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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 25–October/December 2007

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THE CFDA AT THE UNO

As a result of an initiative by Amnesty International, a meeting was organised between a delegation of the CFDA and members of the UN Human Rights Committee; the meeting was also attended by the FIDH. During the discussion the CFDA insisted on its principal concerns with regard to the dramatic human rights situation in Algeria. The meeting took place two days before the final consideration of Algeria in accordance with the International Covenant on Civil and Political Rights.

HUMAN RIGHTS VIOLATIONS DENIED BY ALGERIA

A large delegation composed of 14 Algerian representatives, including representatives of the Ministry of Justice, the Interior Ministry, the national *gendarmerie* and the *sûrete* (Security), were present to answer sensitive questions put by the Committee. The delegation was led by Ambassador Jazairy, Algeria's Permanent Representative at the UNO,

The problem of the "disappeared", considered a crime against humanity by one of the Commissioners, was widely raised, as was the erosion of civil liberties caused by the Charter (for Peace and National Reconciliation). The Algerian authorities stood firm however, denying every violation of human rights. The ambassador declared that he was proud of the Charter for Peace and National reconciliation which is itself a process of transitional justice. He felt that the model adopted in Latin America and South Africa could not be used in Algeria since this would give rise to a resurgence of violence.

ALGERIA TAKEN TO TASK: ARTICLE 45 OF REGULATION 06-01 OUGHT TO BE AMENDED, AND ARTICLE 46 ANNULLED

The Human Rights Committee made public its final observations on 2 November; these give an explicit account of the impact of the report submitted by the CFDA. The Committee called on the Algerian State to annul Article 46 of Regulation 06-01. This article incriminates any person who 'tarnishes the nation's image and

its agents (...)'. The Committee observed that the state party furnished few examples of grave crimes that had been followed up and punished, as - for example - in the case of "disappearances". The Committee also recommends the State 'to begin to guarantee that the "disappeared" and/or their families have a fitting recourse (...) and 'to clarify and settle every case of "disappearance" (...) and to have a complete and independent enquiry about every allegation of "disappearance (...)". It also recommends that Article 45 of Regulation 06-01 should be amended so that the right of justice for the victims is not destroyed. The Human Rights Committee strongly encourages enquiries on all sorts of human rights in Algeria to be pursued to 'assure itself that no pardon (...) be accorded to anyone who may have committed grave human rights violations', be they agents of the State or members of armed groups. The conflicting character of the Charter with human rights was thus clearly recognised by the Committee. This represented a considerable victory for the CFDA in the face of the impunity of the Algerian authorities.

NGO FORUM IN BRAZZAVILLE

The NGO Forum which always takes place prior to sessions of the African Commission of Human and Peoples' Rights (ACHPR) brought together African and international organisations for the defence of human rights. It took place from 10 to 12 November 2008. The Forum provided a space for discussion, for exchange and sharing of experiences of information and training about the human rights situation in Africa. The CFDA Spokesperson participated actively by taking part, on behalf of the FIDH, concerning violations of the African Charter of Human Rights committed in North African countries party to the Charter. Following the presentation of the annual report by the Special Reporter on human rights defenders, Mme Reine Alapini-Gansou, she expressed her concerns about Article 46 of Regulation 06-01, which gags freedom. The Reporter deplored the reception of the ACHPR delegation when it arrived at Algiers airport.

A RESOLUTION AGAINST FORCED DISAPPEARANCES IS ADOPTED

Meeting in workshops, the Forum participants specially drafted and adopted a resolution on forced disappearances. This resolution was presented by the FIDH and its member organisations and partners, the CFDA; the Congolese human rights watchdog OCDH, and the Congolese League of Electors (LE). Resolutions condemning grave human rights violations and violations of international humanitarian law perpetrated in Darfur, in the Central African Republic, in the Democratic Republic of the Congo and in Somalia, were the subject of discussion.

A resolution was produced asking that the Organisation of the African Union provide more resources to the African Commission so that it can intensify its action within the continent on behalf of human rights.

All these resolutions were submitted for the approval of the ACHPR.

COMMEMORATION OF THE “DISAPPEARED” OF BEACH, BRAZZAVILLE, PROHIBITED

The OCDH and the FIDH organised a series of activities intended for the 13 November 2007 in order to commemorate the tragedy of the “disappeared” of Beach. (People fled the Congo Brazzaville to escape a civil war there; when they tried to return in May 1999 some 350 of them were detained by the Congo security forces and were never seen again.) It was planned that a ‘round table’ and a press conference should take place before a public, peaceful ceremony, but this was forbidden on the grounds of risk of serious trouble to public order. The *Prefet* had authorised the demonstration that day. Only the ‘round table’ and the press conference were allowed to take place; the CFDA Spokesperson condemned this violation of freedom of action and said that in all dictatorships human rights organisations and State victims were stigmatised. She recalled the banning of the seminar in Algeria in February 2007.

ALTERNATIVE REPORT FROM THE CFDA TO THE AFRICAN COMMISSION

The 42nd extraordinary session of the African Commission for Human and Peoples’ Rights (ACHPR) started with difficulty on 14 November because it had to negotiate with the Congolese authorities before it could meet. Since the situation in Algeria was going to be considered during this session the CFDA had prepared an alternative report in French and English. The country had been examined by the ACHPR rights on 17 November about its respect for the African Charter. The questions of the African Commissioners were very pertinent and forced the Algerian state to face its responsibilities. The final observations await publication.

WHAT IS THE AFRICAN COMMISSION FOR HUMAN AND PEOPLES’ RIGHTS?

The ACHPR is an organ of the African Union (AU) created in 1963, initially with the name of the Organisation of African Unity. In July 1979 the OAU Conference of Heads of State and Government took place in Liberia. During this summit a decision was taken to invite the Secretary General of the OAU to assemble a committee of experts who would be charged with preparing a draft for the African Charter for Human and Peoples’ Rights; this foresaw the institution of instruments for the promotion and protection of rights expressed in the Charter. On 21 October 1986 the Charter came into force. This date was declared, and has always been celebrated as, African Human Rights day.

Article 30 of the African Charter foresaw the creation of the Human and Peoples’ Rights Commission. The Commission was officially installed on 2 November 1987 at Addis Ababa in Ethiopia. It is composed of 11 members who sit in a personal and independent capacity and not as representatives for their countries. It has its headquarters in Banjul, Gambia and meets twice each year in different African capitals in extraordinary session. When communications and complaints concerning human rights violations are raised by victims and/or NGO representatives against countries belonging to

the Charter for African Human Rights, it gives rulings.

BENEDIR CASE PUT BEFORE COMMISSION

The CFDA had submitted the case in the name of Ali Benedir some weeks earlier and this was placed before the African Commission at this session. This means that its admissibility will be examined during the next session of the CADHP.

PERIODIC UNIVERSAL EXAMINATION

The United Nations have instigated a new procedure called a Universal Periodic Review (UPR) within the framework of the prerogatives of the Human Rights Council which replaced the Human Rights Commission in 2006. A country that is a member of the Council will be examined by its peers concerning its respect for human rights: according to the procedure, the UNO encourages civil society organisations in particular to present a brief report containing their major human rights preoccupations. The case of Algeria will be submitted to the UPR in April 2008. Within this framework the CFDA has submitted a report which highlights its concerns about forced disappearances, arbitrary detentions and torture, which continue to be practised in Algeria.

FETHI HAMMADOUCHE AND MOHAMED FATMIA NO LONGER “DISAPPEARED”

After more than seven months of “disappearance”, Fethi Hammadouche was brought before the Algiers court on 15 October 2007. His family prefers to remain discrete about the matter. As to Mohamed Fatmia, he reappeared in El Harrach prison after five months of “disappearance” and his brother was able to visit him. His family was informed by the parents of a detainee held in that prison. Mohamed Fatmia was brought before the Sidi M’hamed court in Algiers on 18 November; he had been detained in secret for months. According to his file he was badly treated during the first 12 days of his detention and then placed under surveillance, all the while still being held in secret. He awaits judgement.

MOHAMED RAHMOUNI, STILL “DISAPPEARED”

Mohamed Rahmouni remains “disappeared”. His mother has not stopped lodging appeals and making approaches to institutions which seem to totally disregard this woman - who just wants to find her son. Following police harrassment (see Information Letter 24) the judicial authorities knowingly raised Madame Rahmouni’s hopes. The Bourouba *commissariat* told her that her son was in prison in Blida (50 km from Algiers), so she went there. The agents at the military prison completely denied that Mohamed was there.

The CFDA launched a petition for the release of Mohamed Rahmouni: nearly 500 signatures were gathered and addressed to the Algerian ambassador in France.

MEMORANDUM

The CFDA received numerous accounts concerning the harassment of families who did not complete steps for compensation prescribed by Regulation 06-01 of the Charter for Peace and Reconciliation. *Gendarmes* did not hesitate to come to their homes in order to summon them to go to the *Commissariat* and to the Court.

These unacceptable manoeuvres were sometimes worsened by the Public Prosecutor’s pronouncing a verdict of death without this being requested by the family.

Other difficulties and injustices are related to the families’ income. Nothing indicates that there is a ceiling for an indemnisation claim. However, many families have been refused compensation on the grounds that they have an income higher or equal to 10 000 dinars per month, or they have been ordered to reimburse what they been allocated. The CFDA has drawn up a memorandum showing the inequalities of compensation granted and showing that they are not full and complete compensation as required by international law.

HUMAN RIGHTS DEFENDERS ACCUSED!

Mohamed Smain, a member of the governing council of the Algerian Human Rights League (LADDH), was condemned on 27 October to two months in prison, a fine of 5 000 dinars, and 10 000 dinars damage and interest to be paid to each of nine litigants. This trial brought him up against members of the Relizane militia and their chief, Fergane. In February 2001 Mohamed Smain alerted the Algerian press to the unearthing of a mass grave at Relizane which revealed evidence of “disappeared” people - following their arrest by Fergane’s militia. The militia brought a case against Smain ‘for slander, insult and unfounded accusation of (imaginary) crimes’. Since that time legal proceedings have followed. Mohamed Smain was first condemned by the court of Relizane in January 2002 to two months in prison, a fine of 5 000 dinars, and 10 000 dinars damage and interest to be paid to each of nine litigants. Following the verdict of the appeal court, Me Smain appealed to a higher court to have the judgement overturned; the Supreme Court sent the affair back to the court in Relizane which condemned him once again. The CFDA immediately took action to denounce firmly these manoeuvres directed against human rights defenders.

Mohamed Smain is not the only defender to have suffered Algerian injustice. The Minister of Justice charged Maître Amine Sidhoum with contempt of the court’s decision, and with insulting an official state body, following the publication in May 2004 of an article in which he [Maître Amine Sidhoum] referred to “an arbitrary decision” concerning one of his clients. The matter is still before the court and Me Sidhoum received a summons to attend on 24 November 2007 in Algiers, but the trial was postponed until 30 March 2008.

WOMEN’S VOICES FESTIVAL

Forced disappearances were at the centre of the eighth Women’s Voices Festival which was held from 6 to 15 December in Belgium. Of three forums, one was on the theme of ‘memory and justice’, and Nassera Dutour took part in its organisation; she spoke on ‘the ratification of the International Convention

against Forced Disappearance’. The day after this forum mothers, sisters and wives of the “disappeared”, members of the network formed in the midst of the Women’s Voices Festival went to Liege where they inaugurated ‘the field of trees’: 12 trees planted in memory of the “disappeared”. The mothers and wives, led by Delphine Angeron, comedienne, announced each country affected by “disappearance” and hung, one after another, small signs with the names of “disappeared”; Nassera draped the CFDA headscarf. The ceremony was closed with the reading of a Colombian poem and a brass band accompanied by hot soup. This was a real moment of emotion where tears could not be restrained; such is still the effect of suffering caused by the absence of loved ones.

AMNESTY, AMNESIA, IMPUNITY - TRANSITIONAL JUSTICE

A symposium organised by the Deputies Noël Mamère, Hélène Flaubert and Alain Lipietz (Greens), entitled ‘Amnesty, Amnesia, Impunity - problems of transitional justice’, brought together the National Assembly in Paris and numerous experts from Europe, Latin America and Africa. Nassera Dutour emphasised the manner in which the Charter for Peace and National Reconciliation erodes civil liberties; she also stressed her relentless determination to establish the true facts concerning the fate of all the “disappeared”, and of her son in particular. Reports about this symposium will appear in the magazine *Mouvements* in the Spring of 2008.

SHORT NOTES

International symposium on Public Policies of Memory

Mémorial Démocratique, in partnership with the government of Catalonia (Spain), organised, from 17 to 20 October last, the first international symposium on Public Policies of Memory (to promote and guarantee the civil right of memory). Nassera Dutour, being there at that time to participate in the Festival of Arab cinema in the Mediterranean, was able to assist at the symposium and to make contacts with the organisation.

Making the UN Working Groups aware of the issue of the “disappeared”

A delegation from the CFDA met, on the fringes of the examination of the Human Rights Council, with thematic UNO ‘Special Procedure’ Working Group representatives. Groups working on extrajudicial executions, arbitrary detentions and torture were informed about violations which persist in Algeria.

‘La Chronique’ of Amnesty International (France)

Nassera Dutour was asked by the editors of the French section of Amnesty International to describe her evidence and experience on the subject of breaches of human rights. Her article was published in No. 253 of AI France’s monthly *La Chronique* and was entitled: ‘Algeria protests about foreign intervention, in an attempt to conceal the true facts’.

UNICEF meeting

On 17 November the President of *SOS Disparus* met Raymond Janssen, representing UNICEF in Algeria. She spoke of present actions being undertaken by the association, of her wish to instigate actions to support children of the “disappeared”; she expressed her hope of seeing a project on this issue in partnership with UNICEF.

Participation in a session of the UN Forced Disappearances Working Group

A CFDA delegation went to the 83rd session of the Working Group on Forced and Involuntary Disappearances held in Geneva from 21 to 30 November. It was able to speak with members of the group and used the occasion to submit 45 new cases of “disappearances” in Algeria.

One of SOS’s members invited by the CODAP in Geneva

One of the members of *SOS Disparus* from Algiers was invited by the Youth Resource Centre on Human Rights (*Centre de conseils et*

d'appui pour les jeunes en matière de droits de l'homme - CODAP) in Geneva. She had a stand during an event organised by the *Jardin des disparus* ‘Garden of the Disappeared’. She also made a presentation to pupils of two *lycées*: both about her commitment to *SOS Disparus* and about the phenomenon of forced disappearances. She received training about the UPE (see above) and assisted at the Human Rights Council’s session.

Important meetings for SOS disparus

SOS Disparus participated at various meetings during this quarter: there was a debate about the 59th anniversary of the Universal Declaration of Human Rights organised by *LADDH* at the Friedrich Ebert Foundation, conferences of the *SARP*, a meeting on the theme of ‘women and politics’ initiated by the Friedrich Ebert Foundation, and a discussion with the *CIDDEF*.

SOS Disparus received many visits: the attaché at the United States embassy, the Economic Councillor at the Italian embassy, and a number of Algerian and European journalists. More and more links are therefore being made between Algerian and European civil society.

Press conference at Algiers

On 6 November a press conference was organised by *SOS Disparus* in its offices in Algiers in order to inform civil society of the final recommendations of the Human Rights Council.

CFDA in the press

Le mystère des disparus algériens, Le Temps, édition du 25 octobre 2007. *Les familles de disparus à Genève*, l’Expression, le 24 octobre 2007. *L’Algérie soupçonnée d’avoir des “centres de détention secrets”*, Genève AFP, le 2 novembre 2007. *Contre l’oubli des disparus en Algérie*, Le Figaro, édition du 2 novembre 2007. «*De la fabulation*», la Nouvelle République, édition du 4 novembre 2007.