

Campaign Diary of the Families of the Disappeared

jmfd.algeria@gmail.com

Bulletin of the National Coordination of the Families of the Disappeared in Algeria.
#3—Jul - Sept 2006

*We dedicate this newsletter to all the disappeared,
to all the victims of savagery without exception.*

Contents

Editorial: Algerian Schizophrenia

National news

The Algerian State in the dock!
Amnesty International openly accuses the DRS
of "acts of torture"
Farouk Ksentini's flights of fancy

International news

Human Rights Council:
Louise Arbour calls for greater application of
existing norms
International Convention on Forced
Disappearance adopted
Justice must not be sacrificed to end conflicts,
Security Council told
Argentina: The Mothers of the Plaza del Mayo
movement grows
Chad: Will Hissene Habre be judged in Africa?

Legal section

The infamous attestations of death

In the sights ...

Liberia: Charles Taylor to be tried for crimes
against humanity
Argentina: First trial since amnesty law's
abolition
Guatemala: a putschist general arrested in
Spain
Srebrenica: collective charges against the
Netherlands and the UN

Soapbox

The unknown X!!

Contacts

Write to the Campaign Diary
jmfd.algeria@gmail.com



Editorial

Algerian schizophrenia

Rabha Attaf

A new wind is now blowing on Algeria. Not the one carrying the so long awaited rain or the so much feared heat to the peasants (here called the “fellahs”); for sure not the one carrying plagues of destructive locusts, but a rarer wind which, according to the ancients’ tales, blows a magic breeze entering lucky people’s houses. For you have to be privileged to taste the delights of this miraculous wind, whose power makes you feel so euphoric that you even can’t remember your mother’s name... and takes you in the blink of an eye to a planet whose mysterious name is known only to the initiated !

What has happened to you indeed, if not thrown to/wrecked on Planet Schizophrenia, when daring assert that 183 disappeared people magically resurrected ? For sure this is an exploit, and Farouk Ksentini, the president of the National Advisory Commission for Advocating and Protecting Human Rights – such a name makes you wonder – is the guy who is responsible.

And what shall we say about this address made last june to the brand new United Nations Human Rights Council (UNHRC), claiming that “happily, Algeria has left the black decade (the 1990s) behind, and is now heading to democracy and rule of Right, and follows with serenity its way towards national reconciliation, thus enforcing the generalized rule of human rights. Algeria is now looking at the future saying “never more” and this statement is also targeting the disappearances” ? How arrogant !

It does not matter that these words came out Idriss Djazaïri’s mouth that day – with such a name, meaning Idriss the Algerian in Arabic, you can’t mistake the country he stands for -, for it is official Algeria speaking, the one who promotes the big boss of the Security and Intelligence Departement (SID : in French DRS, formerly called Military Security), General Tewfik Médiène, to the rank of Major-General, as if you only had to change the label to alter the organic nature, in the way you do it with GMOs ! [1] The Algeria of the Riad-al-Fath and of the Raïs Ahmidu [2], the Algeria who lives in the era of New York, since Paris has been out of fashion for several months in the eyes of those new-wave Chicago boys [3], hungry for all kinds of Mafia trades ! In brief, this Algeria the technocrats of the ultraliberal globalization welcome in their highly select clubs.

Except that this fairy-tale world only exists in the ramblings of those hallucinating people ! If not, how would you indeed explain why the UN-HRC lately summoned the Algerian state to provide some information about the disappearances of Salah Saker and Riad Boucherf, whose cases had been referred to this high-level authority by their families ? How could you interpret the latest report issued by Amnesty International, in which the British organization accuses the SID of hiding behind the government’s antiterrorist policy, in order to “carry on acts of torture and other ill-treatments” against people suspected of taking part in terrorist activities ? What would you finally say about those loathsome death certificates that were delivered to the disappeared people’s families, summoned by unpunished, thus arrogant, institutions ?

This real, tangible Algeria – should it be condemned to remain unseen, on the pretext that it would hinder the financial interests of its government and their “friends” abroad ? Undoubtedly not ! Even if any madness revels in, and feeds itself with, its own logic, reality always comes up in the end ! Especially in a country whose people has proven highly tough and combative throughout its history. A people whose memory has been transmitted across the generations, and who can’t be numbed with schizophrenic ravings. Then, “never more” certainly ! It means : never more fake laws and injustices, never more privileges and sacrileges, never more arrogant richness and flagrant poverty, never more ill-treatments and entreaties, never have to say “never more” any more !

National news

The Algerian State in the dock!

During its 86th session in New York, the UN Human Rights Committee made two decisions which open important prospects for the families of the disappeared in Algeria.

The first concerns the complaint filed by Mrs. Louisa Saker on 9 February 2000 about the disappearance of her husband Salah Saker, a mathematics teacher elected on the FIS slate during the first legislative elections of December 1991.

Salah Saker had been arrested without a warrant at his home on 29 May 1994, during a police operation led by the agents of the *wilaya* (province) of Constantine. He was 37 years old. Mrs. Saker immediately started struggling in every way to try and get her husband back, alerting all competent authorities, from the Constantine tribunal's public prosecutor to the President of the Republic. Faced with silence from all the institutions she addressed, Mrs. Saker finally filed a complaint with the Constantine court against the security services on 20 January 1996 for the arrest and arbitrary detention of Salah Saker.

Following this, on 4 September 1996, the Constantine tribunal's public prosecutor pronounced a decision which was surprising, to say the least. In this decision, Mrs. Saker was informed that her husband, wanted, was arrested on 3 July 1994 by the judicial police of the *wilaya* of Constantine, then transferred to the 5th military zone's Territorial Centre for Research and Investigation (CTRI) on 10 July. No mention was made about the reasons for Salah Saker's arrest, nor explanations even of what happened to him since his being taken into the CTRI!

To top it all off, the National Human Rights Observatory (ONDH), to which Mrs. Saker also turned, told her in a letter dated 10 December 1998, that, according to information received from the security services, Salah Saker had been kidnapped by an unidentified armed group while being detained in the CTRI, and that the authorities had no further information about his fate. Faced with this baroque "explanation", Mrs. Louisa Saker concluded that her husband must certainly have been killed during his detention, and therefore turned to international courts in the hopes that justice should be done!

The second decision concerns the disappearance of Riad Boucherf, whose mother, Mrs. Fatma-Zohra Boucherf, appealed to the Human Rights Committee on 30 June 2006.

Riad Boucherf was 21 when he was arrested in his neighbourhood in Algiers on 25 June 1995 along with two other young men, Farid Bourdib and Kamel Benani. Five plainclothes policemen seized them and handcuffed them, then threw them carelessly into the trunks of an unmarked white car and a Daewoo before taking them to the 17th District police station. Five days later, his brother Amine was arrested in turn and put in the same white car. Amine, Farid and Kamel were released on 5 August 1995, after having been horribly tortured, notably at the Algiers central police station. They wanted to make them confess to the killing of a policeman. In a written testimony, Farid Bourdib recounts how he and Riad Boucherf remained together for two days at the central station before being separated. They were tortured there by drunken policemen wearing hoods. On 27 July 1995, they were taken to the Bourouba police station, their hands chained behind their backs. They were left chained to a tree in the courtyard of this station until the next day. Then, they were taken back to the central station, where they were separated and tortured with an electric drill used on their chests. On the sixth day, they were taken, hands still chained, to a forest near the Ben Aknoun zoo (*Bainem forest – ed.*), together with four other companions in misfortune. After forcing them to kneel, the policemen pointed their rifles at the heads of the young men as if to kill them. Farid and Riad were then taken back to the central station, where they were again separated. None of them knew what happened to the other four torture victims that had accompanied them. After being freed, Farid stated that the police wanted to make him believe that Riad had escaped from the trunk of the car during their return to the central station. But his testimony is categorical. The last time Farid saw Riad alive was at the central police station, to where they had been taken back after the simulated summary execution. Mohamed Tablout, another witness who was also arrested, tortured, then released, affirms that he saw Riad Boucherf at the 17th district station on 30 July 1995. They were driven together to the Garidi cemetery where the policemen threatened to bury them. After all the testimonies which figure in the file deposited with the UN Human Rights Committee, it seemed that young Riad Boucherf must have died under torture or been summarily executed during his detention at the Algiers central police station. And the verdict pronounced to the contrary by the Algiers Special Court on 31 December 1996 – in absentia and in closed session – fooled no one! In Algeria as formerly in Latin America, the courts have often been taken advantage of by other institutions to cover up the worst human rights violations with a legalised lie!

Just like Mrs. Saker, Mrs. Boucherf had exhausted all possible means of recourse in Algeria to try and find out what had happened to her son, not hesitating to go from prison to prison at the slightest rumour of Riad's supposed presence, despite the harassment she was subjected to by the security forces up to November

1996 – a true ordeal, itself recognised by the Human Rights Committee as psychological torture inflicted on the plaintiff.

Before the damning dossiers concerning Salah Saker and Riad Boucherf's disappearances, the UN Human Rights Committee judged that Algeria had violated various articles of the International Covenant on Civil and Political Rights (see below) and "should not invoke the provisions of the draft amnesty law (Projet de Charte pour la Paix et la Réconciliation Nationale) against individuals who invoke the provisions of the Covenant or have submitted or may submit communications to the Committee." As a result, the Algerian State is requested to provide, "within 90 days, information about the measures taken to give effect to the Committee's Views" which it must make public. Clearly, this means that Algeria is henceforth required to explain itself not only regarding Salah Saker and Riad Boucherf's disappearances, but also regarding all the cases which will not fail to be submitted to the UN Human Rights Committee.

R. A.

(See <http://tinyurl.co.uk/6uh6> for full UNHCR statement.)

UNHCR decision on the disappearances of Salah Saker and Riad Boucherf

"The Human Rights Committee, acting under [the] Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal violations by the State party (that is, the Algerian State)...

In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's son. The State party is also under a duty to prosecute criminally, try and punish those held responsible for such violations. The State party is also under an obligation to take measures to prevent similar violations in the future...

Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, that State party has undertaken to ensure all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views."

Main provisions of international human rights treaties ratified by Algeria

The imperative international treaties ratified by Algeria ban the violation of certain rights "under any circumstances anywhere" – in particular, Article 3 of the Geneva Convention of 12 August 1949, shared by the two additional protocols I and II, Article 2 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 4 of the International Covenant on Civil and Political Rights (ICCPR).

Article 3 of the four Geneva Conventions requires respect for the human person in case of armed conflict not of an international character. Protocol II Additional to the Geneva Conventions of 8 June 1977, also ratified by Algeria, develops and completes this provision.

Article 2.2 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment declares: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." Article 4 of the same Convention adds: "all acts of torture are offences... The same shall apply to an attempt to commit torture."

Article 4 of the ICCPR authorises the temporary suspension of a certain number of human rights when a nation is faced with a threat to its existence. But the fundamental rights which the pact lists* are excluded from any such suspension; they must be respected no matter what the level or intensity of the danger. The right not to be kidnapped and disappeared, like the right to be protected from kidnapping by armed opposition groups, are undoubtedly among these fundamental protected rights. The Convention bans torture even in a situation threatening the life of a nation. No circumstance can justify it.

Article 4.2 of the Geneva Convention is more categorical, stating that "the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; Taking of hostages; Outrages upon personal dignity, in particular, humiliating and degrading treatment..."

For people deprived of liberty, article 5.3 of Protocol II stipulates that those responsible for the internment or detention of people deprived of their liberty for reasons related to an armed conflict must ensure that "their physical or mental health and integrity shall not be endangered by an unjustified act or omission." Under paragraph 3 of the same article, persons "whose liberty has been restricted in any way whatsoever for reasons related to the armed conflict shall be treated humanely in accordance with Article 4 and with paragraphs 1 (a), (c) and (d), and 2 (b) of this Article."

Article 6.2, applicable to the prosecution and punishment of criminal offences related to the armed conflict, states that "No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality... Anyone charged with an offence is presumed innocent until proved guilty according to law; No one shall be compelled to testify against himself or to confess guilt."

*In the context that we are concerned with, consider article 6 – "Every human being has the inherent right to life;" article 7 – "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment;" and article 9: "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. 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. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

Amnesty International publicly accuses the DRS of "acts of torture"

In a report published on 10 July, Amnesty International publicly accuses the Department for Information and Security (DRS) of "acts of torture" against people suspected of terrorism. Based on numerous testimonies collected between 2002 and 2006, the organisation has affirmed that the "war on terror" has served as a pretext for the Algerian secret services to practice many different methods of torture – beatings, electric shocks, forced swallowing of dirty water, urine, or chemicals – hiding behind government policy and "benefit[ing] from systematic impunity."

Amnesty International stresses that, although the DRS have military status under Algerian law, they are in theory under the authority of the public prosecutor when they arrest a subject and place him in detention. But in reality "no civilian institution appears to oversee the arrest and detention procedures of the DRS." Worse, "prosecutors seem not to be kept informed of arrests carried out by the DRS." Many detainees thus end up beyond judicial scrutiny, with no right to contact the outside world, not a lawyer, nor an independent doctor, much less their families.

In a memorandum sent to President Bouteflika last April, Amnesty International expresses particular concern over the fact that the amnesty law, implemented in February 2006, provides impunity to DRS agents for crimes against international law, including acts of torture. It thus urged the head of state to "restrict the powers of the DRS and to ensure effective civilian oversight of all detentions in order to bring an end to the pattern of secret detentions and torture for which the DRS has been responsible" and "ensure that all allegations of torture or other ill-treatment are investigated, in accordance with its international obligations, and the perpetrators brought to justice."

In the former report, Amnesty also asks Western governments to stop deporting people at risk of being tortured to Algeria, and in particular to ensure that suspects that ask to be jailed in their country not be jailed by the DRS. Indeed, according to this NGO, countries such as Spain, France, Italy, and the Netherlands have deported numerous Algerians suspected of terrorism to Algeria by force, where they have been arrested and detained by the secret services.

Anouar Koutchoukali

* Titled: " Unrestrained powers: Torture by Algeria's Military Security", the report is available at: <http://web.amnesty.org/library/index/engMDE280042006?open&of=eng-344> .

Farouk Ksentini's flights of fancy

Mr. Ksentini, president of the Commission for the Promotion of Human Rights, just can't stop telling whoppers! After having pretended in total bad faith that the crime of forced disappearance was subject to a ten year statute of limitations, he allowed himself to announce the reappearance of 183 (no less!) "disappeared" people– who are still missing, since no list has been given to their families nor even made public! Rabah Benlatreche of the CNFD has written to Stephen Toope, president of the Working Group on Enforced or Involuntary Disappearances; we reproduce his letter below:

Mr. Stephen Toope
President of the Working Group on Enforced or Involuntary Disappearances
High Commissioner for Human Rights
8-14 Av. de la Paix
1211 Geneva 10

Constantine, 11 July 2006
Re: Algerian authorities' statement on the "reappearance" of 183 disappeared people (Algeria)

Dear Mr. Toope,

Mr. Farouk Ksentini, president of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH), announced on 23 and 25 June that "183 people reported as disappeared have been found again alive and taken off the list," referring to the list of 6,146 cases counted by the commission over which he presides.

According to Mr. Ksentini, these cases "had been removed at the request of the parents and relatives" who had "presented documents proving that they were still alive."

To this day, our association has been unable to verify the truth of Mr. Ksentini's claims; moreover, he refuses to publish his organisation's list of disappeared people about which he claims that some have been found alive or returned under the amnesty measures, or even that they are abroad.

Therefore we ask you to consider requiring the Algerian authorities to communicate the list of 183 people reported to have disappeared and then been found alive again. This would at least put an end to the agony of the families concerned.

It is certain that such a piece of information would ease the task of the Working Group over which you preside, insofar as it has been informed of more than 2,500 cases of enforced disappearance in Algeria, including more than a thousand by our organisation alone.

Furthermore, we draw attention to the Algerian authorities' multiple attempts to pressure the families of the disappeared (especially those in precarious economic situations) to accept the financial remuneration offered by the authorities in exchange for accepting that their disappeared loved ones had died in combat between the security forces and "terrorist groups".

Mr. Toope, I can confirm to you that the immense majority of the families of the disappeared refuse to bend before this blackmail unworthy of a country which describes itself as "on the way to democracy and the rule of law" (as Mr. Driss Al Djazairi, representing Algeria, said on the occasion of the adoption of the International Convention on Enforced Disappearance) and hold to their essential demands – truth and justice – before their right to reparations.

In order to thwart the lies and delaying tactics of our authorities, I will convey to you, through Justitia Universalis and the Al-Karama Association, several dozen of the dossiers that best illustrate the strategy of deliberate terror put in place by the Algerian authorities.

We also greatly hope that your Working Group will visit Algeria.

Yours sincerely,
On behalf of the National Coordination of the Families of the Disappeared
Mr. Rabah Benlatreche

International news

This section, and the following ("Legal section"), are intended to keep up with the latest developments in international law, especially regarding enforced disappearance. Ongoing judicial cases in various countries are also covered. Although the road is still long, some of the news shows that those responsible for crimes and violations of human rights have nowhere to hide!

Human Rights Council: Louise Arbour calls for application of existing norms

In a *Washington Times* article (19 June), Louise Arbour, United Nations High Commissioner, has called for the new Human Rights Council to improve the application of norms put in place by the former Commission, recalling that all States have human rights problems, and all must be accountable for their shortcomings. Extracts:

"Today, armed with a powerful new mandate, the members of the new Human Rights Council take their seats, embarking on a major enterprise aimed at strengthening the U.N. human rights system and equipping it to better respond to the challenges of our time.

Several new features give us reason to believe the Council will be a significant improvement on its predecessor. Even the way its members were elected last month marked a welcome departure from "business as usual." Commission members were pre-selected behind closed doors and then "elected" by acclamation. By contrast, the new members of the Council had to compete for seats, and successful candidates had to win the support of a majority of all member States, in a secret ballot.

For the first time in history, candidates gave voluntary commitments to promote and uphold human rights, and will be expected to meet them or else face possible suspension from the Council.

The resolution establishing the Council stresses the importance of ending double standards, a problem that plagued the past Commission. What the politicised debates of the past often obscured is the irrefutable fact that all States have human rights problems, and all must be accountable for their shortcomings.

The test, then, is not membership, but accountability. To that end, a new universal periodic review mechanism will offer the Council -- and the world -- the opportunity to examine the records of all 191 member States of the United Nations. This is a dramatic development with the potential to improve human rights throughout the world.

Perhaps most significantly, the Council will meet throughout the year, whereas the Commission's limited six-week schedule severely impaired its effectiveness and flexibility. With this precious additional time, the Council will be able to undertake preventive initiatives to defuse developing crises and to devote particular attention to shoring up responses on the ground in situations where there are early signs of a human rights crisis. And the Council will also have an improved mechanism for meeting to deal with urgent human rights crises in real time.

But all these changes will amount to very little unless members of the new Council are prepared to look beyond their immediate political interests and embrace the cause of human rights victims worldwide. That will require principled leadership from every one of them. The choice of Ambassador Luis Alfonso De Alba of Mexico, a strong human rights advocate, as first president of the Council, is a welcome sign that members mean business. Stewardship of the new body has been placed in safe, impartial and competent hands.

At the heart of the matter is how Council members can lend more force to the implementation of existing and evolving human rights standards. It is to be hoped they will give equal priority to all human rights -- economic, social, and cultural, as much as civil and political.

The Commission met the challenge of its age in setting global human rights standards. Let the era of the Council be the era of implementation."

* The Human Rights Council, instituted by the UN General Assembly on 15 March, consists of 47 members elected on 9 May 2006.

Adoption of the International Convention on Enforced Disappearance

On 29 June, the Human Rights Council adopted the International Convention for the Protection of all Persons from Enforced Disappearance. This treaty, adopted by acclamation by the 47 members of the Human Rights Council, notably stipulates that "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."

It also stipulates that any State party should guarantee victims of forced disappearance the right to get reparations and be compensated.

This new international treaty, legally binding, affirms that "the widespread or systematic practice of enforced disappearance constitutes a crime against humanity."

Defining disappearance as "arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State" or groups affiliated to it, this text obliges signatory States to prevent and investigate such disappearances. It also establishes a new concept: the "right to truth" for the relatives.

Furthermore, the States commit themselves to providing reparations to the victims, including not only the disappeared but also their families, and to punish those responsible. A committee charged with applying the convention and examining urgent cases will be put in place. When informed of a disappearance, it will be possible to set this body in motion for an immediate inquiry.

Justice must not be sacrificed to end conflicts, Security Council told

22 June 2006 – Justice should never be sacrificed by granting amnesty in ending conflicts, the United Nations Legal Counsel told the Security Council today, stating that ending impunity for perpetrators of crimes against humanity is one of the principal evolutions in the culture of the world community and international law over the past 15 years.

"Justice and peace should be considered as complementary demands," Nicolas Michel told an open debate on strengthening international law.

"There can be no lasting peace without justice," he stressed. "It is not an issue of choosing between peace and justice, but of finding the best way to exercise one with regard to the other, taking into account particular circumstances, without ever sacrificing justice."

Mr. Michel pointed out that amnesty for international crimes was now considered unacceptable in international practice, citing the recent transfer of former Liberian President Charles Taylor to the Netherlands to stand trial before the Special Court for Sierra Leone on charges related to devastating civil wars in West Africa.

"It is now a matter of ensuring that this standard is respected," the Legal Counsel added.

The question of granting impunity in an effort to restore peace and freedom to countries in conflict has become a major issue in UN human rights forums. In April, UN High Commissioner for Human Rights Louise Arbour said the battle against impunity was a vital element for bringing true peace.

"Many continue to argue that undue concentration on human rights jeopardizes the possibility of either concluding a peace agreement in the first place, or of a peace agreement that has been concluded proving durable," she stressed. "To the contrary, I suggest that human rights are central to and indispensable for both peace and justice."

Like Mr. Michel today, Ms. Arbour hailed the detention of Mr. Taylor as "a powerful and welcome affirmation of this basic principle."

The President of the International Court of Justice (ICJ), the supreme UN judicial body also known as the World Court, was among the approximately 30 speakers who participated in today's debate.

Argentina: The Mothers of the Plaza del Mayo movement grows

The Mothers of the Plaza del Mayo association is becoming more and more of a presence in the Argentinean political and media landscape. Far from being content primarily by making their weekly Thursday rounds in front of the presidential palace – they began doing this on 30 April 1977, defying the generals to demand information on the fate of their disappeared children – and their reunions, every Monday they broadcast a radio program, "The Mothers' Radio": "We have things to say, and if we don't do it ourselves, the newspapers will ignore us", said their former president Hebe de Bonafini last June in *Le Monde*.

Two steps away from Congress, the House of the Mothers is a true place of creativity where some 20 women from 75 to 92 years old work daily. "I'm never tired, because I don't get tired of life," Hebe explains, despite being 77. Besides their radio program, the Mothers publish a monthly journal, and will soon put their archives on the years of military dictatorship in computer format. In 2000, despite the economic crisis, they even

founded a popular university, open to the public, where they organised seminars and conferences with prestigious intellectuals (historians, novelists) on various subjects including liberation theology. This university's 1,200 students, mostly young, are engaged in social activities. "Our struggle is politicised," their president acknowledges. "We demand social justice, we support the rights of the dispossessed. Our children died for an ideal; we are continuing their struggle."

Chad: Will Hissene Habre finally be tried in Africa?

"No one is above the law, even rulers," said Alpha Oumar Konare, president of the African Union Commission which has just decided to judge ex-dictator of Chad Hissene Habre in Senegal, to *Le Monde* on 8 July. According to him, this decision "clearly expresses [our] will to end impunity." But in order that this decision will retain credibility, "the trial must take place as soon as possible, and African and international public opinion must be kept informed at every stage of the process."

While not denying the material and legal obstacles to be surmounted "by political will and transparency," Mr. Konare judges that the Habre affair has value as a test: "refusal to go all the way would be plainly apparent." This would lend credence to the idea of a "union of heads of State" hostile to the trial of rulers because they "fear for themselves."

In Senegal in 2000, Hissene Habre was charged with complicity in crimes against humanity, acts of torture and barbarism. According to Human Rights Watch, his victims then turned to Belgium. Four years of investigation culminated in a Belgian judge issuing an international warrant for the arrest of Hissene Habre, accusing him of crimes against humanity, crimes of war, and acts of torture perpetrated during the eight years of his presidency (1982-1990). In accordance with Belgium's extradition request, the Senegalese authorities arrested President Habre in November 2005. The Senegalese courts once again declared themselves not competent to rule on his extradition to Belgium, so the Senegalese authorities announced that they would consult with the African Union on a "competent jurisdiction" to judge Hissene Habre. On 2 July 2006, the African Union, based on the recommendations of the committee of eminent African jurists it had set up in January, asked Senegal to let it judge Hissene Habre "in the name of Africa", and the President of Senegal agreed to this.

Legal section

Questions? Email cnfd.jur@gmail.com.

This section is open to the families of the disappeared and to other victims of human rights violations who would like to pose questions to our jurists.

The infamous "attestations of death"

Since the promulgation of the decree putting into practice the "Charter for Peace and National Reconciliation," the administrative authorities are giving attestations of death to the families of the disappeared, often without even having been asked. Here are some questions and answers on this:

(Sample attestation, translated):

People's Democratic Republic of Algeria

National Defence Ministry
National Gendarmerie Command
5th Regional Command of the National Gendarmerie in Constantine
Provincial National Gendarmerie Group in Constantine

No: *****

Attestation of Death
in the Ranks of a Terrorist Group

- We, Lt. Col. Kamel Nokreichi, head of the Legal Police in: the National Gendarmerie Group in Constantine
- after examining order no. 01-06 dated 28 Muharram 1427 / 27 February 2006, comprising the execution of the Charter for Peace and National Reconciliation, in particular article 42;
- after examining Presidential ordinance no. 94-06 dated 29 Muharram 1427 / 28 February 2006 relating to State help to the destitute families of prisoners one of whose relatives have been involved in terrorism, in particular articles 2.2 and 2.3;
- in light of the request made by the here-named ***** born ***** in Ain et-Tine, province of Mila, daughter of ***** and *****
- Relationship: Mother
- in light of the results of the investigation that we have performed:

We certify:

- That the here-named *****
- Born: ***** In: Constantine
- Son of: ***** and *****

has been confirmed to have died in the ranks of a terrorist group.
This attestation has been handed over to be used for any legal purpose.

Written in Constantine, *****

What is the attestation of death for?

It is the first document that the judicial administration requires in order to begin the disappeared person's legal death procedure. It serves as documentary proof to bring before the judge, summoned either by the prosecutor or by a member of the disappeared person's family, to pronounce a declaration of death.

What does Algerian law say?

In law, the date of the disappearance written in the attestation is important. If this date indicates a period of 4 years or more, the judge can directly declare the person's deceased. If the period is shorter, the judge can only declare the person "disappeared" under civil law – if he gives the date in the body of the judgment, this makes it possible to repeat the procedure and transform the civil "disappearance" into death.

You can appeal:

One of the parties to the process – or another person with some legal interest or position – may appeal to contest the verdict.

What is the authorities' objective in delivering this attestation?

This attestation is delivered in order to encourage the relatives of the disappeared to take legal steps themselves to officially confirm the death, or allow the prosecutor himself to do so, as the law permits. This procedure, which the late Mr. Mahmoud Khelili described as "judicial genocide", has already been used previously. Once this verdict has been rendered, the relatives are prevented – by the pernicious logic at work – from starting legal procedures to receive compensation.

Does this attestation allow one to demand the return of the disappeared person's body?

That depends on the attestation's contents. Some, due to the excessive zeal of the security services that deliver it, state that the disappeared person "was killed", in an accident or otherwise. In this case, the relatives can theoretically ask for the disappeared person's body to be returned to them, unless the security services suggest that his death was only highly probable and that his body must have been taken by the terrorists as they fled. The wording of certain attestations may allow any member of the family of the disappeared person thus "liquidated" or "killed" to mount a legal action before the State Council against the minister in charge of the security service which produced the certificate: the Minister of Defence for the gendarmerie, the Minister of the Interior for the police administration. In any case, whether it's a matter of a death certificate or a judgment, these two documents, which do not have the same evidential status in law, cannot be opposed to the disappeared person's relatives who have not made any request for the certificate, nor appear as "parties" mentioned in the body of the judgment certifying death. The judgment constitutes proof and has an irrefutable proof value, but not with regard to third parties, who may attack it in the jurisdiction where it was rendered, launching a "third-party opposition".

The certificate allows one to reclaim the body of the victim presented as a "terrorist killed with weapons in hand". Note that this latter step may be taken by any of the members of the disappeared person's family, including those who have worked to obtain the judgment in order to officially confirm his death.

What if there's no burial permit?

Only the public prosecutor is authorised to give a burial permit. In case of violent death, he is required to launch an investigation, or at least an inquest, to establish the circumstances of death. Most of the disappeared declared dead have been buried under "collective" burial permits, as in the case of the Serkadji massacre, or even, without such a permit, in mass graves.

Can the victim's relatives seek justice abroad?

In any case, the disappeared person's relatives may be able to seek justice abroad – through their parents living there – either through penal law on the basis of universal jurisdiction, or in civil law (we will return to this means in more depth in the next issue.)

In the sights

Liberia: Charles Taylor to be tried for crimes against humanity

Charles Taylor, the ex-president of Liberia, is "on his way to the Netherlands" to be tried by the Special Court for Sierra Leone (SCSL) at the International Criminal Court in The Hague, said the Dutch Minister for Foreign Affairs on 20 June.

The Liberian former warlord has been under arrest by the SCSL at Freetown since March. In March 2003 he was charged by the SCSL with crimes against humanity, war crimes, and other serious human rights violations, for his involvement in Sierra Leone's civil war (1991-2001) and his support for the Revolutionary United Front rebels.

The Special Court for Sierra Leone had asked the Netherlands to "expatriate" the trial to The Hague, due to the risks of trouble in Sierra Leone if it takes place there. Solomon Berewa, vice-president of Sierra Leone, has declared himself satisfied with the upcoming trial of Taylor in a safe place, while Sierra Leone and the Mano River Union states will "continue to consolidate" peace.

The Mano River Union includes Sierra Leone, Liberia, and Guinea, all three embroiled in violence that lasted fourteen years after Taylor launched the Liberian civil war in 1989. The civil war in Liberia finally finished when Taylor agreed to go into exile in Nigeria in 2003.

As pressure mounted for him to be brought to justice, he was caught this spring as he tried to flee Nigeria. He was handed over to the Special Tribunal and charged with crimes against humanity. Nonetheless, Ellen Johnson-Sirleaf, the new president of Liberia, was concerned that the presence of Taylor, who still has support among some groups, in the region might cause instability to return to her country.

The Netherlands has agreed to host the trial at The Hague on condition that a third country promises in advance to take Taylor into custody if he is condemned to a prison term. The UK offered last week to play a role, and has prepared a UN Security Council resolution authorising Taylor's transfer to the Netherlands to be judged. (*Le Monde* 20 June 2006, AFP, Reuters.)

Argentina: First trial since amnesty law's abolition

Argentina has begun the trial of a former chief of police, accused of crimes committed during the military dictatorship (1976-1983). Miguel Etchecolatz, former Police Commissioner General for Buenos Aires province, at the right hand of one of the biggest torturers of the dictatorship, Ramon Camps (now deceased), is accused of the kidnapping, torture, and presumed killing of at least six people, all today disappeared. Some 30,000 people "disappeared" during the Argentinean military dictatorship, according to human rights organisations.

This trial is the first opened by Argentina's courts since Parliament's abolition of the amnesty acts – the "Full Stop Law" (1986) and the "Law of Due Obedience" (1987) – later confirmed in 2005 by the Argentinean Supreme Court. Some 400 policemen and soldiers' dictatorship-era dossiers may be opened or reopened. The accused, 77 years old, is under house arrest for baby theft, a crime not covered by the amnesty laws. Dozens of babies were kidnapped from their jailed parents and handed over to be adopted by families close to the military. Miguel Etchecolatz had already been sentenced to a 23-year prison term for human rights violations, but this sentence was annulled by the amnesty laws.

He is accused of having been responsible for some 21 secret detention camps in Buenos Aires province. Mr. Etchecolatz' lawyer, Luis Carri Perez, explained that his client has acted "in a wartime situation" and that he was "just a simple policemen obeying military orders."

"This trial shows that popular mobilisation gets results," said Nora Cortinas, president of the Mothers of the Plaza del Mayo association (Founding Line). The Mothers of the Plaza del Mayo association, which demands justice for the people who "disappeared" during the years of dictatorship, has split into two movements, one headed by Ms. Cortinas and the other, more important one by Hebe de Bonafini. (7/7, Belgium, 20 June 2006).

Guatemala: a putschist general arrested in Spain

On 7 July 2006, a Spanish judge ordered that the ex-putschist General Rios Montt of Guatemala be placed under arrest, accused of "genocide, torture, terrorism, and illegal detention" along with six other former dignitaries.

In addition to Rios Montt (head of State 1982-1983, following a *coup d'etat*), the defendants include the former Minister of Defence and president Oscar Humberto Mejia (head of State 1983-1986, also after a *coup d'etat*) and General Fernando Romeo Lucas Garcia, former president of the Republic of Guatemala (1978-1982).

The warrant also demands the arrest of former Minister of Defence Angel Anibal Guevara, former chief of staff Benedicto Lucas Garcia, former chief of police German Chupina Barahona, former Minister of the Interior Donaldo Alvarez Ruiz, and Pedro Garcia Arredondo, the former head of an elite police force accused of extrajudicial executions.

"The people named in the national and international arrest warrants must be handed over to the Spanish legal authorities to respond to the offences with which they are charged," said the Madrid investigating magistrate Santiago Pedraz, of the Spanish National Court.

All the accused live in Guatemala, which Judge Pedraz recently returned from without having managed to interrogate the accused, due to the numerous pleas lodged by their lawyers. The judge has ordered their placement in detention without bail. He has also decreed the freezing of all the eight suspects' property "in order to guarantee the corresponding pecuniary and civil responsibilities."

In February the National Court declared itself competent to hear charges of "genocide" and "crimes against humanity" against the military regimes of Guatemala between 1978 and 1986.

About 200,000 people were killed over these eight years, 626 in massacres against the Maya Indians, according to the charges placed in 1999 by 1992 Nobel Peace Prize winner Rigoberta Menchu.

To begin with, it was rejected by the National Court in 2000 as falling under Guatemalan jurisdiction.

The Spanish Supreme Court leaned the same way in 2003, but gave a green light to the National Court to investigate crimes committed against Spaniards: the attack on the Spanish Embassy in Guatemala in 1980 (39 deaths), and the murder of four Spanish priests between 1979 and 1983. The Spanish Constitutional Tribunal has nonetheless, in a decision of 5 October 2005, laid down that "the principle of universal jurisdiction takes precedence over the presence or absence of national interests." The National Court has revised its position as a result. (AFP-Madrid, 7 July 2007.)

Srebrenica: collective charges against the Netherlands and the UN

A group of Dutch lawyers is set to demand financial reparations from the Dutch State and the UN in the name of nearly 8,000 victims of Srebrenica.

According to Mr. Axel Hagedorn, Dutch soldiers were complicit in the atrocities committed by the Serbs in the summer of 1995. "Whereas the blue helmets had the mission of protecting Muslim Bosnians in the UN enclave, the Dutch soldiers, on the contrary, collaborated with the Serb militias," he says.

Mr. Hagedorn, head of the international desk at the firm Van Diepen/Van der Kroef, has led a team of 14 Bosnian and Dutch lawyers over these past two years in collecting testimonies from dozens of victims' relatives. In the name of 7,920 plaintiffs, they will create a foundation to collectively charge the Dutch government and the UN with an eye to financial reparation.

In the Netherlands, proceedings against the Dutch State have already been underway since last year. The families of two victims are demanding damages from the Dutch State by means of what is termed a "base procedure". According to their lawyer, Liesbeth Zegveld, the Dutch battalion ("Dutchbat") did not do everything possible to save the maximum number of lives. The victims were denied the Dutch battalion's protection at Potocari base, and they were deported by the Bosnian Serbs. Then they disappeared.

Soapbox

The unknown X!!

The garrulous (I don't want to use the term "gossip-mongering") Mr. Ksentini surprised us again with his media appearance, telling us many things and nothing at the same time.

Many things: 183 people were declared found, because they had never disappeared... and must therefore have been fake disappeared people! A great number, but not mentioning anybody: no names, no list. In short, nothing to relieve the families!

One hundred eighty three X's? We won't get over looking for X without ever knowing its true value.

Are we condemned to remain in the unknown X? Will we someday be able to put this X in an equation, finally determine its value and pierce the mystery of this unknown?

I think so, and I firmly believe so! This equation will not be resolved mathematically, but by demonstrating the truth in the face of the official lies!

Rabah Benlatreche

CNFD Contacts

Committees:

- Social Committee: cnfd.soc@gmail.com
- Medical and Psychological Assistance Committee: cnfd.psychomed@gmail.com
- Truth and Justice Committee: cnfd.jus@gmail.com
- Historical Memory Committee: cnfd.mem@gmail.com

For legal questions, email cnfd.jur@gmail.com.

Write to the Campaign Diary: jmfd.algeria@gmail.com

Call for testimonies

The **National Coordination of the Families of the Disappeared** (CNFD) calls on all families living abroad who have members that disappeared in Algeria after 11 January 1992 to make themselves known to the Journal.

To request information or receive the newsletter, write to jmfd.algeria@gmail.com.

Support the National Coordination of the Families of the Disappeared!

Support the Newsletter!

To subscribe and support, please send at least 15 euros a year (4 issues.)

Send a postal or bank cheque or a money order made out to Confluences-JMFD – 1 Blvd. Jean Duchemin, 13014, Marseilles, France. Don't forget to mention your last name, first name(s), and postal address (for the paper version) or email address (for the digital version.)