

Collectif
des
familles
de
disparu(e)s
en
Algérie

المفقودون DISPARUS
DISPARU المفقودون
المفقودون DISPARU
DISPARUES المفقودون
المفقودون DISPARUS
DISPARUS المفقودون
المفقودون DISPARUS

TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 19– April/June 2006

MEMBERSHIP

Name:

Address:

Zip/ Post Code:..... City:.....

Telephone:.....

Fax:

Email Address:.....

I wish to join the Families of the Disappeared in Algeria Collective and am sending my dues for 2006 (30 €).

I wish to support your activities with a donation

Please make chek out to “Collectif des familles de disparu(e)s en Algérie” and send your membership form to : Collectif des familles de disparu(e)s en Algérie –148 rue Faubourg Saint Denis 75010 - Paris - France

Collectif des familles de disparu(e)s en Algérie
Membre du Réseau EuroMéditerranéen des Droits de l'Homme
Lauréat de la mention spéciale du Prix des droits de l'Homme de la République Française pour 2006
C/° Maison des Associations - 181, avenue Daumesnil - boîte n° 60 – 75012 Paris - FRANCE
Tel/Fax: +33(0)1 43 44 87 82
yn.dutour@wanadoo.fr

DOUBLE CONDEMNATION OF ALGERIA BY THE UN HUMAN RIGHTS COMMITTEE

On 30 March 2006 the UN Human Rights Committee made two decisions condemning Algeria, for the first time, for grave human rights violations. These refer to the “disappearances” of Salah Saker and Riad Boucherf in 1994 and 1995. The Human Rights Committee (HRC) was set up by the United Nations to monitor respect for human civil and political rights by the states that had ratified the International Pact between states; it was ratified by Algeria on 12 September 1989.

Salah Saker, born on 10 January 1957, was arrested at his home by the detective division of the Constantine police service. He was placed in the hands of members of the Centre for Research and Investigation of the 5th military region in Constantine on 3 July 1994 (PV no. 476/2889/97 attached to the file).

Riad Boucherf, born on 2 January 1974, was arrested on 25 July 1995 by police of the 17th *arrondissement* in Kouba, together with a childhood friend, Farid Bourdib. According to the testimony of Bourdib, Riad Boucherf and he were handcuffed and put in the boot of a Daewoo car. Once at the police station they were immediately tortured until the evening. That evening they were both taken to the Central police station in Algiers. There they were separated, each in a cell. The torture sessions began again at about two in the morning, by drunken and hooded police. The second day Riad and Farid were led, hands attached behind the back by iron wire, to the police station at Bourouba. There they were attached to a tree in the square and left until the morning, before being taken back to the Central police station - where they were again separated. Farid Bourdib was freed after some ten days, on 5 August 1995.

The Human Rights Committee considered, as a result of these decisions, that Algeria had committed several violations of the International Pact: notably Article 7 - establishing the right not to be tortured, and Article 9 prohibiting arbitrary arrest and detention.

The Committee declared that the state party is required to provide the author with adequate recourse, including a diligent and in-depth investigation into the “disappearance” and the fate of the “disappeared”, and to release him immediately if he is still alive, and to make public - in due form - the results of its enquiries and indemnify as appropriate the author and his or her family for the violations suffered by the author’s son. The state party is equally required to pursue legal action against persons found responsible for the violations and to judge and punish them. The state party is further required to take measures to prevent the same type of violations in the future. The Committee joins in the demand of the Special Rapporteur for the new and provisional measures, dated 23 September 2005 (see para 1.2) and repeats that the state party may not invoke the legal provisions of the Charter for Peace and National Reconciliation against persons who are invoking the Pact, or who have submitted, or who may submit, papers to the Committee.

A VICTORY OVER THE CHARTER

Considered as a victory and an important precedent for the Associations of the families of “disappeared”, this represents the culmination of a long drawn out campaign and the beginning of concrete results for the *CFDA*. These decisions encourage and reinforce the determination of families to continue and fight for the right to denounce these “disappearances” and to demand Truth and Justice.

The UN Human Rights Committee has thus clearly asserted the right of families of the “disappeared” to submit complaints to the Committee in spite of the Charter and its relevant clauses.

PRESS CONFERENCE, 18 JUNE 2006

In order to make these two decisions public, a press conference was organised at the office of *SOS disparu(e)s* on 18 June. Many journalists were present and the issue was published in the press. This was also an

occasion to explain to the press and to families the import and implication of the two decisions in order to encourage them to continue the struggle².

THE CONVENTION AGAINST FORCED DISAPPEARANCES PASSES THE SECOND STAGE WITH SUCCESS

Welcomed by associations of families of the “disappeared” across four continents and by human rights NGOs, the text of the Convention for the protection of all persons against forced disappearance was adopted by consensus on the 29 June 2006, during the first session of the new UN Human Rights Council. This Convention had been adopted in its final version on 22 September 2005 by the mediating UN Working Group presided by France (see Information Letter 16: *The Committee emphasises that the state party may not invoke the legal provisions* etc).

In the perspective of the first session of the Human Rights Council, the *CFDA* was associated with the major international campaign launched by several associations, including *AFAD3*, *Fedefam* and the Humanist Committee for Human Rights. The leitmotiv was: “For the right not to disappear - the Convention now!”

This Convention is therefore the first international rights text setting up not only state obligations but also a battery of measures to protect people against forced disappearance (see box below). In order to be effective the Convention has still to clear two more stages: its adoption by the General Assembly of the United Nations planned for next January, and its ratification by twenty states. Lobbying work by associations will still have to continue therefore.

The Convention stipulates that nobody may be submitted to forced disappearance and that no exceptional circumstance can justify such a “disappearance” (Article 1).

The text defines forced disappearance (Art 2) and obliges state signatories to include the ‘crime of disappearance’ in their internal legislation and to follow up and punish those

responsible for forced disappearance (Art 4 & 6, 7, 8, 9 etc).

The generalized or systematic practice of forced disappearance constitutes a crime against humanity (Art 5).

The Convention protects the the right of anyone to denounce a forced disappearance and to be protected from all intimidation or reprisal (Art 12).

The Convention prohibits all secret detention and guarantees access of the family, a lawyer or any other person to the detained person (Art 17).

The Convention devotes ‘a right to know’ to the close relative of disappeared persons by which they have the right to know the facts behind the disappearance and the fate of the disappeared person; it also introduces a right to compensation (Art 23).

Finally, the Convention appoints a ‘Committee of forced disappearances’, competent to watch over the application of the text by the state parties; it may also be used in an emergency situation by individuals to seek and to locate a disappeared person

CLAUSES OF THE CHARTER TESTED IN PRACTICE

While the relevant clauses of the Charter for Peace and National Reconciliation came into force four months ago, the practice quickly turned out to be even less glorious than the theory. Indeed, Regulation 96-03 provides that police stations or police will furnish a certified report of “disappearance” to each family who asks for it; the family then goes to court to demand that the prosecutor provides a judgement of “disappearance” in order to claim compensation. But it has come to the knowledge of our associations that death certificates were delivered by police to families of “disappeared” without their having made a step in this direction. In a communiqué dated 21 May 2006 the *CFDA* and *SOS disparu(e)s* denounced the delivery of such death certificates by police, who in

their haste to be rid of this issue, stopped at nothing in order to accelerate the process of getting it out of the way.

TEN YEARS AFTER THE ARREST AND “DISAPPEARANCE” OF DAOUIA BENAZIZA

On 2 June 1996, at 22 hrs, military security agents in Constantine arrived at the home of Madame Daouia Gat to arrest one of her sons. Since they could not find this son, they took the widow Mme Daouia Benaziza, then aged 67, despite the pleas of another son who was present. The agents said that they were taking her away for a few hours in order to question her about her son. In spite of numerous appeals the agents denied having arrested her and her family never saw her again. On the eve of the tenth year of disappearance of her grandmother - who was deprived of her last happy days surrounded by her family - Nedjma Benaziza, one of her granddaughters who has recently been appointed Vice President of the *CFDA*, wrote an article for the newspaper *Le Monde*, calling for her to be remembered and calling for the continuation of the struggle on behalf of her grandmother and for the thousands of other "disappearances".

Where is our grandmother? *Le Monde* 1 June 2006

For your ten years far from us, Grandmother, for the ten long years in a world which is neither among the living nor among the dead, I am blowing out ten candles for you and those like you, for all those who have paid - and continue to pay - the price of the murderous folly of men. Hold on, wherever you are: we shall not forget you, we shall not abandon you, and the struggle for truth and justice will continue. Nedjma Benaziza, Vice President of the *CFDA*, *Le Monde* 1 June 2006.

<http://www.lemonde.fr/web/article/0,1-0@2-3232,36-778119,0.html>

AMNESTY INTERNATIONAL ANNUAL REPORT 2006: ALGERIA TAKEN TO TASK

In its 2006 report, Amnesty International again pointed out the inadequate management by the Algerian authorities of the aftermath of the civil war. For example, the British NGO concluded that, in 2005, impunity remained the principal problem: tens of thousands of cases of murder, abduction, "disappearance" and torture since 1992 - attributable to the security forces, to state-armed militia and to armed groups - have still not been subject to any investigation. It also reported new incidents of torture in 2006, but overall the level of violence was less. In a section devoted to "disappearances" AI noted that even if no recent "disappearance" had been reported in 2005, it is still the case that no progress was made in clarifying the fate and whereabouts of thousands of "disappeared" Algerians, and the Algerian government continued to refuse access to the UN Working Group on Enforced or Involuntary "disappearances", which has been requesting entry since 2000.

THE NÎMES AFFAIR

During May the Nîmes affair provoked a media pressure group in Algeria against M Mohamed Smaïn, member of the *LADDH* management committee and Nassera Dutour, Spokesperson for the *CFDA*.

It may be recalled that this affair indicts the brothers Mohamed of Relizane, two ex-militia called 'patriots', following a complaint deposed by the *FIDH* in 2004 before the Nîmes court. The families accuse them of being at the origin of assassinations, torture and "disappearances" during Algeria's tragic years. The examining magistrate summoned the witnesses once more to attend on 12 May 2006. Taking advantage of the occasion, the lawyer of the brothers Mohamed requested the lifting of the legal restrictions under which they had been placed. This demand was rejected, as was the appeal against this decision.

It was at that time that pressure from the group started with a press conference held by

Mme Said Benhabyles on 12 May, in the course of which the ex-Minister accused Mohamed Smaïn and Nassera Dutour of corrupting witnesses and manipulating families. The Algerian press then took up the cause in defending the two brothers Mohamed, and raised doubts about the credibility and intentions of witnesses⁴. The *CFDA* published a right of reply on 28 June, entitled 'Of untruths in untruths'⁵, in which the Association set out to establish the facts and denounce the lies spread about.

THE SILENCE OF THE HEAD OF STATE ABOUT THE APPLICATION FOR REVIEW PUT DOWN BY 100 FAMILIES OF "DISAPPEARED"

On 25 March 2006, more than 100 families joined with Nassera Dutour, Spokesperson for the *CFDA*, to put down an application to annul the relevant clauses of the Charter for Peace and National Reconciliation. More than three months later the President of the Republic is still silent with regard to the request expressed by these families. In consequence, the families are now preparing their presentation of the application before the Algerian Council of State. This is due to take place in the near future.

THE PRESIDENT OF *SOS DISPARU(E)S* VISITS ORAN AND MOSTAGANEM

Fatima Yous and Hacene Ferhati went to Mostaganem and then to Oran from 28 to 30 May, to meet families. These two visits had the objective firstly, of working on "disappearance" files, and particularly on new cases which had been brought to the attention of our Association and secondly, to encourage families to continue their search for truth in spite of the wording of the Charter.

VISITS TO EMBASSIES: *SOS DISPARU(E)S* RECEIVED BY SWEDEN AND GERMANY

On 21 May a delegation of *SOS Disparu(e)s* was received by His Excellency M Westerhoff. In the course of this meeting, the delegation was able to take up the question of forced "disappearance" and of its lamentable treatment by the Algerian authorities.

On 22 May the delegation then went to the Swedish embassy where it was received by Madame the ambassador. She was most receptive to the questions of forced disappearances and reconciliation, and promised to pass on the concerns of the families of the "disappeared" to the European Union and the United Nations.

FAMILIES QUESTION THE MINISTER OF JUSTICE

On 16 April families of the "disappeared" met at the request of *SOS Disparu(e)s* in front of the Ministry of Justice at El Biar (Algiers). This demonstration was organised to express the anger and indignation of families concerning the wording of the Charter and particularly Article 8 of Decree 06-93 which stipulates that the benefit of compensation is dependent on the presentation of death certificates for the "disappeared". A three-person *SOS Disparu(e)s* delegation was received by the Minister's Director of Criminal Affairs to whom the delegation handed over a letter addressed to the Minister of Justice, Taieb Belaïz.

BRIEF

***CFDA* ANNUAL GENERAL MEETING**

The *CFDA* held its AGM on 26 April in the offices of the *Ligue des droits de l'homme* in Paris. It was presided by Joëlle Brunerie Kaufman, outgoing Vice President. At this meeting, which was well attended, the financial and annual reports of the association were presented and approved. The emphasis this year was on the difficulty of financing *CFDA*'s office in Paris, as well as on the future activities of the *CFDA*. Debate took place on what was needed to establish a Truth Commission in Algeria: it was very lively and fruitful.

RENEWING THE BOARD OF DIRECTORS OF CFDA

As required by the statutes of the Association, the Board of Directors was elected. 18 members were elected unanimously: Fatima Yous, President; Nedjma Benaziza, Vice President; Aïcha Berroua, Vice President; Zaïma Benachour, Secretary General; Antoine Billiotet, Vice Secretary General; Gérard Dutour, Treasurer; Laurent Chauzin, Assistant Treasurer.

SOS DISPARU(E)S AT THE ROUND TABLE OF THE EUROPEAN UNION LOCAL TROIKA

Members of *SOS Disparu(e)s* participated in a round table organised on 4 May by the local Troika of the European Union on the role of women human rights defenders in Algeria. This was done on the initiative of the Ambassador of Austria and allowed several active Algerian women supporters to reflect together on their work and the difficulties that they encounter.

EURO MEDITERRANEAN HUMAN RIGHTS NETWORK (REMDH) - AGM

The *CFDA* took part in this AGM; on the recommendation of the Executive Committee of the Network *CFDA* was confirmed an ordinary member of the Network - the request for membership went back to the summer of 2004.

THE ELECTION OF ALGERIA TO THE NEW UN HUMAN RIGHTS COUNCIL CONTESTED

In reaction to the candidacy of Algeria to this new Council, the *CFDA* addressed a letter on 21 June to the President Luis Alfonso de Alba. In the letter, the Association complained to the new Council about accepting into its ranks a state in which human rights are not assured, and where more than 8000 “disappearances” remain uninvestigated. The Association told His Excellency that the credibility of the Council cannot be effective if it includes among its numbers states such as Algeria who openly scorn human rights.

THE CFDA AT THE CABARET SAUVAGE

The *CFDA* was invited to a concert at the *Cabaret Sauvage* in Paris. The representative of *CFDA* was able to tell a large audience about her personal drama and that lived through by thousands of mothers and wives on the other side of the Mediterranean. Her speech was very warmly welcomed. The *CFDA* had a stand at this concert, which enabled it to provide further information about this crime and about the activities of the Association.