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Item 3

Clustered interactive dialogue with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Working Group on Arbitrary Detention

In the report on its visit to Morocco, which included a visit to Laâyoune, Western Sahara, the Working Group on Arbitrary Detention highlighted the nexus between torture and other ill-treatment during police interrogation, the reliance on coerced confessions in unfair trials, and the deficit in investigations and accountability for such violations.¹ This assessment is consistent with Amnesty International's research on Morocco and Western Sahara.

In this statement we will focus on lack of implementation of opinions of the Working Group on Arbitrary Detention. Prisoners Mohamed Hajib (Opinion No. 40/2012), Abdessamad Bettar (Opinion No. 3/2013), Mohamed Dihani (Opinion No. 19/2013), and Ali Aarrass (Opinion No. 25/2013), who credibly reported having been convicted partly or solely based on torture-tainted confessions, remain detained despite Working Group calls to release and adequately compensate them for arbitrary detention. An investigation is currently underway concerning the reported torture of Ali Aarrass, and investigations must be opened or reopened in the other cases. All these investigations must meet international standards of impartiality and thoroughness. Another prisoner covered by a Working Group decision calling for release and compensation, Mustapha Hasnaoui (Opinion No. 54/2013), also remains in detention.

We would like to ask Mr. Mads Andenas: what steps have the Moroccan authorities undertaken that the Working Group is aware of to implement those five Opinions issued by the Working Group? Amnesty International urges the Moroccan authorities to implement them without delay.

We also urge the authorities to take into account the Working Group's recommendations in the current judicial reforms and undertake the necessary amendments to the Code of Criminal Procedure and the Penal Code, including the anti-terrorism law.

Mr. de Greiff,

We welcome the recent attention given to the promotion of truth, justice and reparations in Spain by your mandate, and by the Working Group on Enforced or Involuntary Disappearances, also reporting to this Council session².

¹ Visit undertaken in December 2013, A/HRC/27/48/Add.5, paragraphs 29-33.

² Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his visit to Spain in January/February 2014 (A/HRC/27/56/Add.1, of 22 July 2014), and report of the Working Group on Enforced or Involuntary Disappearances (the Working Group) on its visit to Spain in September 2013 (A/HRC/27/49/Add.1, of 2 July 2014).

As set out in our written statement to this session of the Council³, Amnesty International has documented and denounced extensively the denial of the rights to truth, justice and reparation for the victims of the Civil War and the Franco period (1936-1975) in Spain. In breach of international law, Spanish courts have repeatedly relied on statutory limitations, wrongful interpretations of the principle of legality, the Amnesty Law or on the Law of Historical Memory to close cases of human rights violations committed by the Franco period.

You note in your report that it is "in the field of justice that the greatest shortcomings are apparent in the way the legacies of human rights violations committed during the Civil War and the Franco era are dealt with". You also note that "the Judiciary is the branch of the State which has undergone the least structural reforms since the transition". Can you expand on your concerns and, in particular, on what immediate steps Spain should take in order to address these concerns?

³ "Spain must take prompt steps to address concerns of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence", AI Index: EUR 41/004/2014, 9 September 2014 <http://www.amnesty.org/en/library/Info/EUR41/004/2014/en>