. We begin by

144 AMDH Nador, "La tragédie au poste frontière de Barrio Chino", 2022; AMDH Nador, "Rapport annuel 2022 sur la migration", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>; Caminando Fronteras, "Informe - Víctimas de la frontera Nador- Melilla el 24/6/2022", 2022, <https://caminandofronteras.org/wp-content/uploads/2023/01/Informe- Masacre-Nador-Melilla-ES.pdf>; Amnesty International, "Ils l'ont frappé à la tête pour voir s'il était mort." Éléments attestant de crimes de droit international commis par le Maroc et l'Espagne à la frontière à Melilla, 2022, <https://www.amnesty.org/fr/documents/mde29/6249/2022/fr/>; BBC Africa Eye, "Death on border", 2022, <https://www.bbc.co.uk/programmes/p0dbnttd>; Lighthouse Reports, ENASS, El País, Le Monde, Der Spiegel, The Independent, "Reconstructing the Melilla Massacre", 2022, <https://www.lighthousereports.com/investigation/reconstructing-the-melilla-massacre/>; IRIDIA, "Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 - 2022" (report), 2023, <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe- FS.pdf>; IRIDIA, "Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 - 2022", 2023, <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe-FS.pdf>



The Nador-Melilla border trap – A counter-investigation into the racist massacre of 24 June 2022. Video by Border Forensics, in collaboration with IRIDIA and AMDH.

discussing the official sources relating to the events. These contain factual elements that are important for analysing the events, but they also give an account of the nature of the events and the responsibilities involved that our reconstruction of the facts fundamentally contradicts.

SPANISH AND MOROCCAN OFFICIAL ACCOUNTS: DENIAL OF A MASSACRE, CRIMINALISATION OF SURVIVORS

In the immediate aftermath of the massacre, the Moroccan¹⁴⁵ and Spanish¹⁴⁶ authorities instantly denied responsibility and continue to do so to this day. They initially justified the repression in the name of maintaining order and in response to “acts of violence” by migrants, associated with “mafias”.

¹⁴⁵ See statements by the Moroccan Minister of the Interior: <https://www.lighthousereports.com/investigation/reconstructing-the-melilla-massacre/>; Permanent Mission of the Kingdom of Morocco in Geneva, “Réponse des autorités marocaines à la communication conjointe AL MAR 2/2022”, Office of the High Commissioner for Human Rights, Geneva, 2022.

¹⁴⁶ See the statements made by the President of the Spanish Government on the day of the massacre: <https://www.europapress.es/nacional/noticia-sanchez-elogia-trabajo-marruecos-intentar-evitar-asalto-violento-melilla-20220624162149.html>; <https://elpais.com/espana/2022-09-21/el-ministro-del-interior-comparece-sobre-la-tragedia-en-la-valla-de-melilla-del-pasado-junio.html>; the report by the Spanish State Prosecutor, Investigation Procedure No. 1/2022, Madrid, 22 December 2022; or the statements made one year after the massacre: <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/pedro-sanchez/>

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In an interview, Khalid Zerouali, Wali Director of Migration and Border Surveillance at the Moroccan Ministry of the Interior, said:

“Our law enforcement agencies acted in accordance with the doctrine of maintaining law and order. The people in front of them were experienced individuals with military training. People who had been to war, people who had evolved, people who had participated in areas of tension. And so these were people who were not migrants, I would say, like the ones we’re used to.”¹⁴⁷

In September 2022, Spain’s Minister of the Interior Fernando Grande-Marlaska insisted before the Spanish Congress on the violence used by migrants to cross the border and justified the response of the Spanish and Moroccan law enforcement agents. For him, “there was no massacre”¹⁴⁸:

“As far as the events in Nador are concerned, it is clear that this was a violent attempt to gain illegal entry, which, like all violence, is clearly unjustifiable. But we are also a democratic country that cannot under any circumstances accept that its border, which is also the border of the European Union, and above all the officials who guard and protect it, should be attacked in a violent and intolerable manner. When this happens, the State’s response is firm, severe and necessarily proportionate. Those responsible are identified, vulnerable people are protected and the exercise of everyone’s rights and freedoms is guaranteed”¹⁴⁹.

While the Moroccan effort to control the border was welcomed from Madrid, the next day the President of Melilla denounced the “barbaric” and “disproportionate” nature of the repression carried out by Moroccan forces¹⁵⁰.

147 Extract from the video of the BBC investigation, transcribed by us: <https://www.bbc.co.uk/news/extra/z8i55dsu8w/spain-morocco-border> (from 18’50).

148 <https://elpais.com/espana/2022-09-21/el-ministro-del-interior-comparece-sobre-la-tragedia-en-la-val-la-de-melilla-del-pasado-junio.html#> ; <https://www.europapress.es/epsocial/migracion/noticia-mar-laska-justifica-reaccion-policial-violento-asalto-migrantes-melilla-rechazo-frontera-20220921132034.html>

149 Transcription and translation of the Minister’s remarks from the video of his speech, see: <https://www.europapress.es/epsocial/migracion/noticia-mar-laska-justifica-reaccion-policial-violento-asalto-migrantes-melilla-rechazo-frontera-20220921132034.html>

150 See: <https://www.youtube.com/watch?v=FxXmsOCjbXw>

Following these initial statements, various Moroccan and Spanish institutions produced reports on the events. On the Moroccan side, only the National Council for Human Rights (CNDH) carried out a “mission of information”, which gave rise to preliminary conclusions given orally in July 2022, strongly criticised by part of civil society (human rights organisations and journalists) because it did not point to any responsibility on the part of the Moroccan State¹⁵¹.

It was only in September 2023, in a letter responding to questions raised by several United Nations rapporteurs¹⁵² on the events of 24 June 2022, that Morocco summarised its account of the facts in writing.

In their letter (AL MAR 2/2022), the United Nations rapporteurs express their concern at “allegations of excessive and lethal use of force against migrants of African descent, including refugees and asylum-seekers, in Melilla, which resulted in the deaths of at least 27 migrants and injuries to dozens of others as they crossed the border between Morocco and Spain”¹⁵³. They also mention “reports of mass burials of those killed in these incidents, which could cause irreversible harm to the victims and their families”¹⁵⁴ and point out that “this incident is one of a number of reported cases of excessive use of force against migrants at the Spanish-Moroccan border, which are allegedly based on racial discrimination and often lead to violations of the right to life and of the non-derogable principle of non-refoulement”¹⁵⁵, referring to a previous letter (MAR 3/2021) sent to Morocco.

In the reply from the Moroccan authorities¹⁵⁶, sent two months later, the eleven questions raised by the UN rapporteurs are succinctly addressed in 10 pages, based on the results of the fact-finding mission carried out by the National Council for Human Rights, refuting all the accusations made and denying any violation or crime in relation to the events of 24 June 2022.

151 Letter sent on 13 July 2022 under reference AL MAR 2/2022, addressed to the Moroccan authorities by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance; the Working Group of Experts on People of African Descent; the Special Rapporteur on extrajudicial, summary, or arbitrary executions and the Special Rapporteur on the human rights of migrants of the Office of the High Commissioner for Human Rights.

152 Courrier AL MAR 2/2022, page 1.

153 Courrier AL MAR 2/2022, page 1.

154 Courrier AL MAR 2/2022, page 1.

155 Courrier AL MAR 2/2022, page 1.

156 Permanent Mission of the Kingdom of Morocco in Geneva, “Response of the Moroccan authorities to joint communication AL MAR 2/2022”, Office of the High Commissioner for Human Rights, Geneva, 9 September 2022.

Mission Permanente
du Royaume du Maroc
Genève

2077



البعثة الدائمة
للمملكة المغربية
جنيف

La Mission Permanente du Royaume du Maroc auprès des Nations Unies et des Organisations Internationales à Genève présente ses compliments au Haut-Commissariat aux Droits de l'Homme - (i) la Rapporteuse spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée; (ii) le Groupe de travail d'experts sur les personnes d'ascendance africaine; (iii) le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires et (iv) le Rapporteur spécial sur les droits de l'homme des migrants - et en référence à la lettre n°AL MAR 2/2022 en date du 13 juillet 2022, a l'honneur de **communiquer, ci-joint, les éléments de réponse dûment consolidés par les Autorités marocaines en réponse à la communication conjointe.**

La Mission Permanente du Royaume du Maroc auprès des Nations Unies et des Organisations Internationales à Genève saisit cette occasion pour renouveler au Haut-Commissariat aux Droits de l'Homme - (i) la Rapporteuse spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée; (ii) le Groupe de travail d'experts sur les personnes d'ascendance africaine; (iii) le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires et (iv) le Rapporteur spécial sur les droits de l'homme des migrants - les assurances de sa haute considération.



Genève, le 09 septembre 2022

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME
GENÈVE

Email : ohchr-registry@un.org

Permanent Mission of the Kingdom of Morocco in Geneva, Response of the Moroccan authorities to joint communication AL MAR 2/2022, Office of the High Commissioner for Human Rights, Geneva, 09.09.22

On the Spanish side, a report signed by the Attorney General was published on December 23 2022. This report is much more detailed than those produced by the various Moroccan authorities and contains many important pieces of evidence as well as precise descriptions of the sequence of events in space and time. It has therefore formed an important basis for our counter-investigation, and we refer to it frequently in our reconstruction. However, it also contains many omissions, does not fault the Spanish State, and closes the investigation “for lack of evidence of a crime”¹⁵⁷.

157 <https://www.rtve.es/noticias/20221223/fiscalia-archiva-investigacion-tragedia-melilla/2412778.shtml>;
https://www.eldiario.es/desalambre/fiscalia-exculpa-interior-muertes-melilla-pide-expedientar-agentes-apedrearon-migrantes_1_9818775.html



FISCALÍA GENERAL
DEL ESTADO

UNIDAD DE EXTRANJERÍA

Fiscal de Sala

Diligencias Investigación n.º 1/2022

DECRETO

Madrid, a 22 de diciembre de 2022

I. ANTECEDENTES DE HECHO

En fecha 28 de junio de 2022 la Fiscal de Sala Coordinadora de Extranjería, previa autorización de la Excm. Sra. Fiscal General del Estado, incoó las Diligencias de Investigación 1/2022 de la Unidad de Extranjería de la Fiscalía General del Estado, de conformidad con lo dispuesto en el artículo 773.2 de la Ley de Enjuiciamiento Criminal y en el artículo 5 del Estatuto Orgánico del Ministerio Fiscal, con el objeto de esclarecer los acontecimientos acaecidos la mañana del día 24 de junio del mismo año, consistentes en un intento de entrada irregular de migrantes de procedencia subsahariana, mediante el salto masivo y violento de la valla fronteriza que separa Melilla de Marruecos, en cuyo transcurso resultaron fallecidas 23 personas.

En el seno de estas diligencias de investigación se practicaron las siguientes diligencias y se recabó la siguiente documentación:

i) Inspección ocular realizada por la instructora de las presentes diligencias de investigación los días 4 y 5 de julio de 2022.

ii) Declaraciones testificales prestadas tanto por algunos de los migrantes que lograron entrar en España, como por varios de los agentes de Policía Nacional y de la Guardia Civil que formaron parte del contingente actuante el día de los hechos, así como por el piloto del dron y de los agentes que conformaban la tripulación del helicóptero. Debe señalarse, que el día 6 de julio de 2022 los extranjeros que lograron acceder a España, según información facilitada por la Policía Nacional, residían todos —excepto uno que se encontraba en el hospital de Málaga— en el CETI de Melilla cuando la investigadora de estas diligencias se desplazó a esa ciudad para practicar diligencias y recibirles declaración como testigos, ofreciendo tal posibilidad a través del director del centro a todos los que lo desearan, siendo así que finalmente solo quisieron declarar cuatro de ellos, cuyas declaraciones obran en el presente expediente. Practicadas gestiones para la identificación del migrante herido y trasladado a Málaga a fin de recibirle declaración sobre los hechos, el mismo resultó ser xxx, quien, tras ser dado de alta y solicitar asilo, se encuentra en paradero desconocido, por lo que no se ha podido practicar la referida diligencia.

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914230814
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Spanish State Attorney General, Investigation Procedure No. 1/2022,
Madrid, 22.12.22.

Both the official statements and the various reports produced by the Moroccan and Spanish authorities converge on four main arguments, on the basis of which the repression of the attempted crossing of migrants is justified, and the cause of the deaths attributed in such a way as to absolve the authorities of any responsibility.

First, the legitimacy of the actions of the law enforcement agents, and in particular the repression, is justified in the name of maintaining order and in response to acts of violence by migrants.

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In their official reply to the United Nations rapporteurs¹⁵⁸, the Moroccan authorities immediately describe an “assault” of an “eminently offensive nature perpetrated on 24 June 2022” by:

“nearly 2,000 migrants, mainly Sudanese nationals, who showed disproportionate violence against the law enforcement agents, using metal hooks, bladed weapons, stones and clubs during their attempt to infiltrate the Barrio Chino crossing point by force (...)” (p.3).

Faced with migrants described as “aggressive, violent and defiant of the law enforcement agents”, the authorities state that “the law enforcement agents acted with absolute respect for the principle of necessity and proportionality in the use of force”. (p.4)

Similarly, according to the report by the Spanish Attorney General:

“(...) the recordings obtained show that, leaving aside the actions of the agents who threw stones at the migrants at a specific moment (...), the members of the operation at all times maintained behaviour proportionate to the seriousness of the events taking place, namely a massive attack on a Spanish border by a group of 700 to 800 people, uncontrolled, aggressive and armed with elements of force. The scale of the events amply justified law enforcement action (...) They therefore used the necessary means and the minimum force necessary to reduce the group of foreigners who were violently attempting to enter the national territory illegally.”

Report of the Spanish State Prosecutor, Investigation Procedure no. 1/2022, Madrid, 22 December 2022, p.29-30

Second, the Moroccan and Spanish authorities attributed the deaths of migrants to the crowd movement during their attempted crossing, referring to a human “avalanche” and fatal “jostles”.

“The result was an avalanche of hundreds of people trying to get through the doors and an unknown number of migrants were trampled on by others who managed to get through, jumping over the bodies piled up in front of the doors”.

Report by the Spanish State Prosecutor General, Investigation Procedure no. 1/2022, Madrid, 22 December 2022, p. 13

¹⁵⁸ Letter sent on 13 July 2022 under reference AL MAR 2/2022, addressed to the Moroccan authorities by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance; the Working Group of Experts on People of African Descent; the Special Rapporteur on extrajudicial, summary, or arbitrary executions and the Special Rapporteur on the human rights of migrants of the Office of the High Commissioner for Human Rights.

“The deaths recorded were caused by mechanical asphyxia due to suffocation caused by the jostling and agglutination of a large number of victims in a hermetically sealed space, with the movement of a crowd in panic”.

Permanent Mission of the Kingdom of Morocco in Geneva, “Réponse des autorités marocaines à la communication conjointe AL MAR 2/2022”, Haut-Commissariat aux Droits de l’Homme, Genève, 2022, p.5

It must be noted here that the language of the “avalanche” is both dehumanising of migrants and absolving of authorities. Indeed, the use of terms which usually describe non-human natural phenomena (such as “wave” or “avalanche”) to describe migrants’ movements dehumanises these subjects and may serve to entrench perceptions that refuse to recognise the full human worth of migrants’ lives. Furthermore, this language also leads to a naturalisation of migrants’ death, as if it were a phenomenon as ineluctable as the falling of rain, in which state policies and practices play no role.¹⁵⁹

Third, according to the Spanish authorities, the Spanish law enforcement agents were not aware of the danger to which the migrants were exposed.

The prosecutor’s report states that the Spanish authorities could not have been aware of the violence that was taking place on the Moroccan side, in particular due to the obstruction of vision caused by the border architecture.

“From the various positions described above occupied by this group of agents, there was no possibility of seeing what was going on inside the border crossing point, due to the distance and the existence of architectural obstacles”.

Spanish State Prosecutor, Investigation procedure no. 1/2022, Madrid, 22 December 2022, p. 15

“(…) they did not and could not see the existence of injured and/or dead people”.

Spanish State Attorney General, Investigation Proceedings no. 1/2022, Madrid, 22 December 2022, p. 28

¹⁵⁹ It is not the first time this vocabulary is used. In fact its use in the context of Ceuta – a maritime context – shows its absurdity and the fact that its use is not justified to describe a physical movement (which is completely different on land and on sea) but to dehumanise and absolve. See: https://www.elconfidencial.com/espana/2019-10-02/tarajal-guardias-civiles-recurso-abogacia-del-estado_2265475/

Fourth, the deaths occurred exclusively on Moroccan territory.

This argument has been made and reiterated on several occasions by the Spanish Minister of the Interior, Grande-Marlaska:

"I repeat that the State security forces acted in full legality, proportionality and necessity, and that there were no deaths on Spanish territory."

*Spanish Interior Minister Grande-Marlaska's speech to Congress,
30 November 2022¹⁶⁰.*

In a less explicitly territorial form, this argument is also present in the prosecutor's report, which stresses that the deaths were Moroccan "responsibility", and that the Spanish authorities have no first-hand information about them:

"the only official data available on the deaths that occurred on the day of the events and their causes are those provided by the Moroccan authorities in the aforementioned report. It is the Moroccan authorities who were aware of the events and who have all the evidence (bodies of the deceased, witnesses, injured migrants, etc.), and it is the Moroccan officials who were responsible for the care and transfer of all the migrants, injured and deceased who were in the area."¹⁶¹

While our investigation refers to official sources concerning the events of 24 June 2022, in particular the Spanish prosecutor's report, which is, despite its complete inadequacy, the most precise and detailed, we compare the interpretations and allegations made by the Moroccan and Spanish authorities with numerous other pieces of evidence. Our systematic reconstruction of the facts leads us to refute each of the interpretations and allegations outlined above. Indeed, we demonstrate that:

- The Spanish and Moroccan law enforcement agents repressed the migrants in a brutal manner, and this repression was in no way proportional to the danger that the migrants represented as they defended themselves with sticks or stones.
- While the movement of migrants through which some were crushed was indeed one of the causes of the deaths, the main cause of the many deaths and disappearances was repression by the Spanish and Moroccan law enforcement agencies.

¹⁶⁰ See the Minister's speech: <https://www.youtube.com/watch?v=GmixGjlvzLQ>

¹⁶¹ Report of the Spanish State Prosecutor, Investigation procedure n°1/2022, Madrid, 22 December 2022, p.3

- The Spanish law enforcement agents were well aware of the imminent danger faced by the people trapped at the border crossing and witnessed the brutal violence to which they were subsequently subjected by Moroccan forces.
- Although the majority of the deaths did indeed take place in the courtyard under Moroccan operational control, it was entirely located on Spanish territory.

SOURCES AND METHODS FOR THE RECONSTRUCTION OF EVENTS

In order to reconstruct as accurately as possible the course of events on 24 June 2022 and to analyse the responsibilities involved, we draw on all the existing evidence, as well as new elements to which we have had access or which we have brought to light in the course of our investigation, including satellite images and the testimonies of more than 30 survivors interviewed and other key players. Our approach is to cross-reference all these elements, and to place the facts they bring to light as precisely as possible in space – via a map of the border – and time – via a precise chronology of the day of 24 June. Here we present our main sources and the methods we used to analyse them.

GATHERING TESTIMONIES FROM SURVIVORS OF THE MASSACRE




Left: researchers Elsa Tyszler, Maite Daniela Lo Coco and Sani Ladan interviewing M., one of the survivors of the massacre.



Right: the drawing of the border fence by M. Border Forensics, April 2023.

During fieldwork carried out in 2023 on both sides of the border, we collected over thirty testimonies from survivors of the massacre of 24 June 2022, mostly from people who had stayed in Morocco, as well as from people who had reached the Spanish peninsula or other European countries. The interviews in Morocco had to be conducted with extreme



caution by the Moroccan team because of the extreme vulnerability of the survivors living in Morocco. During these interviews, we preferred to use audio recordings, or interviews filmed from behind, in order to guarantee the survivors' anonymity. When referring to these anonymous testimonies in our report, we have abbreviated the first and last names of the survivors.

Our interviews followed a common questionnaire for all our interviewers. We also presented the people we interviewed with maps and images of the border, to help them in the difficult process of recalling and describing how events unfolded in space and time.

The accounts and analyses of the survivors of the massacre are an essential source for understanding the events of 24 June 2022, particularly with regard to the moments that were obscured by the various strategies put in place by the Moroccan and Spanish authorities to conceal information and the truth. However, our interviews did not focus solely on their descriptions of the facts, but also on their analyses and demands.

All these interviews, most of which were conducted in Arabic, were transcribed, and translated, and the types of events described were systematically coded to facilitate their analysis. Lighthouse Reports has also generously shared the transcripts of the interviews conducted as part of their investigation, and we refer to them as well as a secondary source.

INTERVIEWS WITH OTHER ACTORS AROUND THE BORDER

Our teams also conducted additional interviews in the field with other key players involved at the border. These were aimed at gaining a better understanding of the context of the border, the practices of the various players and their possible involvement in the events of 24 June 2022.

On the Spanish side, the following people were interviewed in Melilla and elsewhere in Spain:

- Guardia Civil officers from the fixed unit in Melilla
- The Director of Social Intervention and Volunteering at the Melilla Red Cross
- Several members of staff at Melilla hospital
- A former employee of the Spanish Government Delegation in Melilla
- Members of associations based in Melilla
- A lawyer working at the Temporary Residence Centre for Immigrants (CETI) in Melilla
- Two journalists based in Melilla present during the events on 24 June 2022

- Residents of the Barrio Chino neighbourhood
- The Spanish Ombudsman
- A member of the Unified Association of the Guardia Civil in Melilla (AUGC)
- A member of the national headquarters of the Pro-Guardia Civil Association (APROGC)
- Sudan's ambassador to Spain

Our investigation team on the Spanish side was refused or received no response to the following requests for interviews:

- Government Delegation in Melilla (no response)
- Melilla Temporary Residence Centre for Immigrants (CETI) (refusal)
- General Prosecutor (refusal)
- Guardia Civil Command in Melilla (refusal, request redirected to the Ministry)
- Guardia Civil Complex Operations Centre in Melilla (refusal, request redirected to the Ministry)
- Ministry of the Interior (no reply)
- Secretary of State for Security (no reply)

The Moroccan team conducted interviews with other actors from the public and associative sectors, who were often very fearful of the Moroccan authorities. Despite these difficult conditions, the following people were interviewed:

- Family members of those who died or disappeared on 24 June 2022
- NGOs working with migrants in the Nador, Berkane and Oujda regions
- Members of hospital staff in Nador, Berkane and Oujda
- Journalists specialising in migration issues in Morocco
- Lawyers who have been involved in cases brought against survivors of 24 June 2022

ANALYSIS OF VIDEO AND PHOTOGRAPHIC IMAGES

A large number of video and photographic images were produced by different actors, each with different intentions: Controlling migrants for law enforcement agents; documenting violations for human rights activists; covering an event for journalists; or humiliating migrants for some passers-by or members of the law enforcement agents.

These images were mainly gathered by the Lighthouse Reports journalism platform¹⁶²,

¹⁶² Lighthouse Reports, Reconstructing the Melilla Massacre, 29.11.22, <https://www.lighthousereports.com/investigation/reconstructing-the-melilla-massacre/>

which shared this archive with our investigation. We have also gained access to new images, particularly from Spanish journalists, which are important documents for understanding the facts. Here we discuss the most important sources of images.

Images produced by Spanish state actors

The Spanish prosecutor states in his report that the Spanish authorities filmed all the events of that day, and in particular mentions more than 4 hours and 15 minutes of filming by a helicopter and a drone. However, we only had access to two sequences covering a total of 10 minutes. In addition, other images produced by three Spanish border surveillance cameras filming continuously, but only a few seconds of these images have been made public.



Guardia Civil, Spanish helicopter footage, 24.06.22.

According to the prosecutor's report, the helicopter's camera filmed from 7.37am to 10.15am. The video segments available only cover the period from 8.33.56 to 8.42.53. The images to which we have had access do not contain any metadata, but show precise geographical and time coordinates on the screen.

The Spanish authorities' drone filmed from 8.07am to 9.35am. We were only able to access a 1-minute clip, with no metadata. But by comparing it with another still image from this source taken at 09:01 and reproduced in the prosecutor's report, we can con-



Guardia Civil, Spanish drone footage, 24.06.22.

clude that the clip in our possession was filmed approximately around 9 a.m.

Finally, the prosecutor indicated that 3 fixed surveillance cameras – COC-C36 A-75, COC-C39 A-75, and COC C29 – were filming 24 hours a day. However, we were only able to access a few seconds of these images, without any metadata.



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Tras el aviso del piloto del helicóptero que comandaba la nave y percatarse los agentes de que los migrantes estaban entrando de la forma anteriormente descrita, con el objetivo de bloquearles la entrada, el dispositivo de la Guardia Civil se readaptó al citado punto crítico y logró realizar un cerco de contención alrededor del puesto, donde fueron quedando retenidos la mayor parte de aquellos migrantes que lograban saltar.



Imagen tomada por el dron a las 09:01 horas en la que se ve cómo se constituyó el cerco policial y desde dónde saltaban los migrantes

"Image taken by the drone at 09:01 showing how the law enforcement agents cordon was set up and where the migrants were jumping from." Spanish State Attorney General, Investigation Procedure No. 1/2022, Madrid, 22 December 2022, p. 17.



Video still from Spanish CCTV camera overlooking the Barrio Chino border post. Published in Público, 24.06.23.

Images produced by Moroccan state actors

We also have images which, in all probability, were filmed by Moroccan law enforcement agents. They were broadcast anonymously by media close to the authorities in the days following 24 June¹⁶³, and then published by online media.



Footage of the 24 June probably filmed by Moroccan law enforcement agents. Published by zapping 2019, "Assaut de migrants, Nador le 24.06.2022", YouTube, 27.06.22.

This assessment of the source of the images is based on the analysis of several Moroccan journalists and researchers who have been working on migration and its control for many years. The practice of anonymously distributing images filmed by the law enforcement

¹⁶³ See for example: <https://fr.le360.ma/politique/assaut-sur-la-cloture-de-melilia-les-migrants-nouvel-le-arme-du-regime-algerien-pour-destabiliser-le-262688/>

agents has been observed in the past. Furthermore, the actors among the law enforcement agents filming the events are visible in images filmed from the Spanish-controlled side of the border.

The images filmed by Moroccan agents, assembled in a montage of 3.24 minutes, without metadata, document in a fragmentary way several stages of the events – from the migrants’ descent from the mountain to their attempt to cross the border. However, this montage does not contain any images of the outburst of blows they received. On the contrary, it tends to emphasise the alleged violence of the migrants, in particular by showing at length the sticks they used to defend themselves.



Video still taken from the montage of footage by Moroccan agents filmed from the roof overlooking the Barrio Chino courtyard under Moroccan control. Published by zapping 2019, “Assaut de migrants, Nador le 24.06.2022”, YouTube, 27.06.22.



Video still from Spanish helicopter footage showing the person filming on the roof. Guardia Civil, Spanish helicopter footage, 24.06.22.



Video still from images filmed from inside the Barrio Chino post by a Moroccan agent. Published by @francis_ngannou, X (Twitter)



Video still showing the agent filming through the fence. Video: Javier Angosto, 24.06.22.



Video of the 24 June massacre filmed by Spanish Journalist Javier Angosto. Video: Javier Angosto, 24.06.22.



Video still of footage filmed by a Moroccan journalist in the early afternoon of 24 June and live-streamed. The footage shows the mass grave formed in the courtyard of the Moroccan-controlled side of the Barrio Chino border post and in the street. Published by ArdBladi Press, Facebook, 24.06.22.

Footage filmed by Spanish journalists

There are many non-state sources of images that we have analysed and used in our reconstruction of the facts. Among the essential sources are the images filmed by two Spanish journalists, Javier Angosto and Javier Bernardo. These journalists, who were present in Melilla on the day in question, both documented the beatings inflicted on the migrants by the Spanish and Moroccan agents in several video sequences that included metadata and were filmed from the Spanish side of the border. The footage also documents how the Spanish agents collaborated with Moroccan law enforcement agents to deport all those intercepted.

Footage filmed by a Moroccan journalist

Moroccan journalists were also on the scene, including a journalist who, in the early afternoon of 24 June, filmed 28 minutes of footage in real time in the early morning, on the ArdBladi Press Facebook page using her mobile phone. The footage shows the mass grave in the courtyard of the Moroccan-controlled side of Barrio Chino and in the street.¹⁶⁴

¹⁶⁴ See: <https://fb.watch/q5C-JsZpoZ/>

Images published by activists from the Nador section of the AMDH



Video still of footage showing the brutal treatment of migrants at the hands of the Moroccan law enforcement agents in the courtyard of the Moroccan-controlled side of Barrio Chino. A red transparency has been added to protect the identity and dignity of the victims. Published by AMDH-Nador, Facebook, 24.06.22.

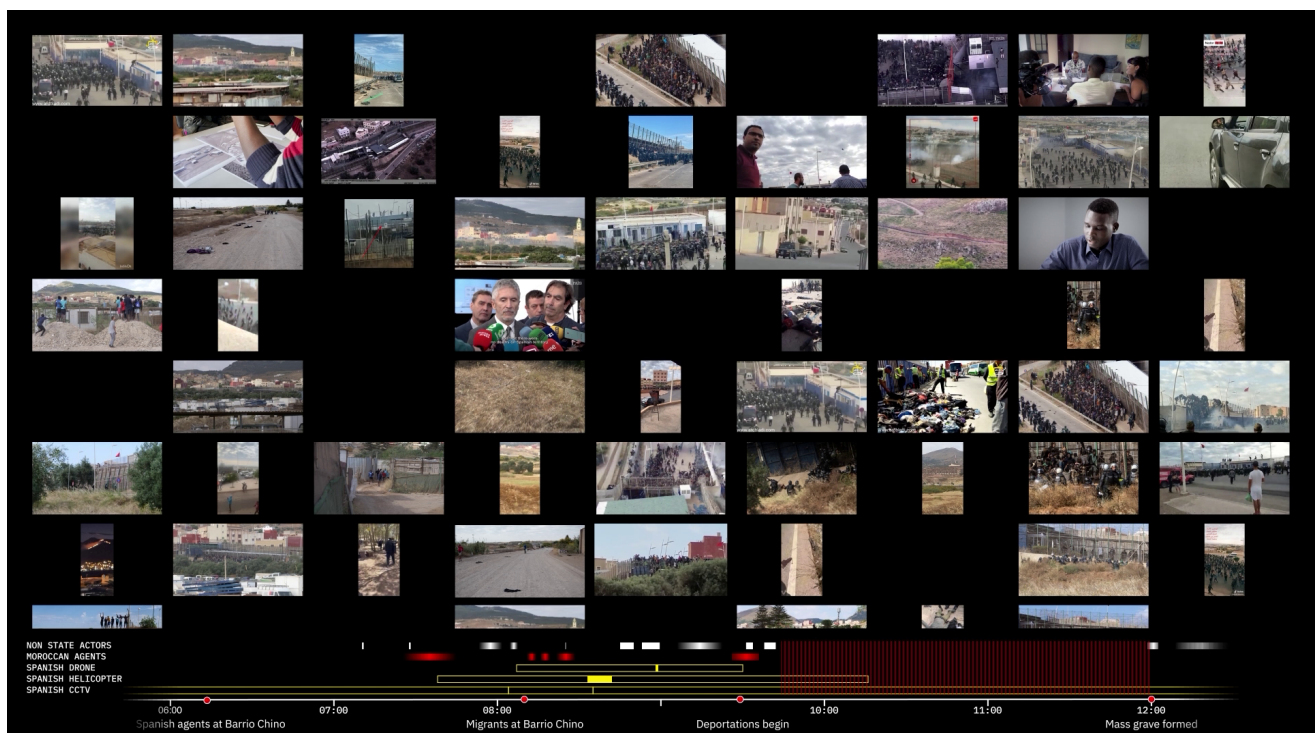
Human rights activists from the AMDH's Nador section published videos documenting the events at various times during the day. The images published on social networks do not contain any metadata. According to our analysis, they were filmed around 12.00 pm (Spanish time), i.e. the end of the most intense phase of the massacre, and document the brutal treatment of the migrants at the hands of the Moroccan law enforcement agents, the many bloodied wounded and the pile of bodies of migrants, dead or alive, forming a veritable mass grave. While the broadcasting of these deeply shocking images allowed to draw temporary international attention to this massacre, we cover some areas of these images to protect the identity and dignity of the victims.

Missing images and image violence

The archive formed by these different images is an essential source of evidence for understanding the events of 24 June 2022. However, these images also raise methodological, ethical and political issues.


From a methodological point of view, as we have indicated, only some of these images have metadata enabling them to be located precisely in time. Despite this difficulty, by cross-referencing with other evidence or by spatially analysing the images, we were able

to organise them chronologically with varying degrees of precision. This process has also enabled us to identify missing images relating to an essential part of the events. This is particularly the case for the footage filmed by the Spanish authorities, of which only 9 minutes were accessible, even though they claim to have filmed the whole of the events on 24 June. As a result, despite the profusion of images produced and broadcast, we have no images documenting the climax of the massacre, between 9.44am and around 12.00pm. We emphasise this concealment – paradoxically made less easily perceptible by the profusion of images and the resulting impression of total documentation of the facts. It is through the survivors’ testimonies and spatial analysis that we attempt to give an account of the darkest part of the events that has remained invisible and unintelligible until now.



Video still showing the timeline of footage recording the 24 June 2022 massacre. The footages have been differentiated according to the type of actor who produced it, and then organized chronologically. The timeline reveals the absence of any accessible footage documenting the climax of the massacre, between 9.44am and around 12.00pm. Border Forensics, 2024.

But if the concealment of violence limits the quest for truth and the recognition of the crime, the broadcasting of images that dramatically reveal brutal and racist violence at the border also raises many ethical and political questions, which we touched upon in the introduction.



First of all, it is important to note that the production of these images is not external to the violence they document. This is particularly true of images produced by state actors. Migrants were captured by the images produced by their drones, helicopters and other means of surveillance, and these images have been used as operational means to facilitate the capture of their bodies by law enforcement agents. It is therefore essential to examine the role of image production in the production of violence during the massacre of 24 June.

We are also sensitive to the risk that the dissemination of images documenting the extreme dehumanisation of Black people may reproduce and normalise it. Between the a-critical dissemination of these images and their concealment, however, there is a vast spectrum that has been explored by various artists and image theorists.¹⁶⁵ We draw on these authors to create a critical distance from which to interrogate these images. By adapting the “disobedient gaze” that Border Forensics has developed in the course of its investigations, we attempt to make visible the violence and responsibility of states, while protecting people’s identities and respecting their dignity by concealing certain portions of the images. In this we also draw inspiration from Black studies and Black artists who have mobilised “redaction” as a critical practice.¹⁶⁶ While redaction is often used by states to shield state actors from public scrutiny, redaction can also be mobilised by non-state actors to protect subaltern subjects’ “right to opacity”.¹⁶⁷

Finally, the images of the events of June 24 were taken – and then broadcast – without the migrants’ consent. During our interviews with them, we systematically discussed these images and their distribution, so that they could regain control over them and influence the choices regarding their use. Although the images were painful for the survivors, they unanimously wanted them to be seen, so that the violence they had suffered would be recognised and their demand for justice heard.

165 See among others these contributions which have shaped our thinking: Jacques Rancière, “The intolerable image”, in Jacques Rancière, *The Emancipated Spectator*, Verso, 2009; Georges Didi-Huberman, *Images in Spite of All*, 2012; Ariella Azoulay, *Different Ways Not to Say Deportation*, 2013; Christina Sharpe, *In the Wake: On Blackness and Being*, Duke University Press, 2016; Teju Cole, *Black Paper, Writing in a Dark Time*, 2021.

166 See in particular Christina Sharpe, *In the Wake: On Blackness and Being*, Duke University Press, 2016.

167 For the concept of the “right to opacity”, see Édouard Glissant, *Poetics of Relation*, Translated by Betsy Wing, 1997.

SATELLITE IMAGE ANALYSIS

We have also accessed a satellite image documenting events at the border on June 24. Taken at 12:17 p.m. Spanish time, towards the end of the most intense phase of the massacre, it reveals the scale of the military force deployed on June 24 to suppress the attempted crossing of migrants. The darker areas of the floor of the Moroccan courtyard and the street outside the border-post reveal in a blurred way the presence of the piled-up bodies, the precise outline of each of the people lying here in a zone of indistinction between life and death being below the threshold of resolution of this image.



Satellite image of the Barrio Chino border post taken at 10:17 UTC, or 12:17 p.m. Spanish time, on 24 June 2022. Taken towards the end of the most intense phase of the massacre, it reveals the scale of the military force deployed that day to suppress the attempted crossing of migrants. At least 7 military trucks and many other vehicles form long lines along the main road. 11 buses are parked just outside the control post. The darker areas of the floor of the Moroccan courtyard and the street outside the border-post reveal in a blurred way the presence of the piled-up bodies. Image: SkySat.

ANALYZING THE MATERIAL FEATURES OF THE BARRIO CHINO BORDER FENCE AND BORDER POST

The massacre of 24 June was perpetrated inside the Barrio Chino border post, but also partly through it, i.e. by turning it into a death trap through a combination of repression by the law enforcement agents on the one hand, and its architecture on the other. Analysis of the border crossing's architecture was therefore essential to our counter-investigation. To this end, we based our analysis on a number of elements.

Our investigators, along with journalist Alicia Martínez, who was based in Melilla at the time of the incident, documented and analysed the physical layout of the border fence, as well as its evolution over time.

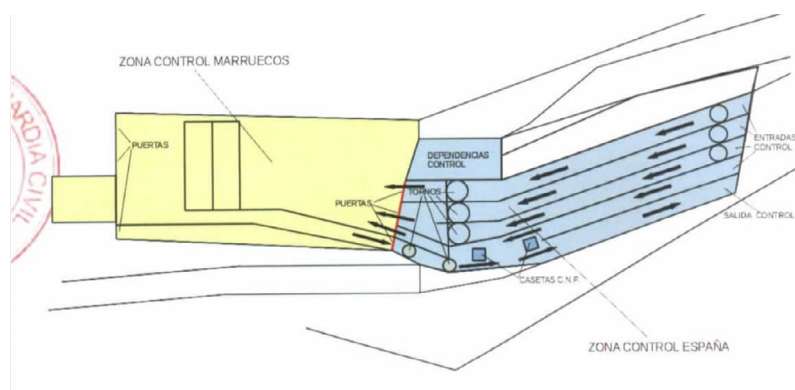


Left: Sani Ladan, a member of the investigation team, photographing the border infrastructure in Melilla. Photograph: Maite Daniela Lo Coco, May 2023.

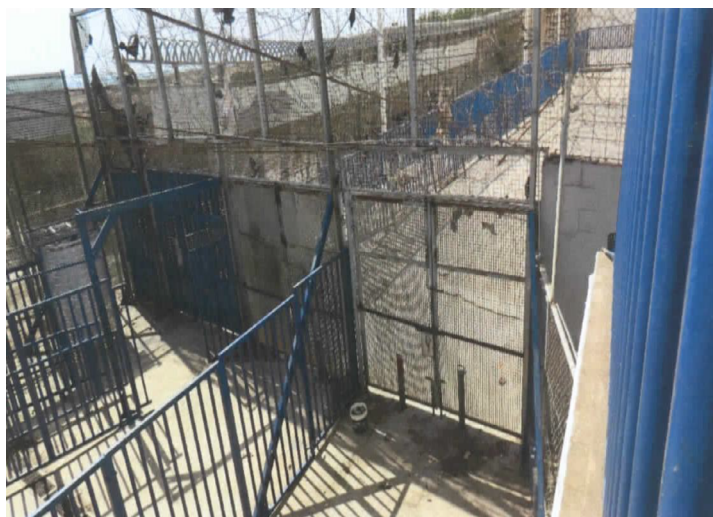
Right: Video still from a 2017 incident showing border residents crushed inside Barrio Chino's revolving doors. FaroTV Melilla, YouTube, 02.05.17.

Research carried out by architect Antonio Giraldes López also revealed the lethality of the Barrio Chino border crossing on several occasions in the past.

In addition, the Spanish prosecutor's report contains a precise drawing of the border post, as well as a photograph of the interior of the border post architecture.

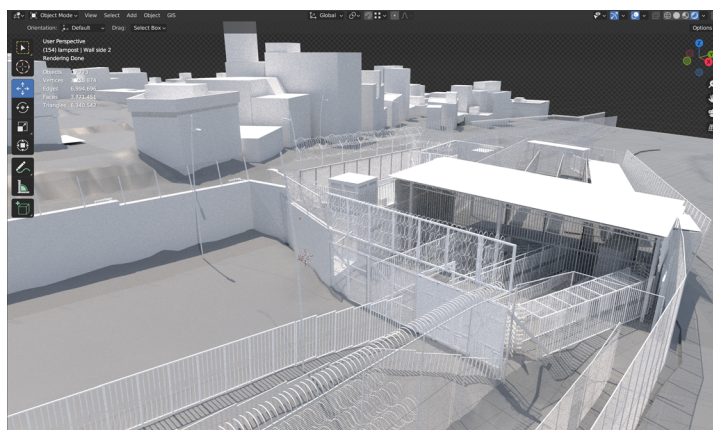


Map of the Barrio Chino border crossing post showing the part of the border post under Moroccan operational control (yellow), and the part under Spanish control (blue), separated by a metal door (red). Spanish State Attorney General, Investigation Procedure No. 1/2022, Madrid, 22.12.22.



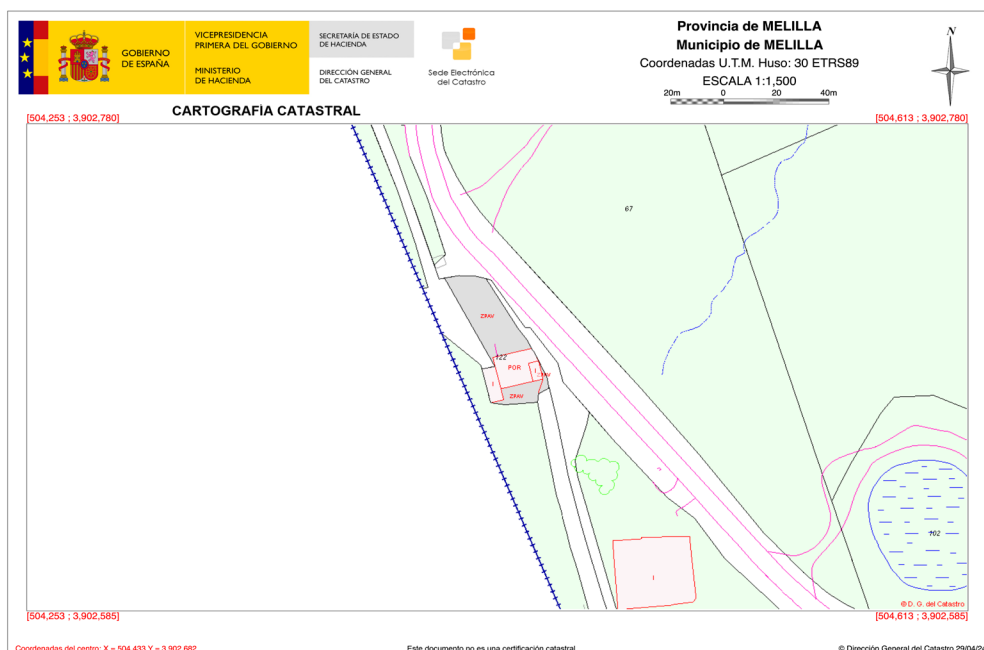
Photograph of the metal door separating the areas of the Barrio Chino border post under Moroccan and Spanish operational control. Spanish State Attorney General, Investigation Procedure No. 1/2022, Madrid, 22.12.22.

Finally, Lighthouse Reports shared its 3D model of the border post with our investigation. This was essential for analysing what the Spanish law enforcement agents saw through the border post, and proving that they were indeed witnesses to the massacre in the courtyard under Moroccan operational control, contrary to what the Spanish prosecutor's report concluded.

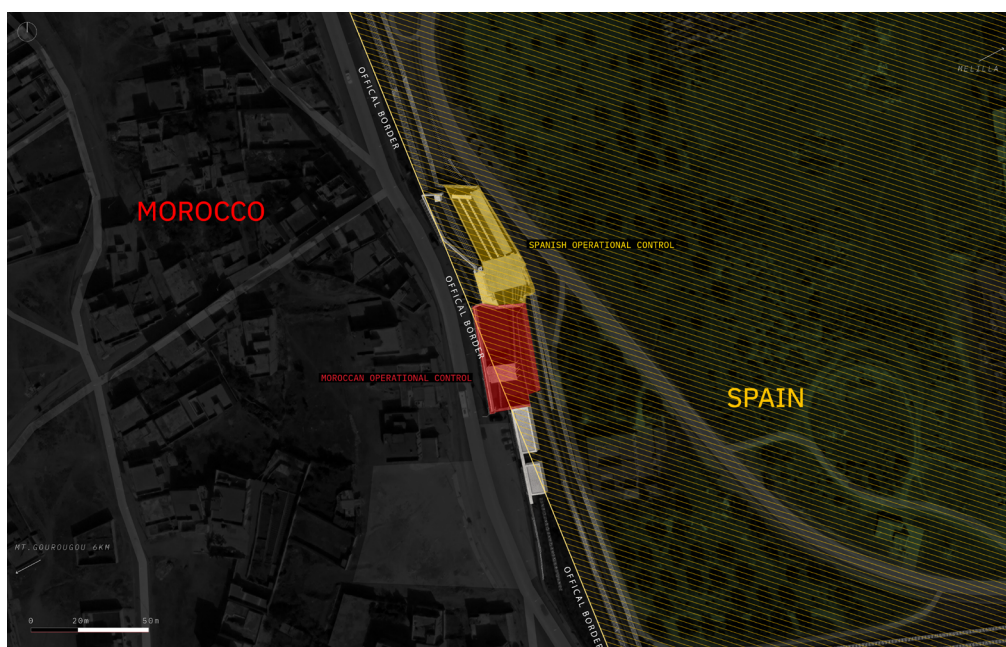


3D model of the border post. Lighthouse Reports, Reconstructing the Melilla Massacre, 2022.

In addition to the material infrastructure of the border post, it was essential to determine how it relates to the legally agreed delimitation of the border line between Spain and Morocco. By analysing the delimitation of the border line according to both historical documents and the Spanish cadastre, and then locating the Barrio Chino border post within this map, we can observe that while Barrio Chino is divided into areas which are respectively under Moroccan or Spanish operational control, the majority of the border post, including the side under Moroccan control, is located on sovereign Spanish territory. As we will see, this is important in terms of determining responsibility for the deaths that occurred during the 24 June massacre.



Spanish cadastral map of the Barrio Chino border post. While this map does not display the entire Barrio Chino architecture, it locates clearly the border post's main building within Spanish territory as demarcated by the border line indicated in blue. Instituto Geográfico Nacional, Visor web Catastro.



Map overlaying the officially recognized border line as provided by the Spanish cadastral map with the architectural elements of the Barrio Chino border post based on recent satellite imagery and 3D modelling. The map demonstrates that the majority of the border post, including the side under Moroccan control, is located on sovereign Spanish territory. Border Forensics, 2024.



CROSS-REFERENCING AND SPATIALISING DATA TO RECONSTRUCT THE SEQUENCE OF EVENTS

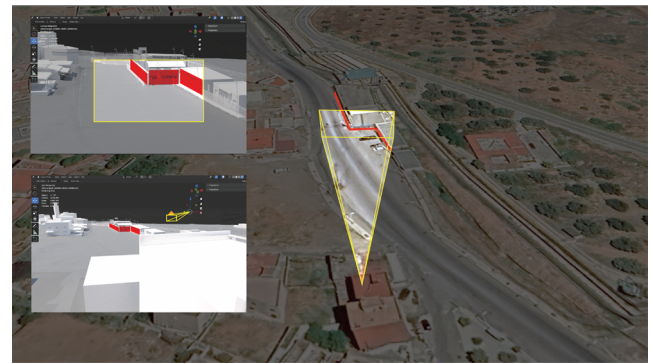
Official and association reports, survivor testimonies and interviews with other actors, photographic, video and satellite images, cartography and modelling of the Barrio Chino border crossing were the basic pieces of evidence from which we reconstructed the events, to which we added other secondary sources such as press articles.

While these elements constituted the fragmentary pieces of a puzzle, we proceeded systematically to assemble them, thereby producing as complete and accurate reconstruction of events as possible. Our approach to assembling these disparate elements was both chronological and spatial. We started by gathering together all the elements offering precise temporal and spatial references – the Spanish prosecutor’s report in particular, as well as the images whose files contained metadata. These elements formed the milestones in the sequencing of events. On the basis of these temporal and spatial markers, we were able to locate in time the other elements of evidence – the images that did not contain metadata, the survivors’ testimonies and the other elements.

A detailed analysis of the images was essential to inscribe them in time – for example, by analysing the projection of shadows on the ground using the method developed by Forensic Architecture – but also in space. Starting with the images and the mapping of the border area, our architects used various tools to inscribe the point of view of the actors who produced the images in space, and to indicate the limits of the field of vision of the images they produced. In return, by analysing the elements revealed by these images, we were able to map the presence of the actors.

By cross-referencing these multiple sources of data, and through the systematic process of locating them in time and space, we reconstructed, as accurately as possible, the sequence of events that led to the mass grave in front of the Barrio Chino border crossing post and have been able to analyse the involvement of both Moroccan and Spanish law enforcement agencies in the violence and violations inflicted on migrants.

Our systematic approach and the new elements provided by our counter-investigation have enabled us to gain a much deeper understanding of the circumstances in which the violence occurred on 24 June 2022 and to refine our understanding of the responsibilities of the Spanish and Moroccan authorities.



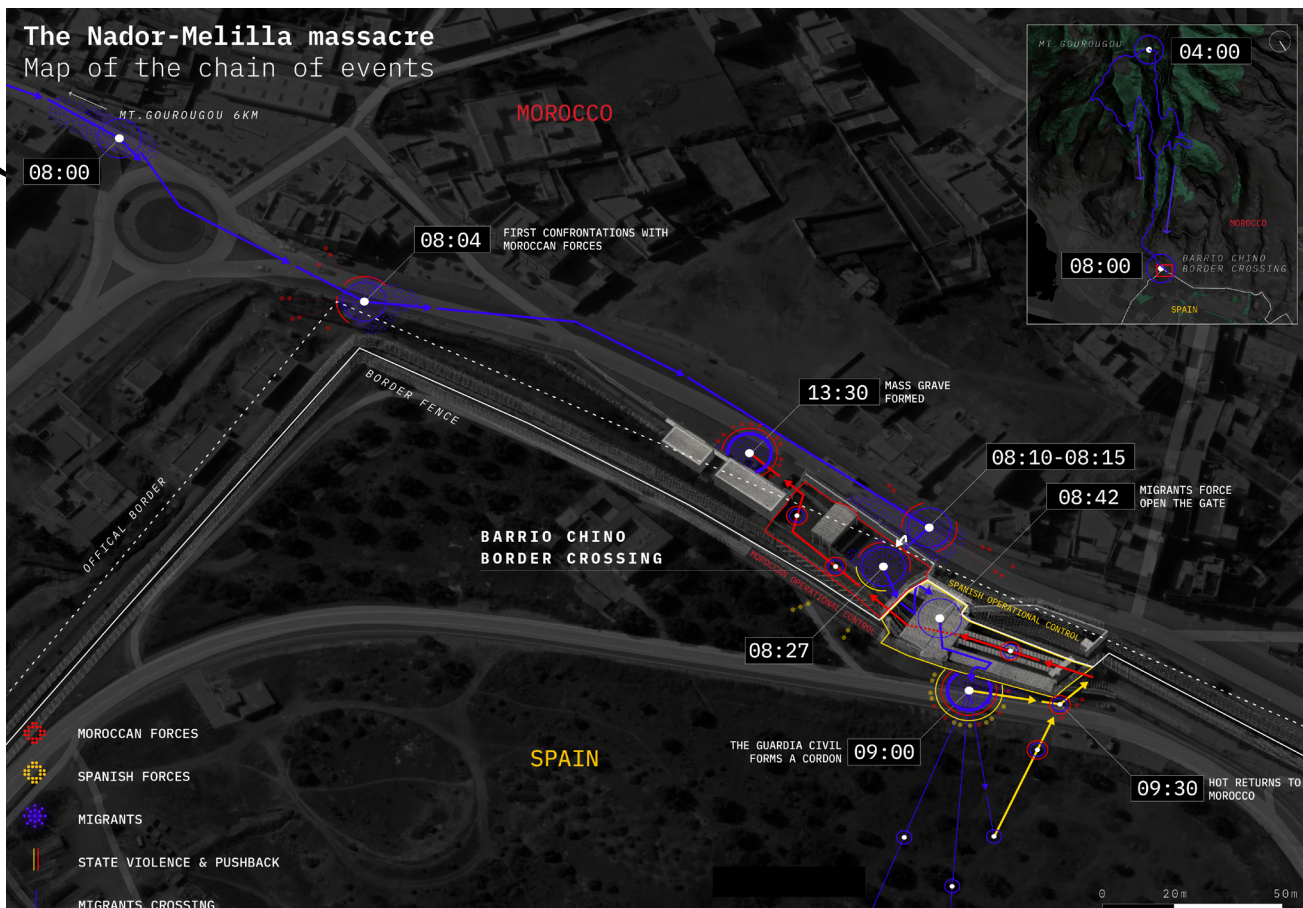
The stages in Border Forensics' spatial analysis of videographic evidence of the 24 June 2022 massacre.

Top left: Video still from footage showing Moroccan agents encircling the entrance of the Barrio Chino border post. Published by ardbladi, YouTube, 25.06.22.

Top right: Identification of architectural planes within the image. Border Forensics, 2024.

Bottom left: Using the 3D modelling Blender software, architectural planes are aligned with a digital model of the border post and its surrounding area. The focal length of the Blender camera is adjusted to match that of the video evidence. Once aligned, we obtain spatial information regarding the location from which the video was captured. This information is then cross-referenced with satellite data. Border Forensics, 2024.

Bottom right: The cone of vision for the footage is plotted on our map, along with the actors present in the video. This process is repeated for all video evidence, allowing for an evidence-based mapping of actors in time and space. Border Forensics, 2024.



Map of the chain of events based on our analysis of the 24 June 2022 massacre. Border Forensics 2024.

WHAT OUR COUNTER-INVESTIGATION REVEALS

Chronological summary of the events of 24 June 2022

Our video reconstruction provides a detailed account of the sequence of events in time and space, which can be summarised as follows.

FROM THE GOUROUGOU FOREST TO THE BORDER

- 4:00 departure of the group of around 2000 people from the Gourougou mountain, who will be able to walk 6km to the border without being arrested.
- 5:00 Moroccan forces begin deploying towards the border
- 6:15 Spanish forces begin deploying towards the border

ARRIVAL AT THE BORDER AND CHANNELING TOWARDS THE BARRIO CHINO POST

- 8:00 arrival of migrants at the roundabout near the border, first confrontations with Moroccan forces and diversion towards Barrio Chino

8:10-8:15 Arrival at the Barrio Chino border crossing, forcing open the gates, climbing the walls of the closed courtyard and repression from a distance by Moroccan and Spanish forces.

TRAPPED IN THE BARRIO CHINO BORDER POST

8:27 Most of the migrants are in the “large courtyard” of the part of the border crossing under Moroccan operational control, whose exits are blocked by the presence of Moroccan forces. The migrants try to open the border gate separating the area under Moroccan operational control from that under Spanish operational control. They are gassed from all sides by Moroccan and Spanish forces. During the day, the Spanish prosecutor’s report states that a total of 270 rounds of various means of repression were used.

8:33 People who have climbed over the barriers and then the roof of the border post manage to enter Melilla.

8:42 Just as the Moroccan law enforcement officers have managed to enter the courtyard, the gate leading to the side of the border post under Spanish operational control opens, and the migrants jostle to get in, leading to trampled deaths. Guardia Civil units reposition themselves to prevent the entry of migrants through the gates, intercepting them violently.

9:00 The Guardia Civil forms a cordon around the barriers to prevent migrants from advancing, using various means of repression that result in several people being injured. Intercepted migrants are treated in an inhuman and degrading way, including by being detained face down on the floor.

LYNCHING AND HOT RETURNS


9:30 Moroccan forces, who have been authorised to cross to the Spanish-controlled side of the border. Jointly organised hot returns by Spanish and Moroccan law enforcement agencies begin. The migrants being turned back, all of whom had already been injured, are beaten again.

9:30-13:30 lynching and production of mass graves inside and outside the border crossing point.

CLEARING OF THE CRIME SCENE AND START OF FORCED REMOVALS

From 13:30 the crime scene is (already) cleaned up

From 15:00 departure of the forced removal buses for the survivors on the Moroccan side



During the day of the 24 June 2022, according to the Spanish prosecutor's report, of the almost 2,000 people who tried to cross the border fence, only 134 managed to enter Melilla to seek asylum. 470 people were turned back by Spanish and Moroccan officials after crossing the border fence. The violence inflicted on migrants by Moroccan and Spanish police forces has led to 23 deaths recognised by the Moroccan authorities, 27 according to the AMDH, while 70 people remain missing to this day.

Confrontations with the official discourse, and new conclusions


Our analysis fundamentally contradicts the reconstruction of events, interpretations and justifications provided by the Spanish and Moroccan authorities. While official Spanish and Moroccan discourse asserts that it was the belligerence of the migrants themselves that necessitated the repression and their pushing and shoving inside the border crossing that caused the deaths that day, and while the Spanish authorities try to absolve themselves of any responsibility by arguing that what was happening in the courtyard under Moroccan operational control was invisible and that no deaths occurred on Spanish territory, our counter-investigation refutes each of these allegations. We reveal the practices that led to the massacre and the responsibilities involved in a new light.

Preparing a trap

Several pieces of evidence that we have gathered indicate that the massacre of 24 June 2022 was an ambush, insofar as the attempted crossing was instigated and the repression planned in advance by Moroccan law enforcement agents. In the previous chapter, we showed that the presence in the camps of "moles" collaborating with the Moroccan authorities influenced the way migrants attempted to cross, making them more vulnerable. On the other hand, they were confronted by a military force that had been reinforced in the days leading up to 24 June. These two elements, together with the repression carried out on the previous days and the ultimatum given by the Moroccan forces on 23 June, indicate a degree of preparation, and even premeditation, of the repression of the migrants before 24 June. On the same day, the Moroccan forces let the migrants arrive as far as the border zone, then the migrants were cornered and directed towards Barrio Chino. The survivors themselves describe their entry into the courtyard of Barrio Chino under Moroccan operational control as arriving in a "trap".

State repression as the main cause of death

The deaths were caused by three main direct factors, as one of the survivors summed up: "There were three main causes of death: gas, jostling and beatings. The blows caused more damage than the jostling." The brutal, inhumane and degrading repression by the Moroccan and Spanish law enforcement agents, which exceeded all proportionality,



played a key role in each of these direct causes. The Moroccan and Spanish forces indiscriminately targeted migrants with stones, tear gas canisters and rubber bullets while they were held in an enclosed space, in flagrant contradiction of international standards governing the use of riot control equipment. This repression clearly contributed to the migrants rushing through the door leading to the Spanish-controlled side of the border crossing point, and to the deaths at the time. In addition, and despite the opacity surrounding the management of the bodies of the dead (which we discuss in the next chapter) makes it impossible to count and attribute a precise proportion to these different sources of death, it is clear from the testimonies that the majority of deaths are the direct product of the extreme physical repression carried out by members of the Moroccan forces, who systematically beat the migrants who remained inside the border post and those who were turned back by the Spanish forces. This phase, the most intense of the massacre, which lasted almost 3 hours, was deliberately concealed by the official images and accounts, and has remained invisible and unintelligible until now.¹⁶⁸

Racism drives violence on both sides of the border

Recordings of comments made by Moroccan law enforcement officers also reveal the racism and dehumanisation to which the migrants were subjected, as well as the deliberate intention to make them suffer or even die. The comments of the Guardia Civil pilots and the Spanish authorities in the face of the images taken by them during the events at the border post also reveal the racism and dehumanisation they practise: the violence used against the migrants and the danger they face seem commonplace to them, and this is how they justify their failure to intervene to prevent the massacre from continuing.

The violence of inaction, despite knowledge of the danger

A crucial indirect factor in the causes of the deaths was the Spanish authorities' failure to intervene in the face of the imminent risk of death to migrants as a result of the crowd movement and beatings by the Moroccan forces. While the Spanish forces participated in the direct violence by injuring people themselves, and treating them inhumanely and degradingly, they also contributed to the violence of the Moroccan forces, by indiscriminately turning back the migrants, all of whom were already injured, towards the Moroccan-controlled side of the border, knowing full well what fate awaited them. Finally, we show that the law enforcement could see the courtyard under Moroccan operational control through the images that were filmed that day and through the gaze of agents across the fence. Spanish agents thus witnessed the massacre unfolding in front of their eyes.

¹⁶⁸ Footage filmed on 24 June and numerous testimonies from survivors show that the use of violence against migrants by the law enforcement agents on that day varied widely. On several occasions during the events, Moroccan officers told others that they were going too far in physically repressing migrants, who were often already on the ground. They were unable to curb the violence unleashed by their colleagues.

Deaths under dual Moroccan and Spanish jurisdiction

Although the majority of the deaths did indeed take place in the court yard of Barrio Chino under Moroccan operational control, we demonstrate that it is located on sovereign Spanish territory. Though Spain can allow Morocco to have control over parts of its territory, legally it cannot relinquish its legal obligation on parts of said territory. Therefore, it is Spain's obligation to ensure that legal norms are applied and protected. At the same time, because of Morocco's operational control of the Barrio Chino court yard through its agreement with Spain and the acts of its agents, Morocco also has jurisdiction and legal obligations. Thus, both Spain and Morocco have legal obligations to not violate but also to prevent the violation by other actors of a number of legal norms and both jurisdictions apply simultaneously.

Violations of rights and laws

Following previous investigations, our analysis of the events, and the advice of ECCHR for the human rights framework, suggests new types of violence and violations of rights and laws.

Several organisations such as AMDH-Nador¹⁶⁹, Amnesty International¹⁷⁰ and IRIDIA¹⁷¹ have, on the basis of their investigations into the events of 24 June 2022, drawn up a list of potential violations of rights and laws both at Moroccan and Spanish national level, and at international level. The responsibility of the European Union was also addressed.

The above-mentioned organisations have pointed to a number of main violations, applying for most to both Spain and Morocco. The facts established by this investigation – and the specific ways in which the investigation challenges official narratives, as addressed in the previous section – indicate prima facie cases of violations of all of the following obligations by both Spain and Morocco:

The first stream of violations relates to the lethal use of force by both Spanish and Moroccan forces, which comes in violation of basic regulations on the use of force by the state – in terms of both material and tactics used. This force must be necessary, proportionate and pursue a legitimate aim in order to be lawful. The use of unlawful force usually indicates violations of the prohibition of torture, inhuman, cruel and degrading treatment, as well as potentially violations to the right to life. Furthermore, the right to life and the prohibition of torture, inhuman, cruel and degrading treatment entail obligations to protect

169 AMDH Nador, "Rapport annuel migration 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

170 <https://www.amnesty.org/en/documents/mde29/6249/2022/en/>

171 <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe-FS.pdf>

life and prevent torture and/or ill-treatment of individuals falling within a state's jurisdiction, including through the provision of emergency medical assistance in a timely manner.

A further stream of obligations is that to investigate situations where loss of life and/or ill-treatment seem to have occurred, or when persons have disappeared. These obligations include that of keeping victims and families involved and informed. Here it must be underlined that the present investigation into the Melilla Massacre comes as a response and mitigation to the continued failures and refusal of both Spain and Morocco to comply with these investigative duties, and clarify the circumstances in which so many died, were injured, disappeared and/or expelled. Though the investigative charge should not fall on civil society (which has much smaller means than states), the results of the current investigation expose the breath of unwillingness of both states to shed light on these events, given the much larger means and access to evidence state actors would have at their disposal.

In relation to Spain specifically, further violations revealed by the investigation are those relating to the principle of non-refoulement and related obligations under the prohibition of torture, inhuman, cruel and degrading treatment. These prohibit a state from expelling persons when this would expose them to a risk of being killed or ill-treated.¹⁷² A related obligation is to identify and examine the individual circumstances of each person before expelling them, under the prohibition of collective expulsion but also under additional obligations, such as the Convention for the Rights of the Child.¹⁷³

This investigation indicates *prima facie* that these fundamental human rights principles have been violated by both Spain and Morocco. All of these obligations are conditioned by one founding principle, namely the recognition of persons as right-holders, under the right to legal personhood, which is undermined by the very border regime in place in Ceuta and Melilla, as addressed above in chapter 1.

Beyond international human rights law, the treatment of migrants in Melilla could also be analysed under the lens of international criminal law, which sanctions the gravest of violations against civilians. In particular, the report has documented acts of cruel and degrading treatment which may amount to acts of torture, which are criminalised under customary international law and the Rome Statute. Spain is a state party to the Rome Statute. While Morocco is not a party to the Rome Statute, domestic courts in third states may have jurisdiction over its crimes under universal jurisdiction.

¹⁷² Practices violating these standards were denounced in a joint report by associations based in Spain (Amnistía Internacional, Iridia, SIR[A], Mundo en Movimiento, la APDHA, Solidary Wheels, el Institut de Drets Humans de Catalunya, SOS Racismo Madrid) submitted to the United Nations Committee against Torture: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FESP%2F53034&Lang=en

¹⁷³ UN Committee for the Rights of the Child, General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, para. 31.


Particularly pertinent, both in the framework of human rights law and under international criminal law, is the prohibition of apartheid. Under the Apartheid convention “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them”. Under the Rome Statute, “The crime of apartheid” means inhumane acts (...), committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime”.

Various commentators have in the past warned of an emerging “global apartheid”, targeting migrant populations through restrictive and discriminatory migration policies and border controls.¹⁷⁴ Recently, during his mandate as Special Rapporteur on extreme poverty and human rights, Philip Alston has warned of a “climate apartheid” scenario, in which “the wealthy pay to escape overheating, hunger, and conflict while the rest of the world is left to suffer.”¹⁷⁵ More generally, Tendayi Achiume, during her mandate as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, has developed a critique of borders as an instrument of racial domination.¹⁷⁶ Yet, despite these important analyses, which we draw upon here, the apartheid framework has not been sufficiently analysed “from the ground up”. This report shows that the risk of apartheid due to violent border regimes is not only a theoretical risk concerning the debate on the nature of borders. Apartheid is a specific legal category that may apply in the particular area we focus on in this report – that of Nador-Melilla border zone, and specifically the Barrio Chino border post which was turned into death trap on the 24 June 2022.

¹⁷⁴ A range of scholars have described the highly uneven allocation by states of the right to move across borders. Stefan Mau and his colleagues, for example, have analysed the evolution of the geography of visa-waivers over time, demonstrating that while citizens of OECD countries and rich countries have gained mobility rights over the last 50 years, these have stagnated or even diminished in other regions, in particular for citizens from African countries, leading to a ‘global mobility divide’. Stefan Mau, Fabian Gülzau, Lena Laube, and Natasha. Zaun. “The Global Mobility Divide: How Visa Policies Have Evolved over Time.” *Journal of Ethnic and Migration Studies*, 41(8), pp.1192–1213. 2015. While visa policies are usually couched in neutral technical terms, the geography of inclusion and exclusion that has thus emerged in effect uses the category of citizenship to allocate differentially the right to move to populations of the global North and South (Passport Index 2020). These divisions in turn broadly map onto a global geography of race and class, which further increases the polarisation of the actual access to mobility infrastructures. As a result, we see radically diverging experiences of mobility, and ‘some people roam the globe like masters, others like slaves’. Ghassan Hage, “Etat De Siège: A Dying Domesticating Colonialism?” *American Ethnologist*, Wiley, 43, pp.38–49. 2016. Etienne Balibar has long described these tendencies as leading to the formation of a form of ‘global apartheid’, referring to the South African regime to underline the hierarchical logic of separation at work on a global scale, generating highly unequal (im)mobilities, and shaping in turn enduring inequalities of status and conditions within societies. Etienne Balibar, *We, the People of Europe? Reflections on Transnational Citizenship*, Princeton: Princeton University Press, 2004.

¹⁷⁵ Office of the High Commissioner for Human Rights, “UN expert condemns failure to address impact of climate change on poverty”, 25 June 2019, <https://www.ohchr.org/en/press-releases/2019/06/un-expert-condemns-failure-address-impact-climate-change-poverty?LangID=E&NewsID=24735>

¹⁷⁶ E. Tendayi Achiume, *Racial Borders*, 110 *Georgetown Law Journal* 445, 2022.



Within this area, which has an identifiable even if not strict spatial definition, border violence is used to maintain a regime of racial domination. As we have emphasised, “normal” entry gates to the Melilla enclave is impossible in practice for Black people, an aspect of border violence that highlights the dimension of racial domination constituting apartheid. While the border crossing is the focal point of racial domination, it spreads in concentric circles in differing degrees of intensity across the area surrounding the border. The emergence of informal camps in which exclusively Black migrants reside such as Gourougou is another aspect of physical separation that evolved in this context. The specific targeting of Black migrants at the border forces them to attempt the crossing through fences, where they face the risk of brutal and lethal violence at the hands of law enforcement agents. The selective hot returns of Black people, carried out with riot gear and through the imposition of pain, are an aspect of the same picture of racial domination.

The elements that have made such border violence possible include aspects of Moroccan-Spanish diplomacy as well as an entrenched impunity. In terms of the legal analysis of apartheid, the important components are both racial separation, and the continued use of illegal violent practices to maintain it, such as acts of torture and killing. The space in which this regime of apartheid is maintained lies on both sides of the Spanish-Moroccan border, in which extreme violence is applied with respect to an identifiable group of Black illegalised migrants.

Another essential component of an apartheid system is the intent to maintain racial domination. In the context of the Nador-Melilla border intent can be inferred from the pattern of border violence, consolidated over the last 30 years, targeting specifically Black migrants and disproportionately exposing them to the risk of death, as we have demonstrated in this report. This practice, demonstrated by law enforcement agents on both sides of the border, indicates that they share the mental aspect of an intent to impose domination on this specific group of migrants. This is especially clear from the diplomatic relationships starting April 2022, and their immediate influence upon patterns of violent racist policing on the ground observed thereafter, which culminated in the 24 June massacre. In other words, this report has identified a cross-border space in which apartheid has been imposed, in collaboration between Spanish and Moroccan law enforcement agents.

To this non-exhaustive list of violations concerning the events of 24 June 2022 must be added those committed afterwards. Far from having stopped, the violence against the migrant survivors of the massacre has continued, in many ways, right up to the present day. We document this in the final chapter of this report.

CHAPTER 4. CONTINUUM: AFTER THE MASSACRE, VIOLENCE CONTINUES BY OTHER MEANS

The publication on social networks by the AMDH-Nador of images showing a veritable mass grave formed following the repression of the attempted crossing on 24 June 2022 generated strong reactions in the days that followed. However, as we have seen, despite these damning images, the Moroccan and Spanish authorities have denied any responsibility. The European Union for its part didn't question the actions of the law enforcement agents involved or its policy of outsourcing border control. On the contrary, on 8 July 2022, less than two weeks after the massacre, the European Commission announced a "renewed partnership" with Morocco on migration and the fight against human trafficking networks¹⁷⁷. The following month, the European Union announced a financial package of 500,000 million euros to be paid to Morocco for its work in controlling Europe's borders, thereby increasing by almost 50% the aid granted to Rabat to combat so-called illegal immigration¹⁷⁸. This increase in EU aid following the massacre, and while the judicial investigations into the massacre of 24 June had not yet been completed, sent a strong and unambiguous signal to both the Moroccan and Spanish authorities: no human cost is too high when it comes to controlling the EU's borders.

Just as we have shown that the spectacular violence of 24 June is part of a continuum of violence suffered by Black people at the border for over 30 years, the denial of recognition of the crime that was committed, and the refusal to acknowledge those responsible, perpetuate the violence that was inflicted on migrants on 24 June 2022 long after this event has passed.

This final chapter analyses the various forms of violence that continued to affect the survivors after the massacre of 24 June. In particular, it looks at the forced displacements organised by the Moroccan authorities immediately after the massacre and the obstacles to access to hospitals and health services for some of the injured survivors. It addresses the question of the opaque management of the corpses resulting from the massacre and the obstruction of the possibilities for the families of the victims to identify and trace the dead and disappeared, making it impossible for them to mourn. It also highlights the judicial harassment experienced by dozens of survivors who are now in Moroccan jails. In all these ways, the violence of 24 June continues to cause suffering for the victims and their families.

¹⁷⁷ https://ec.europa.eu/commission/presscorner/detail/fr/IP_22_4388

¹⁷⁸ <https://elpais.com/espana/2022-08-15/marruecos-recibira-500-millones-de-la-ue-para-que-control-sus-fronteras.html>



IN THE IMMEDIATE AFTERMATH OF THE MASSACRE

On the afternoon of 24 June 2022, once all the survivors had been immobilised by Moroccan forces in front of the Barrio-Chino border post, the organisation of forced displacement began. This process was mainly documented by ADMH-Nador, and our interviews with survivors also reveal the violence, both physical and symbolic, that went on as people were loaded onto buses, as well as during their journeys and on arrival in various cities across Morocco.

FORCED DISPLACEMENT BY BUS, NEW VIOLENCE, AND DEATH(S)

"I remember a soldier when I was lying on the ground. Before they put me on the bus, he got on top of me. He was a heavy guy. Even though I was unconscious, I felt his footsteps on me, I couldn't move. He jumped on my body, then got off, then spat on me. I couldn't speak. It's as if your body has lost all its ability to act. Do you understand? I had pains all over my body. The hits affected my body a lot. You couldn't do anything. You could only keep quiet and let them do what they wanted to do. They started hitting people (...) If I could walk I was going to run away. Two people grabbed me by both hands and put me on the bus. As I went through the door, the same person hit me again. He grabbed me by the hair and punched me. I swear to you. When they put me on the bus, I opened my eyes a bit after half an hour, and I saw some very tired people. I swear there were people hitting you when you got on the bus. There was one person who did nothing but hit the lads on the head. The guys remember him (...) They put a lot of people on the bus. There were also some very injured people, people with broken bones. There was blood everywhere, but they didn't take us to hospital or anything. They put us on the bus. And when you get on the bus, they handcuff you. Some people nearly died. When they tie you up and you try to move, the blood in your arteries stops. They tied us up with a type of strong black plastic, they squeezed very hard. Everyone was exhausted and couldn't escape after what had happened, so we couldn't understand why they were squeezing so hard. We told them: 'Do you want us to die?' On our bus, there were people seriously injured. There was one person with a head injury, she had blood everywhere and was going to die."

A., 17, Sudanese, asylum seeker, survivor of 24 June 2022

“On the bus, our hands were tied behind our backs. I still have the marks on my arms. It was so tight. I couldn’t feel my fingers. There were people on the bus with broken bones and they were begging the officers to loosen it. I wanted to cut my fingers off. I was convinced that if it went on like this, I could die.”

F.A., Sudanese, asylum seeker, survivor of 24 June 2022

“There were some seriously injured, like one of my friends from Darfur. He lost one of his eyes and his teeth on 24 June. There were also other cases of people in danger who they put on the buses with us.”

M., 26, Sudanese, asylum seeker, survivor of 24 June 2022

According to AMDH-Nador¹⁷⁹, the only NGO present in Nador that day, from 4pm onwards, several hundred people, many of them injured, were loaded onto buses, and forcibly moved to different regions of Morocco, including Beni Mellal, Kelaa Sraghna, Chichaoua, Safi and Khouribga. The journey sometimes took up to 12 hours, during which food was not always distributed and after which the people were disembarked without any assistance.

The Moroccan authorities then requisitioned buses parked at the Nador bus station to continue the displacement operations, mobilising 28 buses, including 3 for migrants discharged from Nador’s emergency services¹⁸⁰. “The authorities who were on the spot, sometimes without medical advice, decided to take them out of hospital and push them back towards the Algerian border”, explains the AMDH-Nador. The association estimates that a total of around 1,000 people, including two women, were displaced from the border in this way.

During these forced journeys, at least one person lost his life: a young Sudanese from Darfur named Abdenasser Mohamed Ahmed, who died on the night of 24 to 25 June, having been taken on board seriously injured. He was identified thanks to testimonies and photographs collected by the AMDH-Nador. But other cases of death have been mentioned by the survivors of the massacre whom we met. Deaths reportedly occurred in other buses and on the way down to different towns, sometimes several days later, each time involving people who had succumbed to the injuries inflicted on them on 24 June at the border.

179 AMDH-Nador, “Rapport annuel sur la migration 2022”, 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

180 AMDH-Nador, “Rapport annuel sur la migration 2022”, 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

“There was another bus behind ours. We heard that someone died on that bus. A lot of people died on the buses. There were also 5 or 6 other buses that were sent to Algeria and people died there. There was a group that was dispersed in the Moroccan regions, and another group of people transported to Algeria. People died on the buses. We’ve heard that some people died in the Oujda desert during their journey.”

A., 17, Sudanese, survivor of 24 June 2022

“They transported us in buses despite all our injuries. They transported us without any medical help. There was one person on the bus with us who was bleeding a lot, too much in fact, and when they took us off, he died. Some people even died two days later in Beni Mellal. We didn’t get the care we needed in the hospitals.”

M., 19, Sudanese, asylum seeker, survivor of 24 June 2022

M.’s testimony not only points to the failure to care for the injured and those in serious condition on the spot in Nador or during the bus journeys, but also raises the question of access to healthcare in the arrival towns, at the end of the forced displacements.

NO CARE, NO SHELTER, NO RIGHTS: SURVIVORS IN MOROCCAN CITIES

“When we arrived in Safi, we sent the seriously injured people to hospital. At the hospital, they told us they couldn’t accept people in that condition. We told them: ‘But these people are in a serious condition, so where are we going to take them? Do you want us to leave them to die on the side of the road?’ After that, a doctor came and agreed to admit the people to hospital for treatment. I remember there were three people in a very serious condition.”

A., 17, Sudanese, asylum seeker, survivor of 24 June 2022.

“The hospital was near the bus station, and when we went to see them to get treated, I noticed that they treated us as if they had to. This means that they did not carry out their work with sincerity and respect. (...) Treatment must be humane, regardless of whether the person is beaten up, injured or ill. The bottom line is that they need care, regardless of their colour, race, religion, or party affiliation, and regardless

of how they think. She must be treated humanely and receive the care she needs regardless of any other considerations. As far as I'm concerned, no care has ever been given effectively, sincerely, or humanely. For example, if you have a hand injury, the wound must be cleaned and sterilised in the appropriate way, and then your hand must be covered. In the Safi hospital, they dressed the wounds without cleaning or sterilising them or anything like that. And then they asked us to leave... There was no respect. Many of the people who were there with us at the hospital, when they noticed this way of treating the Sudanese, preferred to die rather than be treated in such a negligent manner. (...) Many Sudanese refused to be treated. They even sought out the nearest church in Safi, thinking that they would find it more humane, but they found it closed and remained without care."

F.A., Sudanese, asylum seeker, survivor of 24 June 2022

According to the AMDH-Nador, in several cases, the injured were transported by their compatriots or with the help of Moroccan citizens to hospitals in Marrakech, Agadir, Beni Mellal, Safi, Casablanca and Rabat, to receive treatment. Our research also documents cases of access to hospitals facilitated by humanitarian organisations, but also cases of seriously injured people remaining under close police surveillance before being abandoned like the others, without assistance.

Seriously injured people under police surveillance. The cases of M. and A.

During our investigation on the Moroccan side, we met M., a 22-year-old Sudanese asylum seeker registered with the UNHCR in Morocco and a survivor of 24 June 2022. To understand his story, we needed the help of his friend A., who was also a survivor of the same massacre. On 24 June, M. was shot with rubber bullets by Moroccan forces when he tried to climb over one of the walls of the border post. His jaw and teeth were shattered and one of his eyes was hit. M. lost consciousness. When he woke up, he was in a kind of trench. There, he was beaten up again by an agent of the Moroccan forces. He recounts:

"A soldier kept hitting me. I heard someone say 'get out'. I told him: 'I can't get out because I'm injured'. Another soldier came and pulled me out of the hole. He threw me into the yard and said, "Die, you should never have come here". Another soldier gave me some water. Then they took me to the ambulance and I ended up in hospital."

M. was taken to hospital in Nador. He was then taken from Nador emergency room and transferred to Oujda hospital, where he remained unconscious for three days. When he woke up, he realised that he was tied up and that a man in uniform was outside his bedroom door. He was loaded into a police car and dropped unassisted 1km from the town of Fès. One of the officers got out of the car and apologised indirectly to M., saying that they were only carrying out orders and had no choice. M. is very weak and has been discharged from hospital with very little clothing on. The agent advised him to go into town to find people and charities who could help him. After a few days in Fez, M. travelled to Rabat with the help of several compatriots. He was taken to hospital again because his condition was serious. His eye and jaw had to be operated, as the excerpt from the document below shows.

Royaume du Maroc
Ministère de la Santé
Centre Hospitalier IBN SINA
Hôpital des Spécialités



المملكة المغربية
وزارة الصحة
المركز الاستشفائي ابن سينا
مستشفى الاختصاصات

Identité :

Il s'agit du patient appelé [REDACTED], âgé à peu près de 22 ans, de nationalité soudanaise, en situation de migrant connu comme détenteur d'asile du HCR ? hospitalisé depuis le mois d'Aout 2022 au service d'Ophtalmologie B pour la prise en charge d'un Trauma oculaire, puis ultérieurement transféré au service de la Chirurgie Maxillo-faciale.

Medical certificate for 24th June survivor M. whose wounded eye and jaw had to be operated.

M.'s story is not an isolated one. Another survivor of 24 June whom we met, A., also 22 years old from Sudan, also lost one of his eyes that day. He does not remember all the details because of the blows to his head, but he does remember this:

"I was in the middle of the crowd at the border post. And when the door opened, I tried to get in, but it was too tight. So I got out of the crowd. There were lots of cameras and a plane. A soldier hit me and I bled. The first blow was to my back and when I turned around, he hit me in the head and the eye."

Afterwards, A. falls unconscious. He wakes up in a hospital in Oujda and realises that he has lost one of his eyes. He suffers intense head pains. Like M., A. was bundled into a car by Moroccan law enforcement officers and dropped unassisted near Fez. He was told that he was lucky not to be deported to Algeria. A. made his own way to the Red Crescent. He was transferred to the hospital in Fez. It was there that the medical staff told him that in addition to having lost an eye, his forehead was fractured. During his stays in hospi-

tal, A. was monitored by an AMDH activist who kept in touch with him. For two months, the young Sudanese had almost no memory, which he then recovered very slowly. A.'s physical and psychological health remains very poor. He remembers 24 June 2022 as a frightening day when he saw people hit by bombs and other weapons. When we meet him in 2023, he has not communicated with his family in Sudan for fear of being judged negatively, as unworthy, and in order not to tell them that he has lost his eye and has not been able to reach Europe.

As the cases of A. and M. show, the violence did not stop on 24 June 2022. It continues through their physical and psychological trauma and the inhuman treatment they are subjected to by the Moroccan authorities. Some, like M., have even thought of taking their own lives. Others can't stop thinking about their brother(s) or friend(s), whose lifeless bodies they saw at the border. Like young Mohamed A., who told the Spanish media¹⁸¹: "My brother died jumping the Melilla barrier". He knows this for sure, because he saw it with his own eyes, when the Moroccan gendarmes took him to the esplanade next to the fence where the inert or suffering bodies of those who had not managed to enter Melilla were piled up. "They wouldn't let me come near. I asked the gendarmes please, it's my brother, I shouted, but they wouldn't let me move", said the 17-year-old boy. We have heard this account from many other survivors who lost a loved one that day, without being able to find out what happened to their bodies afterwards.

Violence also continued post-mortem for those who died on site in Barrio Chino. To this day, the question of the bodies of the deceased continues to be particularly opaque, constituting a great source of suffering for the relatives of the dead and disappeared.

OPAQUE MANAGEMENT OF CORPSES AND OBSTACLES TO THE SEARCH FOR AND IDENTIFICATION OF THE DEAD AND DISAPPEARED

Attempts at illegal burial

Two days after the massacre, on 26 June 2022, the AMDH-Nador issued an alert on social networks about hastily prepared burial attempts by the Moroccan authorities. The association posted photographs on its Facebook page showing an unusual presence of officials around freshly dug graves in the Sidi Salem cemetery in Nador, in the plot reserved for migrants.

181 See: <https://www.publico.es/sociedad/suenos-rotos-melilla-duermen-cartones-casablanca-mi-hermano-murio-valla.html#analytics-buscador:listado>



Photographs showing the digging of several graves at the Sidi Salem cemetery in Nador on 26 June 2022. Photograph: AMDH-Nador.

The analysis of satellite images by Human Rights Watch and which we have deepened confirms the revelations made by the AMDH-Nador about the graves dug two days after the massacre, in the plot dedicated to migrants in the Nador cemetery.

A satellite image taken on 27 June 2022, compared with another taken on 23 June of the same year, shows darker areas on the surface of the soil on the 27 June 2022 image, indicating that excavation work was carried out in an area of the Sidi Salem cemetery between these dates.



Satellite images for the 23 and 27 June 2022, courtesy of Planet Labs PBC 2023. Analysis © Human Rights Watch 2023.

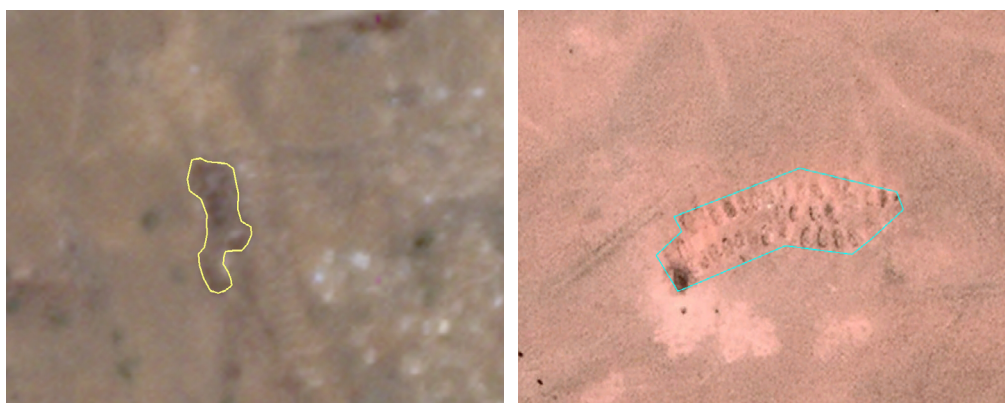
While the 27 June 2022 image is of a relatively low resolution, we were able to access a higher resolution satellite image taken on 29 June. The area in which excavation work was carried out is clearly identified in this image, which shows that around 227 square metres of soil had been disturbed.



Satellite image for the 29 June 2022, courtesy of Planet Labs PBC 2023 showing the area of excavation, which matches the photograph taken by the AMDH-Nador. Analysis © Human Rights Watch 2023.

The exact location of the site was verified by matching the landscape seen in the photograph taken by AMDH-Nador of the graves being dug and published on 26 June 2022. The site corresponds precisely to the area circled on the satellite image.

We then compared the identified site with similar areas where individual graves were visible. The disturbed soil in the Sidi Salem cemetery was compared with another unmarked burial site in the same cemetery where 33 graves were dug in an area of 420 square metres. This allowed us to estimate the number of graves that could be dug in the area where the soil had been disturbed. On this comparative basis, we can estimate that between 17 and 18 graves could fit into the 227 square metre space showing signs of excavation.



Satellite image for the 29 June 2022, courtesy of Planet Labs PBC 2023 showing the area of excavation, which matches the photograph taken by the AMDH-Nador. Analysis © Human Rights Watch 2023.

It was undoubtedly the publication of photos of the cemetery on social networks¹⁸² and the ensuing media coverage¹⁸³ that prompted the authorities to put a stop to these clandestine works. In the days that followed, several Spanish journalists were prevented from gaining access to the cemetery in question¹⁸⁴. According to research carried out by the AMDH-Nador, oral orders to prepare 21 graves were given to the municipal manager of the cemetery by the Governor and the Pasha of Nador. The association points out that it is the Public Prosecutor who is the only authority competent to order such burials. It also points out that the public prosecutor was only informed of the deaths and the existence of bodies placed in the Nador morgue six days after the events, and by his own means.¹⁸⁵ The AMDH-Nador denounces the fact that the case of 24 June 2022 has been “monopolised” by the Ministry of the Interior until now:

“All the administrative players involved in this massacre (health, civil protection, Red Crescent, morgue and cemetery managers, etc.) confirmed that they had received verbal instructions from the Governor of Nador not to communicate anything on this subject at meetings held specifically on this subject. This is an example of occult or at least unusual management which shows that the authorities’ primary concern was and remains a desire never to establish all the truths about what really happened.”¹⁸⁶

After the AMDH-Nador’s publications on social networks at the end of June 2022, no official communication was made on the subject. In their reply to the joint UN letter AL MAR 2/2022¹⁸⁷, the authorities refute the authenticity of the allegations of attempted burials of the dead on 24 June, which they say are totally unfounded, arguing that the graves in question were dug as part of the cemetery’s normal daily routine.

182 <https://www.facebook.com/photo/?fbid=3238099823068937&set=pb.100064671673167.-2207520000> and <https://www.facebook.com/photo/?fbid=3238409609704625&set=pb.100064671673167.-2207520000>

183 <https://www.courrierinternational.com/une/drame-le-maroc-s-empresse-d-enterrer-les-migrants-morts-a-sa-frontiere-avec-melilla> ; <https://elpais.com/espana/2022-06-26/marruecos-se-apresura-a-enterrar-a-los-migrantes-del-asalto-a-la-valla-entre-criticas-por-la-posible-ocultacion-de-las-causas-de-la-muerte.html>; <https://www.europapress.es/internacional/noticia-amdh-nador-denuncia-marruecos-preparando-entierro-migrantes-muertos-autopsia-investigacion-20220626144657.html>; https://www.eldiario.es/desalambre/ong-nador-denuncian-marruecos-pre-tende-enterrar-migrantes-fallecidos-autopsia-investigacion_1_9120142.html

184 The El Pais correspondent in Morocco, two journalists from El Faro de Melilla and journalists from El Diario: https://www.eldiario.es/desalambre/marruecos-esfuerza-ocultar-restos-muertes-salto-melilla_1_9123978.html

185 AMDH-Nador, “Rapport annuel sur la migration, année 2022”, 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

186 AMDH-Nador, “Rapport annuel sur la migration 2022”, 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>


187 See chapter 3

A MORGUE OVERFLOWING WITH BODIES MADE INACCESSIBLE TO THE FAMILIES OF THE DEAD AND DISAPPEARED

“On Saturday 25 June, at around 12.05pm, AMDH Nador paid a surprise visit to the Nador morgue at Hassani Hospital. The two doors were opened to ventilate the smelly environment, and we were able to see the scale of the tragedy, with almost 15 bodies of migrants thrown to the ground with visible wounds to the head, face, chest and feet, lying in freshly coagulated blood. The three straw mattresses carrying the corpses back from the ambulances were still covered in migrants’ blood-stains. These were just the corpses that had been thrown to the ground in a cruel and inhuman scene that strikes at human dignity, not to mention the corpses that had perhaps already been placed inside the refrigerators by the two morgue staff who were in the process of putting the corpses in the refrigerators. As soon as our presence was noticed, the two morgue doors were closed and we were asked to leave.”

Extract from the AMDH-Nador report¹⁸⁸

The AMDH-Nador was the only member of civil society able to enter the Nador morgue after the massacre. Surveillance tightened immediately after this visit. After several attempts accompanied by members of the AMDH-Nador, our research team was unable to gain access or speak with those in charge of the facility. More seriously, the family members of people reported missing after 24 June were also denied access and thus their chances of identifying their loved one. This is what happened to the brother of the disappeared Ahmad Babakr Mohammed, who came from the Sultanate of Oman to try to find him.

| | | | | |
|----|-----------------------|------------|--|---|
| 42 | Ahmad Babakr Mohammed | Soudanaise | Confirmation de son transport à l'hôpital de Nador le 24/06. L'un des migrants blessé qui était hospitalisé avec lui nous a confirmé qu'il souffrait de difficultés respiratoires et qu'il a même parlé avec lui. La recherche effectuée avec son frère venu du sultanat d'Oman au niveau de la police judiciaire et des prisons de Selouane, Zaio, Berkane, Oujda et Oukacha à Casablanca n'a pas permis de le retrouver. |  <p>أحمد بابكر محمد جريح مفقود 24/6/2022 AMDH nador</p> |
|----|-----------------------|------------|--|---|

Ahmad Babakr Mohammed in the list of the disappeared compiled by the AMDH-Nador, updated in June 2023.

188

Muhammad, brother of the disappeared Ahmad Babakr Mohammed, was welcomed and accompanied throughout his stay by the AMDH-Nador. One of our investigators was also able to meet him. Muhammad visited the Embassy of the Republic of Sudan in Rabat, where officials showed him 23 photos of deceased persons officially declared by the Moroccan authorities. As Muhammad could not find his brother among these photos, he left with the President of AMDH-Nador to go to the Court of Appeal in Nador, hoping this time to obtain the information he wanted about his brother. There, he managed to obtain authorisation from the court's public prosecutor to see the bodies at the judicial police station in Nador. But his meeting with the judicial police went badly wrong: Muhammad says that the officers he met refused to accede to his request, despite the prosecutor's authorisation. They only offered to show him the photographs he had already seen. Muhammad highlights the sudden change in behaviour of one of the judicial police officers, who became hostile and threatening, when he stressed his right to see the bodies in the morgue. In the end, Muhammad was categorically refused. He was told to leave.

After this illegal obstruction of his identification efforts, Muhammad continued his search for his brother in various prisons in the eastern region, then in Rabat and Casablanca, but to no avail. Ahmad Babakr Mohammed remains disappeared to this day, despite the efforts of his brother and the AMDH-Nador to find him.

Other families have been prevented in the same way as Muhammad from visiting the morgue at Nador hospital to perhaps identify their dead.


"Despite the Attorney General's written instructions to allow the families to view the bodies at the morgue, the director of the Hassani hospital and the judicial police in Nador refused to apply his instructions. Faced with this illegal and unjustified refusal, the director of the hospital told us that direct instructions from the Governor of Nador were behind the ban."

AMDH-Nador¹⁸⁹

According to the AMDH-Nador, the bodies of the people who died at Barrio Chino on 24 June 2022 were transported directly from the border post to the morgue or from the Hassani hospital emergency room to the morgue, under the direct instructions of the judicial police in the first case and the hospital director in the second, without any of these deaths being recorded in the usual death register kept by the hospital administration¹⁹⁰.

189 AMDH-Nador, "Rapport annuel sur la migration, année 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

190 AMDH-Nador, "Rapport annuel sur la migration, année 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>



Almost a year later, the opacity surrounding the management of the bodies of 24 June 2022 remains. At the end of May 2023, members of the AMDH Nador and one of our investigators went to Nador hospital. The head of the morgue refused to give the exact number of deaths. However, the morgue was described as having been saturated with bodies for months. This indicates that the bodies of those who died on 24 June 2022 are more numerous than the confirmed number of deaths (27), that these bodies were stored for a long time – maybe still, but piled up or stacked, once again reproducing the symbolic violence of the mass grave.

Our research on the Moroccan side also indicated that bodies from the events of 24 June 2022 had been deposited in the morgue in Oujda, due to a lack of space in the morgue in Nador. However, as in the case of Nador, our investigation team was prevented from gaining access to the morgue in Oujda, so we cannot confirm that the bodies were moved.

The withholding of information and the deliberate obstruction of the identification process by the Moroccan and Spanish authorities continues to this day to prevent the identity of the dead and disappeared from being established and makes mourning impossible for many families. In addition, the lack of transparency surrounding the deaths on 24 June means that it is not possible to know with any certainty how many people died in the massacre.

Activists counting the dead in the face of states that continue to hide them




How many people died on 24 June 2022 at the border? Nearly two years later, it is still impossible to answer this question with certainty. Faced with the silence and opacity of the Moroccan authorities, the AMDH-Nador and Caminando Fronteras have been working since 24 June 2022, in permanent contact with the survivors and families of the dead and disappeared, to identify them. The data provided by the AMDH-Nador, which evolves according to the information received from survivors and families, remains the most reliable in terms of the number of dead and disappeared.

On the evening of 24 June 2022, the AMDH Nador announced, on the basis of hospital sources, that 27 migrants' remains had been taken to the Hassani hospital morgue, contradicting the version of the Moroccan authorities¹⁹¹. The Moroccan authorities spoke of five deaths, then 18, before retracting and setting the official death toll at 23.

It is on the basis of its own investigative work carried out since 24 June 2022 that the organisation has been able to collect numerous testimonies and photographs from

191 AMDH-Nador, "Rapport annuel sur la migration, année 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

survivors on the one hand and families of the disappeared on the other. As a result, the AMDH-Nador was able to start compiling lists of the dead and disappeared, which it is constantly trying to update.

| | | | | |
|----|---|---|------------|---|
| 02 |  | Mohannad Maamoun Aïssa | Soudanaise | Plusieurs témoignages de survivants notamment celui de son frère nous ont confirmé sa mort au poste frontalier de bario chino du côté espagnol. Son cadavre a été récupéré par les militaires marocains lorsqu'ils ont traversé la frontière. Cependant son cadavre n'était pas parmi les 23 photos présentées par la police judiciaire de Nador aux familles venues identifier leurs proches |
| 03 |  | Abderrahim Abdellatif Ali Ibrahim Surnommé Hanine | Soudanaise | Plusieurs témoignages de survivants nous ont confirmé sa mort au poste frontalier de bario chino. Selon eux, il saignait à cause d'une grave blessure au niveau de la poitrine. Cependant son cadavre n'était pas parmi les 23 photos présentées par la police judiciaire de Nador aux familles venues identifier leurs proches |
| 04 |  | Abdenasser Mohamed Ahmed | Soudanaise | Mort après son embarcation dans le bus de refoulement alors qu'il souffrait de grand malaise selon les témoignages des survivants qui étaient avec lui dans le bus. Ces derniers ont demandé vainement et à plusieurs reprises aux membres de la police présents dans le bus de le transporter vers l'hôpital. Demande restée sans réponse jusqu'à son décès. A ce moment sa dépouille a été descendue du bus. La mort d'Abdenasser nous a été confirmée aussi par le chauffeur et le propriétaire du bus de refoulement. |

List of migrants confirmed dead on the 24 June 2022 established by the AMDH-Nador, updated on 10 April 2023.

The association also reveals irregularities in the times at which photographs of the bodies are shown to families at the headquarters of the judicial police: some families are shown 25 photos, while others are shown only 23¹⁹². In addition, the association points out that of all the photographs shown by the judicial police, those of 4 people identified as dead either in the videos published by the AMDH Nador or in the testimonies of the survivors of the massacre themselves, and of the young Sudanese man who died in one of the forced displacement buses, do not appear. The five people in question are:

¹⁹² AMDH-Nador, "Rapport annuel sur la migration, année 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf>

- **Abdenasser Mohamed Ahmed** was taken on board one of the buses in a very serious condition, according to the testimonies of people who were with him on the bus. The death was confirmed to AMDH-Nador by the driver and owner of the bus in question.
- **Abdelaaziz Yaakoub Daoud**, also known as Anwar, can be seen on a video clip published by AMDH-Nador, in which a Moroccan soldier can be seen and heard ensuring his death.
- **Abderrahim Abdellatif Ali Ibrahim**, also known as Hanine, whose death at the Barrio Chino border post has been confirmed by several survivors' accounts gathered by the AMDH-Nador and our team. According to them, he was bleeding from a serious chest wound.
- **Mohannad Maamoun Aissa**, whose death was confirmed on the Spanish-controlled side of the Barrio Chino border crossing by numerous survivors' accounts gathered by the AMDH-Nador and our team, including that of his brother. His body was recovered by Moroccan soldiers when they crossed the border.
- **Qussai Ismail Abdelkader**, whose death was confirmed by several survivors at the Barrio Chino border crossing.

This confirms that the number of bodies and deaths is higher than the 23 deaths confirmed by Moroccan authorities, and reaches at least 27 deceased. The associations and families of the deceased still have no news of the remains of these five people. Only one family was able to identify their child on the basis of photos shown to the judicial police in Nador, after a lengthy procedure supported by the AMDH-Nador¹⁹³. On 31 March 2023, Adam Bikhit was buried in the Sidi Salem cemetery in Nador in the presence of two members of his family from England, AMDH activists and local individuals showing solidarity¹⁹⁴. To demand that light be shed on the tragedy of 24 June and to find out the fate of their disappeared children, the families of the victims formed an association in Sudan in March 2022.¹⁹⁵

As a result of the opaque management of the bodies of the deceased and the barriers to their identification, the number and identity of the dead has not yet been definitively established. In addition, to the deceased, at least 70 people have been reported disappeared since 24 June 2022.

193 AMDH-Nador, "Rapport annuel sur la migration, année 2022", 2023, <https://viacampesina.org/es/wp-content/uploads/sites/3/2023/07/rapport-migration-2022-AMDH-Nador.pdf> Also see the report by Vice News: <https://www.youtube.com/watch?v=IhgLQ06yIYQ>

194 See: <https://enass.ma/2023/04/17/migration-le-maroc-epingle-a-geneve/>; <https://www.publico.es/sociedad/nueve-meses-identificar-enterrar-primera-victima-tragedia-melilla.html>

195 See: <https://www.facebook.com/photo.php?fbid=590643499768034&set=pb.100064671673167.-2207520000&type=3>; <https://enass.ma/2023/04/17/migration-le-maroc-epingle-a-geneve/>

لجنة 24 يونيو
لأسر السودانيين
المفقودين بالمغرب



بلاغ

من أجل المطالبة بالكشف عن مصير جميع المفقودين السودانيين بالمملكة المغربية، تدير لجنة 24 يونيو لأسر المفقودين السودانيين بالمغرب أنها ستعظم وقفة احتجاجية سلمية أمام السفارة المغربية بالخرطوم يوم **الأحد 12 مارس 2023** على الساعة الحادية عشر صباحا.

ومن أجل إنجاح هذه المحطة التضالعية، تدعو لجنة 24 يونيو كافة الأسر السودانية التي تبحث عن أبنائها منذ أكثر من ثمانية أشهر للحضور إلى هذه الوقفة الاحتجاجية أمام السفارة المغربية بالخرطوم مصحوبين بلافتات وصور أبنائهم المفقودين من أجل التعبير عن رفضهم لعدم الكشف عن مصير أبنائهم والمطالبة بالتفاعل الإيجابي للسلطات المغربية مع مطالب العائلات من أجل التعرف على أماكن تواجد المفقودين وإطلاق سراح المسجونين.

الخرطوم، 07 مارس 2023

Declaration of the Committee of Families of the Disappeared Sudanese of 24 June 2022, published on Facebook by AMDH Nador on 10.03.23.

70 people still disappeared

From the day after the massacre, the AMDH-Nador began investigating with people far from the border. Subsequently, the association also tried to find information from people released from the various prisons in the region and from nearby hospitals. After more than a year of meticulous work to cross-check information, a provisional list of 70 people still disappeared was published in June 2023.

If we add up the existing lists of people who died on 24 June 2022 and those who are still disappeared, it is possible that the number of people who lost their lives on 24 June 2022 could be as high as 107, well beyond the 23 deaths acknowledged by the Moroccan authorities. Neither the Moroccan nor Spanish authorities, nor the embassies of the countries of origin of the people concerned, have helped in the search for the disappeared.

THE COMPLICITY OF AFRICAN EMBASSIES IN MOROCCO IN MAINTAINING IMPUNITY

Instead of helping their fellow citizens in their search for the disappeared, or condemning Morocco for the violence used by the security forces, the ambassadors of African states in Morocco were pressured into showing solidarity with the Moroccan authorities.

Indeed, two days after the massacre, the ambassadors of African states were invited to the headquarters of the Ministry of Foreign Affairs. On this occasion, the Moroccan authorities presented their version of events, with videos, to refute – as explained in media close to the government¹⁹⁶ – the “false version” circulated on social networks. At the end of this so-called information session, the diplomats reportedly condemned the violent attempt to smuggle migrants and declared their solidarity with Morocco, condemning any attempt to damage the Kingdom’s image, and welcoming Morocco’s migration policy¹⁹⁷.

UNFAIR TRIALS, COLLECTIVE PUNISHMENTS, AND IMPRISONMENT OF MASSACRE SURVIVORS WITHOUT EVIDENCE

Instead of shedding light on those responsible for the June 24 massacre and identifying the dead and disappeared, it was the survivors of the massacre themselves who were prosecuted and dozens of them locked up in Moroccan jails.

The survivors, who were largely subjected to relentless beatings by the Spanish and

Moroccan law enforcement agents, were also the target of a veritable judicial harassment¹⁹⁸, as witnessed and documented by associations, lawyers and journalists who followed the cases of dozens of survivors of the June 24, 2022 massacre who were subsequently prosecuted in Nador. Our research team spoke to several of these civil society actors in an attempt to understand the scale of this dimension of repression.

On the very day of the massacre, some of those arrested at the Barrio Chino border crossing were taken away by the law enforcement agencies and taken directly into custody¹⁹⁹. These people were the subject of a preliminary investigation by the judicial police and were initially held at the police station. Following a decision by the public prosecutor, they were placed in preventive detention in Nador prison. Several organisations and journalists then mobilised to observe the trials, while some of them also mobilised lawyers to assist groups of accused.

During the trials, the majority of those accused were of Sudanese nationality and many of

196 <https://lematin.ma/express/2022/cndh-photos-videos-circulation-internet-nont-rapport-tentative-passage-migrants/377678.html>

197 <https://lematin.ma/video/drame-de-nador-informes-de-la-situation-les-ambassadeurs-africains-sen-gagent-aupres-du-maroc-7836.html>; <https://lematin.ma/express/2022/cndh-photos-videos-circulation-internet-nont-rapport-tentative-passage-migrants/377678.html>

198 In August 2022, a statement was drafted by a collective of five associations, including the Moroccan Human Rights Association (AMDH), the Collective of Sub-Saharan Communities in Morocco (CCSM), the Association d’aide aux migrants en situation de vulnérabilité (AMSV), ATTAC Morocco and Caminando fronteras (Spain). See also: <https://enass.ma/2022/08/16/drame-de-nador-melilla-un-acharnement-judiciaire-contre-les-refugies/>

199 <https://enass.ma/2022/06/26/morts-ou-emprisonnes-le-destin-des-migrants-a-nador/>

them were asylum seekers, sometimes already registered with the HCR in Morocco.

The alleged victims, on the other hand, are all members of the security forces and agents of the Moroccan authorities. Initially present in large numbers at the trials, their numbers decreased over the months, as their travel and legal expenses to Nador were not covered by their institutions.

Observers of the trials held at the Court of Appeal and the Court of First Instance in Nador between July and October 2022 have denounced the fact that the hearings were organised very quickly and expeditiously, that the cases were dealt with collectively and that there was a flagrant lack of evidence on which to base the charges and the sentences handed down. In short, these are chronicles of trials in which the very basis of fairness was flouted.

The charges brought against migrants are mainly related to articles of the Moroccan Criminal Code and law 02.03 on the entry and residence of foreigners in the Kingdom of Morocco, emigration, and illegal immigration²⁰⁰. The following charges are among those most frequently brought during trials²⁰¹:

- Participation in a criminal association
- Organising and facilitating the illegal exit of persons from Moroccan territory
- Offences of illegal entry and residence on Moroccan territory
- Contempt of public officials
- Assault and battery with weapons, possession of weapons in circumstances that threaten the safety of individuals or public order
- Violence and acts of rebellion committed by several people
- Destruction of public property
- Armed gatherings


While the first two charges mentioned were often reclassified by the judge as “membership of a conspiracy to facilitate the exit of persons from national territory”, the other charges were generally upheld and people were sentenced to several months’ imprisonment at first instance.²⁰² Sentences were systematically increased after the cases were referred to the Court of Appeal, for example from 8 months to 3 years’ imprisonment²⁰³, together with fines.

200 http://www.sgg.gov.ma/Portals/0/profession_reglementee/Dahir_immigration_fr.pdf

201 See the various court rulings made public.

202 See for example: <https://enass.ma/2022/09/27/la-main-lourde-de-la-justice-contre-les-refugies-a-nador/>; <https://www.h24info.ma/nador-les-peines-de-14-migrants-aggravees-en-appel/>

203 See for example: <https://enass.ma/2022/09/27/la-main-lourde-de-la-justice-contre-les-refugies-a-nador/>; <https://www.h24info.ma/nador-les-peines-de-14-migrants-aggravees-en-appel/>



However, lawyers and associations consider that these very heavy sentences are not founded on any evidence. During the trials, no direct link was established between the officers – the presumed victims – and the migrants arrested on 24 June 2022 – the presumed defendants – who were present. The officers did not claim to have directly recognised the accused present in the courtroom. At each trial, the judge relied exclusively on the judicial police reports as evidence. Yet the accused denied all the charges brought against them before the judge, pointing out that the statements quoted in the reports were not theirs and did not correspond to the truth. Only charges relating to illegal entry into Morocco were admitted by the accused.

Another important observation revealing the aberration of these trials is that the defendants had visible signs of violence on their faces and bodies, and some had difficulty walking. Whereas the alleged victims, in other words agents of the Moroccan forces of order and authority, appeared physically healthy. Yet these victims all produced medical certificates attesting to various injuries and traumas. Those being prosecuted, on the other hand, did not have access to medical examinations, despite the penal procedure providing for this. Observers of the trials have also denounced the collective nature of the treatment of the accused, which makes it impossible to prove either criminal or civil liability. Despite the principle of individualisation of punishment and crime, people were charged, tried, and sentenced in groups of more than 10. The people arrested on 24 June 2022 at the border were treated as criminals, on the basis of accounts repeated identically by the civil parties to qualify the acts of dozens of accused persons. The very principle of the right to a fair trial has been flouted. Procedural guarantees were not respected and the causal links between the alleged crimes and the accused were not established, due to a lack of evidence. Finally, trial observers also raised the issue of people accused of illegal entry despite their status as asylum seekers, in violation of Morocco's commitments under the Geneva Convention.

Although the number has been estimated to at least a hundred by associations that have followed some of the trials, information on the total number of people charged and then imprisoned following the events of 24 June 2022 and all the places where they are being held remains unclear. The Moroccan authorities limit access to information about the prisoners, again preventing relatives, families, and their supporters from making any progress in identifying the dead and disappeared.

In all the different ways discussed in this chapter, two years after the events, the violence of 24 June 2022 massacre continues to cause suffering for the victims and their families.

CONCLUSION. THE QUEST FOR JUSTICE



Demonstration in front of the CETI in Melilla, 29 June 2022. Photograph by Cléo Marnié

A COURAGEOUS MOBILISATION IN THE WAKE OF THE MASSACRE

On Monday 27 June 2022, three days after the massacre, dozens of survivors of the massacre gathered in front of the Temporary Stay Centre for Immigrants (CETI) in Melilla to demand an investigation into the events at the Melilla barrier.

Through a manifesto and placards, the survivors who arrived in Melilla denounced Morocco and Spain as partners in the massacre committed against young Black Africans.



Demonstration in front of the CETI in Melilla, 29 June 2022. Photograph by Cléo Marnié

The placards, written in Arabic, English, Spanish and French, were addressed to the whole world, but also directly to political leaders. One of them is directed at the President of the Spanish government: *“Pedro Sánchez, you seem to enjoy seeing the bodies of migrants piled up at the fence and your country pretending to respect human rights”*²⁰⁴. Another placard asked: *“Ukrainians get roses, why are we blacks being sent to hell?”*

²⁰⁴ <https://www.europapress.es/ceuta-y-melilla/noticia-concentracion-ceti-melilla-exigir-investigacion-muertes-lado-marroqui-valla-20220627172303.html>



Demonstration in front of the CETI in Melilla, 29 June 2022. Photograph by Cléo Marmié

On 29 June, another demonstration was organised in Melilla. An olive tree was planted in memory of the victims and asylum seekers lay down on the ground to re-enact the scene of the massacre. One of them took the microphone and declared: “Try saying ‘asylum’ when you are in the middle of a cloud of gunfire and gas...”.²⁰⁵ Other demonstrations are taking place on the Spanish peninsula, in particular following calls from Black and Afro-descendant organisations in the anti-racist movement²⁰⁶, as well as human rights associations.

²⁰⁵ See the blog post by researchers Elisa Floristán Millán and Cléo Marmié: <https://blogs.law.ox.ac.uk/border-criminologies-blog/blog-post/2022/07/letting-cross-letting-die-dark-friday-melilla>

²⁰⁶ <https://elpais.com/espana/madrid/2022-06-26/cientos-de-personas-protestan-en-madrid-contrala-masacre-de-melilla-y-exigen-explicaciones-al-gobierno-y-a-marruecos.html>



Demonstration in front of the CETI in Melilla, 29 June 2022. Photograph by Cléo Marmié

Beyond these demonstrations in public space, associations and journalists have investigated and analysed the violations that were perpetrated against the migrants during the 24 June massacre.²⁰⁷ In June 2023, human rights NGOs filed a complaint with an investigating court in the autonomous city of Melilla to request the opening of an “exhaustive and detailed” investigation.²⁰⁸ Furthermore, to demand that light be shed on the tragedy of 24 June and to know the fate of their disappeared children, the families of the victims formed an association in Sudan in March 2022.²⁰⁹

In Spain as in Morocco, the law of silence, withholding information and state hypocrisy

Despite these diverse demands for truth and justice, almost two years after the massacre of 24 June 2022, impunity remains total, perpetuating the suffering of the survivors and families of the victims²¹⁰.

Face with this massacre that cost the lives of at least 23 people whose deaths was acknowledged by authorities, and while the Moroccan Human Rights Association in Nador has counted at least 27 people killed on that day and more than 70 disappeared, Moroccan and Spanish authorities have failed to duly investigate the acts and actors involved and the numerous violations perpetrated during the massacre, and have instead prevented independent investigations from gaining access to a many essential elements of evidence.²¹¹

207 AMDH Nador, “La tragédie au poste frontière de Barrio Chino”, 2022; AMDH Nador, “Rapport annuel 2022 sur la migration”, 2023; Caminando Fronteras, “Informe – Víctimas de la frontera Nador-Melilla el 24/6/2022”, 2022, <https://caminandofronteras.org/wp-content/uploads/2023/01/Informe-Masacre-Nador-Melilla-ES.pdf>; Amnesty International, “Ils l’ont frappé à la tête pour voir s’il était mort.” Evidence of crimes under international law committed by Morocco and Spain at the Melilla border, 2022 <https://www.amnesty.org/fr/documents/mde29/6249/2022/fr/>; BBC Africa Eye, “Death on border”, 2022 <https://www.bbc.co.uk/programmes/p0dbnttd>; Lighthouse Reports, ENASS, El País, Le Monde, Der Spiegel, The Independent, “Reconstructing the Melilla Massacre”, 2022; IRIDIA, “Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 – 2022” (report), 2023 <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe-FS.pdf>, <https://www.lighthousereports.com/investigation/reconstructing-the-melilla-massacre/>; IRIDIA, “Vulneración de derechos humanos en la Frontera Sur del Estado español 2021 – 2022”, 2023, <https://iridia.cat/wp-content/uploads/2023/05/CAST-informe-FS.pdf>

208 Publico, “Cinco organizaciones presentan una querrela para que vuelva a investigarse la tragedia”, 16 June 2023. <https://www.publico.es/sociedad/cinco-organizaciones-presentan-querrela-vuelva-investigarse-tragedia-melilla.html>

209 See: <https://www.facebook.com/photo.php?fbid=590643499768034&set=pb.100064671673167.-2207520000&type=3>; <https://enass.ma/2023/04/17/migration-le-maroc-epingle-a-geneve/>

210 <https://www.amnesty.org/fr/latest/news/2023/06/morocco-spain-agony-goes-on-for-families-of-missing-and-dead-as-melilla-cover-up-continues/>

211 See for example: <https://www.publico.es/internacional/marruecos-evita-entrada-tres-eurodiputados-observadores-internacionales-fronteras-melilla.html>

Instead of using the judicial institutions to determine those responsible for the massacre, Morocco has used its judicial system to continue repressing the survivors of the massacre, several dozen of whom have been sentenced to prison for alleged acts of violence and other offences. The Spanish prosecutor has not found any evidence of violations by Spanish law enforcement agents and has closed his investigation. According to journalistic inquiries, the Spanish security forces involved in the operation on 24 June 2022 have been muzzled by “an order of silence imposed by the Ministry of the Interior”²¹². Furthermore, neither Spanish nor Moroccan authorities have provided a complete list of the names of the victims and the causes of their deaths. The Moroccan authorities in particular have made no effort to allow the families to identify the deceased and repatriate the remains of the victims that are still in the Nador morgue.


In this context of impunity, border violence has continued. Indeed, far from being dismantled, the Nador-Melilla border fence has been reinforced and, although border crossings have decreased since 24 June 2022, the system of racist repression at the border remains unchanged. Moreover, the effects of restrictive migration policies and racism are not confined to their most visible manifestations at the edges of states, but are disseminated far beyond. The survivors of the massacre who managed to pass through the barrier on 24 June without being turned back, like those who managed to access to EU territory in the months that followed, were confronted with the precariousness and exclusion associated with their status as asylum seekers. The effects of anti-black racism also permeate all European societies. We were able to observe this in the course of our investigation: for example, a group of survivors we met in Barcelona were denied access to a hotel where they had reserved a room. Whether they are in North Africa or Europe, racism and borders continue to affect the daily lives of the survivors of the massacre.

Our counter-investigation, a step towards the truth

To support the demand for truth and justice of the victims of 24 June 2022 and their families, and to contribute to the struggle against border violence in all its forms, Border Forensics, in collaboration with Irídia and the Moroccan Association for Human Rights (AMDH), as well as other civil society actors on both sides of the border, has conducted a counter-investigation for over a year, while benefiting from additional advice from the European Centre for Constitutional and Human Rights (ECCHR).

The analysis we have provided in this report has been articulated across different spatial and temporal scales: the long duration of coloniality and anti-Black racism at the border, as well as the regime of impunity for the violence targeting them, which created the

²¹² <https://www.publico.es/sociedad/no-guardia-civil-esto-hablan-agentes-desplegados-frontera-melilla-24j.html>



structural conditions making the massacre possible (chapter 1); the particular conjuncture of changing diplomatic relation between Morocco, Spain and the EU in the months leading up to 24 June, and the resulting oscillations in the intensity of repression (chapter 2); the day of the event of the massacre of 24 June (chapter 3); and the continued suffering inflicted onto the victims of the 24 June and their families more nearly two years after the event as a result of the impunity for this crime, the absence of identification of the deceased and the imprisonment of numerous survivors (chapter 4).

Our systematic reconstruction provides new evidence as to the responsibilities of Moroccan and Spanish authorities and makes it possible to refute their versions of the facts, which absolve them of any responsibility. Our analysis reveals a veritable strategy, insofar as the Moroccan law enforcement agents deliberately allowed the migrants to approach the border that day and then directed them, using the threat of repression, towards the Barrio-Chino border post. Channelled inside the border post from which they were trying to cross the border into Melilla, the migrants were first targeted by the use of riot gear deployed from all sides by Moroccan and Spanish forces. The intense gassing in a confined space, and the panic during the crossing attempt, certainly produced the first deaths in this massacre. Then came the beatings, perpetrated mainly by the Moroccan forces, of those who remained inside the post and of those who were violently turned back jointly by the Spanish and Moroccan forces, which constituted the main moment, lasting several hours, of deadly violence. No images of this phase of the events have yet been made public. While this outburst of violence can thus not be made visible, we make it audible through the testimonies of the survivors. We further reveal that Spanish law enforcement agents themselves perpetrated numerous acts of violence and violations, in particular by inflicting inhuman and degrading treatment onto the intercepted migrants. By sending the migrants back to Morocco despite knowing that they would be subjected to extreme violence, the Spanish agents contributed to this violence. Finally, we show that while the majority of the deaths took place while the migrants were under the control of Moroccan agents, these deaths were all on Spanish territory.

Beyond the reconstruction of the event of the massacre, our analysis shows that the many dead and missing during the massacre of 24 June 2022 were no accident. On the contrary, the migrants were repeatedly directed towards the Barrio Chino border crossing, and violently repressed by Moroccan and Spanish law enforcement agents once they were trapped there. But the death trap into which the migrants fell goes beyond the architecture of the border crossing or the chain of events that took place on 24 June. It has woven by policies and practices operating in an extended space-time, including European and Spanish policies of externalising migration control established over more than two decades, Moroccan migration diplomacy, impunity for violence perpetrated over many years, and the daily racist repression deployed against Black people in the area. All these elements combined to form a death trap, which the Spanish and Moroccan law enforcement agents executed on 24 June 2022.

Although there are still grey areas, the facts that we have reconstructed by cross-referencing numerous pieces of evidence are damning, both for the Moroccan and Spanish authorities and for the European Union, which supports them politically and financially. The authorities on both sides of the border must be brought to account for this massacre and finally respond to the victims' and their families' demands for truth and justice.

Demands: breaking down barriers, building rights



The demand for truth and justice of the survivors of the massacre. Border Forensics, 2024.

During our interviews with survivors of the massacre, one of them, Moustapha Ali Ibrahim, succinctly summed up the demands that all the survivors have repeatedly expressed:

"Justice must prevail, the young people must be released from prison and the missing must be identified. We too have friends who have disappeared and we want to know whether they are dead or alive. The prisoners must be released, because they have done nothing wrong."

Moustapha Ali Ibrahim

We echo these essential demands concerning the massacre of 24 June: truth, identification, release, justice. The Moroccan and Spanish authorities must urgently respond to these demands. The massacre of 24 June 2022 can never be repaired. But steps can be taken to ensure that the violence inflicted on that day ceases to be reproduced in the present.

Beyond these specific demands, our analysis of the structural and conjunctural conditions that made the 24 June massacre possible, leads us to formulate a number of recommendations that must be implemented if the violence at this border is to end.

As we have seen, the border fence surrounding the enclave of Melilla is both the tool and the symbol of the regime of separation and racial domination established on both sides of the Nador-Melilla border. Dismantling this barrier is an essential step if this regime of racial domination, which can be analysed as a form of cross-border apartheid, is finally to fall.

However, the erection of ever higher and more sophisticated border barriers that we see at Melilla and Ceuta, but also elsewhere on Europe's borders²¹³, is one of the material expressions of the repressive response that Spain and Europe are giving to a profound "mobility conflict" that pits the reality of the migratory dynamics between the global South and Europe against the discriminatory and restrictive policies that Europe is trying to impose. Far from putting an end to migrations defined as "undesirable", these restrictive policies and practices merely illegalise them and increase their cost – both financially and in human terms.

We join the voices of researchers and associations, including the Migreurop network²¹⁴, in calling for a fundamental reorientation of European migration policies and, more broadly, of relations between Europe and the global South, so that the deaths and violence can finally cease. As such, beyond the barrier, it is a series of relationships, agreements and legislation that also need to be dismantled.

In particular, the EU and its Member States must dismantle all the political and economic relationships and agreements – such as trade agreements, arms exports, or support for dictatorships – that perpetuate asymmetrical relations between Europe and the global South and contribute to the factors that drive too many people into exile, only a small proportion of whom reach European shores. The EU must cease externalising the control of its borders, and in particular terminate the funding agreements that contribute to repression operated by Spain and Morocco. The states of the global South, including Morocco, must stop instrumentalising migrants' lives for political and economic ends.

The racial boundaries that structure our societies, in Spain and Europe, but also in Morocco and North Africa, must also be dismantled. For Europe, and Spain specifically,

213 European Parliament, Briefing: Walls and fences at EU borders, 2022.

214 Migreurop, Atlas des migrations dans le monde: libertés de circulation, frontières, inégalités, 2022; Charles Heller et Bernd Kasperek, "The EU's pact against migration, Part One" & "Towards a European pact with migrants, Part Two", Open Democracy, 2020.

states must tackle the root causes of European racism by addressing Europe's colonial past and present and the racial imaginaries they have founded. For North Africa, and Morocco specifically, states must address the taboo of anti-black racism resulting from slavery.

Finally, it is time to dismantle all the restrictions on the rights of migrants imposed in the context of the discriminatory management of mobilities, and to recognise the right of each and every person to move freely across borders. Without the regime of selective illegalisation of certain migrants operating according to racial, class, gender and citizenship categorisation, there would be no need for border barriers.

While we believe that such a political reorientation is the only way to transform the current mobility conflict and put an end to border deaths, we are well aware that it is not on the European agenda or of North African states. On the contrary, through the European Pact on Migration approved by the European Parliament in April 2024, the EU is intensifying its repressive approach to migration.²¹⁵ The current mobility conflict is therefore set to continue, and the list of border deaths to grow. We are committed to documenting, analysing and denouncing this violence, to making it visible and intelligible, so that the consequences of these political choices cannot be denied. Through this process, we also hope to contribute to the full recognition of the injustice suffered by the survivors we have worked with, and of their dignity. One of the survivors of the massacre, interviewed by the BBC a few weeks after the massacre, said: "I did not die, but I am not alive today"²¹⁶. We hope that our counter-investigation will contribute to bringing the survivors back among the living and to make their demands for truth, for the identification of the dead, for the release of prisoners and for justice heard.

215 Joint declaration, 161 Civil Society Organisations call on MEPs to vote down harmful EU Migration Pact, 9 April 2024, https://migreurop.org/article3248.html?lang_article=en

216 BBC Africa Eye, "Death on border", 2022 <https://www.bbc.co.uk/programmes/p0dbnttd>;

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