

# Summary

## TO KNOW THE TRUTH AT LONG LAST

Burial pits, forced disappearance  
and the right to truth in the Western Sahara

Carlos Martín Beristain  
Francisco Etxeberria Gabilondo  
(Directors)



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hegoa  
Instituto de Estudios de Opinión y Opinión de la Universidad del País Vasco  
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HEGOA: EL DERECHO A LA VERDAD, LA JUSTICIA Y LA REPARACION EN EL PAIS VASCO

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UPV/EHU. Edificio Zubiria Etxea  
Avenida Lehendakari Aguirre, 81  
48015 Bilbao  
Tel.: 94 601 70 91  
Fax: 94 601 70 40  
[hegoa@ehu.eus](mailto:hegoa@ehu.eus)

UPV/EHU. Centro Carlos Santamaría  
Elhuyar Plaza, 2  
20018 Donostia-San Sebastián  
Tel.: 943 01 74 64  
Fax: 94 601 70 40

UPV/EHU. Biblioteca del Campus de Álava  
Nieves Cano, 33  
01006 Vitoria-Gasteiz  
Tel./Fax: 945 01 42 87



**ARANZADI** zientzia elkartea  
sociedad de ciencias . society of sciences . société de sciences

[www.aranzadi-zientziak.org](http://www.aranzadi-zientziak.org)

Zorroagaina, 11  
20014 Donostia - San Sebastián  
Tel.: 943 46 61 42  
Fax: 943 45 58 11  
[idazkaritza@aranzadi-zientziak.org](mailto:idazkaritza@aranzadi-zientziak.org)



Asociación de Familiares de Presos y Desaparecidos Sahaarais

[www.afapredesa.org](http://www.afapredesa.org)  
[afapredesa.blogspot.com.es](http://afapredesa.blogspot.com.es)

Refugee camps at Tindouf  
Tel.: +00213660378974  
[afapredesa2012@gmail.com](mailto:afapredesa2012@gmail.com)

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*Summary. To know the truth at long last. Burial pits, forced disappearance and the right to truth in the Western Sahara.*

Director: Carlos Martín Beristain and Francisco Etxeberria Gabilondo.

Authors: Carlos Martín Beristain, Francisco Etxeberria Gabilondo, Lourdes Herrasti Erlogorri, Almudena García-Rubio, Eloísa González Hidalgo and Sergio Campo Lladó.

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Aieteko Jauregia  
Aiete Pasealekua, 65-2  
20009 Donostia-San Sebastián  
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*To tell the truth reference to this case, after 40 years, we believe that all our grief has been imprisoned. I am not a poet but I want to say a few words in Hassaniya that just about anyone can understand: "Listen to me, both you the dead and those alive ... I can not help it and I am going to weep, because my grief has been imprisoned for 40 years, and my grief can no longer be cured ... because it has been imprisoned for 40 years". Yahdih Mohamed-Salem Ahmed Hamma.*

## **Introduction**

This summary of the book titled *To know the truth at long last* is, first and foremost, about burial pits and the disappeared in the Western Sahara. It is about how the corpses found in 2013 were returned, and about the exhumation of new burial pits discovered in 2014. The book also includes a study on the value of the proof evaluated in the judicial level at the *Audiencia Nacional* Court in the case on genocide and crimes against humanity perpetrated against the Sahrawi people.

Secondly, the book also includes a summary of 46 cases of disappeared people and the information provided by Morocco on the Sahrawi disappeared is compared to the information researched by our team. The right to truth does not prescribe and this research reveals that there is still a need for a solution that is in accordance with international standards in the field of human rights and transitional justice in negotiation processes that take place during armed conflicts and in any research carried out on cases of enforced disappearance.

Thirdly, the book also covers the discovery of new burial pits near where the first such pits were found in Fadret Budreiga, In the territory of the Western Sahara, on the Sahrawi side of the wall built by Morocco.

Finally, the book provides a series of recommendations which, according to international standards, should be followed in researching the 400 cases of disappeared people which have still not been accounted for in Western Sahara and which, so far, have not been part of the policies followed in the region nor have been included in agreements on respecting human rights.

## I

### Returning the bodies, grieving process and justice in Fadret Leguiaa

#### Background

In June 2013, a research and forensic team commissioned by Hegoa and the Aranzadi Science Society, accompanied by several relatives and members of the Association of Relatives of Sahrawi Prisoners and Disappeared People (AFAPREDESA), discovered two burial pits in the Fadret Leguiaa area, some 400 km from the Tindouf refugee camps.

The results of the findings, the testimonial and forensic anthropology research and the genetic studies were published in the *Meheris. A possibility of hope* report (MARTÍN BERISTAIN and ETXEBERRIA, 2013)<sup>1</sup>. This report included testimonies from witnesses and relatives; the exhumation, the characteristics of the pits and objects found, together with an osteological analysis of the remains and the results of DNA testing<sup>2</sup>.

Names of the persons identified in Meheris	
Burial pit 1	Burial pit 2
Salma Sidi Daf Salec	Mohamed Mouloud Mohamed Lamin
Bachir Salma Daf (minor)	Mohamed Abdalaha Ramdan
Sidahmed Segri Yumani	
Salama Mohamed-Ali Sidahmed Elkarcha	
Sidi Salec Salma (minor)	
Salma Mohamed Sidahmed	

These are the first Sahrawi disappeared found in the history of the conflict. About 400 others are still missing.

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1 [http://publicaciones.hegoa.ehu.es/assets/pdfs/297/Exhumaciones\\_Informe\\_peri\\_def.pdf?1380883397](http://publicaciones.hegoa.ehu.es/assets/pdfs/297/Exhumaciones_Informe_peri_def.pdf?1380883397)

2 Carried out by the Biomixs Consolidated Group genetic laboratory at the Public University of the Basque Country.



## **Public event of recognition and dignity. A Site of Memory**

*In the Qur'an, Almighty God says: "Therefore We prescribed for the Children of Israel that whoso slays a soul not to retaliate for a soul slain, nor for corruption done in the land, shall be as if he had slain mankind altogether; and whoso gives life to a soul, shall be as if he has given life to mankind altogether..." (Qur'an, 5:32). From here, from this rostrum I wish to say a few words to all my Arab brothers and Muslims, brothers in faith, in Arabism, to tell you that for the last forty years the only ones who have eased our grief and who have dried our tears and cleaned the heads of our orphans, were these brothers here, these friends here. Sidi Mahjoub (Imam).*

In November 2013, a new mission was organized to go to the area, this time with the presence of Sahrawi authorities and international delegations, including one from the institutions of the Basque Country. In the presence of relatives and a delegation of MINURSO, the remains were returned to their families, after which they were buried following Muslim traditions and Islamic rites.

Mourning in forced disappearances is a process that has a traumatic nature. It is an extremely hard psychological state in which the relatives do not know what happened or the fate of their kin. A fog of silence is woven over the facts and victims, even questioning their mere existence and denying the credibility of relatives, most of whom are women. In this context, when the fate of a family member is finally known, this generates a feeling of satisfaction that unites the sadness of death with the relief of having been in a permanent state of uncertainty.

For relatives, the confirmation of the facts, the forensic anthropological study, the scientific and genetic documentation and the analysis of the testimonies and evidence led to the reaffirmation of a truth that had claimed for years, which is that their relatives had been placed under detention by Moroccan forces and subsequently executed and made to disappear. Evidence on the type of burial pits, on the ballistic trauma and the fact that none of the rules of respect to conduct funerals as established by the Islamic religion were followed, were also a new blow for the relatives, because of the inhumane treatment both the living and the dead had been subjected to.

Relatives of the eight disappeared people had previously suffered not only the impact of the disappearance, but also the absence of responses, or the existence of patently false contradictory versions of what had happened and about the fate of their relatives. This absence and repeated misrepresentation of the truth had a very negative impact on them.

*Indeed there is a clear difference between the periods before and after this process. We used to live as if we were in a real prison because we were hoping to have some kind of response in order to know what had happened to our father. Because*

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*he represented our own identity and unknowingly we were, in a way, lost and effectively quite unused to talking about it very much. Now things have changed, as we now know the answer. Before this, we did not know if he was dead or alive. That uncertainty was agonizing for us. Now we know that he is dead and that has opened up many prospects for the family, in order to talk about our father.*  
Mahjoub Mohamed- Moulud Mohamed-Lamin.



## Responses from the State of Morocco and international obligations

On the case of the eight disappeared Sahrawi people found in the burial pits at Fadret Leguiaa, the versions provided by the State of Morocco are not true. In four of these cases, the State of Morocco had pointed out they had been taken to the barracks in Smara where they had died “because of the conditions” there. But they had not been arrested nor brought to any barracks. In three other cases the State of Morocco did not provide any information at all. Finally, in the case of Salma Mohamed Sidahmed, still in 2010 the CCDH response was that he had died in a clash with the Polisario Front. This version was similar to those provided in 1999 to Mr. James Baker (UN Secretary for the Western Sahara) for most of the cases of disappeared people. All these versions have since been proven false.

The National Human Rights Council of Morocco responded to the revelation of the graves at Fadret Leguiaa in late September 2013 with a statement published on its website. In that statement, the CNDH stated that those eight cases had been researched and that the research had been quite difficult. The Council also noted that it would get in touch with the

relatives, who are in the camps at Tindouf. However, over two years later, the CNDH has not established any contact whatsoever with the relatives nor has the State of Morocco taken steps towards recognition.

In September 2013, the Hegoa and Aranzadi team presented these cases before the WGEID and the Special Rapporteur on the promotion of Truth, Justice, Reparation and Guarantees of Non-Repitition, demanding protection for the graves, a revision of the information provided and guarantees for the relatives of disappeared people.

Throughout this period, relatives were still waiting for official recognition of the eight cases, as well as for the investigation, justice and reparation measures internationally recognized for such situations. Meanwhile, the WGEID in its annual report for 2014 (Doc. A / HRC / 27/49) referenced the case of Fadret Leguiaa pointing out its obligations reference to the right to truth, justice and reparation to the State of Morocco in this case. It is the first time in the history of the WGEID that a report of this nature has formulated recommendations to a country on a particular case, and such recommendations are not of a general nature:

*[...] In connection with the discovery of the remains of eight people who apparently had been buried in a burial pit at Fadret Leguiaa [...] the Working Group emphasizes that the families of the victims have the right to truth, as stated in the general comment of the Working Group on the right to truth in relation to enforced disappearances, as well as the importance of a thorough and independent investigation into allegations of enforced disappearance. The Working Group also wishes to point out paragraph 4, Article 13 of the Declaration, which states that the results of such an investigation are to be communicated to all stakeholders, upon request, unless the investigation of a criminal case in progress is thereby hindered.*

### **The cause of crimes against humanity and genocide at the Audiencia Nacional Court**

In 2006, AFAPREDESA (the Association of Relatives of Sahrawi Prisoners and Disappeared People) together with other entities such as the APDHE (the Spanish Pro Human Rights Association), the Spanish Coordination and the State Federation of Institutions in Solidarity with the Sahrawi people, filed a complaint on alleged genocide and torture against the Sahrawi people in the *Audiencia Nacional* Court under universal jurisdiction for cases of crimes against humanity. This lawsuit covers facts ranging from the early years of the Moroccan occupation until the signing by the parties of the ceasefire in 1991. Among the human rights violations that are brought forward are cases of forced displacement, bombing of civilians, in exile refugee camps, extrajudicial executions, torture and enforced disappearance.

Before summary No. 1/2015 was filed in February 2015, during the 362/07 pre-trial stage at Court of Instruction No. 5 of the *Audiencia Nacional* sent several letters of request

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to Morocco in order to find out whether they were conducting investigations into the allegations. Such letters did not get any response. Also, during this process, a series of witnesses and relatives of Sahrawi victims were called to testify at different times. On February 12, 2014, Dr. Carlos Martin Beristain and Dr. Francisco Etxeberria testified as expert witnesses, and provided the results of their research.

On 9th April 2015, judge Ruz issued an order, establishing proceedings against eleven Moroccan senior and military officials: Ben Hachem, Abdelhak Lemdaour, Driss Sbai, Said Ouassou, Hassan Uychen, Brahim Bensami, Hariz El Arbi, Lamarti, Moulay Ahmed Albourkadi, Bel Laarabi and Abdelghani Loudghiri. It also issued international arrest warrants for the first seven and sent a letter of request to Morocco to identify the last four. Subsequently, on May 22, 2015, Judge Jose de la Mata -the new judge instructor substituting Ruz- issued a new order and indicted another Moroccan official while issuing the corresponding international arrest warrant against Lehsan Chaf Yeudan.

In the order, the judge once again indicates several issues of particular relevance in the research carried out:

- “From the steps taken there is circumstantial proof of at least 50 violent deaths committed by members of the Moroccan armed forces or police, to be described as fait murders [...]: The murders of 8 people on February 12, 1976 in Amgala [...] the 39 killed in the bombing at Dreiga Um, in February 1976, documented on page 101 of Volume 1 of *The Oasis of Memory*” (MARTÍN BERISTAIN and MARTÍN GONZÁLEZ, 2012).
- Reference to the evidentiary data of the crimes with probative value, there is “the fundamental fact which led to the discovery of a burial pit in February 2013 in the area of Amgala (Western Sahara) with 8 corpses in it that have been fully identified by DNA, as well as the documents they had in their garments, together with the declaration in court by the person who witnessed their murders, the declarations by their relatives, together with those by the experts who conducted the excavation of the pit and provided the expert DNA evidence (Messrs. Martin Beristain and Etxeberria), all of which are measures of objective evidence that corroborate the previously made witness statements”.
- “The proof incriminating [the defendants] are coincident and varied, which allows us to state that they are serious and prima facie evidence of criminal conduct by these people in the facts under investigation”.

This indictment is but an initial step, but also in itself a step that places the victims’ experience in the centre of a judicial response, which claims the value of justice as a mechanism for dealing with crimes against humanity, and thus therefore also constitutes an element of hope for Sahrawi victims.

## II

### The right to truth

#### **Analysis of cases of enforced disappearance and responses provided by Morocco**

Enforced disappearance is a permanent crime, and the information on the fate of the disappeared must be complete and accurate, properly provided to relatives and in accordance with international standards on the right to the truth; in accordance with the *International Convention for the Protection of All Persons from Enforced Disappearance*, signed by Morocco, the state must provide all possible aid to assist victims of enforced disappearances, as well as assistance in searching for, locating and releasing disappeared people and, in case of death, in exhuming and identifying disappeared persons; their remains are to be returned to their relatives. The state's collaboration is also to be in accordance with the different resolutions and reports by the United Nations Working Group on Enforced Disappearances (WGEID). However, responses to the relatives of the nearly 400 disappeared Sahrawis are still pending.

Morocco's official response on the disappeared has been changing gradually over several years now. In 1999, relatives received other official versions of the facts, for example, that they had died in clashes, that nothing was known about them or even that they were alive. A new Moroccan official response to cases of disappeared Sahrawis was provided by the Equity and Reconciliation Commission (2004/2006) and thereafter by the Consultative Council on Human Rights. This information about 207 of the nearly 400 disappeared people was published in 2010 as a list of cases on the internet, without any contact whatsoever with their Sahrawi relatives. References to the circumstances of the disappearance and the fate of the disappeared were minimal, with general expressions that caused an even greater impact on relatives, such as "died due to the conditions" or "there is strong evidence that he/she is dead".

#### **Amnesty International and the revision of information on Sahrawi victims of enforced disappearances**

In September 2013, Amnesty International issued a press communiqué gathering these findings and pointing out the need to review the list provided by Morocco by an independent source while calling for "an independent, impartial and thorough investigation into the death of eight Sahrawis" under the aegis of the United Nations "and that the individuals found responsible be held accountable for their acts before justice"<sup>3</sup>.

The lack of information or veracity of the list he can be seen both in the cases of the Fadret Leguiaa burial pits, and in an analysis of 46 cases of disappeared Sahrawis who

had been arrested, one of which is included below<sup>3</sup>. As can be seen, the different versions varied from the first provided to the special envoy of United Nations Secretary General James Baker, to that given by the IER-CCDH version. Our research has shown, on the other hand, the lack of veracity of many of these reports, and the need for revision of official information and response to the rights of Sahrawi victims. An example thereof is detailed below.

### **Mohamed Ayach**

#### **Morocco's response to James Baker (1999):**

Living in the refugee camps at Tindouf.

#### **Moroccan version in the report by the CCDH-IER (2010):**

Mohamed Ayach. Born in September 1968 in Laayoune. He was arrested on 20th November 1987 and taken to a barracks of the BIR auxiliary forces in Marsa (Laayoune). There is strong evidence that he died in the barracks.

#### **Documented in our research, by testimonies of witnesses and victims (2012):**

Mohamed Ayach was 18 when he was arrested in Laayoune on November 20, 1987 along with his entire family: Salka Ayach (mother), Ayach Huidish (aunt), Fatma (cousin), Ali (cousin) and Lagdaf. These arrests, along with numerous others occurred in the context of the demonstrations that accompanied the UN and OAU visits around that time. According to the testimonies of relatives detained with him and other witnesses<sup>4</sup>, he was detained at the PCCMI and was subsequently transferred to the BIR. In these centres he and other detainees were severely beaten during interrogations and subjected to continuous torture.

At the BIR Mohamed Ayach was hit with a stick with a nail for refusing to “cheer” the King of Morocco. According to witnesses, the soldier who hit him was called Ahmed Jtayu. The result of these blows was that he was seriously wounded in the abdomen; He spent several days in agony until he died in a room used as a latrine without any medical care whatsoever.

His mother remembers her son's screams from the next cell: “I would have preferred to die rather than hear those screams. My son was tortured to death. I heard all his tortures, all his suffering went into my ears, until he died”. The list published by Amnesty International in 1993 dates his death on November 30, 1987 (see Annex I, case 2 of Laayoune). By some accounts he may have been buried clandestinely next to the barracks. In 1991 his family was released, with important physical consequences and in extreme poverty. His mother, Salka, has rejected the compensation offered by Morocco (290,000 dirhams) in the framework of the IER reparation and demands that his corpse is delivered to her and that the State recognizes that this was a case of murder with torture.

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3 [http://publicaciones.hegoa.ehu.es/assets/pdfs/339/Libro\\_saber\\_al\\_fin.pdf?1453278095](http://publicaciones.hegoa.ehu.es/assets/pdfs/339/Libro_saber_al_fin.pdf?1453278095)

### III

#### **Findings and new challenges in the search for the disappeared**

In November 2014 the HEGOA and ARANZADI team who had carried out the research and exhumation of the first burial pit at Fadret Leguiaa, located and exhumed four new burial pits in Río Amgala and Fadret Budreiga together with AFAPREDESA. In them a total of four victims were found, the deaths of whom took place with certainty in some cases and probably in others in February 1976. Several pits and burials, especially in Río Amgala (pit 1) and Fadret Budreiga (pits 1 and 2) were found with the remains of four people. Two of those people could be identified.

#### **Findings regarding the identified remains**

##### **• Aali Alamin case**

The characteristics of the burial and of the remains themselves show that he was an elderly person, and that the place had subsequently been indicated following the Islamic tradition. It was a precarious burial, in emergency conditions, the corpse being covered with a blanket. As stated in the *The other death flights* report (MARTÍN BERISTAIN, 2015), in late 1975 and early 1976 there was an internal displacement of Sahrawis who were fleeing from the fighting and violence with which the military forces, in this case the Moroccan forces, were carrying out the occupation of the territory. In the case of the family in question, Aali Alamin became ill and could not keep up with the rest because of his health and fatigue. He asked his family to continue without him to safety. His wife and daughter left him in a safe place, hoping to return to pick him up later. However, he died shortly afterwards.

*When he got here fleeing the Moroccans, he became ill. They could not take him to any hospital because the army had occupied the place and no one would be able to come back for them. Abdallah Ali (son of the victim).*

Another Bedouin, Cheija Ahmed Hamma, who was also in the process of fleeing, found the body a few days later and covered it with a blanket leaving the place clearly indicated. Later, other people put stones around the grave to contribute to indicate the site.

*When I left, I got into the dry riverbed. It was during the night and behind the well, I found the remains of several objects: chests, fixtures and scattered objects. Once there I could smell the stench. I continued and stumbled upon the corpse of a dead person. Beside him was a blanket which I used to cover him. I could not stay there, as troops were watching from the nearby mountain ranges and they could shoot and arrest anyone. Cheija Ahmed Hamma (witness).*

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Burial site at Río Amgala 2.

The characteristics of the burial and the remains found confirm previous testimonies by the son of the victim and the person who acknowledged having carried out the burial in the midst of the emergency situation. In addition, the deceased was identified by genetic testing, tests being carried out with samples from his son. Such tests proved he was Aali Alamin. His remains were removed from the Río Amgala area where he was located and were buried according to the express wishes of the family, in the area in which the disappeared from Fadret Leguia were buried, with whom his remains rest today. In the burial, the Islamic rites were followed.

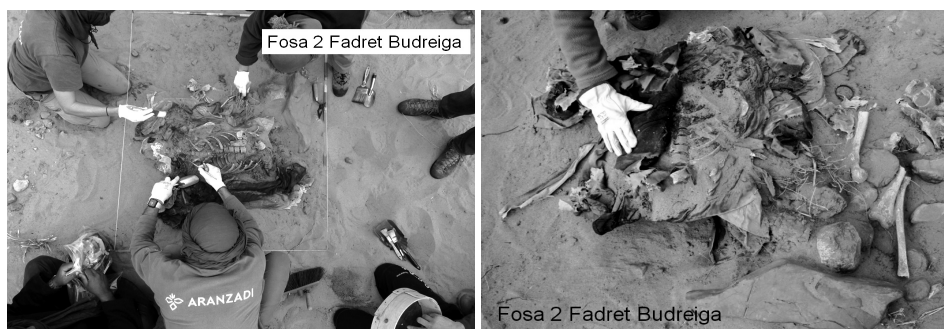
#### • **Mohamed-Ahmed Haisen Sidi-Salem case**

The remains of an adult man, who had wounds in the skull and limbs, were found in burial pit 2 at Fadret Budreiga. The characteristics of the injuries sustained correspond to fractures caused by firearm bullets, such as radial fracture lines, concentric fracture lines and bevels that indicate the impact of bullets. 7.62mm shell casings were found in the pit. Such calibre bullets are commonly used by the Moroccan army.

Both the type of ammunition found, the associated objects such as clothing and other personal items correspond to those normally used by Sahrawi civilians in the early years of the armed conflict. These, were delivered with the due documentation completing the chain of custody, to the competent Sahrawi prosecutor responsible for their protection. Also, the characteristics of burial where the body was lying as it had died, buried superficially -without following the Islamic tradition and unmarked or protected- are



very similar to those of the burial pits researched in Fadret Leguiaa in June 2013. All this allows us to date the time of his death around the first months of 1976. Also, this dating is consistent with the date of disappearance reported in the AFAPRDESA listings, on February 14, 1976, which in turn coincides with the existence of Moroccan military operations in that area.



Recovery of the remains and location of associated elements.

During the exhumation of the pits in that area in November 2013, the testimony by Salama Hamdi Abdullah was collected. He was a 65-year-old man looking for the remains of a friend and neighbour of his which he lost trace of during the exodus at the end of 1975.

*There are people whose names I can not remember, who told me after so many questions about him that he could be in these pits. He and another man called Mohamed Ahmed. Salama Hamdi Abdullah (witness).*

The cause of death can be established as violent as a direct consequence and proportionate to the injuries sustained by firearm, the cause of death being an immediate medical hypovolemic and / or traumatic shock with destruction of vital centres.

DNA testing confirmed the identity of the person, Mohamed-Ahmed Haisen Sidi-Salem. As a whole, according to the analyzed elements and circumstantial evidence, his violent death is credited as most likely taking place in February 1976.

### **Findings regarding unidentified remains**

In the case of the Fadret Budreiga 1 pit, where two bodies were found, burial characteristics are similar to those found in Fadret Budreiga 2 and Fadret Leguiaa in June 2013:

- They had not been buried in accordance with Islamic tradition, being buried only very superficially, with their Bedouin robes of the time and certain personal items.
- The places had not been subsequently protected in any way, despite being in an area with strong river gully erosion.

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- They were close to each other, at a distance of 6 meters, the deaths most likely taking place at the same time in February 1976 as a result of a single action.
- The bodies were lying as they fell dead after the events, with the logical influence of time and certain alterations due to erosion.

These were the bodies of men in their young adulthood. One of them had wounds in the skull and limbs. In the preserved remains characteristic lesions were observed that correspond to fractures caused by firearm projectiles, such as radial fracture lines, concentric fracture lines and bevels that indicate the impact of bullets. Also 7.62mm bullet cartridges were found, ammunition used at the time by the Moroccan army.

Personal objects associated with the victims were also located in these pits. These clothes and objects corresponded to those normally used by the Sahrawi civilian population at the time. They were delivered with the due documentation on the chain of custody, to the competent Sahrawi prosecutor responsible for their protection.

It is therefore possible to establish the characteristics of death of these people. They died violent deaths, as a direct consequence and proportionate to gunshot injuries suffered, the immediate medical cause of death being a hypovolemic and / or traumatic shock with the destruction of vital centres. As a whole, according to the elements and circumstantial evidence analyzed, the violent death of these people most likely is credited as taking place in February 1976.

The identity of these individuals has not been determined yet. The genetic sample tests were negative, and it is therefore necessary to make a sampling with a greater number of relatives to identify these remains. Given the large number of disappeared people, this process is still in study based on practical possibilities in terms of determining their identity.

## IV

### **Recommendations for cases of searching for the disappeared**

Finally, as a synthesis of such research, the following recommendations are made to address the problem of the disappeared in the Western Sahara and thus to address the rights of the Sahrawi victims who have been waiting for decades for the Moroccan authorities to provide a response that is consistent with respect for human dignity and the international law of human rights.

#### 1. Recognition of the problem by Morocco

There is ample evidence of the existence of burial pits in the Western Sahara. The burial places of those who died in secret detention centres have not been disclosed, nor have their remains been rescued and identified, or returned to their families for burial and mourning. Moreover, the bombing of civilians and their victims have not been recognized nor have the facts ever been investigated. The state of Morocco must recognize that problem and enable independent teams to carry out such identifications and return remains to relatives.

#### 2. Access to the sites of alleged burial pits or graves of killed or disappeared people

Access to places where there are allegations of burial pits is a central part of the State of Morocco 's obligation under International Law and the United Nations should contribute to the protection of such places as these are cases of disappeared people and burial pits. The risk of such places being destroyed, as has happened in other countries, makes such an initiative urgent. Some of these places are located in areas under military or police control. In any case, access to potential locations is limited by the degree of militarization in the Western Sahara.

#### 3. Morocco should show that the resources for such a search are made available

The case of the burial pits at Fadret Leguiaa and Fadret Budreiga, discovered in 2013, show that such exhumations can be carried out and that it is possible to respond to the rights of victims, with their participation and with that from independent teams with experience in researching burial pits and human rights violations in other countries. The Moroccan state should provide the available means as the party responsible for the facts and for researching such facts with independent UN mechanisms and with the participation of victims.

The case of the Laayoune pit, where presumably the remains of Mohamed Ahmed Mohamed Abderrahman Rabbani are located, should be resolved by with independent teams following the recommendations made to Morocco in 2014 by the Committee on Enforced Disappearances mandated by the International Convention for the Protection of All Persons from Enforced Disappearance. This case was reported to the IER in 2006.

Confidence-building measures for victims: observation and participation by independent teams

The obligation to search for the disappeared has to be reinforced by showing the relatives the credibility of the steps taken. When these are implemented properly, with independent supervision or observation and following the guarantees of such processes, family members may be satisfied; even when, despite the efforts undertaken, there are no results in terms of finding the remains. However, the Sahrawi families have been provided with fragmented and wrong responses, when not false in some cases, as in the case of the disappeared in the Leguiaa Fadret pits. The state of Morocco has not explained any of the steps it has taken to carry out such research that demonstrates any effort and willingness to investigate. It has limited its action to general statements without any concrete and verifiable commitment.

#### 4. Efforts against members of the armed or security forces

Morocco has not informed about the efforts it has carried out to identify perpetrators or security organs. No such efforts have been brought to the attention of relatives nor have any of them had a chance to verify sources allegedly referred to by the IER and the CCDH. There is no access to files that have been claimed to have been consulted for the research nor to possible testimony by members of the security forces, who may have had knowledge of the facts.

#### 5. The right to justice

Independent research and justice are part of the mechanism of seeking truth and should be guaranteed in these cases. Morocco has not carried out any enquiries and in Spain the authorities have tried to put limits on enquiries with the reform of universal justice. However, in the *Audiencia Nacional* Court the case on genocide of the Sahrawi people is making headway and it has recently prosecuted twelve Moroccan senior officials and soldiers. In the preliminary investigation it is recognized that this is a matter concerning Sahrawi citizens with the Spanish nationality, under the control of the Spanish administration which had still not left the Sahara until 26 February 1976. The right to justice can not be postponed and the states involved must assume their respective responsibilities. The Moroccan authorities are obliged to cooperate in the investigation of these crimes against humanity and genocide, as defined by the *Audiencia Nacional* in Spain. The Spanish authorities must take all the necessary measures so that the judicial system can work and the investigations can be carried out.

6. Access to records and files

Police or military unit arrest records and files are a very important source for searching for the disappeared. In such documents from police units or armed forces there may be data recorded on arrests or operations carried out in areas where disappearances or arrest were carried out. Although in many cases the *modus operandi* of enforced disappearances involves the concealment of any clues, the opening of these records and files is part of the measures that can contribute to the search and location of burial pits and other details relating to the facts. A document from the PCCMI 1987 archives at Laayoune collected by this research team<sup>4</sup> shows the level of extreme control that existed in clandestine centres, it follows that there must be abundant documentation on such places in the official records of the armed forces and other institutions in Morocco.

7. Safe and truthful contact with relatives

The rights to truth and to a dignified treatment of the relatives of disappeared Sahrawis have not been taken into account so far. The versions given by the Consultative Council on Human Rights in its 2010 report are fragmented, confusing, if not erroneous and in the case of disappeared at Fadret Leguiaa have turned out to be false. Other steps taken by the relatives of the disappeared to obtain information about their loved ones before the Moroccan authorities have not received a truthful or timely response. All of this constitutes a form of secondary victimization of the family and is a form of psychological abuse against the victims. The Moroccan authorities should cooperate with international authorities and relatives of the disappeared to provide an adequate response to each of the cases.

8. Verification of the information on the disappeared by an independent entity

The information provided in the CCDH listing should be verified by an independent source, since it has been proven wrong or false in these cases, as Amnesty International has stated. This entity should be some kind of mechanism under the High Commissioner for Human Rights, the Working Group on Enforced Disappearances or the Committee on Enforced Disappearances.

9. Custody of evidence and the role of independent teams

As in other fields of research, the custody of the remains and anthropological forensic evidence is crucial. Ensuring an effective custody chain by independent bodies is part of the guarantees without which such processes can be frustrating. Especially delicate are cases in which the custody of the evidence rests with authorities that may be involved in the disappearance or do not have sufficient independence.

Collaboration with NGOs and experts who have experience in the search and identification of corpses is a very important resource that must be counted on. In these

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4 See: *The Oasis of Memory*. Volume I, page 496.

Summary. To know the truth at long last

cases, such collaboration is essential both in the Western Sahara and in Morocco, where there has been a negative response to relatives for decades, and an absence of adequate forensics for the investigation of human rights violations.

#### 10. Identification tests

Identification tests include everything from the details of the site to the clothing of the person, from osteological and dental tests to genetic testing for DNA analysis. Genetic testing is necessary in many cases. All of the following are also necessary to carry out a systematic collection, performed by specialized personnel, of *ante-mortem* information with significant data for identification and analysis of the facts: site research, a study of the form of burial, the situation of the remains and an analysis by a forensic anthropology laboratory.

#### 11. Family involvement

This research has shown how the involvement of relatives and their reference organizations is crucial both for achievements in terms of search and identification, and satisfaction with the process in terms of mourning, the right to truth and a sense of reparation. The support and work provided by Sahrawi human rights organizations in conditions of safety and freedom is a necessary condition to carry out these rights and their participation should be considered as a central element in order to generate credibility and to guarantee an adequate response.

#### 12. Collaboration from the Sahrawi authorities

Even today, about 400 cases of forced disappearance remain unresolved, affecting their families and environment. This problem should be taken into account in the process of human rights verification and negotiation with a view to finding a political solution to the conflict. In the territory under its control, the Sahrawi authorities must also provide the means and encourage search processes within their capabilities, while reinforcing their collaboration with AFAPREDESA.

#### 13. The responsibility of the Spanish State

The Sahrawi disappeared in the Fadret Leguiaa pits, and in other cases which still remain unsolved, were Spanish citizens at the time of the facts. Spain was the administering power when many of these disappearances took place. Several of the disappeared had Spanish DNI ID cards which were found in the same burial pits. Many had their identification numbers issued by the Spanish authorities of the time. Spain has the responsibility to investigate and support the recognition of Sahrawi victims of forced disappearance, and this has been recognized in the investigation of the genocide case that continues in the *Audiencia Nacional* Court.

#### 14. United Nations protection and research

The cases of the burial pits at Fadret Leguiaa and Fadret Budreiga reported above are five kilometres east of the wall built by Morocco, and in an exclusion zone controlled

by MINURSO. Both the Human Rights High Commissioner and the Working Group on Enforced Disappearances and certain UN Rapporteurs have been informed of these findings. Some of them have included the findings of the pits in their reports and have asked Morocco for an independent investigation of the facts, and the right to justice and reparation. In a context such as that of the Western Sahara, in a situation of territorial dispute with numerous UN resolutions on the right of the Sahrawi people to decide their future and whose decisions have been identified as the basis for the political solution to the conflict, there is still a complete absence of effective response in the case of the disappeared. The protection of burial pits and the verification of information provided by relatives should be part of the guarantees for an effective investigation and response to the needs of victims, to the right to truth and to mourn as protected by international law.