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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 29 – October/December 2008

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LETTER TO FAMILIES OF THE DISAPPEARED

The CFDA and SOS Disparus have begun to launch a letter campaign addressed to families of the disappeared. The aim of this campaign is to re-mobilise families by informing them of their right to the truth and, in spite of the compensation given and of the clauses in the Charter, of the necessity of continuing to press the Algerian authorities for this right. The letter also informs families of the services provided by the offices of *SOS Disparus* in Algiers and Oran, and invites them to go there and make their sufferings known at national and international level.

Helped by volunteer office members the letter has been sent to families of the disappeared in all Algerian wilayas. After receiving the letter a hundred or so families have since come to the office. These families are not willing to see the file of their close relative closed without knowing the truth and without explanation. Their concerns vary according to each case: some families have received compensation and demand the truth and the return of the body of their close relative - declared dead without proof. Mothers who were required to make statements before a court, or who were called to the *gendarmerie* or police, now want to denounce the way they were manipulated. Families who have a report about disappearance which has no details - as those who were refused such a statement on the basis that their relative does not appear on an official list of the disappeared - are demanding that an effective inquest be opened. Families who, for various reasons, have been refused compensation, contest the decision and continue to press for the truth concerning their close relative. Other families have categorically refused compensation and have never stopped claiming from the Algerian authorities their right to truth and justice.

This letter campaign has had the effect of increasing participation at the weekly demonstration in front of the *CNCPDHD*. During the three-month period other demonstrations other than the weekly one have been organised on symbolic dates and places by *SOS Disparus*. Each time a hundred families have responded and been present.

THE FAMILIES OF THE DISAPPEARED DEMONSTRATE IN FRONT OF NATIONAL INSTITUTIONS

There were many demonstrations at the end of 2008. At the instigation of *SOS Disparus* families assembled on various occasions to claim their rights, to show their indignation and to make their anger heard - both in front of the head offices of Algerian institutions and in symbolic places.

The commemoration of October 1988, when hundreds of people were killed, was marked by an annual demonstration organised by *RAJ* in Algiers. Members of *SOS Disparus* did not miss the opportunity to participate and demand democracy and justice.

On 1 November 2008, the 50th anniversary of the triggering of the revolution of independence was celebrated by an extraordinary demonstration of families of the disappeared in front of the *CNCPDHD*. A flag was unfurled stating that 'We are happy on this 50th anniversary of the revolution, but the disappeared are not here: where are they?'

Following this, a demonstration on 23 November in front of the Minister of Justice had a particular atmosphere. Fed up with not getting any response to their continuous demands for a hearing, the families decided to assemble in front of this institution and to meet one of the officials in charge. A committee member of *SOS Disparus*, Hacene Fahati, was prepared to present our demands in person but he was immediately interrogated by police who had surrounded

the area. From their arrival the hundred or so families, having responded to *SOS Disparus*' call, found themselves hemmed in on the pavement of the Malika Gaïd Boulevard - and under a most violent rainstorm. They were close to the Ministry but it was encircled by the police who prevented them getting any further. The police took the opportunity of insulting the demonstrators and treating them badly. As a result of the demonstration the press release was fairly widely circulated.

Finally, on 10 December, *SOS Disparus* and *CFDA* celebrated - together with many other organisations across the world, the 60th anniversary of the UN Universal Declaration of Human Rights. Members of *SOS Disparus* came together to demand that the Algerian authorities, in conformity with international human rights principals, respect their international obligations and provide the truth about each of the disappeared.

CFDA* OBTAINS OBSERVER STATUS AT THE *CADHP

The African Human Rights and Peoples' Commission (*CADHP*) informed *CFDA* that its request for the status of Observer had been accepted at the Commission's 44th Ordinary Session which was held in Nigeria in November 2008. The *CFDA* is delighted at this news. The status of Observer gives it a bigger margin of action and allows it to have a greater impact within the *CADHP*. It should be able, in particular, to make the issue of forced disappearance more visible at this regional human rights organisation. *CFDA* hopes through this to have closer cooperation with *CADHP*. With this position *CFDA* should be able to make as many statements as it wishes and demand that the issue of disappearance be put on the agenda of the *CADHP*. Getting the status of Observer at the *CADHP* is a new tool, not just to denounce forced disappearances in Algeria and the treatment of the issue by the Algerian authorities, but also to contribute to warnings about this practice and to help

eliminate it on the African continent and in the world.

M FAROUK KSENTINI'S RECORD ON THE POLITICS OF COMPENSATION

According to the President of the National Consultative Commission for the Protection and Promotion of Human Rights (*CNCPPDH*), Farouk Ksentini, 96 to 97% of families have accepted the compensation proposed by the Algerian authorities within the the framework of the relevant clauses of the Charter for Peace and National Reconciliation. For M Ksentini these figures signal the closing of the file on disappearances: *'I think that a solution has been brought to this problem. 96 to 97% have accepted compensation', M Ksentini confirmed during a TV programme during October 2008. 'It is true that there is a core (...) that still looks for justice (...). But I believe that it's a problem to which a solution has been found.'*

The President of the *CNCPPDH* continued to hold this view while the *CFDA* had submitted - in November 2007 - a memorandum criticising the compensation procedure foreseen in the relevant clauses of the Charter. The memorandum had denounced the human rights violations that the victims suffered as a result of this procedure, and had underlined the unfair manner in which it was applied. As a result of Farouk Ksentini's declarations in October 2008 the *CFDA* reacted through a communiqué calling for the Right to the Truth: compensation is only a small part of a complete and entire solution, of which the Truth is an indispensable element, it said. The press release can be seen on: <http://www.algerie-disparus.org/cfda/index.php?option=comcontent&task=view&id=243&Itemid=111>

NINTH SESSION OF THE HUMAN RIGHTS COUNCIL, GENEVA, SEPTEMBER 2008

During this session commemorating the 60th anniversary of the Universal Declaration of Human Rights, the Human Rights Council examined three resolutions, the first concerning the protection of human rights at times of armed conflict (A/HRC/9/L.21, revised), the second on Human Rights and transitional justice (A/HRC/9/L.22), and the third on the Right to the Truth (A/HRC/9/L.23).

At the end of the resolution on the Right to the Truth, the Human Rights Council asked the UN High Commissioner for Human Rights to undertake an in-depth study of the best practices to ensure this right, particularly concerning the protection of archives and files, witnesses and other persons participating in the case who had had experience of such violations.

Finally, through the decision A/HRC/9/L.5, the Human Rights Council charged the consultative committee with ‘*completing a study on the best practices concerning disappeared persons, and to submit it to the Human Rights Council at its 12th session.*’

T H E A L G E R I A N S T A T E O N C E A G A I N T A K E N T O T A S K B Y T H E U N H U M A N R I G H T S C O M M I T T E E

The UN Human Rights Committee (UNHRC) made public its final observations on 6 November 2008 concerning the report sent by the CFDA in July 2006 *re* the case of Menouar Madoui. Menouar Madoui disappeared on 7 May 1997 at Larbaâ (Blida wilaya), after having been arrested by police in civilian clothes. The UNHRC concludes that the practice of forced disappearance violates several measures of the International Covenant on Civil and Political Rights (ICCPR), which Algeria has signed and is required to respect. In the case of Madoui Menouar the Human Rights Committee considers, in its final deliberations, that the Algerian state violated Articles 7, 9 and 16 of the ICCPR.

Article 7 stipulates that “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (...)*”. In its consideration of the Madoui case, the UNHRC reaffirms that forced disappearance violates Article 7 in regard to both the disappeared and his mother - as the result of the anguish and distress which has afflicted Mme Madoui since the disappearance of her son.

Article 9 makes provision that “*Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge (...) and shall be entitled to trial within a reasonable time or to release.*”

Article 16 guarantees to everyone “*the right to recognition everywhere as a person before the law.*”

The UNHRC also affirms that the Algerian state has not respected Articles 2 & 3 of the ICCPR in not carrying out effective investigations following the allegations of violations of human rights of which both the disappeared, Madoui Menouar, and his mother are victims.

The final observations of the UNHCR on the Menouar Madoui report represent another victory for the CFDA in its struggle against the impunity of authors of the crime of forced disappearance. The Committee in effect recommends that the Algerian state conforms to the Covenant articles by:

- 1) providing the family with compensation;
- 2) by undertaking an in-depth investigation into human rights allegations brought to its knowledge and
- 3) in following-up with penal proceedings against the presumed authors responsible for the disappearance of Mouar Madoui, so that they can be judged and punished according to the law.

The Algerian state has 180 days from 6 November 2008 to transmit information to the Committee about the measures that it will take in order to apply the UNHRC recommendations.

1 5 0 NEW FILES DEPOSITED AT THE UN WORKING GROUP ON FORCED DISAPPEARANCES (W G F D)

A CFDA delegation to Geneva lodged 150 new cases of forced disappearance with the UN Working Group on Forced Disappearances (WGFD) in November 2008. The files, with full details, were prepared by teams from the Paris and Algiers offices, working in strict collaboration. They concern cases of disappearance from all over Algeria, including a significant number from Jijel, Algiers, Tipaza and Médéa.

This visit to Geneva was also an occasion for the Spokesperson for the CFDA to meet members of the WGFD. Although the request for a meeting with members of the WGFD was made in the name of the Euro-Mediterranean Federation against Forced Disappearances, of which the CFDA was a founder member, many questions concerned forced disappearances in Algeria, the Charter for Peace and National Reconciliation, its relevant clauses and the problem posed by compensation. The interest of international authorities in the question of forced disappearances in Algeria and its treatment by the Algerian authorities is of the greatest importance for CFDA.

A MINE SIDHOUM SENTENCED IN APPEAL

Amine Sidhoum, lawyer and human rights defender was condemned in March 2008 to a suspended six months prison sentence and to a fine of 20 000 Algerian Dinars (about €200). The condemnation was for bringing the Algerian justice into disrepute - after he publicly criticised the fact that one of his clients had been detained without trial for two and a half years. Amine Sidhoum had

appealed against the decision; the appeal was held on 12 November 2008, having been delayed from 8 October. During this appearance debates went on for four hours and were very lively. Me Sidhoum's lawyers put forward the question of the right of freedom of expression and brought to the fore the problem of the independence of Algerian justice. Foreign observers were present to observe the trial, most notably the Paris lawyers association.

On 26 November 2008 the Algiers Court of Appeal rendered its verdict and confirmed the condemnation of the first trial. Amine Sidhoum has decided to appeal to a higher court to have the verdict overturned. It should be recalled that Me Sidhoum has had to face legal harassment since 2003.

PREPARATION FOR THE GENEVA CONFERENCE

During this three-month period CFDA and *SOS Disparus*, together with *Somoud*, *Djazairouna* and the World Organisation against Torture (*OMCT*), have spent much time on the preparation of the Geneva conference planned for 5 and 6 March 2009. The title of the conference will be: 'The Truth in Algeria: results and expectations a year after the UN recommendations'.

The themes for the programme will be orientated around the human rights situation in Algeria and the state of the measures taken by the Algerian authorities to implement UN recommendations. The various forms of transitional justice around the world will be one of the important subjects which will be taken up. The CFDA team has contacted all the potential people who will have an input and has invited representatives from international bodies working on the protection of human rights, representatives of Algerian and foreign institutions and of Algerian civil society and international NGOs. Thanks to the *OMCT*, the International Conference Centre in Geneva has been freely offered for this

event. It has everything needed for an international event of this stature - welcome desk, translation, microphones etc. Other logistical questions such as transport, visas, restaurants and lodgings, are being studied.

IN BRIEF

THE REMDH VISITS ALGIERS

Mr Marc Schade-Poulsen, Executive Director of the Euro Mediterranean Human Rights network (REMDH), on an official visit to Algeria, had a long meeting with members of the Association in the offices of *SOS Disparus*. The meeting centered around the protection of human rights in Algeria and the situation of families of the disappeared - their actions and their expectations.

PROJECT JE T'ÉCOUTE

As a partner in the project '*Je t'écoute*', an *SOS Disparus* delegation was invited by the NADA network to its presentation in Algiers, at its mid-point in the project, of its report on the promotion of the rights of the child. The *SOS Disparus* delegation stressed the situation of families of the disappeared and their children at the presentation, in front of journalists, representatives of civil society and Mme Nouara Saâdia Djaâfar - Minister delegate responsible for the family and the place of women in society.

ANNUAL MEETING OF REMDH

The eighth annual meeting of the Euro Mediterranean Human Rights network (REMDH), of which the CFDA has been a member since 2006, took place in Barcelona from 11 to 14 December. 80 human rights defenders came from north and south of the Mediterranean; members of Spanish and

international NGOs, Catalan political personalities and representatives from the European Commission were also present. The report on this meeting can be seen on: <http://fr.emhrn.net/557>

SOS DISPARUS IN THE MEDIA

A journalist from the British weekly *The Economist* met members of *SOS Disparus*, and relatives of the disappeared from several *wilayas*, at the *SOS Disparus* offices in Algiers. The journalist was interested by the aims and the work of the Association, and by its actions, and also about the situation of families of disappeared persons. She wanted to know more about the circumstances of disappearance of those present and was very moved by the poignant witness of families. She was full of admiration for the resolution of mothers wanting to know what had happened to their dear ones. She also admired the courage of the mothers.

In addition a journalist made a radio report in Algiers on the struggle of *SOS Disparus* and mothers of the disappeared for Truth and Justice. The report also highlighted the extremely precarious situation of a number of families of the disappeared, of their suffering from day to day because of the absence of the disappeared person, and the misery into which they have been plunged following the disappearance. The report was broadcast on 26 November by *Radio Suisse romande*.