

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO. 2438/95

AT AUCKLAND

<u>Before:</u>	C M Treadwell (Chairperson) L Tremewan (Member)
<u>Representative for the Appellant:</u>	Mr R Chambers
<u>Representative for NZIS:</u>	No Appearance
<u>Date of Hearing:</u>	24 July 1997
<u>Date of Decision:</u>	22 January 1998

DECISION DELIVERED BY L TREMEWAN

This is an appeal against the decision of the Refugee Status Branch (RSB) of the New Zealand Immigration Service, declining the grant of refugee status to the appellant, an Algerian national.

THE APPELLANT'S CASE

The appellant is a 35 year-old man, born in A, in the north-east of Algeria. The appellant's father, now retired, remains living in A with the appellant's two younger brothers, who run an appliance business. The appellant's elder brother also lived there until he died from cancer a few months ago. The appellant's remaining sibling, a sister, also lives in A with her husband.

The appellant was a married man when living in Algeria, and his wife had their only child, a son, in March 1994, after the appellant had already left Algeria (on 17 November 1993). The appellant states, however, that his application does not now include his wife and child, as his marriage has irreconcilably broken down, and his wife has left the appellant's family home and returned to the home of her own

parents some months ago. The appellant advised that he saw the cause of this marriage breakdown as being his wife's inability to handle all of the problems concerning the appellant and his situation, and that she could not stand waiting for the appellant any longer.

The appellant attended school from the age of approximately five to 17 years. He then attended university at A, where he completed a degree in industrial electronics. After his graduation, the appellant commenced his military service, in September 1992. The appellant regarded his two years of military service as having been an unexceptional period in his life. Though he served within the navy, the appellant's particular assignment was to act as secretary for the navy aircraft pilots. This was a position for which he had some affinity since he had, prior to his military service, obtained his private pilot's licence.

In about 1983/1984, the appellant purchased eight acres of land which he began to farm commercially, growing vegetables. In about 1985, the appellant also began running a factory. It produced food for feeding stock. He had been assisted into this business with financial and other help from his father. The factory provided work for up to 40 workers.

The appellant, as a Muslim, attended mosque daily. It was through this, that the appellant became involved with the "front islamique de salut" (Islamic Salvation Front - also known as the FIS). The appellant joined the local cell group of the FIS which comprised about 20-30 members, under the leadership of SR. This cell group served the interests of the immediate neighbourhood. The appellant stated in his evidence that he had been motivated to join the FIS after seeing so many Algerians killed. He thought of it as possible way of trying to make a contribution, though he did not consider that he was motivated by any desire to become involved in politics *per se*.

The appellant regarded Algeria as being a country rich in minerals and resources, but with terrible problems. Though the FIS was banned in 1992, it was after this time that the appellant formally became a member of the group. Membership details and cards were kept with leaders, so that individual members would not be incriminated, if stopped, by carrying proof of their identity. The appellant described his low level activities with the group. Essentially, he attended monthly meetings and distributed among mosque members a circular entitled 'El Haraka el Islamia'.

In addition, the appellant had some minor involvement with campaigning at the time of elections.

The day after the "second elections", which the appellant described as a time of much killing, the appellant was at the mosque with some others, having a small meeting, when seven armed and uniformed military police entered the mosque without warning. The military police arrested the persons present, including the appellant. They were taken to the central police station by car.

The appellant was under the impression that all Muslims were subject to arrest at this time, so that they could not influence the outcome of the elections.

At the police station, those arrested were separated from each other and placed in small windowless rooms. The appellant's incarceration lasted for three days. During this period, he was interrogated about Islamic activities in the A area. He was physically maltreated on several occasions each day. This included being punched, kicked, having steel rings twist around his wrists and, as well, having powerful lights shone into his eyes.

The appellant did not have any contact with the others during his time in custody but presumed that they were also subjected to the same maltreatment. The appellant did not have any particular information about the FIS which he could give the authorities and simply told them that all he did was essentially attend the mosque regularly.

The appellant's release was effected when his maternal uncle (a captain in the army) intervened on his behalf. When released, the appellant was told to keep a low profile and not to 'try anything'. He was also required to report, from then on, to the local authorities in the city every Friday. The appellant considered that this was a way which the authorities would use to try and keep him under a degree of surveillance and control.

In or around April 1993, the appellant was instructed by a local official who visited his factory, that he was to hand over the ownership of either his farm or his factory. This occurred shortly after his release from custody. The appellant frankly told the Authority that this was a measure sometimes taken against those who were considered to be well-off, whereby some of their wealth would be confiscated in favour of the community at large. In his case, however, the appellant felt certain

that the authorities' interest in his property related to his arrest, since it followed so closely after that arrest, and also because of comments made to the appellant by the official who had referred, for example, to the appellant's involvement with the FIS.

The appellant made a decision (within the two-day period allowed for this purpose) to have his farm confiscated, rather than his factory. He knew he was not able to challenge the confiscation. He signed a pre-prepared paper, handing over the title to his farm. He stated to the Authority, however, that even if he had refused to sign this document, his land would have been confiscated all the same. Shortly after these papers were signed, the appellant noticed that the authorities placed a fence around his land, with a gate upon which was fixed a sign, indicating that it was now owned by the authorities. After this had occurred, the appellant then learned, one day when he visited his local bank (the Central Bank of Algeria), that his account had been frozen. The appellant indicated to the Authority that although he had not personally known anyone else to whom this had happened, it was not unusual for the authorities to freeze the bank accounts of those persons considered to be interfering in political matters. After this, the appellant felt completely disillusioned as he was effectively unable to continue to operate his factory in a commercially viable way, given the difficulties with his not having proper bank account facilities available to him.

In addition, the authorities visited the appellant's residence and factory premises two to three times per week, asking the same sorts of questions on each occasion. The appellant considered that this was a way to monitor him. He did not consider that the authorities gleaned any information from him during these visits, as he really had no information to give them and their questions were always so similar. In fact, he stated in his evidence that the way in which they continued to ask the same questions was, he considered "stupid".

In November 1993, the appellant reached the point where he felt compelled to leave Algeria. His influential uncle assisted him to obtain travel documents and, more importantly, to ensure that the appellant was able to leave Algeria without any difficulty from officials at the airport. It was the appellant's evidence that he already had a passport (which he had renewed in 1992), but that if his uncle had not made special arrangements, he would not have been able to exit the country since those persons who have been subject to arrest or are otherwise noted as being of concern politically, are not entitled to leave.

It was intended by the appellant that his wife would accompany him in leaving Algeria but, at the airport, she was not permitted to board the aircraft, due to the advanced stage of her pregnancy.

The appellant had a somewhat circuitous route from Algeria to New Zealand, travelling through Frankfurt, Paris and London, before arriving in Auckland on 19 January 1994.

The appellant believes that his life would be at risk if he was returned to Algeria. He stated that the authorities showed their interest in him when he was arrested and maltreated and that their on-going attention has been exhibited by his having to report weekly, following release from his time in custody. Further, there is the fact of his having had his bank account frozen and his land seized, and as well, his being subjected to on-going visits at home and at work by the authorities. He believes that the fact that he has left Algeria illegally and has not continued to report to the authorities as he was required to, would be treated so seriously that, all things combined in the climate which presently exists in Algeria, his death could be a likely outcome. The appellant also stated that even though he had only been in custody for a period of three days, the impact upon him has been enormous. Though previously a successful businessman, he felt he had been crushed and treated 'like an animal' and like 'a criminal' for no real reason. He feels angry and bitter about these matters and would be more likely to show his opposition to the government in an active way.

Since his arrival in New Zealand, the appellant has had some communication with family members. He was told that the authorities continued to visit the family home, looking for him, after his departure. He also understands, though he was somewhat vague about this evidence, that one of the original group of people arrested at the mosque at the same time as the appellant, had, he heard, died in custody.

It is noted, in order to complete the narrative, that the appellant made an application for refugee status on 23 June 1994. This application was declined by the RSB in a decision dated 1 September 1995. It is from that decline decision that the appellant has appealed to this Authority.

THE ISSUES

The Inclusion Clause in Article 1A(2) of the Refugee Convention relevantly provides that a refugee is a person who:-

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

In terms of Refugee Appeal No. 70074/96 Re ELLM (17 September 1996), the principal issues are:

1. Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
2. If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

Before proceeding to determine the above two issues, it is necessary to first make a finding as to the appellant's credibility.

The appellant has given a generally consistent and unembellished account. It was materially consistent with previous information and statements given by him. Although the Authority had some queries and concerns, these were adequately explained by the appellant during the course of the lengthy hearing. Furthermore, the Authority noted that the appellant's demeanour was consistent with the account given. In particular, we noticed that he was upset and tense when giving some of his evidence in a manner which suggested, at times, he was reliving events which he had personally experienced. Accordingly, we find that the account given by the appellant is accepted as credible and we now turn to the issues to be addressed.

IS THERE A REAL CHANCE OF THE APPELLANT BEING PERSECUTED IF RETURNED TO ALGERIA?

In assessing the appellant's risk of persecution if returned to Algeria it is necessary to address relevant country information. We first turn to background information which describes the genesis of the Islamic Salvation Front (IFS). Islam and democracy, J L Esposito and J O Voll (1996) Oxford University Press records:

"In October 1988 Algeria was rocked by massive street protests and "food riots". A wave of public demonstrations swept across the country, precipitated by a dramatic fall in living standards (high unemployment, severe food and housing shortages, corruption and inefficient government). Beginning in Algiers, the demonstrations quickly spread to many other major cities ... it was in this context that the Islamic Salvation Front (FIS), a coalition of groups emerged as a political actor, gaining legitimacy and credibility. FIS activists were among the most visible and organised leaders, and were seen by some as the instigators of popular revolt and protests, as well as being among the chief victims of the military's brutal suppression, which resulted in an estimated 500 civilians' being killed. ... on June 12, 1990, Algeria had its first multi-party elections since its independence. Municipal and regional elections tested both the governments new direction and the strength of Islamists ... the Benjedid government permitted the FIS to participate as a political party. Given the FLN (Front de Liberation Nationale) control of the political process, the power of the ruling elite and opposition from Algeria's feminist movement, the question seemed not to be whether the FLN would win but how well the Islamists would do. The clear expectation of government officials, experts and the media in Algeria and internationally was that the combination of secular forces and Algeria's long political and cultural association with the West would limit the performance of the FIS. ... few were prepared for the outcome. With 65% of the electorate voting, the FIS swept the elections, controlling 55%, or 853 of the 1551 municipal councils, and two thirds (32) of the 48 regional assemblies, in contrast to the dismal showing of the FLN, which won only 32% of the Municipal and 29% of the regional elections. The FIS won a majority in all the major cities. ... in the aftermath of the elections, the government moved aggressively to cut off funds to the municipalities, thus hindering elected FIS officials' ability to provide adequate services. Despite charges that the FIS would bring radical change and Iranian-style government, local councils proved more interested in local governance and improvements ... as the rescheduled June 1991 multi-party elections drew near, the government introduced in March a new election law that gerrymandered or redrew voter districts to weaken the performance of the FIS and favour the FLN in the upcoming national elections. When the FIS leadership called for nation wide general strike in May 1991 the government responded to public demonstrations with force. The president declared a state of siege and called in the army to restore order. FIS leaders called for demonstrations in opposition to the governments attempt to introduce new electoral laws. Madani and Belhadj (the two most prominent leaders of the FIS) were arrested on June 30, as were some 5000 of their supporters and elections were postponed. Madani and Belhadj were tried before a military court and sentenced to 12 years in prison, charged with conspiracy against the state. ... on December 26 1991 Algeria held the first multi-party parliamentary elections in its 30 year history. Despite the advantages that the government and the FLN enjoyed, from gerrymandered voter districts and control of state institutions and the media, to the continued imprisonment of Madani and Belhadj with 59% of Algeria's registered voters casting ballots, the FIS won 47.54% of the vote and 188 of the 231 seats, 28 short of a majority, in the first round of Algeria's parliamentary elections. Its closest rival, the Socialist Forces Front managed only 26. The FLN was routed, as it finished third with just 16 seats. The remainder of

the seats in a parliament that totalled 430 seats was to be determined in a run off election in January 1992.

On January 12 1992, the Algerian military, disregarding the majority of voters, intervened in what was a de facto coup to prevent the FIS from enjoying the fruits of their democratically elected and earned power. ... in the name of preserving state security and stability, the military acted just days before the second round of parliamentary elections, in which it appeared that the FIS was poised for another electoral victory that would give them a two thirds to 80% majority in parliament. ... on February 9, 1992, the council replaced a budding democratic process with a state of siege. It declared a state of emergency, annulled the results of the December elections, cancelled the second round of parliamentary elections, and postponed all elections indefinitely. Journalists (non-Islamist and Islamist) were arrested and several newspapers were closed. The government moved to dismantle the FIS. In subsequent months the FIS was banned (March 1992), and leaders, members, and those suspected of membership or sympathy with the FIS were arrested and tortured. More than 10,000 Islamists were detained in desert concentration camps in the Sahara, and FIS's mosques and social welfare centres and their assets seized. Imams sympathetic to the FIS were replaced by state approved clergy, while others were arrested "for using the pulpit for political purposes". One international magazine commented "now it seems official. Torture has made a come back in Algeria". John Entelis, a leading expert on Algeria, wrote "the military cancellation of the elections in January represents nothing less than a political coup and, most likely, the end of Algeria's democratic experiment for the immediate future. Despite government contentions to the contrary, the stability of the state was not in danger. The stability of the regime, to the extent that it was a regime to the army's liking is a different matter". ... the military's swift move to crush the FIS raised serious questions about the nature of Algeria's democratic past. They denied the FIS the power they had earned through participation in the political system, reportedly to safeguard the security of the state The gains that had been made from 1989 to 1991, with an opening of the political system - the introduction of a multi-party system, release of political prisoners, lifting of press censorship, termination of arbitrary arrests and torture - were reversed. While the FIS was the primary target of the government's repression, its secular opposition (intellectuals, politicians and journalists) was also silenced. ...

1994 saw a dramatic increase in the level of violence and terrorism, as well as signs of behind-the-scenes contact between the government and the imprisoned FIS leadership. In September 1994 the government released several FIS leaders and transferred Madani and Belhadj from Blida prison to house arrest in what looked like a first step toward a negotiated settlement. However Madani refused to participate in a national dialogue until certain conditions were met: the installation of a neutral "government until a legitimate government was elected; the re-legitimation of the FIS; the lifting of the state of emergency; proclamation of a general amnesty; the cessation of all judicial proceedings against Islamists; and the army's return to its barracks.

President Zeroual flatly rejected the response ... the Algerian government ... returned Madani and Belhadj to prison, and pressed on its war to "eradicate" the Islamists."

The more recent situation in Algeria has been referred to in the media. In The Middle East (November 1997) p 10 it is stated

"... no solutions appear in sight of the continuing butchery of Algeria's civil war. UN offers of help have been spurned and a frightened population is turning to prayers and vigilantes to protect them from unknown assailants. Exhausted and terrified Algerians are in despair about the increasingly brutal and frequent

massacres being inflicted on them. Even for a population that has become almost inured to daily violence, the extraordinary cruelty in recent attacks is shocking and the already chaotic situation seems to have spun out of control ...

It is rumoured - and given government censorship there is nothing to go on besides rumour - that President Zeroual favours accepting the truce called by the FIS, the party that had been poised to win elections in early 1992 when the government annulled the vote, and that he may soon be removed as a result. ... there are also allegations that some extremist groups in particular the GIA (Armed Islamic Groups, a breakaway from the FIS) - have been infiltrated by the security forces, which may be encouraging violent acts to justify repression. Many survivors complain that security forces stationed close to where atrocities have taken place did nothing to help them and never left their barracks. ...

The killings have been extraordinarily savage. Victims who include pregnant women and babies, have been disembowelled, burnt alive and hacked to death with axes and machetes. In one case more than a hundred young women were rounded up, forced by the assailants to go through "a marriage service" raped and then murdered.

Until recently many killings have happened in isolated hamlets, and only a small number are ever reported. But now massacres are taking place in the suburbs of the capital ...

Kofi Annan, the United Nations Secretary-General, recently attempted to pave the way for intervention, saying that the world could no longer ignore a five year conflict that had cost at least 100,000 lives. "We are dealing with a situation which for a long time has been treated as an internal affair", he commented. "and yet, as the killings go on and the numbers rise, it is extremely difficult for all of us to pretend it is not happening, that we don't know about it and that we should abandon the Algerian population to their fate". The response from the embattled army-backed regime was not encouraging. It issued an angry rejection of the UN's overture, describing it as a "unacceptable interference in internal affairs". It followed this up by re-arresting the head of the FIS. He had been released earlier this year, apparently as a gesture of appeasement.

In the Guardian Weekly (week ending November 15, 1997) is the following extract:

"... today Algeria's secret police state is indicted by one of its own members for crimes against humanity. Yussuf-Joseph was a career secret agent in Algeria's Securite Militaire, until he defected to Britain ... Joseph spent 14 years as part of the Algerian police state. He said that the relentless massacres in Algeria are the work of the secret police and army death squads; the killing of many foreigners was organised by the secret police, not Islamic extremists. He revealed that the constant terror in which civilians live is orchestrated by General Mohammed Mediane and General Lamari, the head of the Algerian secret service and its sub-department the counter intelligence agency the DCE, respectively. Since the military coup in 1992 after the first round of elections in which the FIS were set to take to power, the violence has escalated to make Algeria the most dangerous country in the world ...

Joseph said the massacres, in which tens of thousands of Algerians have been killed since the civil war started in 1992, have been carried out by the regime's death squads. ... "in 1992 Smain created a special group - the squadron of death. One of its main missions to begin with was to kill officers, colonels. The death squads organised the massacres. If anyone inside the killing machine hesitates to torture or kill they are automatically killed ... the FIS aren't doing the massacres. All the intelligent services in Europe know that the government is doing it but they

keep quiet because they want to protect their supplies of oil.” Joseph said he’d witnessed torture “I have seen the blow-torch ...”, “I have seen in Antar, a torture centre near Algiers Zoo, a human eye on a table with a fork in it ...”

In *Le Monde* (April 27 1997) it was stated:

“Abdenour Ali Yahya, President of Algeria’s Human Rights League, which opposes the government, (said that) 35,000 were in Algerian jails, 100,000 had been killed and thousands more had disappeared. This was the result, he said, of policies pursued by President Zeroual in the so called “eradication” faction, who believe a heavy security clampdown will eventually lead to a “peace of cemeteries”. He denounced the systematic use of torture and said FIS activists repatriated from other countries had been “tortured or eliminated”.

In the United States Department of State Country reports on human rights practices for 1996: Algeria (February 1997, 1221) it is stated, *inter alia*, ...

“Although the governments human rights performance improved somewhat, there were serious human rights abuses. The security forces carried out extra judicial killings, were responsible for numerous cases of disappearance, routinely tortured or otherwise abused detainees and arbitrarily arrested and held *incommunicado* many of those suspected of involvement with armed Islamist groups.

Although the constitution provides for an independent judiciary, recent executive branch decrees have restricted some of the judiciary’s authorities. Poor prison conditions, lengthy trial delays, illegal searches and infringement on citizens’ privacy rights also remained problems. The government heavily censored news about security incidents and the armed groups. The government also continued to restrict freedom of speech, press, assembly, and movements. During the November constitutional referendum, there were no independent observers at the polling stations during the vote or the ballot counting. Political parties opposing the constitutional amendments were denied access to the electronic media, and their activities suffered occasional government harassment ... by year’s end, most commonly accepted causality estimates were that 60,000 people had been killed during five years of turmoil ...”

In Human Rights Watch World Report 1996; Algeria (sourced from the UNHCR centre for documentation and research, country information by Internet, 24 April 1997), it is stated:

“Algeria was the scene of the bloodiest conflict raging in the Middle East and North Africa during 1995. Since the military-backed annulment of parliamentary elections that the Islamic Salvation Front (FIS) was poised to win in 1992, the government and the militant Islamic opposition have fought an increasingly ugly war that has cost the lives of thousands of civilians. It has also wiped out many of the freedoms and rights that Algerians had begun to enjoy during a period of liberalisation that lasted from after the 1988 riots until the declaration of the state of emergency in February 1992... With constancy, FIS representatives in exile condemned the attacks on civilians by armed groups (the FIS was outlawed on 1992 after its strong showing in local and parliamentary elections. Its two chief leaders were in prison in Algeria. The relations between the FIS political leadership and the armed groups remained nebulous). ...

Government troops also engaged in assassination. There were reports of suspects being arrested and then turning up dead, with official news reports stating that they had been killed in a clash. There were also reports of arbitrary killings carried out by security forces that entered neighbourhoods thought to be sympathetic to Islamists and executing persons who had no relation to the armed conflict. Security forces were also responsible for disappearances. Families and friends witnessed the arrest of suspects, after which they could obtain no further information about their whereabouts. The torture of Islamist suspects was common in interrogation centres. According to defence lawyers, judges systematically refused to order medical examinations of defendants who claimed their confessions had been extracted through torture ...”

A paper published in June 1997, “Algeria - elections in the shadow of violence and repression” published by the Human Rights Watch - Middle East, stated, *inter alia*:

“The political violence in Algeria since 1992 has cost an estimated 60,000 lives. Precise figures are unknown, as are the proportions of security forces, armed opposition militants, civilians who have been killed and the extent to which the militants or the security forces and paramilitary forces are responsible. Censorship, fear and other factors have prevented an accurate accounting of the casualties When legal, the FIS sheltered a range of Islamist tendencies and never articulated a detailed political programme. ...

Since 1992, state repression has mostly been directed at suspected Islamists, their families, and sympathisers. Before 1992, the FIS operated openly and legally, fielding candidates, publishing newspapers, and organising rallies and other political activity. This open activity, under the watchful eyes of the security forces, facilitated the massive round-up of many of these people beginning in 1992. In the months following the cancellation of elections, at least 9000 suspected Islamists including elected officials and rank-and-file supporters, were put into desert detention camps without charge ...”

In a document “Human Rights Abuses in Algeria - no one is spared” published by Human Rights Watch/Middle East, at p18 (January 1994), it is stated:

“ ... throughout 1992 the most widely used state of emergency power was the broad authority to detain. By its own count the government rounded up and despatched some 9000 suspected FIS supporters to detention camps, mostly in the remote southern desert. Most were detained in February and March of 1992. The detention process forwarded almost no due-process rights ... those detained ranged from prominent activists who had been elected to public office to suspected sympathisers who were rounded up in the streets on apparently on the basis of their appearance (many Islamists wear beards and loose fitting white tunics). The vast majority had no prior police record and, following their detention, were never charged or brought to trial. ... the round-ups were clearly arbitrary and indiscriminate actions, calculated to incapacitate the FIS around the country, without regard to the individuals’ complicity in illegal acts. Many of those detained for several months contended that their only offence was to support a political party that had been legal until February 1992.”

In the Amnesty International Report 1996 - Algeria (at 72) it is stated:

“Thousands of people were killed by the security forces, many of them reportedly extra judicially executed when unarmed or after having been captured ... more than

a hundred death sentences were imposed during the year, most of them *in absentia*, in over 600 people sentenced to death in previous years remained on death row ... thousands of people were killed by security forces. The authorities claimed that all those killed by security forces died in armed clashes. However hundreds of people reported to have been extra judicially executed when they posed no lethal threat. Some were reportedly killed in their homes and in front of their families, others after they had been arrested. Such killings appeared to be increasingly used as an alternative to arrest ...

Torture and ill-treatment of detainees were reported to be used routinely in police and gendarmerie stations, military and other secret detention centres to extract information and confessions from detainees held in *incommunicado* detention, often illegally prolonged for weeks or months. The most common methods reported included the chiffon "were the detainee is tied to a bench and a cloth is placed in the mouth through which a mixture of dirty water and chemicals is poured; the "chalumeau", burning with a blow-torch; electric shocks to sensitive parts of the body; placing the detainee's penis in a drawer and slamming the drawer shut; tying a rope around the detainee's genitals; suspension in contorted positions; cigarette burns; and beatings.

Hundreds of people who "disappeared after arrest" in 1995 and in previous years remained unaccounted for. ..."

There is, in our view, significant country information then, to suggest that a person in the appellant's position (that is, as someone who has had a known, albeit low level, involvement with the FIS) may still be at risk. In order to assess the level of risk, we now look at the appellant's previous difficulties as these may be helpful in indicating likely future problems. In this regard, we note that the appellant:

- (a) was regarded by the authorities as having an involvement in the FIS;
- (b) was arrested, held in custody and physically maltreated;
- (c) was subjected to ongoing surveillance after his release from custody and was also required to report to the authorities regularly. He has breached his reporting conditions;
- (d) has had land confiscated by the authorities had has also had his bank accounts inexplicably 'frozen' effectively preventing him from continuing his business activities;
- (e) was able to leave Algeria only by having special 'arrangements' made allowing him to depart;
- (f) has heard from immediate family members that the authorities have actively looked for him following his departure.

Taking into account all of the above factors, we find cumulatively that there is a real chance that the appellant, if he returned to Algeria, would face persecution. In our view, this would likely take the form of extra-judicial imprisonment for a lengthy period, further physical maltreatment, and possibly worse. We are satisfied that such treatment would constitute a serious violation of the appellant's core human rights.

IS THERE A CONVENTION REASON FOR THE PERSECUTION?

We now turn to the second issue and find in the affirmative. The appellant, at the very least, has a political opinion which has been imputed to him by the authorities as challenging the present regime in Algeria. We find that there is, therefore, a Convention ground present.

CONCLUSION

In summary, our conclusions are as follows:

1. that there is a real chance of the appellant being persecuted if he returned to Algeria;
2. that there is a Convention ground present for that persecution, namely imputed (if not actual) political opinion.

For these reasons, the Authority finds the appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is granted. The appeal is allowed.

.....
Member