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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 20– July/September 2006

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CFDA AND “SOS DISPARU(E)S” INFORM INTERNATIONAL AUTHORITIES OF ‘DISAPPEARANCES’ AT TIARET

A wave of repressive attacks has hit Tiaret (in the west-central part of the country) where arrests, arbitrary detentions and ‘disappearances’ have become more frequent. M’Hamed Benyamina, who was detained secretly for more than five months in the ‘Antar’ barracks at Hydra (detention centre of the DRS, the military security, above Algiers), was freed in March 2006 within the framework of general amnesty. He was again arrested without reason on 3 April 2006. Abdelmajid Touati was arrested on 18 March 2006 and five months went by before his family learned that he was also being secretly detained at Antar; it was only on 11 September that he was accused of belonging to a terrorist group active both within and outside the country before the examining magistrate in the Sidi H’Hamed court (Articles 87 bis 3 and 87 bis 6 of the *code pénal*), and of falsification and of using false documents (Article 222 of the *code pénal*). The next day he was transferred without notice to Chlef prison, 250 km west of Algiers and 168 km north of Tiaret, where he is still detained. Zineddine Belaacel, Mohammed El Habib Boukhatemi, Rabah Ajine, all three also from Tiaret, are also ‘disappeared’ since their arrests in the Spring of 2006.

SUBMISSION TO THE UNO AND TO NGOS

Appalled that these practices have re-emerged, “SOS disparu(e)s” and CFDA took action to try and find these young men and to support their families. Several communiqués have been made public and sent to NGOs. Louise Arbour, UN Human Rights High Commissioner was informed of these cases in a letter dated 25 July 2006. ‘Urgent Actions’ were launched by ACAT (Christian Action for the Abolition of Torture) and by Amnesty International

denouncing these arbitrary detentions and the risk incurred of torture¹. The cases of M’Hamed Benyamina, MM Touati, Belaacel, Ajine and Boukhatemi were submitted to the UN Working Group on Arbitrary Detention (WGAT) in May 2006.

WHAT IS THE WGAT?

The WGAT was created by the UN Human Rights Commission for Human Rights in 1991. The group consists of five experts, working full time based in Geneva at the UN High Commissioner of Human Rights; it works on arbitrary detentions throughout the world. The objective of the Group is to help victims and their families by submitting cases of arbitrary detention that come to their attention to national authorities, and to receive information from them.

WHAT IS ARBITRARY DETENTION?

Arbitrary detention is defined in several international texts and notably in Article 9 of the 1966 International Covenant on Civil and Political Rights² which states that ‘Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him’ (paragraph 2) and ‘Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release’ (paragraph 3).

More generally, arbitrary detention means any detention carried out without legal backing, whether it is a matter of detention or of the maintenance of detention after the end of the completed sentence and also any

¹ ACAT Urgent Actions 17 July and 28 September; AI UA 20 July 2006

² Algeria ratified the Covenant on 12 September 1989

detention for the sole reason of having exercised freedoms and rights protected by international texts (freedom of expression, freedom of association etc). Any detained person must be presented to a judge or freed within the legal period allowed for questioning. The Algerian penal procedure Code provides that this delay is normally limited to 48 hours in matters of common rights and can be prolonged to 12 days if it is a matter of 'terrorism' (Article 5 of the ACP). Beyond that time the detention will be considered arbitrary if the detained does not have access to a lawyer, a judge or is not freed.

HOW CAN A COMPLAINT BE BROUGHT BEFORE THE WORKING GROUP?

Private individuals may call on the WGAT by submitting, either directly - or indirectly through the intermediary of an NGO or other body, 'individual communications'. It is not necessary that any internal recourse within the country concerned should first be exhausted.

FURTHER ACTION IN ALGERIA

An "SOS Disparu(e)s" delegation, accompanied by Me Amine Sidhoum, went to Tiaret at the beginning of August for two days in order to collect the relative information about these 'disappearances', and to meet the families. This visit provided an opportunity to the delegation to collect new 'disappearance' files about cases that occurred in the 1990s and never brought to the notice of our Association. Following this visit the families of the new 'disappearances' went to the office of "SOS Disparu(e)s" in Algiers where they were able to benefit from the assistance of our lawyers. As a result they wrote a letter to all the national authorities and went to the court in order to submit a complaint to the Prosecutor at the Court of Algiers. Furthermore the families were able to meet journalists and notably Florence Aubenas

of the French newspaper *Libération*, who happened to be in Algiers at that time.

THE CFDA SUBMITS A NEW CASE OF ARBITRARY 'DISAPPEARANCE' TO THE UNITED NATIONS

The CFDA has informed the UN Working Group on Arbitrary Detention about another arbitrary 'disappearance'. This is the case of a young girl of 16, arrested in 1997 with her fiancé in a street in Algiers by military security agents. The Algerian security forces have always denied her arrest. Her family learned in 2000, from an indirect source, that she was probably held at the women's prison of El Harrach, Algiers. The CFDA immediately contacted the International Red Cross Committee who was able to consult the prison registers and confirm that Samia had indeed been detained in El Harrach and freed on 3 August 1997. However, it was on 7 September 1997 that she was arrested and 'disappeared'. According to Red Cross information Samia was freed before being arrested.

"SOS DISPARU(E)S" LAWYERS SUFFER JUDICIAL HARASSMENT³

Maître Hassiba Boumerdassi and Me Amine Abderramane Sidhoum, lawyers registered at the Bar of Algiers and working for "SOS Disparu(e)s" have been the subject of harassment by the Algerian judiciary for several weeks. The two have been harassed for matters that appear, to say the least, incongruous. Me Sidhoum faced defamation charges on 22 August 2006 because he publicly criticised the fact

³ Because of the difficulty of translation I have largely based this on an Amnesty International press statement dated 23 September 2006 (Algeria: human rights lawyers threatened with imprisonment on trumped up charges AI Index: MDE 28/018/2006) and have also referred to an article by Algeria Watch dated 24 September 2006 (http://www.algeria-watch.org/fr/aw/boumerdessi_sidhoum.htm: *Deux avocats algériens paient leur engagement pour le respect des droits humains*). Amnesty International and Algeria Watch regard the charges as trumped up because the two lawyers have exposed breaches of Algerian and international laws by the authorities and because of their work on behalf of human rights.

that one of his clients had been detained for two and a half years without trial. Based on quotes attributed to him on the basis of a newspaper interview, he remains provisionally at liberty awaiting trial. Both Me Sidhoum and Me Boumerdassi have been charged with violating laws governing the organisation and security of prisons, based on allegations by the prison authorities that they had passed items to their clients in detention without authorisation. Me Sidhoum admits passing business cards to his client in prison, but does not consider that he committed an offence in doing so. In the case of Hassiba Boumerdassi, the prison authorities allege that she passed on to a detainee the minutes of a court hearing pertaining to his case without having obtained permission. By contrast, Me Boumerdassi states that she obtained verbal authorisation from the prison authorities before passing the document on. The charges carry prison terms of up to five years' imprisonment. According to the law regulating the legal profession, the authorities may also request that lawyers who are under investigation for an offence are suspended from practising law. *CFDA* raised concerns about the harassment and alerted NGOs and particularly the *Observatoire des défenseurs des droits de l'homme*⁴ and the Special UN Reporter on the independence of judges and lawyers (see footnote on previous page for the views of Amnesty International and Algeria Watch about the charges).

LENGTHY RALLY BY FAMILIES OF THE 'DISAPPEARED' IN FRONT OF THE CNCPPDH

Many families responded to the call by "SOS Disparu(e)s" to prolong the weekly rally in front of the CNCPPDH (National Consultative Commission for the Promotion and Protection of Human Rights). The families decided to make their

⁴ *L'Observatoire* launched two appeals in September. See: http://www.fidh.org/article.php3?id_article=3600

voices heard in the debate and once again denounce the 'Charter' and its relevant clauses.

While it was initially foreseen that this exceptional rally would go on until 1800 hrs, several mothers, including Fatima Yous the President of "SOS Disparu(e)s", decided to show their determination by staying the night, in spite of the constant police surveillance. They did not leave the premises until the early hours, after 22 hours of effort.

APPLICATION TO ANNUL CLAUSES LODGED WITH THE ALGERIAN STATE COUNCIL

An application to annul the relevant clauses of the Charter for Peace and Reconciliation was put before the President of the Republic in early 2006; no reply has been received. Six months later, on 3 October 2006, mothers of the 'disappeared' therefore mandated Me Allia Djamel Edinea to lodge a complaint with the Algerian State Council. This was done to obtain the annulment of the relevant clauses of the Charter, which came into force on 28 February 2006. This is the procedure foreseen in Algerian law to present arguments that the clauses violate the Algerian constitution, and that they are contrary to international clauses to protect human rights - such as the International Covenant on Civil and Political Rights. In addition, the Algerian constitution stipulates in Article 132 that any international covenant duly ratified takes precedence over national laws. The relevant clauses of the Charter are therefore contrary to constitutional arrangements and should, as of now, be annulled.

DOUBLE MEETING WITH MUSTAPHA FAROUK KSENTINI

On 25 June 2006, M Farouk Ksentini, President of the *CNCPPDH*, declared for the umpteenth time that 183 cases of

'disappeared' persons had been struck off the list of 'disappeared' because they had reappeared following the national reconciliation measures⁵.

An "SOS Disparu(e)s" and CFDA delegation had a meeting with Me Farouk Ksentini to seek an explanation for these declarations. During the meeting, held at the *CNCPPDH* offices, Farouk Ksentini said that he was only repeating information that had been given to him by the Ministry of the Interior. He promised to send the list as soon as he received a copy himself. At the end of the meeting Me Ksentini also promised to send on to the Head of State the request of families for 'the truth first of all'.

Another meeting was held with the President of the *CNCPPDH* at his lawyer's chambers in Blida. He was particularly open at this discussion, confirming that, according to him, the Charter and its clauses did not represent an adequate solution to the 'disappeared' issue. He added that he himself favoured a solution of consensus with families of the 'disappeared'. The delegation told Me Ksentini of its concerns as a result of the manoeuvres of intimidation and pressure put on families who refused to take steps to obtain compensation by means of a death certificate⁶ - as laid out in the Charter clauses.

FAMILIES OF 'DISAPPEARED' MENACED

An "SOS Disparu(e)s" delegation visited western Algeria on 2 August. Numerous worried families of 'disappeared' who had not started the steps necessary to grant compensation had been harassed by state agents. Police officers or *gendarmérie* visited families who had not made a claim, ordering them to go to the nearest office to ask for a death certificate for their

'disappeared' relatives. These distraught families therefore called on "SOS Disparu(e)s" to guide them on what they should do in the face of these tactics.

"SOS DISPARU(E)S" QUESTION THE MINISTER OF EMPLOYMENT AND SOLIDARITY

In a communiqué dated 27 September 2006 "SOS Disparu(e)s" replied to the intentions of M Ould Abbès, Minister of Employment and National Solidarity, who declared on 24 September - on Channel 3 of Algerian radio - that the issue of the 'disappeared' had been resolved and that compensation would finally allow families to complete their mourning. Shocked by what he had said, "SOS Disparu(e)s" lambasted him for his lack of knowledge of the issue and told him that only truth and justice could resolve the problem, and that no family was ready to trade a piece of paper confirming the death of their relatives without proof and without the body, just for compensation.

AMNESTY INTERNATIONAL CASTIGATES THE CONTINUED USE OF TORTURE IN ALGERIA

In a report entitled 'Algeria: Evidence of persistent torture by the Military Security in secret locations' issued on 10 July 2006, the human rights NGO condemned the persistent recourse of *DRS*⁷ agents to torture and ill-treatment exacerbated by the 'war on terror'. In this study AI, writing about the practices of the *DRS* since the 90s, is concerned about the total absence of control on the *DRS* by the civilian authorities and the impunity this allows to its agents thanks to the measures adopted in the framework of 'national reconciliation'.

⁵ See 'Disparus: 183 cas rayés de la liste', *El Khabar* 25 June 2006

⁶ *Ordonnance no. 06-01*

⁷ Algeria's 'military security' intelligence agency

BRIEF

TRANSITIONAL JUSTICE IN ALGERIA

The International Centre for Transitional Justice (ICTJ) organised a consultation on this theme in Brussels on 6 and 7 July 2006. The CFDA, who has been struggling for years for the creation of a commission for truth and justice, went with other Algerians to the two study days; the two days allowed a debate on the need to establish such a commission in Algeria and also considered the obstacles that might be encountered.

THE CFDA AT THE SECOND HUMAN RIGHTS FORUM IN NANTES

In the framework of the Second Human Rights Forum in Nantes from 10 to 13 July 2006, Nassera Dutour, Spokesperson of CFDA, was invited to take part in a round table on the theme of forced 'disappearance'. This took place in the company of Federico Andreu-Guzman of the International Commission of Jurists and of Ewoud Platé of the humanist Human Rights Committee⁸.

MEETING WITH THE FRENCH HUMAN RIGHTS AMBASSADOR

Nassera Dutour met His Excellency Michel Doucin, Human Rights Ambassador at the Ministry of Foreign Affairs, on 14 September in Paris. In the course of the discussion they were able to consider the situation of families of the 'disappeared' in Algeria, as well as the struggle and methods of the Association in France.

29TH ROUND TABLE OF THE INTERNATIONAL INSTITUTE OF HUMANITARIAN LAW

From 7 to 9 September, the CFDA participated in the 29th round table

organised by the International Institute of humanitarian law, in collaboration with the Red Cross, at San Remo. The theme was 'Justice and Reconciliation: an integrated approach'.

MEETING WITH ZOÉ LAMAZOU

On 26 September 2006, Nassera Dutour was asked, by the collaborator and daughter of Titouan Lamazou, the French artist and navigator, to help in the preparation of a forthcoming artistic project: 'Women of the World'⁹. The project is sponsored by UNESCO.

PRESS

LIBÉRATION

The French journalist Florence Aubenas visited the "SOS Disparu(e)s" office in Algiers where she met members at the office. She has many times demonstrated her concern for the struggle of families of the 'disappeared' in Algeria¹⁰.

WASHINGTON POST

The head of the Washington Post in Berlin visited the office of "SOS Disparu(e)s" in Algiers to discuss with the President, Fatima Yous, the issue of forced 'disappearance' in Algeria and national reconciliation. His article 'Algerian Program offers Amnesty, but no answer about past' on 17 September 2006 is available on the Washington Post web site; it includes references to this meeting.

EL KHABAR, EL AKHBAR, AL ALAM

Nassera Dutour was interviewed by journalists from the daily Arabic newspaper El Khabar, from El Akhbar and from the TV channel El Alam.

⁸ See the Forum site: <http://www.forum-droitsdelhomme.org>

⁹ For more details see his site <http://www.titouanlamazou.com/fr/>

¹⁰ See particularly *Libération* 'Algérie: les disparus sur la route de Chirac', 4 March 2003