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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 International Society for Human Rights (ISHR),
a non-governmental organization 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.

[13 February 2009]

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

Enforced Disappearance In Western Sahara

Enforced disappearance can be defined as a kidnapping carried out by State agents or by groups of people acting with the support or the tolerance of the State authorities, leading to the disappearance of the victim. The authorities deny any responsibility and do not provide information about the victim. *Habeas corpus* and other legal mechanisms destined to safeguard the liberty and integrity of the citizens are not operative so the perpetrators of the deed remain anonymous.

In cases of forced disappearance many violations of basic rights take place: the right to liberty and security of the person, the right to be acknowledged as a person, the right to be defended, the right not to incur torture. Furthermore it constitutes a serious threat of the right to life.

Disappearances in the Western Sahara are linked to the invasion of the territory.

Until 1975, the Western Sahara was a Spanish colony. In the sixties, a pro-Independence movement appeared spontaneously and its first manifestations were harshly put down by Spanish authorities. In 1970, a demonstration took place in Zemla against Spanish colonial rule, which was joined by thousands of Sahrawis coming from the four corners of the country. The police reacted violently, wounding several dozen demonstrators and killing a similar number. Barely a few hours later the police detained Mohamed Basiri, the leader of the movement. He was jailed, interrogated and tortured. He has not been seen since. He is considered the first person to have disappeared. So far the Spanish state has not taken any account of his family's wishes to clarify the situation by breaking its silence and explaining what truly happened.

In 1975, after Spain had promised to grant Independence, Morocco invaded the country by way of the so called "Green March". That same year Spain sold Western Sahara to Morocco and Mauritania, with the signature of the Madrid Tripartite Agreement. Immediately the Sahrawi people were confronted by war, bombardment and arbitrary detentions. From then on, hundreds of civilians were captured by the Moroccan military. Their families, forced to escape to the refugee camps in Algeria, were left in total ignorance of their fate.

The aims of the plan to make every Sahrawi citizen who was suspected of supporting independence to disappear, was that of terrifying the civilian population. Once a person disappeared the whole family became a hostage. It sufficed to ask for news of the disappeared person to run the risk of being detained and disappearing as well.

The disappeared in the Western Sahara are persons kidnapped by the occupation armies. Their detention is not acknowledged by the authorities, they have not been tried, and in principle they do not exist. They belong to all social classes and ages and are both men and women.

Over thirty years after their detention, many hundreds of disappeared are still vegetating in Moroccan gaols. It is difficult to know the precise figure, which varies from 488 for Amnesty International to 1500 for FIDH and to 890 for AFAPREDESA (*Asociación de Familiares de Prisioneros y Desaparecidos Saharauis*). Of these, 310 prisoners have been freed, and some 50 others have died. Information on the disappeared is very difficult to gather. We have a working

list of 286 names based on the criteria of the UN Working Group on Enforced and Involuntary Disappearance.

Over the years Morocco has employed different repressive methods. According to some legal experts it is correct to refer to a genocide attempt on the part of Morocco. Disappearances are always linked to political events connected with the conflict, and are always the consequence of attempts to silence the people's voice claiming for independence.

In 1976, Smara was the site of a confrontation between the Moroccan army and the Popular Front for the Liberation of Saguia el Hamra and Rio de Oro (POLISARIO Front). The population of Smara was made hostage. Almost a thousand persons were gaoled by the Moroccan army and about half of them have been reported as disappeared.

On occasions someone was freed after several months in detention, as was the case of Mamma Sidi, freed in October 1977.

In 1987, just before the visit of the UN technical mission, some dozens Sahrawis were detained. Among them were Aminatu Haidar and Fatma Ayach.

In 1991, two months before the coming into force of the Settlement Plan of the UN, Morocco announced the "liberation" of several hundred persons that up to then it had denied holding. Among them there were 310 Sahrawis. Some are the survivors of more than fifteen years of disappearance. After returning to normal life they have told of their sufferings and given the names of another fifty prisoners no longer alive. When in the refugee camps they were able at last to confirm the cases of other disappeared. Tazmamart, Agdez, Kalat Mgouna did truly exist. What Amnesty International stated was not a lie.

Following the example of the relatives of the disappeared in Argentina, a group of Sahrawis created AFAPREDESA, in August 1989. Until then, the only organization that had carried out a census of the disappeared had been the Sahrawi Red Crescent - a list of more than 600 presented to the UN Human Rights Commission. With the establishment of AFAPREDESA, the families of the victims acquired a voice. A new list was made, based on the testimony of the relatives of some 800 disappeared. In the meantime, Human Rights organizations also became aware of the situation and started to denounce it. In the same period fear and silence dominated life in the occupied territories, up to the time of the reappearance of 310 persons in June 1991. By means of the information provided by them the list was updated to include 526 new names.

AFAPREDESA presented the cases of 207 disappeared persons to the UN Working Group on Enforced and Involuntary Disappearances. Morocco, in its reply, alleged that the majority of those missing are to be found in the refugee camps or are simply unknown. They acknowledge the death of only 40 persons in detention. The survivors who were able to flee abroad have testified however, on several occasions, to international bodies. On the other hand, in 1994 a group of previously disappeared persons created a Coordination Committee of victims of forced disappearance. Though they applied to the Consultative Committee on Human Rights, in Rabat, no reparation could be obtained. Little by little, the new defenders of human rights issued from this group. They took advantage of all the windows of opportunity Morocco was obliged to create in order to safeguard its image, and set up in 2000 the Sahrawi section of the Truth and

Justice Forum. In 2002 foreign delegations were able for the first time to visit the occupied territories: Amnesty International and France-Libertés were thus able to meet the families of the disappeared and gather hundreds of testimonials.

In 2003, Morocco set up the Equity and Reconciliation Instance with the aim of “ending the period of the lead years”, compensate the victims and close the problem of arbitrary detentions and disappearances. The population opposed its conclusions because they exclude the majority of the Sahrawi cases, do not name the perpetrators, imply impunity, and do not bring any answer about the fate of the disappeared.

In 2005, the IER, as the Committee is known, announced that it had discovered the common burial grounds of 50 disappeared persons, 43 of which were Sahrawi.

THE FAMILIES DEMAND TO BE TOLD THE TRUTH:

The fate of all the victims of forced disappearances,
The liberation of those who are alive, and the establishment of a list of the dead
The identification of the corpses in the presence of the relatives of the deceased
The handing of the bodies to the families so that they can be buried
The provision of death certificates

THEY DEMAND JUSTICE:

Fair compensation for the victims and their families
Rehabilitation of the victims and an official apology to each of them
The trial of those responsible for these violations, since a list of the main perpetrators does exist.

It must be stated that besides the grief caused by the loss of a dear one, disappearances carry with them a host of social difficulties since a disappeared person is not considered legally dead, and a wife, now a widow, cannot remarry, the family cannot claim any pension, and there is no right to inheritance.

On September 16 2006, AFAPREDESA and other organizations have presented to the Spanish Audiencia Nacional (Superior Tribunal) a criminal complaint against 31 Moroccan citizens responsible for genocide, torture, murder and illegal detentions. A new development is constituted by the fact that in the last reports of the General Secretary of the UN mention is made of the disappeared persons in the Western Sahara, and that the International Committee of the Red Cross has been asked to investigate. ICRC and other international bodies, in collaboration with AFAPREDESA and other associations in the territories, are now actively searching for information on the fate of the Sahrawi disappeared.
