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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA

NEWSLETTER

Number 12–July/September 2004

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KSENTINI COMMISSION'S NATIONAL CAMPAIGN TO SUMMON FAMILIES

Families of 'disappeared' summoned

On 26 July 2004 the *ad hoc* Commission, set up for 18 months through a presidential decree dated 11 September 2003, provided the impetus for an important campaign to summon families of the 'disappeared' to the Commission's Head Office in Algiers. As a result, hundreds of mothers, fathers and spouses of the 'disappeared' received, by mail, a summons fixing a meeting for them to attend at the offices of the *CNCPDH* (*Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme*) in Algiers.

The mention 'urgent' written in red on the envelope, and the absence of any explanation about the demand often terrified the families.

It was only later that it was known officially that these demands were made with the aim of permitting the *ad hoc* Commission to update its data on the files of the 'disappeared' before completion of a final report, planned to be submitted to President Abdelaziz Bouteflika on 31 March 2005.

However, in the course of this process, it became quite clear to the *Associations* of families, including the *CFDA*, that the Algerian authorities seemed to be making a new attempt to bury the tiresome issue of the 'disappeared'.

The relatives of the 'disappeared', summoned to individual interviews, were invited by a civil servant of the Commission to fill out a questionnaire in which they provided, once again, summary information pertaining to the 'disappearance' of their relative (date, place, circumstances, etc).

Concerning the question of the responsibility of state forces for the 'disappearance', families reported to members of *SOS Disparu(e)s* that the government official often replied that their son or husband was dead or had left to join the *maquis*.

The *ad hoc* Commission, which had taken care to furnish a bilingual questionnaire in both French and Arabic had, however, formally refused families the assistance of a lawyer or a representative, or quite simply a relative. Of even more concern, this questionnaire - of which a copy has been obtained by the *CFDA* - concluded with a question formulated along the following lines: "Would you accept compensation which may be made by the state to you?" (Yes/No).

In view of the questioning of the families about this form of compensation, many were persuaded by the Commission's civil servants that it was 'uniquely' a matter of social aid decided by the government to alleviate the financial plight of spouses of the 'disappeared' and to assure the schooling of their children. It is also to be noted that some families have received a 'double' summons, the wife and the mother of a 'disappeared' each being separately summoned - without doubt done in order to double the chances of finding somebody more 'understanding'.

A final question suggested that families should freely draw up what they expected from the Algerian government¹. A further detail that could later be of crucial importance: the families summoned had no opportunity to make a copy of their completed questionnaires.

DENUNCIATION BY REPRESENTATIVES OF THE FAMILIES

Faced with what appears to be a new attempt to manipulate the issue of 'disappearances' by the Algerian authorities, associations representing the families, including the *CFDA* and *SOS Disparu(e)s* in Algiers, alerted by numerous families who had been summoned, publicly expressed their concern.

The association denounced this new campaign, and the conditions under which families had been heard, by means of press releases which appeared in numerous

¹ Nassera Dutour, Spokesperson for the *CFDA* and mother of a 'disappeared', was summoned - and went, in August 2004.

Algerian newspapers - both Francophone and Arabic.² The two associations also emphasised the fact that using the cover of resolving the issue of the 'disappeared', the Algerian authorities are once again brandishing the carrot of compensation in order to convince the family victims to close the files.

And yet, as *CFDA* recalled in a press release dated 28 July 2004, such a measure contravenes international law which states that 'every act leading to forced disappearance continues to be considered as a crime as long as the facts have not been clarified' (United Nations declaration concerning the protection of all persons against forced disappearance, Article 17). Forced disappearance continues to be considered a crime which doesn't come to an end until the fate of the 'disappeared' person is made clear.

SOS DISPARU(E)S CONTINUOUSLY IN FRONT OF THE *CNCPDHD* HEAD OFFICE

During the month of August, members of *SOS Disparu(e)s* were in front of the head office of *CNCPDHD*, in relays, for 15 days. This was done so that they could meet families of the 'disappeared' summoned to appear at the Commission. Carrying papers giving the address of the association in Algiers, this exercise allowed them to have contact with many families who were not aware of the existence of the association.

The impact was important for the work undertaken by *SOS Disparu(e)s*: many families who did not often come to Algiers went to the *rue Volta* offices of *SOS Disparu(e)s* and each day more than five new 'disappearance' files were opened by employees of the association.

² Cf. " *Le dossier des disparitions forcées n'est pas soluble dans l'indemnisation* ", Communiqué du *CFDA*, 28 juillet 2004. Cf. " *Après 10 mois d'existence, la Commission ad hoc révèle son inefficacité* ", communiqué du *CFDA*, 30 juillet 2004.

PRESS CONFERENCES IN ALGIERS ON 24 AUGUST AND 07 SEPTEMBER

In order to engage in a discussion with the press and official authorities, but also to allow families directly concerned to express themselves, *CFDA* and *SOS Disparu(e)s* organised two press conferences at the head office of *SOS Disparu(e)s* in *rue Volta* in Algiers.

The first press conference took place on 24 August 2004. This took place under the presidency of Nassera Dutour with representatives of *SOS Disparu(e)s*, including the President Mme Fatima Yous, Vice President Fatma Zohra Boucherf, and the Secretary General Mme Zakia Lakel. Me Zahouane of the *LADDH* (Algerian League for the Defence of Human Rights) and M Kader Yahaoui, representing families of the 'disappeared' in Médéa, were also present.

During this press conference, in addition to speeches from representatives reaffirming their opposition to the solution of financial compensation for the families, mothers of the 'disappeared' spoke at length to journalists, who had come in considerable numbers, to affirm yet again that their 'disappeared' relatives were not for sale and that there must be Truth and Justice for their relatives.

A second conference was organised on 07 September 2004, jointly by *SOS Disparu(e)s* and *Somoud* (Association of 'disappeared' persons kidnapped by armed groups). *Somoud*, represented by its President M Ali Merabet, had decided, together with *SOS Disparu(e)s*, to denounce Farouk Ksentini's manoeuvres to water down the 'disappeared' issue. The two associations thus joined their efforts to require the government to open mass graves and to identify the remains of bodies.

Nassera Dutour and Ali Merabet recalled the media coverage for the opening of a DNA laboratory at the *DGSN* and demanded that use be made of the laboratory.

MEETING WITH FAROUK KSENTINI

Nassera Dutour was received by Farouk Ksentini in his office at the *CNCPPDH* on 06 September 2004. He seemed to want to take an open attitude of dialogue with the representatives of the families of the 'disappeared'. M Ksentini stated that the work carried out by the *ad hoc* Commission was not that of making an inventory but of bringing the files up-to-date; the work had not been pointless because the *CNCPPDH* had been able to 'resolve' 111 'disappearance' cases. However, these 'resolved' cases only relate to short-term cases of 'disappearance': most had been kept in police stations and the families had not said anything about their release.

M Ksentini seemed to admit to Mme Dutour that the establishment of the *ad hoc* mechanism to resolve the question of the 'disappeared' had been a failure. He then said that the solution to the problem of the 'disappeared' could only be found in cooperation with the families.

He proposed to Nassera Dutour that a working meeting with representatives of the families of the 'disappeared' be held at a time that would be suitable to her and other representatives. However, despite the good will of the President of the *CNCPPDH*, these proposals came to nothing.

THE *CFDA* MEETS FAMILIES OF THE 'DISAPPEARED' IN ALGIERS AND JIJEL

The Spokesperson for the *CFDA*, Nassera Dutour, went to Algeria from 11 August to 10 September. She was accompanied for part of the time by a law student - a trainee at the *Collectif* who will work with *SOS Disparu(e)s* and meet families of the 'disappeared'.

In the *wilaya* of Djijel

A visit was organised to the *wilaya* of Djijel, east of Algiers, on 20 and 21 August 2004. The *CFDA* had been made aware that entire groups of men 'disappeared' between 1995 and 1997 following search operations. For

example, in the village of Kennar near the town of Djijel, the visitors, accompanied by M Abdel Malek H'Hamdaoui representing of the families, met families of the 'disappeared' who testified to kidnappings. As a result, the *CFDA* learned of the 'disappearance' of 22 men in a single night (07-08 April 1995) following a vast search operation led by the military and *gendarmes*.

Nassera Dutour was able to speak with several wives and mothers, victims of the 'disappearances'. Other abductions of this type were reported from Kennar, for example 11 persons were taken on 21 August 1996 to the military sector of Djijel; families have never had any further news. In an area of Kennar the members of the associations also met families affected by 'disappearances', such as a family of seven children shattered by the 'disappearance' of their father, abducted on 10 May 1995 by the military.

All these face-to-face meetings allowed the *CFDA* to update data about 'disappeared' people in this *wilaya*, to meet other victims and to compile new 'disappearance' files. The visit also meant that families in relatively isolated areas could be made aware of their rights.

In the *wilaya* of Médéa

Nassera Dutour visited the village of Ksar el Boukhari in the *wilaya* of Médéa in order to meet other new families. It is as a result of these discussions that she was able to understand the painful question of judgements of "disappearance". Numerous families explained to her that they have had to ask a judge for a judgement of "disappearance": for administrative questions, a judgement is often obligatory. Two wives of 'disappeared' persons explained to Nassera Dutour that for enrolment at a university they were obliged to provide such a judgement, justifying the absence of the father.

Judgement of ‘disappearance’

Relatives of persons who have “disappeared” often want to know what is meant by a court’s judgement that the person in question has “disappeared”, or the judgement that the person in question is “untraceable”. The judgement that an “individual has disappeared” is not, however, a penal decision but a judgement passed by a civil judge as a result of articles 109 to 115 of the Family Code.

The consequences of this judgement are not to identify those responsible for the disappearance or to throw light on the circumstances of the disappearance, but to rule on matters of property ownership, inheritance and marital status. The consequences of such verdicts are not insignificant.

On one side it permits the judge to pronounce the death of a ‘disappeared’ person a minimum of four years after the first verdict. On the other hand, if a person is declared dead, the file can no longer be used to make a complaint, nor can it be taken up by international institutions dealing with forced or involuntary disappearances, such as the Working Group at the United Nations. Families must make a choice with full knowledge of the facts

Relative to this question, the wife of a ‘disappeared’ person from Blida explained at length how, in wishing to ask for social assistance from the mayor of Blida, she was directed to the courts’ legal service to demand a judgement of “disappearance”. Following this, the Town Hall told her that the judgement was insufficient and that a death certificate was necessary if she wanted to obtain social assistance as the result of the absence of her husband. This wife had therefore to return to the courts where, in the hope that she would receive help from the Town Hall (which she will never get), she requested that a verdict of death should be pronounced.

MORE ‘DISAPPEARANCE’ FILES

In the matter of handling ‘disappearance’ files left by Maître Tahri, more than 300 letters were sent out by *SOS Disparu(e)s* to the families concerned inviting them to come to the office in Algiers in order to replace missing documents again and thus to complete new files.

This work allowed numerous ‘disappearance’ cases to be dealt with; the invitation was received by many families who came to the *rue Volta* office during the summer.

CONFERENCES AND FORUMS

Summer university at the Documentation and Training Centre for Human Rights in Rabat

The Summer university at the Documentation and Training Centre for Human Rights was held in Rabat, Morocco, between 19 and 26 July 2004 in partnership with the New York International Centre for Transitional Justice (ICTJ).

Focussed on the theme of transitional justice, those invited came from several North African and Middle East countries; they participated in numerous conferences and debates led by ICTJ members, including Hanny Megally, ICTJ’s President. Sofiane Chouiter and Amine Sidhoum, lawyers and members of *SOS Disparu(e)s*, were there to represent Algeria, as were Nassera Dutour, Spokesperson for the *CFDA*, Mme Safda Fahassi, member of the National Association of Families of the ‘Disappeared’ and M Reouane Boudjema representing the *LADDH* (Algerian League for the Defence of Human Rights).

In the course of the week participants were invited to visit the Equity and Reconciliation Authority (*IER*) in Rabat and hear a detailed account of how this authority worked. As a result of an initiative of *IER* members a debate was organised at a dinner in the course of which participants were able to hear the

witness of four victims of political repression in Morocco.

A man who had been 'disappeared' gave an account of his detention in secret for 20 years; a mother explained her battle to obtain freedom for her son; Khadidja Rouissi, sister of one of the first 'disappeared' in Morocco in 1963 and Abdeslam Manouzi, abducted in 1962 both also testified to their experiences.

At the end of the week participants gave their opinion about the state of human rights and about the establishment of a transitional justice mechanism in their own countries: Algeria, Egypt, Sudan, Lebanon, Irak, Bahrein and Yemen.

IVTH INTERNATIONAL ASSEMBLY PREPARATORY TO A MEDITERRANEAN SOCIAL FORUM

Nasser Dutour, Spokesperson for the CFDA, took part in the 1Vth international assembly preparatory to the Mediterranean Social Forum in Malaga, Spain from 24 to 26 September 2004. This Assembly was to prepare for the Mediterranean Social Forum planned for June 2005 in Barcelona. Among the themes and main thematic lines the proposal for a conference on human rights in Algeria was supported.

Together with Sodepau, CFDA had reached agreement that the theme of this conference should be that of forced disappearances and the struggle against impunity. In addition, agreement on a seminar on forced disappearances was obtained and Nassera Dutour agreed to the request of the 'Women's Assembly' for a seminar about the Family Code in each of the three Maghreb countries.

SHORT NOTES

Sponsorship campaign and distribution of educational supplies to children of the 'disappeared'

Algerian Muslim scouts, on the occasion of the return to school on 11 September 2004 and working together with SOS Disparu(e)s, organised a distribution of school satchels

and educational supplies for children of 'disappeared' people. A sponsorship campaign took place for the poorest and two families each received 2000 dinars to ensure at least a part of their schooling.

Working and reflection group in Paris

This group, established as a result of a resolution on 28 February 2004 for a Truth and Justice Commission to be set up (see Information Letters 10 and 11), held a meeting in Paris at the headquarters of the FIDH on 13 September 2004. Myriam Blein and François Ferrand of ACAT (Christians against Torture), Yahia Assam, Nassera Dutour of the CFDA, Stéphanie David of the FIDH, and Mme Lise Martinet representing the French Section of Amnesty International, were present.

'Freedom House' training session

Members of SOS Disparu(e)s participated in training designed to teach them to master some computer tools.

Preparation for the National March for Truth and Justice in Algiers

On the occasion of the summer protest campaign SOS Disparu(e)s and CFDA started the preparation for a National March planned in Algiers on 5 October 2004. A press communique calling on families and inviting political parties, embassies and organisations to join them, was sent out at the end of September.