

people of Western Sahara; and, reiterated its support for efforts aimed at the holding of a referendum for self-determination.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44/Add.1, Decision No. 39/1996)

Decision No. 39/1996 related to 10 young Sahrawis who were allegedly arrested in May 1996 by the Moroccan authorities in the town of Boujdor for distributing leaflets and brandishing flags of the self-proclaimed "Sahrawi Arab Democratic Republic" (RASD) during a demonstration. Following arrest they were immediately transferred while blindfolded to the secret prison of the Mobile Intervention Unit (CMR) at El Ayoun, where they were reportedly interrogated and ill-treated. Some of them were sentenced to prison terms between 18 months and seven years. The Decision also addressed the case of another young Sahrawi who was allegedly arrested by the police at his home at El Housseima in January 1996 and sentenced, in February that same year, to eight years' imprisonment. The Working Group (WG) did not receive any information on the main charges of which he was found guilty. According to the source, the trials of these young Sahrawis were not fair and the prison sentences imposed were disproportionate to the acts of which they were accused.

The WG noted that, as in previous cases it has addressed, the sentences imposed on these persons were usually handed down at the end of summary trials, despite the fact that in demonstrating without the reported use of violence these people were merely engaging in the peaceful exercise of their right to freedom of opinion and expression. The WG decided that the detention of the persons named was arbitrary, in violation of article 19 of the Universal Declaration and article 19 of the International Covenant on Civil and Political Rights, to which Morocco is a party.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 3, 13, 24, 37, 53, 270-278)

On the question of compensation, the report cites information provided by the government, noting that there are a number of legal provisions that provide the victim of any kind of violation with the right to compensation in proportion to the damage suffered. In the event of death, the victim's successors may claim the compensation. With regard to a presumption of death, any individual may initiate the proceedings and, in terms of exhumations, the Royal Decrees of 31 October 1969 and 29 January 1970 state that exhumation must be authorized by the local authorities or requested by a legal authority. The authorities specify the procedure to be followed and the precautions to be taken in carrying out exhumations.

During the period under review, one newly reported case of disappearance, which allegedly occurred in 1997, was transmitted to the government. It concerned a 37-year-old man who was allegedly detained by the police in May 1997 in El Aioun. During the same period, 25 cases were clarified.

The majority of the 233 cases of disappearance transmitted to the government were reported to have occurred between 1972 and 1980. Most of them concerned persons of Saharan origin who were reported to have disappeared in territories under the control of the Moroccan forces, because they or their relatives were known, or suspected, supporters of the Polisario Front. Students and better educated Saharans were reported to have been particularly targeted. In some instances, disappearances allegedly followed the mass arrest of persons after demonstrations, or before visits of prominent persons or officials from other countries.

Disappeared persons were reported to have been confined in secret detention centres, such as Laayoune, Qal'at M'gouna, Agdz, and Tazmamart. Cells in some police stations or military barracks, and secret villas in the Rabat suburbs, were also allegedly used to hide the disappeared. Despite the release in 1991 of a large group of disappeared prisoners, several hundred other Western Saharans are said to remain unaccounted for.

The Working Group (WG) noted concern that despite the release in 1991 from secret detention centres of more than 300 missing persons, the perpetrators have not yet been brought to justice, nor have the victims been compensated. Information also indicated that: since their release, some of these persons have been subjected to intimidation and restrictions placed on the right to the freedoms of expression, association, and movement; some have been rearrested and others have been placed under house arrest; and in some cases of disappearance in which evidence exists that the person concerned has died, the remains still have not been recovered and returned to the victim's family, nor has a death certificate been issued.

The government replied to information in the WG's 1997 report (E/CN.4/1997/34) that had been provided by NGOs. The government: refuted the alleged disappearance of hundreds of persons as "unsupported by any proof"; stated that allegations concerning restrictions on the freedoms of expression and association were similarly "unfounded", as demonstrated by the press conferences held by former "disappeared persons", and by the numerous communiqués they have published individually or collectively in the newspapers; stated its commitment to "spare no effort to clarify outstanding cases"; and provided the WG with information on the constitutional and other legal provisions concerning the prevention and punishment of enforced disappearances.

With regard to cases clarified, information provided by the government indicated, in two cases, that the persons named had died of natural causes in 1976, and in