



# General Assembly

Distr.: General  
14 September 2022

English only

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## Human Rights Council

### Fifty-first session

12 September–7 October 2022

Agenda item 3

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

## **Written statement\* submitted by Asociación Española para el Derecho Internacional de los Derechos Humanos AEDIDH, a non-governmental organization in special consultative status**

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

[19 August 2022]

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



## **Western Sahara: Arbitrary Detention and Torture to Silence Sahrawi Call For Freedom And Independence(1)**

### **Background**

Western Sahara has been listed in 1963 by the UN General Assembly (UNGA) as Non-Self-Governing Territory pending independence, in accordance with UNGA resolution 1514 (XV), which contains the Declaration on Granting Independence to Colonial Countries and Peoples.

While the administering Power (Spain) failed to fulfil its mandate by abandoning the Territory in February 1976, Morocco invaded Western Sahara in November 1975 and engaged in an armed conflict with the Polisario Front that lasted until 1991, when the two belligerent parties accepted a Settlement Plan conducive to the creation, by the UN Security Council, of the UN Mission for the Referendum in Western Sahara (MINURSO).

For thirty years, Morocco, while reinforcing its illegal occupation and annexation of the majority of the Non-Self-Governing Territory, spared no efforts in impeding the organisation of the referendum and in November 2020 broke the 1991 ceasefire by entering the demilitarized buffer zone in Guerguerat (south of Western Sahara).

Since then, the repression exerted by the Moroccan occupying forces against Sahrawi human rights defenders and journalists has dramatically increased, including against those arbitrarily detained.

### **Arbitrary detention and torture in the occupied Western Sahara**

According to the documentation of the League for the Protection of Saharawi Political Prisoner (LPPS), there are currently 43 Saharawi political prisoners held in the Moroccan prisons of Ait Melloul, Tifelt, Kenitra, El Arjat, Bouzarkarn, Asafi, Oudaya/Marrakech and Laayoune.

The imprisonment of Saharawi human rights defenders, journalists and activists has been widely documented by the UN Working Group on Arbitrary Detention (WGAD). Over the years, the UN Working Group has examined more than 24 individual cases of imprisoned Saharawi human rights defenders, journalists and activists. The Working Group opinions consistently concluded that the arbitrary detention of Saharawi activists were in retaliation of their support to the right to self-determination of the people of Western Sahara.

The latest decision issued by the WGAD refers to the case of Yahya Mohamed Elhafed Iaazza, the longest-held prisoner from Western Sahara. The opinion (A/HRC/WGAD/2021/46 – 15/11/2021) confirmed the systematic use of arbitrary detention to silence the voices of Saharawi activists with the usage of confessions signed under torture as criminal evidence. The government of Morocco continues to ignore the recommendations issued by the WGAD.

Through its work, LPPS has established a systematic practice of torture and the systematic use of coerced confessions used against Saharawi human rights defenders. Victims are usually arrested without knowing the reason for their arrest and without an arrest warrant being presented to them. Once they arrive at the local police station, they are then held incommunicado and are not allowed to contact their lawyer or family members. For periods ranging from one to four days, activists are subjected to torture and forced to sign fabricated confessions.

Despite allegations of torture raised successive proceedings, effective and impartial investigations are never carried out, and confessions are used as the main evidence against the activists, in violation of article 15 of the Convention against Torture. This practice has also been confirmed by the jurisprudence of the UN Committee Against Torture.

During the period lasting from January 2018 until March 2022, LPPS identified and documented a total of 33 cases with similar modus operandi where human rights defenders,

activists and journalists were sentenced to prison based on confessions signed under torture, facing trumped up criminal charges unrelated to their activism. They also identified violations of inter alia the right to freedom of expression, the right to freedom of association, the right not to be discriminated against, the right not to be arbitrarily deprived of one's liberty and the right to a fair trial, the prohibition of torture and the usage of confessions signed under torture, the obligation to investigate and prosecute allegations of torture, the right to be treated humanely when deprived of one's liberty and the prohibition of the transfer and detention of protected persons in the territory of the occupying Power.

The usage of arbitrary detention and torture to silence the voices of Saharawi human rights defenders and journalists is not a new practice of Morocco. The members of the Gdeim Izik group (25 prominent Saharawi human rights defenders, journalists and political activists arbitrarily arrested following the violent dismantlement of the Gdeim Izik camp on 8 November 2010), is an illustration of this. Currently, 19 members of the group remain in prison and are serving sentences ranging from 20 years to life imprisonment.

Serving as another example of long-term arbitrary detention of Saharawi activists is a group of young Saharawi students arrested in 2016. The case was addressed by the WGAD in Opinion No. 67/2019 which concluded that the Saharawi students were imprisoned simply because of their student activism and their support to the right to self-determination and independence of the people of Western Sahara. The confessions signed under torture were used as the main evidence against them in a trial marred by irregularities.

Once more, Morocco failed to implement the recommendations by the WGAD and the young students were subjected to acts of reprisal in response to their cooperation with the UN mechanisms (A/HRC/45/16 – p. 17 – 24/07/2020).

Whilst under detention, Saharawi political prisoners are held in prisons on Moroccan territory, usually far from their families, in violation of Article 76 (1) of the Fourth Geneva Convention. The transfers of Saharawi political prisoners increases their isolation, aggravated by limited time to communicate with them by phone. The isolation of Saharawi political prisoners goes hand in hand with a practice of racial discrimination and inhuman conditions of detention which are incompatible with Article 10 of the ICCPR.

## Recommendations

Strongly condemning the repressive practices of the occupying Power of the Non-Self-Governing Territory of Western Sahara, the Spanish Society for International Human Rights Law (Asociación Española para el Derecho Internacional de los Derechos Humanos - AEDIDH) calls upon:

- 1/ the WGAD to continue to follow-up closely the cases of Sahrawi human rights defenders, journalists and political activists arbitrarily detained by Morocco;
- 2/ the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, each one in the framework of their respective mandate, to closely monitor the situation in the occupied Non-Self-Governing Territory of Western Sahara;
- 3/ Morocco to immediately and unconditionally implement the recommendations of the UN Special Procedures and the UN Committee against Torture and to ensure that no Saharawi political prisoner is subjected to acts of reprisal in response to their cooperation with the UN mechanisms;
- 4/ Morocco to ensure an immediate, independent and impartial investigation into allegations of human rights violations, including torture, and ensure that perpetrators of serious human rights violations are held to account;

5/ Morocco to comply immediately and unconditionally with International Humanitarian Law and in particular the Fourth Geneva Convention and ensure that the detention of "protected persons" in the occupied territory are carried out in humane conditions;

5/ Morocco to enable an independent, free and continuous assessment of the human rights situation in Western Sahara by the Office of the UN High Commissioner for Human Rights;

6/ the Human Rights Council to continue to give special attention to the violation of the right to self-determination, resulting from foreign military occupation of Western Sahara (in accordance with OP5 – UNGA res. 76/152) and to establish the mandate of a Special Rapporteur on the situation of human rights in the occupied Western Sahara.

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(1) The present declaration benefited of the cooperation of the League for the Protection of Sahrawi Prisoners in Moroccan Prisons (LPPS), ACAT-France and the Norwegian Support Committee for Western Sahara.

(2) A/HRC/WGAD/2017/11 - A/HRC/WGAD/2018/31 - A/HRC/WGAD/2018/58 - A/HRC/WGAD/2018/60 - A/HRC/WGAD/2019/23 - A/HRC/WGAD/2019/67 - A/HRC/WGAD/2020/52 - A/HRC/WGAD/2020/68 - A/HRC/WGAD/2021/46.