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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by American Association
of Jurists, Asociación Española para el Derecho
Internacional de los Derechos Humanos AEDIDH,
Association Mauritanienne pour la promotion du droit,
Association Nationale des Echanges Entre Jeunes, December
Twelfth Movement International Secretariat, International
Association Against Torture, Plataforma Mulheres em
Acção, non-governmental organizations in special
consultative status, Mouvement contre le racisme et pour
l'amitié entre les peuples, Liberation, non-governmental
organizations on the roster**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2023]

* Issued as received, in the language of submission only.



Western Sahara: Enforced Disappearances are a Continuing Crime

BACKGROUND

Western Sahara was included by the UN General Assembly (UNGA) in the list of Non-Self-Governing Territories in December 1963 (res. 1956-XVIII), pending self-determination in accordance with the UN Charter principles and UNGA resolution 1514 (XV) entitled “Declaration on the granting of independence to colonial countries and peoples”.

In 1966, the UNGA invited the administering Power – Spain – to determine at the earlier possible date the procedures for the holding of a referendum with a view to enabling the indigenous population of the Territory to exercise freely its right to self-determination.

On 31 October 1975, Morocco invaded and subsequently illegally occupied and annexed the great majority of the Non-Self-Governing Territory of Western Sahara. The armed conflict between Morocco and the Frente Polisario lasted until the two parties accepted the Settlement Plan proposed by the UN Secretary-General and the President of the Organisation for African Unity, which led to the establishment of the UN Mission for the referendum in Western Sahara (MINURSO) by the Security Council in 1991.

Enforced disappearance has been systematically practiced by the occupying Power since the first day of the occupation.

The Moroccan Denial Ensures Impunity

It is estimated that more than 1,000 Saharawis have been direct victims of prolonged forced disappearance, of which the whereabouts of 440 are still unknown. Victims of enforced disappearance include newborns, children, women and elderly people.

Morocco denied the forced disappearance of people in Western Sahara until 1991, a few years after several clandestine detention centres were discovered. In these secret centres, about 400 Saharawis were kept for periods of 4 up to 16 years. They were subjected to torture and other inhuman, cruel and degrading treatments. Saharawi and international campaigns denouncing the existence of these centers were carried out and it was thanks to this that 322 Saharawi survivors were freed in 1991.

In 1999, following the intervention of Mr. James Baker, United Nations Personal Envoy for Western Sahara, Morocco responded to 207 cases of enforced disappearance. However, apart from acknowledging the death of 43 of them, the Moroccan authorities alleged, without providing evidence that these people were established in the Tindouf camps, in Mauritania or in Spain.

In December 2010, the Moroccan National Human Rights Institution (Commission Consultative des Droits de Homme) published a report recognizing the existence of 940 disappeared persons, including 638 Saharawis, 351 of which are said to have died during their detention and the rest being released. However, the report did not include an exhaustive list of disappeared persons or detailed conclusions about individual cases or the investigations into them. Scarce and imprecise information on some individual cases was later added and it was indicated that they would be investigated in depth, which never happened.

The reports published by the Moroccan government do not comply with international standards for the clarification of enforced disappearances. Victims and survivors continue to lack effective access to justice and none of the responsible for these violations has been investigated and brought to justice, thus ensuring impunity to the perpetrators.

International Independent Scrutiny

In 2013, a team of independent forensic experts from the University of the Basque Country under the direction of Professors Carlos Martín Beristain and Francisco Etxeberria Gabilondo discovered several mass graves. So far 16 bodies have been found, including those of 2 children and 3 women. Ten people have already been identified and their remains have been returned to their families.

Despite the findings, to date no exhumation has been carried out in the occupied territories of Western Sahara or in Morocco due to the lack of authorization from the Moroccan occupying authorities. Neither the Moroccan authorities nor the (National Human Rights Council) CNDH -which replaced the CCDH- have responded to the complaints filed to clarify the facts that led to the alleged execution of 13 disappeared persons on 19 October 1976.

In his April 2015 ruling, Judge Pablo Rafael Ruz (Head of the Central Investigation Court no. 5 of the National Court of Spain) issues the indictment for the alleged crime of genocide, in conjunction with the crimes of murder, illegal detention, enforced disappearance and torture against 11 senior Moroccan military and police officers. Judge Ruz considered that enforced disappearance in Western Sahara constituted a systematic attack against the Saharawi civilian population by the Moroccan military and police forces with the intention of totally or partially destroying the native population and seize the territory of Western Sahara.

The UN Working Group on Enforced or Involuntary Disappearances continues to mediate to clarify the cases of disappeared Saharawis as confirmed in its July 2019 report, where it refers to 153 cases pending at the end of the period under review and 24 ordinary procedures (A/HRC/42/40).

The UN Committee on Enforced Disappearances is in the process of collecting information for the upcoming review of the first report of Morocco (which was due in 2015) that acceded to the Convention in May 2013.

In its report, Morocco affirms that since the ratification of the Convention no case of enforced disappearance within the meaning of the said Convention has been recorded. In reality, the use of enforced disappearance is always observed in cases of arbitrary arrest.

CONCLUSION

The undersigning organisations call upon the members of the UN Working Group on Enforced or Involuntary Disappearances to continue follow closely the cases of enforced disappearance in the occupied Non-Self-Governing territory of Western Sahara.
