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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 21–October/December 2006

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NEW ENFORCED DISAPPEARANCES AND ARBITRARY DETENTIONS IN ALGIERS

A new 'disappearance' was brought to our notice in December 2006. Abdelkader Zaoui was arrested at his home in Ben Choud on 6 December at 0230 in the morning. Eight men from the judicial police broke down the door and entered the family home. They shut the whole family - Abdelkader's father, his two brothers, their wives and four children - in one room, and then searched Abdelkaer's room and took him away. The same night another inhabitant of the village of Ben Choud was arrested: he was released five days later. When the family of Abdelkader tried to obtain information, the neighbour refused to reply to their questions for fear of reprisals.

On 26 December, another 'disappearance' took place. Abderhamane Mehalli was arrested at his home in Bachdjarah, a suburb of Algiers, at 1930 hrs by police officers from the *commissariat* of Bachdjarah. They demanded his identity card and entered the house. They pinned him against the wall, took his identity card from him and took him away by force, without giving the least reason for his arrest and nor did they present an arrest warrant. They came back to the house when the family was absent and searched the whole house, still without a warrant. They took away the family record book.

The President of SOS, accompanied by the association's lawyer, went the same evening to the *Commissariat* at Bachdjarah. Agents of the *Brigade mobile de la police judiciaire* did not deny that they had participated in the arrest, but said that they did so under the orders of the *DRS* (military security intelligence agency) and that the *DRS* took Abderhamane Mehali to a destination unknown to the *Brigade mobile*.

Abderhamane had already been arrested without motive when he was 17 and imprisoned for three years. Each time he was arrested he endured torture which left him with serious consequences.

THE CFDA APPLIES THE URGENCY PROCEDURE

In order that these two new 'disappearances' could be placed as soon as possible under the law, the *CFDA* contacted United Nations and NGOs. As a result of this rapid mobilisation, urgent calls and the communiqués launched by the *CFDA*, Abdelkader Zaoui came before the Dellys court two weeks after his arrest. He is still detained at El Harrach prison. It was much the same for Abderhamane Mehalli: he was brought before the examining magistrate of the second Algiers court (*chambre du tribunal*) on Saturday 6 January, 12 days after his 'disappearance', and after 12 days of anguish for his family. He had been tortured and forced under torture to confess that he had had contact with terrorist armed groups. He was placed under a committal order and remains, to this day, imprisoned in Serkadji in Algiers.

Urgency Procedures

CFDA and SOS applied the UN Human Rights High Commission urgency procedures so that the Commission could contact the Algerian authorities rapidly. These principles oblige the authorities to provide information about 'disappeared' people and to place them under the protection of the law. As soon as a 'disappearance' is brought to our notice we send all the information that we have - the civil status, those responsible for the arrest, the background of the arrested person, place of arrest if this is known - as quickly as possible to the Working Group on enforced disappearances, the Working Group on Arbitrary Detentions and the Special Rapporteur on Torture. Torture, as the decision to 'disappear' the person, takes place during the first hours of detention so that it is vitally important to react very quickly.

THE FAMILY BOUREFIS CASE: THE AUTHORITIES HARASS FAMILIES OF THE 'DISAPPEARED'

The *CFDA* and *SOS disparu(e)s* went with Mme Zohra Bourefis, aged 71, wife of Tahar Bourefis, 'disappeared' on 22 August 1996 and mother of Bachir Bourefis, 'disappeared' on 22 December 1996 to the Jijel court. She had been summoned to appear in order to reply to 'providing accommodation to a foreigner without authorisation'. The background to this is that members of the Bourefis family, and in particular Moussa Bourefis, are much involved in the defence of the rights of victims of enforced disappearances; Moussa is one of the leaders of *CFDA's Comité des familles de Jijel*. When a *CFDA* delegation went to meet families of 'disappeared' in the region the Bourefis family offered accommodation and assistance. After the delegation had departed, Mme Bourefis and her son Moussa were summoned on several occasions by the Jijel police and *gendarmérie*. Later they were summoned by the examining magistrate who ruled at the Jijel court that the case be judged on 5 November; however, it was put back to 19 November and Mme Bourefis was condemned to pay a fine of 100 dinars. In spite of the arguments put forward, the judges, unable to present an incriminating legal text, based their verdict on Article 1 of presidential decree No. 86 - 237 of 16 September 1986 which states that every person taking in a foreigner is obliged to inform the Algerian authorities. Refusing to give in to the menaces and attempts at intimidation designed to reduce all those who struggle for truth and justice in the name of all 'disappeared', Zohra Bourefis and her family decided to appeal against this decision. The *CFDA* and *SOS Disparu(e)s* want to reaffirm their indignation concerning the manoeuvres of the national authorities and the judiciary, who do not hesitate to set about the weakest in order to harass those who struggle for justice and truth.

UN ADOPTS INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

The Convention for the protection of all people against "enforced disappearance" was adopted by the General Assembly of the UN. This international text is the fulfilment of a sustained effort by numerous human rights NGOs over many years. The Convention puts into law our daily fight which has now at last been recognised officially at international level. It states that 'the general or systematic practice of "enforced disappearance" constitutes a crime against humanity as defined in the applicable international law.' *It contains an absolute ban on "enforced disappearance" both in times of war and of peace* (<http://www.delegfrance-onu-geneve.org/kiosque/actualite/disparitions-forcees/projet-convention-fr.pdf>). *An "enforced disappearance" as defined in Articles 2 and 3 is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law. This clause applies to every enforced disappearance, whether committed with, or without, the authorisation, support or acquiescence of the State. There is an obligation on all state parties to release all information in their possession concerning 'disappeared' or arbitrarily arrested people to close relations or their representatives. Every state party must equally take all necessary measures so that the authors of this crime be held criminally responsible². Finally, the right of victims to the truth and to compensation is clearly recognised and applies retroactively* (in italics in the French original).

² See the Convention: <http://www.delegfrance-onu-geneve.org/kiosque/actualite/disparitions-forcees/projet-convention-fr.pdf>

The Convention will therefore become an instrument for truth and justice for 'disappearances' and their families that cannot be ignored.

A NEW COMMITTEE APPOINTED BY THE CONVENTION

Once ratified by at least 20 States, the Convention provides for a new committee to be put in place. This will be composed of independent experts who will be charged with controlling the implementing by the States of the obligations imposed by the Convention. This committee will, however, not be able to deal with 'disappearances' which took place prior to its formation but it will offer hope for preventing forced disappearances.

THE INVESTIGATION INTO THE NÎMES AFFAIR CONTINUES

The new Nîmois judge summoned two Algerian witnesses, themselves victims in the case of the Relizane militia. The hearing took place on 29 November. The *CFDA* continued its collaboration with *FIDH* lawyers (see Information Letter 19) and went to Nîmes to assist at the hearing and to support the two witnesses who had specially come from Algeria. One of them, who had been a witness in 2004, was persecuted and menaced with death on his return to Algeria. Determined to obtain the truth about his father, he had the courage to return again to testify. Because there was a general strike of lawyers in Nîmes, the lawyer from the opposite side asked for a delay in the hearing.

THE *CFDA* SUBMITS NEW FILES TO THE UN

With regular missions in numerous *wilayas* to meet families of 'disappeared', the *CFDA* continues to receive testimony. Following visits at the beginning of November 89 new and complete files of 'disappearances' were sent to the United Nations Working Group on Enforced Disappearances.

INTIMIDATION AND CHARGES AGAINST OUR LAWYERS: HARASSMENT CONTINUES

Amine Sidhoum and Hassiba Boumerdassi continue to be the target of Algerian Justice (see Information Letter 20). Me Hassiba Boumerdassi had been charged with passing on a *procès verbal* to one of her clients who was detained in prison, without - according to the Head of the Prison - asking for permission to do so, and Me Amine Sidhoum had been charged with having illegally brought business cards into the prison. Me Sidhoum and Boumerdassi were called by the examining judge on many occasions in September, October and November before being notified through an adjournment that the trial was planned for 17 January 2007.

In addition to this, Me Sidhoum has been charged with defamation of the State in another case. He had to present himself on Saturday 9 December before Mourad Mahsas, examining magistrate of the 8th *chambre du tribunal* at Sid M'hamed, after having been summoned by the police hitting his front door as though he were an ordinary criminal. After going at Me Sidhoum aggressively, the magistrate decided to defer the case to the *tribunal correctionnel* (a court trying cases of a fairly serious nature) in Algiers. Me Sidhoum is therefore awaiting a summons to his trial. He risks a punishment of 3 to 12 months in prison and a fine of 50 000 to 250 000 dinars.

The *CFDA*, joined by the *l'Observatoire pour la protection des défenseurs des droits de l'Homme* (watchdog for the protection of human rights defenders, organisation formed by *FIDH*), *FIDH* (International Human Rights Federation), *OMCT* (World Organisation against Torture), *ACAT* (Christians against Torture) and Amnesty International, has continued to denounce this injustice by sending out press communications.

FIVE ALGERIAN ASSOCIATIONS FOR THE DEFENCE OF VICTIMS UNITE FOR TRUTH

It had become essential for the various associations of families of the 'disappeared' and victims of terrorism to meet together. *CFDA*, *SOS disparu(e)s*, *Djazairouna* (Association of victims of terrorism in the *wilaya* of Blida), *Somoud* (Association of of

families of persons kidnapped by armed Islamic groups) and *ANFD* (National Association of families of the 'disappeared') met and all rejected the National Charter for Peace and Reconciliation which provides impunity to those responsible for crimes without offering adequate compensation to the victims (see Information Letter 17). In addition, their demands converged: search for truth and justice, and preservation of the memory of and rehabilitation of the victims... As a result, the *CFDA* led these associations in proposing that they should be partners in its Algiers seminar project conforming to the resolution taken following a seminar in Paris in February 2004.

The associations had several informal meetings in order to agree on the fundamental objectives of the seminar. These were agreed to be: to lead a profound reflection with civil society, to open a dialogue with the government and establish a Truth Commission in Algeria. It was also a matter of agreeing on the best solution to propose to victims for a just resolution for the grave violations that they have suffered.

ACTIVE PREPARATION OF THE SEMINAR 'FOR TRUTH, PEACE AND RECONCILIATION'

The organising committee having been formed, preparatory meetings for the seminar took place in various offices of the organisers: *SOS Disparu(e)s* in Algiers, *Djazairouna* in Blida and *Somoud* in Sidi Moussa. The principal decisions concerned the title of the seminar, the dates and the themes to be considered during conferences and workshops, the speakers and contributors and the place where the seminar would take place. Several Algerians personalities living in Europe were contacted: intellectuals, lawyers, historians, sociologists. Madjid Benchikh, who was approached for his help, engaged together with us for the preparation of the seminar. Following considerable reflection the members of the organising committee adopted the title 'For Truth, Peace and Reconciliation'. The programme and contributors were identified, as were the titles of the sessions, suggested speakers, the

specific subjects and composition of the workshops, etc. The venue chosen was the Mercure hotel.

Proposed letters of invitation prepared by *SOS Disparu(e)s* and *CFDA* were discussed and it was also decided to create an e-mail address dedicated to the seminar. Invitation letters to the authorities were given priority. A letter was addressed to M Zerhouni, Minister of the Interior, to facilitate obtaining official authorisation and another to M Bedjaoui, Minister of Foreign Affairs **HUMAN RIGHTS PRIZE** in order to facilitate the obtaining of visas. They were also the first people to be invited. A letter of invitation was also addressed to the President of the Republic, to his Cabinet Director and to all his counsellors. Around 15 Ambassadors and their representatives and the representatives of political parties were contacted for a meeting concerning details of the objectives of the seminar and in order to invite them.

FAROUK KSENTINI RECEIVES A DELEGATION

Members of the organising committee met Me Farouk Ksentini, President of the National Consultative Committee for the protection of Human Rights (*CNCPDH*), at his office in Blida. The delegation told him about the context of the seminar which should have taken place some months earlier. Me Ksentini assured the organisers of his sincere support for this initiative which he said was indispensable for reconciliation. Me Ksentini insisted that his own objectives, as a defender of human rights, converged with those of the organisers. Me Ksentini promised that he would intercede with the highest authorities so that the seminar could take place in the best conditions; he agreed to participate.

BRIEF NOTES

CHRISTIANS AGAINST TORTURE - SAINT BRIEUX

Christians against Torture in Saint Brioux heard Nassera Dutour tell her story and that of the *CFDA*. On 17 October she was interviewed by a journalist from the diocesan

Christian radio *RCF Clarté*. In the evening she was at the Reformed Church of France. The following day a meeting with secondary school pupils at Saint Charles *lycée* had been organised, followed by a lunch with Mme Danielle Bosquet, the Deputy, at which Mme Bosquet affirmed her solidarity with the families of 'disappeared' and with their struggle for truth and justice. The *Maison du Temps Libre* welcomed Nassera in the afternoon, and in the evening, at the Parish house, she once again informed the public about the victims of enforced disappearances in Algeria. The following morning she met other secondary school children at the Marian shrine in Querrien.

DAYS FOR THE CREATION OF A COMMISSION FOR TRUTH AND JUSTICE IN ALGERIA

On 24 and 25 November 'Days for the creation of a Commission for Truth and Justice in Algeria' were held in Barcelona, organised by *SOPEPAU* (a Catalan organisation: Solidarity for Development and Peace) together with *ASF* ('Archives without Borders'). Nassera Dutour and Amine Sidhoum were honoured to be invited and took part in 'Peace and reconciliation: what future in Algeria?' and 'National reconciliation and the legitimisation of impunity?'. These days devoted to Algeria brought together numerous activists from Lebanon, Morocco and Catalonia. At the end of the seminar a final declaration was adopted favouring a Truth Commission in Algeria.

SEMINAR ON TRANSITIONAL JUSTICE IN YAOUNDÉ, CAMEROON

Nassera Dutour was invited by the French ambassador for human rights to a conference on transitional justice in the francophone world; it was organised by *ICJT* and the Minister of Foreign Affairs. The conference took place in Yaoundé on 4, 5 and 6 December; Nassera Dutour stressed the need to create a Truth Commission in Algeria. This conference was once again the occasion to

increase the awareness of the international community concerning enforced disappearances in Algeria.

The *CFDA* was recognised for its project to establish a Truth and Justice Commission in Algeria by a special mention in the French Republic's Human Rights Prize 2006. The prize is awarded each year by the National Consultative Human Rights Commission (*CNCDH*) and will be delivered to *CFDA* by the French ambassador in Algeria.

PARTNERSHIP WITH ALGERIAN SOCIETY

A partnership with a society (*ARP*, Algerian Society for psychological rehabilitation) which will allow families of the 'disappeared' and victims of torture to benefit from psychological and legal support, is being formed. A convention is due to be signed on 1 January 2007 between the two associations for the duration of a year. Families of 'disappeared' will be able to be helped in three towns: Algiers, Sidi Moussa and Corso. If the first experience is positive, it is intended to develop the partnership.

MEETING WITH 'SOS WOMEN IN DISTRESS'

On 19 December the *CFDA* visited the offices of the association *SOS Femmes en détresse*, which welcomes women and mothers who are living isolated lives, are discriminated against and / or are the victims of violence. The association provides accommodation for some women and women with children. It also provides training in three areas: computing, weaving and dress-making. The training can also give rise to the cooperative management of small businesses. Nassera Dutour met Meriem Belala, President of *SOS Femmes en détresse* so that they could study whether they could associate with *SOS Disparu(e)s* and provide assistance to women among families of the 'disappeared' in Algeria. A partnership will be put in place in the near future.