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Joint written statement* submitted by the World Federation of Democratic Youth (WFDY), a non-governmental organization in general consultative status, and France Libertés: Fondation Danielle Mitterrand, 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.

[23 August 2012]

* This written statement is issued, unedited, in the language received from the submitting non-governmental organizations.

The rights of the Saharawi political prisoners still violated and disappearance still making news**

In the report submitted to the UPR working group the Kingdom of Morocco “ensured that the measures and actions to prevent torture were strengthened in law and practice and that prison conditions were improved”. It further accepted the recommendations to: “Investigate all allegations of police brutality and torture and prosecute all security force officials accused of harsh treatment” and to “Continue the efforts aimed at strengthening the fight against torture, in compliance with international law”.

Our organisations would like to underline that many Saharawi demonstrators, human rights defenders and normal citizens have declared in many testimonies and statements that they have been subjected to torture or ill-treatments by the Moroccan police and other Moroccan paramilitary or military forces in the Saharawi cities under Moroccan de facto occupation.

In November 8, 2010 the Moroccan army violently dismantled protest camp Gdeim Izik near El Aaiun, the capital of the Non-Self-Governing Territory of Western Sahara. At least three Saharawi were killed and hundreds were victims to different abuses, while an unknown number were arrested, detained for weeks or months, tortured and released without trial.

At the time of writing, 23 of them are still detained in Sale2 prison pending a Martial court. All of them affirmed to their lawyers and to the Moroccan examining magistrates that they were victims of torture and ill-treatment, including sexual rape during interrogation. They entered in many hunger strikes to protest against the bad conditions of detention. No positive response from the Moroccan authorities was registered to this date, though some Moroccan officials led negotiations with these prisoners on different occasions. Our organisations have learned from these 23 political prisoners that they are planning to go into a new hunger strike in September to demand a fair trial or their immediate release.

Today there are some 68 Saharawi political prisoners in Moroccan jails. And there have been more than three hundreds since 2005. In 2010, the Moroccan authorities released 147 detainees arrested after the violent dismantling of Gdeim Izik Camp; the majority of them spent 3 to 5 months in prison without trials or charges, some were sentenced to between 6 months and 15 years imprisonment (Hafed Iaza). All prisoners, with very few exceptions, assert having been tortured and ill-treated during arrest, police interrogation, or while in detention. They usually inform judges that the information presented by police was extracted from them under torture, yet the Moroccan justice adopts police reports and never investigates these allegations.

The Kingdom of Morocco states that: “the Equity and Reconciliation Commission recommendations were implemented, particularly those related to truth, individual and community reparations”. It also accepted to “take measures to ensure the adequate protection of human rights in the Western Sahara in light of the reported cases of enforced disappearances, torture and ill-treatment, restrictions on freedom of expression, association and assembly by Moroccan security forces”.

** NGOs without consultative status, also share the views expressed in this statement: International Bureau for Human Rights in Western Sahara (BIRDHSO), Union of Saharawi Journalists and Writers (UPES), Association of Saharawi Families of Prisoners and Disappeared (AFAPREDESA), General Workers Union of Saguiya El Hamra et Rio de Oro (UGSARIO), Union of Saharawi Jurists (UJS), Union of Saharawi Women (UNMS), Union of Saharawi Youth (UJSARIO).

Regarding forced disappearance, the families of the victims of disappearance are still demanding the truth on the whereabouts of their sons. The Kingdom of Morocco recognised the responsibility of the State for the death in detention of more than 350 Sahrawi in a report published by the Moroccan Royal Advisory Council for Human Rights in 2010. We would like to recall that the Kingdom of Morocco used to deny its responsibility about these same victims in the nineties or used to give false information about them that finally were contradicted by the above mentioned report. Though it now recognises its responsibility, the Kingdom of Morocco still refuses to give concrete and solid information about the conditions of the death of these victims to their families in a direct and official way. The families did not receive the remnants of the dead bodies either, so as to bury them, nor do they know where they are buried should they be dead.

The Moroccan Equity and Reconciliation Commission mentioned by the Kingdom of Morocco did not make enough effort to resolve the issue of disappearance in Western Sahara. It focused more on the Moroccan victims whereas it seems that the majority of the victims were Saharawi. Moreover all Sahrawi former victims of disappearance assert that they were discriminated against when it came to reparations and were treated differently than the Moroccan former victims of disappearance.

Worth noting is the fact that the phenomenon of disappearance doesn't seem to belong to past history, it is still making news in Western Sahara. We received communications from the families of 15 young Sahrawi who allegedly disappeared in 2005. The families accuse the Moroccan authorities to be responsible for these cases while the latter obviously deny the fact.

The Kingdom of Morocco stated that "great efforts have also been made to better manage penitentiary institutions and improve their situation, in such a way as to ensure human dignity therein and increase the opportunities of training and reintegration of prisoners into society".

Our organisations congratulate the Kingdom of Morocco for this achievement but draw attention to the dire conditions of detention of many Sahrawi political prisoners who are apparently deprived of many of their basic rights as prisoners of conscience. We reiterate that these prisoners have been arrested after or during peaceful demonstration advocating the right of the Sahrawi people to self-determination. Many of them are students who were arrested in Moroccan universities, and some 22 of them at least are human rights defenders including activists who have participated to previous sessions of the Human Rights Council such as the case of Naama Asfari, one of 23 prisoners in the prison of Sale2 since November 2010.

These prisoners declared that they were tortured under interrogation and are still ill-treated by the Director of the prison who punishes them, participates or orders torture against some of them on some occasions, deprives them of family visits, confiscates some of their belongings, deprives them of newspapers and books, among other pressures and abuses. Other Saharawi political prisoners in other prisons have confirmed that they were equally badly treated by the Moroccan penitentiary authorities. In many occasions, groups of prisoners organised hunger strikes to denounce this situation, but they usually get no positive response from the state.

At least five Sahrawi political prisoners alleged that they were denied the right to continue their studies because the director of the prison of Qneitera refused to allow them to study, together with other 20 Moroccan detainees.

The Kingdom of Morocco says that its "new Constitution outlines key provisions on the separation and balance of powers, the guarantees to entrench the independence of the judiciary and to upgrade it to a real power".

"Yet, our organisations underline that the above mentioned 23 Saharawi political prisoners in Sale2 prison were not brought before a civil court since their arrest in November 2010. The Moroccan authorities brought them before the examining magistrates of the military court, but as of today no trial has been organised against them."

A further case concerns 7 Saharawi human rights defenders who were arrested in Casablanca airport in 2009, upon their return from a visit to the Saharawi refugee camps. They were detained for one year and six months without trial; they were declared traitors by the Moroccan authorities and were to be brought before a military court. Instead, quite paradoxically, the Moroccan authorities suddenly released them without trial and they are now in conditional release since 2011 without any solid penal charge being presented against them. Many international observers and lawyers who attended trials of Saharawi prisoners confirmed that fair conditions were badly lacking and pointed to a number of procedural anomalies. In many cases the observers have witnessed ongoing physical ill-treatment against the prisoners even in the court. In at least one case, some French observers, including lawyers, were even assaulted by some Moroccan lawyers and people in court while they were attending the presentation of the 7 human rights defenders mentioned above. The trial was simply suspended and none of the aggressors was arrested.

Our organisations strongly believe that the Kingdom of Morocco didn't give enough space in its report to the human rights situation in the Non-Self-Governing Territory of Western Sahara and call upon the Human Rights Council and its relevant mechanisms to take measure to investigate the human rights situation in this Non-Self-Governing Territory, especially taking into consideration that the Kingdom of Morocco has declared "its commitment to continuing its cooperation with the United Nations human rights system, and openness to constructive dialogue and interaction with all its mechanisms, especially the Human Rights Council, treaty bodies and special procedures".
