



## **Algeria**

### **Follow up to the recommendations of the Human Rights Committee**

**Alkarama for Human Rights, 5 November 2008**

- 1.Regarding the existence of secret detention centers and the civil administration's lack of control
- 2.Enforced Disappearances
- 3.Torture
- 4.Impunity and denial
- 5.Monitoring of the Committee's response to individual communications

## Algeria

The Human Rights Committee considered Algeria's third periodic report (CCPR/C/DZA/3) on 23 and 24 October 2007 (CCPR/C/SR.2494, 2495 and 2496) and adopted concluding observations (CCPR/C/DZA/CO/3) on 1 November 2007. As part of the monitoring of the Human Rights Committee's recommendations, Alkarama for Human Rights wishes to draw the attention of the Committee's distinguished experts to the follow-up accorded to some of these. It recalls that the present organisation had submitted, with the association 'Algeria-Watch', comments on Algeria's third periodic report.<sup>1</sup>

The organization specifies that it officially addressed, on 8 September 2008, the permanent mission of Algeria in Geneva and the national human rights institution chaired by Mr Farouk Ksentini (CCNPPDH) in Algiers, asking them to cooperate with the UN body, by reminding them of the Committee's recommendations, including those for which the State party should ensure follow-up. Alkarama has not received a response to date.

The Committee requested, in particular, that its **concluding observations be made public** and disseminated as soon as possible throughout the territory. To Alkarama and Algeria-Watch's knowledge, having conducted daily monitoring of public and private press and other media in Algeria since the date of publication of these recommendations, **the Algerian authorities have taken no action to inform Algerian public opinion about the existence of these observations.**

### 1. Regarding the existence of secret detention centers and the civil administration's lack of control

The detention centers outside the control of judicial and prison authorities continue to exist. Their existence is not officially recognized despite regular and persistent testimony from victims and their lawyers confirming their reality. On the contrary, in response to the United Nations Human Rights Committee, Algeria, through various officials, has categorically denied the existence of secret detention centers, and the use of torture in these centers supervised by the Department of Intelligence and Security (DRS [from the French *Département du renseignement et de la sécurité* – translator's note.]).

As reported by an Algerian newspaper, Mr Farouk Ksentini, president of the National Advisory Commission for Promotion of Human Rights (CNCPPDH), speaking on Algerian public radio a few days after the publication of the Committee's observations, affirmed "that there are no secret detention centers and torture, in Algeria, either for ordinary citizens or terrorists." He referred, in this context, to **the information** on the situation in Algeria reported by the UN Human Rights Committee in Geneva as **"a great fable, and can be considered as buffoonery."**

The Chairperson of the national institution for human rights also publicly affirms that the Committee "had, in the past, taken up the cause of terrorism against Algeria." This institution "wants to make believe that Algeria, during the past decade, fought an armed and democratic opposition," reiterating that "Algeria has only fought, in paramount self-defense, the most indiscriminate terrorism that the earth has ever seen." He adds that Algerian prisons have always been open to the International Committee of the Red Cross, and that this institution (the ICRC) "has made regular reports through which it was found and established that things happen in the most correct manner."<sup>2</sup>

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<sup>1</sup> [http://en.alkarama.org/index.php?option=com\\_content&task=view&id=45&Itemid=37](http://en.alkarama.org/index.php?option=com_content&task=view&id=45&Itemid=37)

<sup>2</sup> Le Quotidien d'Oran, 4 November 2007.

The detention of people suspected of terrorist activity or of supporting terrorist groups generally takes place in DRS premises and especially at the 'Antar' centre, controlled by the DRS, located in the residential district of Hydra, Algiers.

Over the past year, and again recently, non-governmental organizations have reported new arrests and subsequent incommunicado detention beyond the legal period of custody:

**Fethi Hamaddouche**, 24 years old, was released without charge on 12 October 2007. Arrested by DRS agents on 2 March 2007, he was, from that date, disappeared. Another person, **Mr Touati Hameras** testified that he had been detained secretly with him in DRS barracks in Algiers.

On 18 November 2007, **Mohamed Fatmia** was presented at the Sidi M'hamed court in Algiers and jailed at the El-Harrach prison after being detained incommunicado for over 5 months in the DRS "Antar" centre. He was reportedly tortured during his detention, which was officially considered as "house arrest".

**Mohamed Rahmouni**, who had disappeared on 18 July 2007, was transferred to Blida military prison after more than 6 months of disappearance, that is to say, secret detention, in a DRS center.

**Kamal Akkache**, 36 years old, who was kidnapped on 11 September 2007 in El Mouradia (Algiers) by agents of the DRS, reappeared in early May 2008, after 7 ½ months of incommunicado detention. His family was able visit him at Serkadji prison (Algiers). He reported that the first two months of his detention had been "months of hell", referring to the torture and mistreatment he suffered.

Alkarama had seized the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Torture concerning the case of **Adel Saker** who had been arrested and held incommunicado several times in the past, twice for more than a year. After his last release, he continued to be regularly summoned by the police. On 26 May 2008, he was again summoned to the headquarters of the security forces of Daira de Tamalous. He went there and did not re-appear. Police officers, however, did not acknowledge his arrest and detention. The Prosecutor of the Republic of Tamalous and Jijel's Attorney General have both told his family that they had not been informed of his arrest, and also refused to register a complaint or to initiate an investigation.

Such an attitude from the prosecution reveals that it knows of the abduction of a victim by DRS services. But as they are only accountable to their own hierarchy, the justice system is totally incapable of acting according to the law.

Algerian prisoners sent back to Algeria from Guantanamo are routinely detained upon arrival and detained incommunicado by the DRS. **Abderrahmane Houari** and **Mustafa Ahmed Hamily** who were handed over to Algerian authorities on 2 July 2008, were held incommunicado during a period of custody of 12 days. They have since been released on bail pending their appearance before the magistrate, charged with belonging to a terrorist organization acting abroad and for the use of false travel documents.

On 26 August 2008, **Mohammed Al Abd Al Qadir** (also known as Mohamed Trari), and **Abdelli Feghoul** were returned to Algeria after being held for more than six years at Guantanamo. Arrested upon their arrival and detained incommunicado in a DRS centre, they have also been charged for having acted for a terrorist organization abroad (article 87 bis 6 of the Algerian Penal Code) and for the use of false documents.

Clearly, it appears that persons suspected of terrorist activities continue to be "taken care of" by the DRS and held in premises to which civil authorities do not have access. It seems that for former Guantanamo prisoners, the legal period of 12 days in custody was respected, while for the others it may last several months. To justify incommunicado detention in DRS

premises, the victims are sentenced to an administrative decision of house arrest, prepared after the fact by the Ministry of the Interior to justify their incommunicado detention. Such a measure, which was provided for by the texts establishing the state of emergency in February 1992, to legitimize the administrative detention of activists, elected mayors and FIS members of parliament in internment camps in the south, has, in practice, not been applied since 1994, except for the decision issued by the Minister of the Interior on 1 September 1997 concerning the case of Mr Abbassi Madani. This measure is a de facto administrative detention without judicial review. In the absence of a national registry of detainees, the place of detention remains unknown to families of detainees. Neither the State prosecutors charged by law to visit places of detention, nor the ICRC, nor any other independent national organization has ever had access to the many centres controlled by the DRS.

## **2. Enforced Disappearances**

During the past year, no progress has been made in the handling of the problem of enforced disappearances. None of the Human Rights Committee's recommendations on this subject have been taken into account. The Ad Hoc Committee on Missing Persons chaired by Mr Farouk Ksentini has still not released its report submitted to the President of the Republic on 31 March 2005. No list of names of those missing has been published, no cases have been officially clarified, no investigation commenced, no complaints have been accepted and no one responsible for kidnapping has been tried and punished.

The issue of compensation for families of the disappeared, which the Charter for national reconciliation includes among the "victims of the national tragedy", is also unclear. Different figures are given, generally without distinction between the different categories of beneficiaries. The Minister of National Solidarity, Mr Djamel Ould Abbas, indicated, in early February 2008 that 5,565 families were affected by the compensations, but that number includes all the "victims of national tragedy." This assessment was made public six months after the official deadline for submitting applications for compensation.<sup>3</sup>

The families of persons reported as disappeared to the Working Group on Enforced and Involuntary Disappearances, and identified as such by this United Nations special procedure, have been systematically summoned by the authorities only to then be asked to accept compensation and to establish records to this end. Very often these compensations have been presented to families of victims who continued to seek the truth about the fate of their relatives, as merely "social assistance" granted because of their extreme vulnerability.

Alkarama expresses the fear that the cases of enforced disappearances reported to the Working Group which relate to families who have accepted these compensations be considered resolved and filed for this reason, in accordance with the working methods adopted by this special procedure.

Many families of people abducted by the security services have been pressured by the authorities and were required to sign a certificate stating that their loved one had been part of a terrorist group to claim compensation.

Alkarama also expresses concern that these documents, obtained under such conditions, only serve to justify the failure to initiate criminal investigations.

These fears are further strengthened when Mr Farouk Ksentini, president of the CNCPPDH who had previously stated that families should know the truth about the fate of their relatives disappeared, decreed that henceforth, the file on the missing "is closed (...), and compensation for the dependents of the victims was a final step." On the question of identifying the perpetrators of the recognized disappearances of 6145 people, which the

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<sup>3</sup> L'Expression, 9 February 2008.

organization he has chaired identified, he said that "this operation is particularly difficult," affirming that security services have now become respectful of human rights.<sup>4</sup>

On another occasion, he explained that "enforced disappearances have existed, they were an epiphenomena – I consider that these were excesses caused in the 1990s by a break in the heads [chain - editor's note] of command." He added: "the blows from terrorism were such that the army was not prepared to intervene to counter it, there were state agents who went overboard, some of whom took the opportunity to (re)act unlawfully, but this was not organized by the State."<sup>5</sup>

### 3. Torture

The Committee had recommended that the Algerian State conduct investigations into allegations of torture. In reality, the authorities are not taking the necessary steps to eradicate the practise of torture. The problem as a whole remains as long as those responsible for torture are not tried and convicted. However, the justice system, the only civil body able to deal with impunity does not fulfill its role. As explained by Me Mustapha Bouchachi, president of the Algerian League for the Defence of Human Rights (LADDH): "An investigation has never been opened on such exactions denounced by the victims before the judges in full hearing. (...) There were statements to the judge; citizens who claimed to have been subjected to torture. Prosecutors have never ordered investigations." He added that victims often do not file complaints because they are criminally prosecuted and fear reprisals during their trial. He noted that even if no complaint is lodged, the judiciary must imperatively open an investigation.<sup>6</sup>

On 18 February 2008, guards at the El Harrach prison (Algiers) made the detainees leave room 1. They actually wanted to deprive them of their common prayer space in the detention room, already overcrowded, to install permanent bunk beds for new inmates. When the prisoners refused to return to the room in protest, the guards tied them up, handcuffed them, stripped them naked and beat them with sticks and iron bars. The same scenario took place with the prisoners of room 2. The prison director was present at these beatings. In total, 80 prisoners were subjected to such treatment and several suffered various kinds of fractures.

Alkarama had seized the Special Rapporteur on Extrajudicial Killings and informed the Committee against Torture and Human Rights Committee of the death under torture, at DRS premises, of **Mounir Hammouche**, arrested in Ain Taghrout, Wilaya of Bordj Bou Arreridj in December 2006. Since then, his family has requested access to the autopsy report. They have officially addressed the prosecutor of the Ras El Oued tribunal and the Prosecutor General of the Bordj Bou Arreridj Court to request a copy, in vain.<sup>7</sup>

Officially the use of torture has never been recognized. Yet, implicitly, the Director General of National Security (DGSN), Colonel Ali Tounsi, in office since 1995, confirmed its existence by declaring recently to the national news agency that "the scientific police now enable us to have legal and scientific evidence to confront a criminal without even trying to bully or threaten them." He added: "This is reason to say that in our offices we no longer use brutality. We no longer need these methods to obtain a criminal's confession."<sup>8</sup>

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<sup>4</sup> Le Quotidien d'Oran, 8 March 2008.

<sup>5</sup> Le Quotidien d'Oran, 31 December 2007.

<sup>6</sup> Le Quotidien d'Oran, 22 July 2008

<sup>7</sup> [http://en.alkarama.org/index.php?option=com\\_content&task=view&id=15&Itemid=37](http://en.alkarama.org/index.php?option=com_content&task=view&id=15&Itemid=37)

<sup>8</sup> Le Qutidien d'Oran, 22 July 2008.

#### 4. Impunity and denial

The Algerian government's representative to the United Nations, Mr Idriss Jazairi, attacks those who criticize the legislation implementing the Charter for Peace and Reconciliation with rare violence. The Human Rights Committee had, it too, in its concluding observations, recommended the amendment of article 45 of the Charter, which prohibits any lawsuit against the security forces. During the consideration of Algeria by the Human Rights Council, as part of the Universal Periodic Review, Mr Jazairi continued to assert that: "Impunity does not exist anywhere in this text [the Charter - editor's note] that the Algerian people approved by referendum." Lambasting human rights NGOs, he declares: "What legitimacy do these NGOs have to challenge the sovereign choice of millions of Algerians who are the single, if not the sole, source of legitimacy?" And he concludes by saying that this situation only benefits the "merchants of death, devotees of crime, the virtuosos of subversion; in sum, the sponsors of terrorism and those who feed off the tragedy of others."<sup>9</sup>

Need we recall that it was not the field of application of the Charter which was voted upon, but the Charter itself, which is a political text with a more general significance? In fact, the referendum was on the question "of peace and national reconciliation" to which one had to respond with a yes or no. Let us also recall that the official rate of participation of 80% in the referendum has been questioned even by the Algerian press close to the spheres of power, which set it as being between 20% and 30% while most independent observers deemed it to be below 10%.

During the consideration of Algeria before the Human Rights Council, delegates from several countries requested that the Algerian authorities accept the visit of Special Rapporteurs to Algeria. The Special Rapporteur on Torture has been waiting for this authorization since 1997. Mr Medelci, Minister of Foreign Affairs, who chaired the Algerian delegation, said during the debate that Algeria had never opposed their visits when they dealt with "real problems" and not with "exceptional problems" or "anecdotal problems". The official Algerian authorities do, however, officially recognize that over 6000 people were victims of enforced disappearances. Is this problem anecdotal?

#### 5. Monitoring of the Committee's response to individual communications

The views of the Human Rights Committee following complaints from individual victims or their families have never been made public and the authorities have given no response to date.

For example, this is the case with **Malik Medjnoun**, arrested in September 1999, charged with complicity in the assassination, on 25 June 1998, of the singer Matoub Lounès and detained since without trial (he had disappeared for more than seven months and was brutally tortured). The Human Rights Committee had considered his family's complaint, and on 9 August 2006, urged the Algerian authorities to bring Malik Medjnoune immediately before a judge to answer to the charges or release him, to conduct a thorough and diligent investigation of his incommunicado detention and the treatment he has suffered since his abduction on 28 September 1999, and to initiate criminal proceedings against those responsible for these violations.

On the eve of the tenth anniversary of Matoub's assassination, Malik Medjnoune's trial was finally set for 9 July 2008. On the day of the hearing, it was postponed because witnesses cited by the civil party had not been summoned by the general prosecutor. Since then, another criminal session, currently pending, has been planned, but no date has been set for the trial.

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<sup>9</sup> Liberté, 12 June 2008

In cases No. 992/2001 **Louiza Bousroual** vs. Algerian Government (Views dated 20/03/2006); No. 1327/2004 **Grioua** vs. Algerian Government, (Views dated 10/07/2007); No. 1196/2003 **Fatma Zohra Boucherf** vs. Algerian Government, (Views dated 30/03/2006); No. 1439/2005 concerning cases of enforced disappearances, no follow up has been undertaken by the Algerian government with regards to the Human Rights Committee's Views. The Committee's Views have never been published in any publication, official or other, and no investigation has ever been opened. In the case of **Sid Ahmed Aber** vs. Algerian Government; (Views dated 13/07/2007, concerning torture, the government gave no response to the recommendations and has not made the View public.

The same is true in cases No. 1172/2003 **Abassi Madani** vs. Algerian Government (Views dated 28/03/2007) and No. 1173/2003 **Ali Benhadj** vs. Algerian Government (Views dated 20/07/2007); these have not been published as required by the Committee and no action has been taken to this day by the Algerian authorities, Mr Ali Benhadj had asked the Algerian authorities that he be reinstated to his teaching position in the public institution in which he worked before his arrest, but this was refused. On the contrary, Mr Ali Benhadj continues to be subject to close police surveillance and regular arrests by police, as well as many other persecutions for reasons related to his freedom of expression.