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

Written statement* submitted by the Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos, 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.

[14 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Morocco / Western Sahara: the use of torture to incriminate citizens with differing views

During his visit to the Kingdom of Morocco and Western Sahara in September 2012, Juan Méndez, UN Special Rapporteur on Torture, signaled that public prosecutors and judges rarely investigate complaints which allege the use of torture to obtain evidence or confessions during the early stages of interrogations.

Juan Méndez stated: “The system for lodging complaints of acts of torture and maltreatment and for investigating, prosecuting and punishing those responsible for such acts, seems to only exist in law (bar very few exceptions)...we need to overcome this abyss between law and practice.”

AdalaUK, by means of one of its principal objectives, which is to raise awareness of the critical situation in which Saharawis are living and the constant human rights violations taking place in Western Sahara, presents this written contribution on torture, on the part of the Kingdom of Morocco which continues to use torture despite having signed and ratified the Convention Against Torture and although the Moroccan Constitution and Moroccan law prohibits the use of torture.

The Kingdom of Morocco does not just arbitrarily detains, maltreat and torture Saharawi civilians in the Occupied Territory of Western Sahara and Moroccan cities, but also force them to sign documents that implicate them in acts and responsibilities of which they are totally innocent. These same documents are used as the only forms of evidence and are confessions obtained under torture.

LEGAL STATUTE

Western Sahara was declared a non-self-governing territory by the UN General Assembly in 1963. Three years later, in 1966, The UN General Assembly requested Spain to organize, under UN supervision, a referendum on self-determination in line with the General Assembly resolution 1514 (XV) of 14 Dec. 1960 regarding the decolonization and the principle of self-determination by means of the voluntary expression of the people of the territory. MINURSO was established in 1991 to create the conditions and modalities for the supervision and conduct of the referendum (which has still never included human rights monitoring), but until this day, Morocco has continued to impede a just solution from being reached to allow the self-determination of the Saharawi people.

This includes notably the use of torture and maltreatment, repression and prevention of the freedom of association and peaceful assembly and the prevention of the freedom of expression of the Saharawis. In this way, they disperse with force all forms of peaceable protest in the Occupied Territories, arbitrarily detained Saharawi civilians, put them on trial in civilian courts without a thorough investigation of the crimes they are said to have committed. This is in violation, on the part of the Kingdom of Morocco, of the Universal Declaration of Human Rights.

TORTURE

According to many testimonies to which AdalaUK has had access, including through interviews with detainees, current and ex-prisoners of conscience, as well as testimonies of family members of victims, Moroccan agents practice physical and psychological torture against Saharawi detainees, using many instruments of torture.

Torture in this instance includes:

- Racism and xenophobia on the part of Moroccan police officers and prison workers;
- Denial of family visits;
- Submerging the head in buckets of water;
- Sleep deprivation;
- Prolonged beatings using different objects;
- Restrictions on food and drink;

- Cigarette burns by police officers;
- Rape and sexual abuse using truncheons and glass bottles;
- Specific techniques referred to as 'rack' and 'Dajaja Technique' (hanging the victim from his hands and feet);
- Leaving prisoners for long periods in isolation cells;
- Continually moving detainees between different prisons, many miles away from their homes and families.

In order to corroborate these claims, Adala UK adds here reports of recent cases:

Ali Saadouni, Nouradin Elargoibi and Khaliehna Elfak, sentenced to two years imprisonment on 21 December 2016, falsely accused of rebellion, violent behavior and attacking police officers and court officials as well as belonging to a criminal organization and damaging public property.

The three Human Rights defenders have told of the torture they were subjected to for 24 hours at the hands of the police. Two days later when they appeared in court, they were visibly covered in bruises, proof that they had been victims of physical violence. The three men made complaints in front of the judge regarding their treatment, seeking an independent investigation into the maltreatments. This request was denied by the judge.

Mohamed Dihane was incarcerated on 28 April 2010 for publicly expressing his political opinions regarding the Western Sahara Conflict. He received a sentence of 6 years during which he was subjected to brutal beatings and torture. A medical report confirmed that Mohamed Dihane suffered psychological damage as a result of this maltreatment. He was suffering from mental ill-health that required at least 12 months of intense treatment, but he was denied such treatment. He was also physically damaged as a result of the maltreatment and began to suffer from rheumatism and neuralgia, including serious recurring pain and numbness. He needed treatment urgently and this was also denied. Mohamed is also suffering from urological complaints which, without treatment, could result in permanent damage to his fertility.

The torture and resulting health issues that Mohamed has suffered have been life threatening. His condition is grave and has a 90% chance that will continue to deteriorate without the necessary physical and psychological care.

In the cases listed, all the detainees are guilty for expressing their political opinions regarding Western Sahara and the inalienable right to self-determination of the Sahrawi people.

It is also important to note that prisoners are kept in appalling conditions in prisons, including a lack of basic food and water and the majority of detainees are denied medical assistance. Moroccan prison and judicial authorities do not investigate complaints lodged by detainees who draw attention to the torture they have been subjected to at the hands of Moroccan officials. The culpable have impunity and continue to be authorized to commit acts of torture and cruel treatment on Saharawi detainees on a daily basis.

The Kingdom of Morocco as Occupying power of the Non Self-Governing Territory of Western Sahara, has gravely infringed on the following articles of the Universal Declaration of Human Rights: 2, 3, 5, 7, 9, 10, 11 (1), 13, 19, 20 (1); as well as articles 6, 7 and 9 of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Adala UK calls upon the Moroccan authorities:

- to investigate all complaints of maltreatment which have been lodged against prison and security services officials and personnel;
- to consider reviewing the sentences of Saharawi prisoners of conscience and to release them given that the only evidence used against them were confessions obtained through the use of torture.