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ALGERIA

Steps towards change or empty promises?

Photocaption :Cover picture:

Youths in Algeria walk along a wall on which have been written in French the words: “No to *hogra*, repression and injustice... For a better Algeria and greater democracy.” *Hogra* is an Algerian Arabic word denoting contempt or humiliation suffered as a result of the authorities’ abuse of power.

ALGERIA

Steps towards change or empty promises?

INTRODUCTION

1. “Turning the page”

The Algerian authorities have been talking increasingly in recent years about change, pointing to a series of reforms being planned and gradually implemented in areas such as legislation and the structure of state institutions. The clear message both internally and to the outside world is that progress is underway towards consolidating the rule of law and democracy in the country; that the goals are set for greater openness and transparency; and that such efforts are creating a climate in which human rights are increasingly respected, promoted and protected. In the same vein, the Algerian government has signalled its readiness to “turn the page” on a decade during which the country has been ravaged by a human rights crisis of horrendous proportions. Since the cancellation in 1992 of the country’s first multi-party elections, which the *Front islamique du salut* (FIS), Islamic Salvation Front, looked set to win, tens of thousands have been unlawfully killed by armed groups, the security forces and state-armed militias, thousands have “disappeared” after arrest, and hundreds of thousands more have been injured or otherwise affected by human rights abuses.

Translating the promise of change into reality has perhaps never been more urgent. The population faces a series of overwhelming challenges, associated not only with human rights concerns, but also with worsening socio-economic conditions and long-standing problems relating to political representation.

Despite macro-economic stability resting on the back of the hydrocarbon sector, the majority of Algerians have seen their living standards deteriorate over recent years, leading to strikes and demonstrations to demand jobs, housing, social welfare and better living and working conditions. Unemployment officially stands at around 30 per cent, with figures particularly high among the young, who make up the bulk of the population; 80 per cent of the unemployed are under 30 years of age. A continuing failure to empower women means that the female adult illiteracy rate is double that of the equivalent figure for males. An acute housing shortage has pushed the average occupancy rate up to around 7.5 persons per dwelling. Health care expenditure has dropped in recent years and now stands at just 3.1 per

cent of Algeria's gross domestic product. Water is a rare commodity, reportedly reaching households in the capital Algiers only one day out of three.¹

In the lead-up to presidential elections scheduled to be held before 15 April 2004, Algerians in general continue to believe that the government's authority is severely constrained by an unaccountable and secretive military establishment whose influence permeates decision-making in the country and whose might few dare to challenge openly. Combined with the government's repeated failure to live up to the promises it has declared in recent years, this has led to increased disenchantment with the political system, widely seen as being unrepresentative. Parliamentary elections in May 2002 were marked by the lowest turnout since independence in 1962, with less than half of the electorate casting their vote. The predominantly Amazigh (Berber) region of Kabylia saw an almost total boycott of the polls. Local elections in October 2002 were marked by a similarly low voter turnout.

The human rights situation, although improved since the mid to late 1990s, remains of serious concern. Around 100 people continue to be killed each month by armed groups, the security forces and state-armed militias, with civilians bearing the brunt of the violence; torture is still prevalent; and investigations into human rights abuses are rarely carried out, maintaining a climate of impunity and confusion. The legacy of a decade of violence is yet to be concretely addressed, leaving victims and their families without redress and the population without guarantees that the grave human rights abuses they have witnessed in recent years will not be repeated.

One of the key outcomes in all these areas is a lack of popular confidence in the authorities' stated commitment to change, which many see as merely empty promises. The frustration caused has fomented the seeds of unrest among Algeria's predominantly young population, sparking an increasing number of protests in recent years. The heavy-handed way in which these protests have been repressed has fuelled the discontent further, leading to a situation which remains explosive.

This report examines what promises of change the government has been making with regard to human rights, particularly since 2000. It looks at their impact to date, assessing to what extent they have contributed to tackling or can tackle the key human rights concerns in the country. Each chapter contains a set of recommendations which Amnesty International believes represent practical steps towards making the promise of change a reality. The organization hopes, in this way, to contribute to ongoing debates – both inside and outside the country – on how human rights protection can be improved in Algeria.

Amnesty International was able to visit the country in February and March 2003. Delegates met with officials, human rights organizations, victims and families of victims, human rights lawyers and activists, including women's rights activists, and groups working on the rehabilitation of victims of human rights abuses. Some of the material used to compile this report was collected during this visit. Other material is the result of the organization's

¹ Sources: UNDP, IMF, World Bank

continuous research work on Algeria over the last decade. The cases used provide illustrative examples of some of the patterns of human rights abuses described in this report.

2. Human rights community

One of the most noticeable positive developments in the last two or three years has been the opening up of the space for debate on human rights issues. This is partly as a result of an increased willingness on the part of the authorities to engage with them and partly thanks to the determination of human rights activists, who have been instrumental in forcing the concerns of victims of human rights abuses and their families onto the public agenda and in bringing them to the attention of the government.

Several human rights organizations have undertaken new initiatives in recent years. This has been in spite of the difficulties which continue to hamper their work, including harassment by government authorities of their members, government restrictions on public meetings and an acute lack of resources. The UN Special Representative of the Secretary-General on human rights defenders, in her report to this year's UN Commission on Human Rights, said that activists had been "the victims of death threats and other threats and intimidation".²

The *Ligue algérienne pour la défense des droits de l'homme* (LADDH), Algerian League for the Defence of Human Rights, is currently promoting expansion of its membership across the country in the lead-up to its first national congress since the crisis in Algeria began in 1992. Both the LADDH and the *Ligue algérienne des droits de l'homme* (LADH), Algerian League for Human Rights, have produced recent reports documenting aspects of the human rights situation in the country, including torture, "disappearances", the administration of justice and violations during the policing of demonstrations in Kabylia.

Organizations campaigning for the rights of victims of abuses by armed groups, such as *Djazairouna* (meaning "Our Algeria" in Arabic), based in Blida, southwest of Algiers, and *Somoud* (meaning "Steadfastness" in Arabic), based in Algiers, continue to provide much needed support and assistance to those who have been closely affected by the violence which continues, albeit at a lower level than in previous years, to this day. *Somoud*, which deals particularly with families whose relatives have been abducted by armed groups and presumed to have been assassinated, has been trying to find ways of bringing in expertise from outside the country to help with the identification of bodies found in mass graves.

Associations working on the issue of "disappearances", such as *SOS-Disparus* and the *Association nationale des familles de disparus* (ANFD), National Association of Families of the Disappeared, in Algiers and affiliated organizations in Constantine, Oran and Relizane have also expanded their activities in recent years. *SOS-Disparus* opened an office in Algiers in 2001 and has addressed memorandums to the authorities detailing its ongoing concerns. The *Association des familles de disparus de Constantine*, Association of Families of the Disappeared in Constantine, produced a report last year which documented, among other

² UN document E/CN.4/2003/104.

things, evidence that unmarked graves in the region contained the bodies of people who had “disappeared” after arrest by the security forces.

After years of mutual mistrust engendered by a situation in which dialogue was virtually impossible, organizations working on violations by the state, such as “disappearances”, and organizations working on abuses by armed groups, such as abductions and killings, are beginning to engage in dialogue. There is increasing realization, on both sides, that the concerns are very much shared ones and that, no matter who is responsible for the crime committed, the victims or their family must be ensured the right to truth, justice and reparation.

Other groups working on human rights issues have emerged as a result of particular events in the last two or three years. One example is the collective of lawyers which, after the killing of over 100 unarmed demonstrators in the north-eastern region of Kabylia in 2001 and 2002, has campaigned for justice for the victims’ families.

Groups working on women’s rights, such as the *Wassila* Network, a loose association of women’s and children’s groups, health workers and other individuals formed in 2000, have documented the testimonies of women victims of violence, while offering them medical and psychological assistance.

Another development has been the establishment of a new official human rights body, the *Commission nationale consultative de promotion et de protection des droits de l’homme* (CNCPPDH), the National Consultative Commission for the Promotion and Protection of Human Rights. The CNCPPDH was set up by presidential decree in March 2001. It succeeded the previous official human rights body, the *Observatoire national des droits de l’homme* (ONDH), the National Observatory for Human Rights, which had been dissolved by President Abdelaziz Bouteflika, following years of criticism for failing to acknowledge, let alone take active steps towards investigating or preventing, grave human rights violations by the state during the previous decade. Since its members were appointed by presidential decree in October 2001, the CNCPPDH has made efforts to show greater willingness to listen to families of victims of human rights violations by the state, notably the families of the “disappeared”. Although the body has no investigative powers and is mandated to act only in an advisory role to the President, it is to be hoped that this positive attitude can be translated into recommendations to resolve human rights concerns and address victims’ needs in accordance with international standards.

Outside the country, a number of initiatives have contributed to the debate on how to deal with the legacy of the past. In July 2002, for instance, court hearings in Paris in a defamation case brought by former Defence Minister Khaled Nezzar against former army officer Habib Souaïdia generated a succession of testimonies relating to the mass human rights abuses of the last decade, from Algerian historians, politicians, members of the military and intellectuals of all political tendencies. The hearings were widely reported in the Algerian media.

An active human rights community should be seen as a valuable resource for the Algerian authorities. They should ensure that those working, as individuals or as associations,

for the promotion and protection of human rights are allowed to operate freely. By taking the recommendations of human rights organizations into account, they would make a visible demonstration of their political will to improve the human rights situation.

PART A: JUSTICE REFORM

1. Introduction

Justice reform has been particularly highlighted by the authorities as a manifestation of the irreversibility of their drive towards improving the human rights situation in the country. The changes have included legislative amendments and penal reform.

a) Legislative changes

The Algerian authorities announced legislative changes in June 2001 as an important step in bringing domestic law into line with international standards, pointing to textual changes to strengthen the presumption of innocence; increase the control of law enforcement agents by the judiciary; bolster the rights of detainees held in the custody of the security forces; limit the recourse to pre-trial detention; and establish the right of an individual wrongfully held in pre-trial detention to compensation.

The authorities have stressed that more reform projects are currently at the planning stage. During the process of restructuring in the Justice Ministry in 2002, for example, a new human rights department was created with the stated aim of, among other things, taking the lead in ensuring national legislation would be compatible with Algeria's obligations under international human rights treaties³. At around the same time a committee was established to look into how the recommendations made in 2000 by a judicial reform commission could be implemented.

Amnesty International has welcomed some of the modifications to the Criminal Procedure Code in June 2001 which are positive and may signal important improvements in the long-term protection of human rights in Algeria. However, Amnesty International's assessment to date is that many of the new safeguards have yet to be translated into practice. While the amendments should strengthen the rights of detainees held in the custody of the security forces, they have not impacted on the ongoing problems of secret detention and torture.

This is because the problem is much deeper than a failure to implement recent legislative amendments. Firstly, legal safeguards which should protect detainees and have been in place for years are generally not respected by the judicial authorities or the security forces, let alone by the military establishment. Secondly, Algerian law retains many elements of the emergency legislation that was introduced in 1992, some of which violate international standards in themselves.

³ Executive decree no. 02-410 of 26 November 2002.

At the same time, some amendments introduced in recent years have negatively impacted on the enjoyment of fundamental human rights. Some of the changes made to Algeria's Penal Code in June 2001, for instance, threaten the right to freedom of expression. Penalties for defamation were increased and the definition of the offence was widened. Amendments to the law prescribed prison terms of up to one year and fines of up to 250,000 dinars (approximately US\$3,200) for individuals found guilty of defaming the President of the Republic or other state institutions such as the army, parliament or the judiciary, using the written or spoken word or an illustration. The editor and publisher of an offending article or illustration are also liable to be prosecuted. The amendments have been used to inflict harsher penalties on those criticizing state institutions, particularly the military establishment.

Similarly, changes to the Criminal Procedure Code in June 2001 significantly extended the legally permitted period of pre-trial detention. Previously, anyone accused of a crime, whatever its nature, could be held for no longer than 16 months while their case was being investigated by the examining magistrate. Now, those accused of crimes punishable by sentences of at least 20 years' imprisonment can be held for 20 months while their case is investigated by the examining magistrate; those accused of "crimes considered to be terrorist or subversive acts" for 36 months; and those accused of a "transnational crime" for up to 60 months. According to the UN Human Rights Committee, pre-trial detention should be an exception and as short as possible.⁴

b) Prison reform

In the area of prison reform, the Algerian authorities have established a new commission to put forward recommendations and improve detention conditions. They have also allowed the International Committee of the Red Cross (ICRC) to make regular visits to prisons administered by the Ministry of Justice, a development which Amnesty International has welcomed on several occasions. Seven visits have taken place since 1999 and, according to the ICRC, delegates have had access to more than 50 per cent of prisons and met some one-third of Algeria's prison population. Since 2002 the ICRC has also been able to visit a number of police stations and places of detention run by the gendarmerie.

Nonetheless, there are two important issues to raise in this context. One is that, whatever improvements have been achieved, prison conditions appear to remain a cause for serious concern. Last year the official human rights body, the CNCPPDH, called for investigations to take place into allegations that high death tolls in recent prison fires were due to inhumane prison conditions, including gross overcrowding. Some 50 prisoners died and around 100 were injured after fires broke out in separate incidents inside 12 prisons in April and May 2002. The Justice Ministry said it had opened an inquiry into the events, but no findings had been made public at the time of writing. Local human rights organizations, such as the LADDH, have asked to visit prisons to report on conditions, but have not been given access.

⁴ Human Rights Committee, General Comment No. 8, para. 3. UN Document HRI/GEN/1/Rev.5.

Significantly, no independent organization has been given access to military prisons, administered by the Ministry of Defence, or detention centres belonging to Military Security, from where the most serious and persistent reports of torture, ill-treatment and inhumane conditions emanate.

2. Protection from secret detention and torture

Changes made in June 2001 to the Criminal Procedure Code should have improved safeguards for those held in the custody of the security forces before being brought before an examining magistrate (a period of detention known in Algeria as *garde à vue*). These include the stipulation (in the form of Article 51 bis) that any person placed in *garde à vue* must be informed of their right to communicate immediately with their family and to receive visits from them, and to be examined by a doctor of their choice at the end of the period of detention.

This should help to protect detainees from secret detention and torture, patterns of human rights violations which Algeria has faced on a massive scale over the last decade. However, to date this and other new safeguards remain largely dead-letter.

The problem is exacerbated by the fact that, as mentioned above, legal safeguards which should protect detainees and have been in place for years have often not been respected by the judicial authorities or the security forces. It should be noted, for instance, that a detainee's right to communicate immediately with their family and receive visits from them, and to be examined by a doctor of their choice at the end of the period of *garde à vue* was clearly stipulated in the Criminal Procedure Code before it was amended in 2001, but has generally been ignored in practice. The amendment added that the detainee should be *informed* of this right.

Algerian law also retains many of the elements of emergency legislation, drawn up in 1992, which were incorporated into the Criminal Procedure Code and Penal Code when they were revised in 1995, some of which violate international standards. A significant example as far as detainees' rights are concerned is the time limit of 12 days during which suspects in crimes categorized as "acts of terrorism or subversion" can be held in *garde à vue*. Amnesty International is concerned that the time limit contravenes, for instance, the International Covenant on Civil and Political Rights, to which Algeria is a state party. Article 9 requires anyone arrested on a criminal charge to be brought "promptly" before judicial authorities. The UN Human Rights Committee has further stated that delays in bringing anyone arrested or detained before a judge or other officer authorized by law to exercise judicial power must not exceed a few days.⁵

a) Secret detention

The authorities' almost routine failure to respect domestic legislation protecting detainees' rights contributes directly to the persistence of the problem of secret and unacknowledged detention.

⁵ Human Rights Committee, General Comment No. 8, para. 2. UN Document HRI/GEN/1/Rev.5.

Despite the safeguards in the law, detainees are generally not allowed to communicate with the outside world, including their family, either *immediately* following their admission into *garde à vue* or even at any stage during it. They are also usually not allowed to receive visits from their family. Moreover, according to Amnesty International's findings, few are informed of their rights in this regard.

The result is that, from the moment of the person's arrest to the moment they appear before an examining magistrate, the family of the detainee is generally unaware of their relative's fate or whereabouts. Where the family has the courage to make enquiries with the security forces following the arrest of their relative, the authorities often either refuse to disclose where he or she is being held or refuse to acknowledge that the person is being held in custody at all. As a result of this the vast majority of *garde à vue* detainees are being held in secret and unacknowledged detention and, consequently, outside the protection of the law. This puts them at increased risk of "disappearance" or of torture or ill-treatment, which in turn prejudices their chances of being given a fair trial.

It is when an individual is held on suspicion of crimes categorized as "acts of terrorism or subversion" that their detention outside the protection of the law becomes a particularly serious matter. With the legal limit of *garde à vue* set at 12 days, the detainee's physical security is put in grave danger, as the results of Amnesty International's research show.

Photocaption : CASE: Ahmed and Fouad OUALI: Ahmed Ouali and his brother Fouad

Ahmed Ouali, a 42-year-old shopkeeper and father of five, was arrested around midnight on 12 January 2002 with his 29-year-old brother, Fouad, and 16-year-old son, Mohamed, at their home in an outlying district of the capital, Algiers. Ahmed is a former activist with the banned Islamist party, the FIS.

The three were arrested by security force agents wearing plain clothes and travelling in unmarked cars, who took them to the Military Security detention centre of Ben Aknoun in Algiers. They were held there for nine days, until appearing before a magistrate on 21 January 2002. During that time, Ahmed was allegedly tortured with electric shocks and by the *chiffon* method (see page 10 for an explanation of the term), as well as being hung by a rope attached to the ceiling. When he appeared before the magistrate, he reportedly complained about the torture he had received, indicating traces of the injuries he sustained which were still visible on his body.

Ahmed was apparently forced, while blindfolded, to sign a police statement “confessing” his involvement with an armed group and was reportedly beaten when he asked to read its content. He was allegedly made to understand that his brother and son had been arrested and interrogated in order to make them testify to his guilt. Fouad, who suffers from diabetes, was reportedly subjected to the same torture methods as his brother. Mohamed was reportedly beaten.

Ahmed and Fouad were charged on 21 January 2002 with belonging to a “terrorist” organization and await trial, while Mohamed was released without charge. At the time of writing Ahmed was detained in El-Harrach Prison in Algiers; Fouad had been provisionally released. During their nine days in Ben Aknoun, no member of the Ouali family, some of whom witnessed the arrests, was informed of the whereabouts of their relatives. No investigation is known to have been undertaken into the allegations of torture.

b) Torture

Amnesty International has learnt of dozens of cases of torture that have occurred in the last two or three years. The organization’s research indicates that torture is systematically practiced on those suspected of crimes categorized as “acts of terrorism or subversion” and held for 12 days in what should be a period of *garde à vue* with legal safeguards to protect the detainee, but is often secret and unacknowledged detention. Case examples of the torture of Boubaker Kamas, Ahmed and Fouad Ouali, and Mohamed Belkheir in 2002 and 2003 appear in this section.⁶

Torture is not confined to cases connected with “acts of terrorism or subversion”. The security forces have also repeatedly tortured political activists arrested during or following demonstrations protesting against government policies or measures, as well as against common-law criminals, although such reports have decreased significantly since the mid to late 1990s. Demonstrators detained and tortured following protests in the north-eastern region of Kabylia provide one such example (see pages 13/14).

Beatings with fists, batons, belts, iron bars or rifle butts are frequently mentioned in the testimonies of victims interviewed by Amnesty International. Some victims have reported being whipped and slashed with sharp implements, or being strangled almost to the point of suffocation. Others have had cigarettes extinguished on their body or face, had burning cigarette ash thrown into their eyes, or been scorched by a soldering iron. Some victims have had electricity applied to their bodies, often to sensitive organs such as the genitals. To increase the pain, the victim’s body may be soaked first in water. Some victims have reported being threatened with sexual violence, sometimes after being undressed and tied up.

⁶ See also recent Amnesty International appeal cases on individuals who were held in secret detention and tortured, including: *Algeria: Torture of Tahar Façouli* (AI Index: MDE 28/021/2002) of 16 December 2002; *Algeria: Torture of Brahim Ladada and Abdelkrim Khider* (AI Index: MDE 28/02/2002) of 14 November 2002; as well as urgent actions on these and other cases.

One noticeable development in the last two or three years is the relative increase in the use of methods which leave few traces. The so-called *chiffon* method of torture, in which the victim is tied down and forced to swallow large quantities of dirty water, urine or chemicals through a cloth placed in their mouth, is one such example.

The purpose of torture in most cases appears to be to extract statements or “confessions” from the person held in custody, often by forcing detainees to sign statements which they have not read. In cases involving what the government describes as “terrorist” activities, the statement usually implicates them as being linked in some way with an armed group. In cases involving political protesters, torture may also be used by the security forces to punish the detainee and deter others from taking similar action.

The implications of torture being used systematically in “terrorism”-related cases and selectively in other political and criminal cases are very serious indeed, not only because of the physical and mental trauma, but also because it impacts on the administration of justice. Convictions are often made, largely or solely, on the basis of statements obtained in the custody of the security forces under duress, gravely prejudicing the right to a fair trial and leading to long prison sentences or, in some cases, the death penalty.⁷

Medical examination

The right to a medical examination at the end of the *garde à vue* period should ensure that the acts of torture are identified and brought to the attention of the judicial authorities for investigation. However, as mentioned earlier, the right of the detainee to be examined by a doctor of their choice at the end of the period of *garde à vue*, as well as to be informed of this right, appears to be routinely ignored. This is despite the fact that, in some cases, the statement which the detainee is forced to sign at the end of the interrogation contains a clause stating that they have been informed of their right to a medical examination.

Where a medical examination is required, it is usually a perfunctory or pro forma one undertaken by a doctor of the security forces’ choosing. In no case known to Amnesty International has such a doctor reported traces of torture or ill-treatment, even where these have been strikingly obvious to family members, the lawyer and, sometimes later, to the court.

In a few cases known to Amnesty International in the last two years, thanks mainly to the persistence of the defence lawyer, the detainee has been able to secure their right to a medical examination by a doctor of their choosing. However, the medical examination has then not generally taken place until weeks or months have passed, either because the authorities deliberately prolonged the process or because of administrative delays or a combination of the two. It has usually then been too late for the evidence of torture to still be identifiable.

⁷ No judicial execution has taken place since a moratorium was announced in 1993, but the punishment continues to be handed down by the courts.

CASE: Mohamed BELKHEIR

Mohamed Belkheir, a 42-year-old restaurant manager from the eastern province of Bouira, was arrested just after midnight on 16 March 2003 by over a dozen plain-clothes security force agents. He is a married father of two and allegedly a sympathizer of the leftist opposition party, *Front des forces socialistes* (FFS), Socialist Forces Front.

He was taken in an unmarked car to the Military Security centre of Ben Aknoun in the capital, Algiers, and locked in a cell. At around 2am the same night, he was led to a room in which he was reportedly laid out on a wooden table, tied down at his hands and feet and subjected to the *chiffon* method of torture (see page 10 for an explanation of the term). He was then reportedly beaten with a baton and had electric shocks administered to his body. During the torture session, his interrogators said they believed he was in contact with people active in armed groups and demanded names from him. He insisted he did not know any such people.

Throughout his 10 days in *garde à vue*, he was reportedly subjected to further torture sessions. On one occasion, electric shocks were allegedly applied to his fingernails and genitals and his interrogators threatened to arrest his wife and rape her in front of him. On 25 March 2003 he was apparently forced, while being beaten, to sign a statement without being allowed to read it. The following day, he was presented to an examining magistrate and charged with belonging to a “terrorist” group and failing to denounce murderers, before being placed in pre-trial detention.

The report of a subsequent medical examination, which Mohamed Belkheir was given on arrival in prison, indicated that various parts of his body had been bruised, without indicating the likely cause or timing of the injuries. Despite this, a request for an independent medical examination was rejected by the judicial authorities and no investigation is known to have been undertaken into the allegations of torture. Mohamed Belkheir was still awaiting trial at the time of writing.

c) Reaction by the authorities

The Algerian government refuses to acknowledge that either secret and unacknowledged detention or torture is a problem in Algeria. According to statements made by the authorities, both the new legal safeguards introduced in June 2001 and those that already existed beforehand are applied to the letter. In discussions with Amnesty International delegates in February 2003, Ministry of Justice officials, in an effort to prove this point, stressed that they received very few complaints about secret and unacknowledged detention or torture, with regard to not only the cases the organization was raising but also those documented by other human rights organizations, both national and international.

Research carried out by Amnesty International also indicates that very few formal complaints are made about torture in Algeria. However, in the vast majority of incidents of torture or ill-treatment, it appears that those affected do not make formal complaints. In most cases known to Amnesty International, detainees who have been tortured do not even declare to the examining magistrate that they were tortured during *garde à vue* or that they were

coerced into confessing to something they had not done. Amnesty International's research into dozens of cases in the last two to three years suggests there are several reasons why this is the case. They may be threatened by the security force personnel who have tortured them. They may be told not to change their story and not to report the torture to which they have been subjected if they do not want to be returned to the place where they have been tortured. In addition, with no access to legal counsel to explain the judicial process and the security forces failing to inform them of their rights, the accused may be unaware that the examining magistrate is a member of the judiciary, believing instead that they are talking to another security force officer. Finally, with no evidence available that investigations take place into torture or that those responsible are brought to justice, the torture victim may not know that the magistrate can and should do something about the complaint.

Other obstacles later stand in the way of torture victims who seek to lodge a formal complaint. On the one hand, they realize that their chances of being able to provide proof of the torture are slim. As discussed, a medical examination carried out after weeks or months is unlikely to lead to establishing evidence of torture. On the other hand, they are afraid that reporting the torture will only exacerbate their predicament or expose family members to risks of reprisals from the security forces. Furthermore, even if the victim was prepared to lodge a complaint, only a small number of lawyers inside the country are willing to take on such cases, since doing so can result in harassment and intimidation by the authorities.

The fact that torture is inadequately defined by the law is another barrier. Article 110 bis of the Penal Code states: "Any state agent or employee who practises or orders the practice of torture to obtain confessions is punishable by imprisonment of 6 months to 3 years." The UN Committee against Torture expressed its concern in 1996 that torture was "not more fully defined, in conformity with article 1 of the Convention [against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment]"⁸, but since then the law has not been amended.

The lack of complaints is, however, no excuse for the inaction of the authorities. This was clearly stated by the UN Special Rapporteur on torture, in his report to this year's UN Commission on Human Rights.⁹ The Special Rapporteur indicated, with regard to Algeria, that he "continued to receive information according to which a large number of people... were subjected to torture and other forms of ill-treatment". The report went on to say:

The Special Rapporteur... notes the denial [by the Government] of most allegations on the basis of the absence of complaint. In view of the nature of the allegations brought to his attention, it is unreasonable to expect alleged victims to formally file any complaint. In that respect he would like to remind the Government of its obligation to thoroughly investigate all torture cases even in the absence of a formal complaint. Furthermore, the Special Rapporteur notes with concern that the Government did not extend to him an invitation to visit Algeria. He would like to recall that a request for such a mission was initially made in 1997.

⁸ UN Document A/52/44, para. 78.

⁹ UN Document E/CN.4/2003/68/Add.1.

The Special Rapporteur has also emphasized where the burden of proof lies for allegations of torture or ill-treatment:

*Where allegations of torture or other forms of ill-treatment are raised by a defendant during trial, the burden of proof should shift to the prosecution to probe beyond reasonable doubt that the confession was not obtained by unlawful means, including torture and similar ill-treatment.*¹⁰

CASE: Kabyle activists

Photocaption: One of the dozens of demonstrations by Kabyle activists in 2002.

On 8 July 2001, Youcef, a 19-year-old living in the town of Makouda in the north-eastern, predominantly Amazigh (Berber) region of Kabylia was arrested while taking part in a demonstration in his town against the killing of dozens of unarmed protesters by the security forces in the region in the previous three months (see Part B for more details on these killings). He was apprehended in the street by three gendarmes, who allegedly proceeded to kick him in the stomach and the face, as well as clubbing him with a baton on his head and genitals. One of the gendarmes allegedly pulled out a knife and slashed one of his cheeks, causing an injury which reportedly required him to receive several stitches.

Dozens of others apprehended by the security forces during or following demonstrations, both peaceful and violent, which have taken place in Kabylia since April 2001 have allegedly been tortured or ill-treated. Many of these were subjected to beatings and cut with sharp implements in the street following arrest. Those who were subsequently held for questioning were sometimes tortured or ill-treated during the 48-hour period of *garde à vue*. Some were punched in the face or whipped with electric cable, some were tortured with the *chiffon* method (see page 10 for an explanation of the term), while others were stripped naked and threatened with rape.

Lawyers representing the victims told Amnesty International that their clients were generally reluctant to lodge complaints about the torture or ill-treatment which they had suffered because any medical examination would take place too late to note any evidence and because doing so would expose them to personal and professional difficulties or cause problems for members of their family.

In recent years, hundreds of people have been arrested during or following demonstrations in all parts of the country. Many have been released after questioning; many others have been charged with offences such as disturbing public order, rebellion or belonging

¹⁰ UN Document A/57/173, para. 23.

to an illegal association believed to have organized the protest and detained for periods of several months. The majority of the demonstrations since April 2001 have taken place in Kabylia and many of those arrested and then detained – particularly in spring and autumn 2002 – have been Kabyle activists, campaigning for a more representative political system, increased recognition of the Amazigh language and culture, the departure of the gendarmerie from the region and measures to combat poverty. While most of the Kabyle activists have since been released from detention, they are still facing trial.

d) Military security

The vast majority of the torture cases Amnesty International has recorded in the last two to three years have indicated that the acts were carried out by operatives of Military Security, or *Sécurité militaire*, a security service bearing the official title of the *Département du renseignement et de la sécurité* (DRS), Department of Information and Security, formally under the authority of the Ministry of Defence. The torture is generally alleged to have taken place inside military compounds, most notably the centre of Ben Aknoun in Algiers and the centre of Haouch Chnou in Blida, used, among other purposes, for the detention of suspects.

Military Security officers can be authorized to operate as law enforcement officials, with the same powers of arrest, detention, interrogation and investigation as their counterparts in the police and gendarmerie, but with the additional authority to operate anywhere in the country, including outside the areas in which they are stationed.¹¹ In practice, the service is particularly involved in the arrest and investigation of persons with alleged links to what the government describes as “terrorist” activities.

Military Security appears to employ a number of particular measures that make it difficult to hold its agents accountable for violations. Firstly, a series of measures are taken to keep the identity of the operatives hidden. Not only do Military Security personnel operate in plain clothes, but they also almost never identify themselves or even the service to which they belong to the individuals they are arresting. Often no arrest warrant is produced. On the interrogation reports drawn up by Military Security, the officers responsible generally identify themselves simply by a first name, without reference to their rank or surname or Military Security, making it impossible to verify their status or trace them later.

Secondly, measures are taken to keep the place of detention secret from the person arrested. Detainees often report not having been informed of the place of their detention. In addition, some detainees have told Amnesty International that on their way to the place of detention and on their way out, they are transported in such a way as to make it difficult for them to identify where they were held. For instance, some detainees have been blindfolded or made to crouch down in the back of the vehicle transporting them.

Some of these measures are illegal according to Algerian legislation. The Criminal Procedure Code clearly states that all law enforcement officials, including Military Security

¹¹ See Articles 15 and 16 of the Criminal Procedure Code.

personnel, must not only present an arrest warrant to the accused, but also give them a copy.¹² The Code also stipulates that statements such as interrogation reports must indicate that their authors are law enforcement officials authorized to carry out such duties, meaning that their rank and full name must be mentioned.¹³

The way in which Military Security officers conduct their operations appears to be symptomatic of their lack of accountability. As law enforcement officials they operate, according to the Criminal Procedure Code, under the control of the judicial authorities. In practice, the judicial authorities are too intimidated by them to challenge their authority. Amnesty International is not aware of a single case of a Military Security operative ever having been investigated or brought to justice for committing human rights violations in the exercise of their functions in the service's history, despite the overwhelming evidence pointing to the involvement of its agents in human rights violations, including those of a grave and systematic nature.

CASE: Boubaker KAMAS

Boubaker Kamas, a 37-year-old unemployed former Islamic preacher, married with three children, was arrested around 10pm on 9 January 2002 in the streets of the eastern city of Constantine, where he lives. He is a former member of the banned Islamist party, the FIS, and spent five years in prison between 1994 and 1999 following his conviction in an unfair trial for belonging to a "terrorist" group.

He was apprehended by five security force agents who handcuffed his wrists behind his back and put him in the back of an unmarked car, where he was forced to crouch down and his jacket was pulled over his head so that he could not tell where he was being taken. He later discovered he had been taken to the Military Security centre of Bellevue in Constantine, where he was interrogated for four or five days before being transferred to another Military Security centre in a separate province for further questioning. He was brought before a magistrate after this period of *garde à vue* on 22 January 2002, when he was placed in prison awaiting trial. It was only after having spent several days in prison that his family was informed of his arrest and place of detention and allowed to visit him. The UN Special Rapporteur on torture issued an urgent action on his behalf.¹⁴

During interrogation sessions at Bellevue, he was reportedly tortured repeatedly. According to him, he was handcuffed, by his wrists and ankles, to the legs of a metal chair, beaten, burnt with cigarette ends and subjected to the *chiffon* method (see page 10 for an explanation of the term). He was forced to confess to printing material for one armed group and trying to contact another. He was reportedly forced to thumbprint seven pages of a blank form used to record statements by accused persons *before* his "confession" was typed onto it.

¹² See, for example, Article 110 of the Criminal Procedure Code.

¹³ See Article 18 of the Criminal Procedure Code.

¹⁴ UN Document E/CN.4/2003/68/Add.1.

The interrogating officer's name is recorded simply as "Lehbib", a common first name in Algeria, with no rank or surname, as required by the law.

Boubaker Kamas retracted his "confession" before the examining magistrate on 22 January 2002. On the same day he was seen by a military doctor, who reportedly gave him a cursory examination and found no medical problems. Trying to exercise his legal right, Kamas asked to be seen by a doctor of his own choosing, but the magistrate rejected his request on the grounds that he had already been examined by a military doctor. This decision was overturned on appeal, but it was not until 2 May 2002 that an independent medical examination took place, some four months after his time in the cells of Military Security. The doctor was, nonetheless, still able to note marks on his wrists and ankles, presumably caused by the handcuffs while he was attached to a chair during torture sessions.

In a move which contrasts markedly from normal practice, the trial judge acquitted Boubaker Kamas later that year of charges of belonging to a "terrorist" group, seemingly after acknowledging the defence's argument that Kamas's "confession" was unsafe evidence given the indications that it had been made under torture. Despite this, the allegations of torture are not known to have been investigated.

e) Recommendations

Amnesty International reports note that in the late 1980s there were virtually no reports of torture in Algeria. If the current authorities have the political will, it should be possible to end torture in Algeria. Amnesty International urges the Algerian authorities to tackle the root causes of secret and unacknowledged detention and torture by, among other measures:¹⁵

- ▶ ensuring that all officials carrying out an arrest identify themselves to the person arrested, carry name tags or numbers so that they can be clearly identified, and use police or military vehicles that are clearly identified as such and carry number plates at all times;
- ▶ reforming legislation so that all detainees, including those arrested on suspicion of "terrorist" crimes, "are given access to legal counsel within 24 hours of detention" and are not "held in facilities under the control of their interrogators or investigators for more than... 48 hours", as recommended by the UN Special Rapporteur on torture¹⁶;
- ▶ ensuring that all detainees are informed, both in writing and orally, of their right to communicate immediately with the outside the world, including their family, and to receive visits from them and that this right is enforced;

¹⁵ For more detailed information on Amnesty International's recommendations to governments on how to combat torture, see *Combating torture: a manual for action* (AI Index: ACT 40/001/2003), issued on 26 June 2003.

¹⁶ UN Document E/CN.4/2003/68.

- ▶ ensuring that all persons present during interrogation identify themselves at the outset and that the “identity of all persons present [is] included in the [official] records”, as recommended by the UN Special Rapporteur on torture¹⁷;
- ▶ ensuring that all detainees are informed, both in writing and orally, of their right to see a doctor of their own choosing at the end of *garde à vue* and that this right is enforced;
- ▶ introducing new safeguards to allow detainees additionally to be “examined by an independent doctor as soon as they are arrested, [and] after each period of questioning”, a need emphasized by the UN Human Rights Committee¹⁸;
- ▶ ensuring that all places where detainees are held are recognized and open to inspection by appropriate independent bodies and, in the interests of transparency, publishing up-to-date lists of all officially recognized places of detention in a form that is readily accessible to lawyers and members of the public;
- ▶ revising the definition of torture contained in Article 110 bis of the Penal Code to “bring it into closer conformity with article 1 of the Convention [against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment]”, as recommended by the UN Committee against Torture in 1996;¹⁹
- ▶ systematically investigating allegations of torture, even where no complaint has been made, and bringing to justice those responsible;
- ▶ taking stricter measures to ensure that all law enforcement agents, including those employed by Military Security, are adequately trained and comply with the law, and sending out a clear message that no one is above the law;
- ▶ inviting the UN Special Rapporteur on torture to visit Algeria without further delay.

PART B: COMMISSIONS OF INQUIRY

Commissions of inquiry which have been set up in Algeria in recent years have often been subject to the strongest criticism from the national and international human rights community. They have generally lacked independence and authority or failed to carry out the mission assigned to them. Most importantly, the Algerian authorities have systematically neglected their duty to investigate the mass human rights abuses that have taken place since the early 1990s despite repeated calls by UN human rights mechanisms and local and international human rights organizations.

¹⁷ UN Document A/57/173, para. 22.

¹⁸ UN Document A/52/40, para. 109, referring to Switzerland.

¹⁹ UN Document A/52/44, para. 80.

An inquiry led by the former official human rights body, the ONDH, into the killing of at least 96 detainees and five prison guards in Serkadji Prison in 1995 was one such example. The commission neither investigated the circumstances of the deaths nor conducted autopsies on the victims' bodies, which were buried in anonymous graves before relatives or forensic experts could see them. The subsequent report, made public in May 1995, mirrored the accounts given by the Algerian authorities a few days after the incident and failed to answer key questions.²⁰

Algeria's most recent commission of inquiry, which looked into the killing of dozens of unarmed demonstrators in 2001, signalled a significant improvement and its findings clearly established the authorities' responsibility for the unlawful killing of the protesters. However, the apparent lack of will on the part of the authorities to translate the conclusions into concrete measures has meant that the results of the commission's work have not been acted upon and promises to bring to justice those responsible have so far not been fulfilled.

Appeals in recent years by Amnesty International and other human rights organizations for a commission of inquiry into the tens of thousands of killings and thousands of "disappearances", abductions and cases of torture which have taken place within the context of a human rights crisis stretching back to 1992 have gone unheeded. Given that these crimes are so serious as to be considered crimes against humanity, the need for full, independent and impartial investigations is particularly pressing. Any further delay in opening investigations will inevitably prejudice the rights of the victims and their families, increase the risk that such crimes will be repeated and undermine popular confidence in the integrity of future reforms and investigations.

A new development which has again attracted attention to the continuing need for such investigations is a proposal made this year by the official human rights body, the CNCPPDH, that a commission of inquiry be set up to look into the thousands of cases of "disappearance" recorded in Algeria since 1992. Amnesty International urges the government to take action to independently investigate "disappearances" and to address the concerns of the victims and their families.

1. Commission of inquiry into Kabylia killings

On 2 May 2001 President Abdelaziz Bouteflika charged a prominent jurist, Mohand Issad, with putting together an *ad hoc* commission of inquiry into the killing of unarmed demonstrators in the north-eastern, predominantly Amazigh (Berber) region of Kabylia. Issad was invited to carry out investigations in the manner he wished and to request any document and speak to any person he deemed useful for the purposes of his research. Amnesty International had called for investigations into the killings and welcomed the establishment of the National Commission of Inquiry into the Events in Kabylia as a positive step in the right direction.

²⁰ See Amnesty International's report *Algeria: Medical concern: Killings in Serkadji Prison* (AI Index: MDE 28/001/1996), issued on 16 February 1996.

The establishment of the Commission of Inquiry was a response to a series of events which had attracted widespread publicity inside and outside the country. They began on 18 April 2001, when a 19-year-old secondary school student, Massinissa Guermah, was shot by a gendarme inside a gendarmerie station in Béni Douala, a town in Kabylia. He died in hospital from his wounds on 20 April 2001. Interior Minister Noureddine Yazid Zerhouni announced soon afterwards that the student had been arrested after he had committed an act of aggression followed by a robbery and that he was a 26-year-old “delinquent”. Both statements proved incorrect.

The death of Massinissa Guermah and the minister’s accusations about him inflamed a region already struggling, like other parts of the country, with an absence of effective political representation and severe socio-economic problems, which had driven the population to despair and had periodically caused the youth to take to the streets. The series of anti-government demonstrations – some peaceful, some violent – which then took place across the region of Kabylia were repressed in a particularly heavy-handed manner. By the time the Commission of Inquiry was set up one week after the repression of the demonstrations had begun, several dozen unarmed protesters had been shot dead by law enforcement agents and many more had been injured.

Even then, however, the authorities appeared to take no action to stop the security forces from killing further unarmed protesters. By the end of July 2001, when the most intense period of protests was over, some 80 demonstrators had been killed at the hands of the security forces and hundreds more injured. Although the region of Kabylia has, since then, seen a period of relative calm, anti-government demonstrations have broken out sporadically and further loss of life among the protesters has been reported. In total, over 100 unarmed protesters were killed by the security forces during demonstrations in Kabylia between April 2001 and April 2003.

a) Results of the Commission of Inquiry

The Commission of Inquiry published a preliminary report in July 2001 which examined the circumstances of some 50 killings which occurred in Kabylia between 18 April and 11 June 2001. Among the key findings of the Commission of Inquiry were the following:

- the violent protests by the population were provoked by the actions of the gendarmerie;
- the gendarmerie, which reports to the Ministry of Defence, intervened in the protests without being requested to do so by the civilian authorities, as the law stipulates;
- orders by the gendarmerie’s commanders not to use arms were ignored, suggesting either that they lost control of their troops or that the gendarmerie was infiltrated by “external forces” which gave conflicting orders;
- the gendarmerie used “war ammunition”, such as live bullets fired from Kalashnikov AK47 assault rifles, to disperse crowds of unarmed protesters;

- during the protests which occurred between 22 April and 11 June 2001, 50 unarmed demonstrators were killed after being shot by the gendarmerie, 217 more were wounded by bullets and 304 were injured by other means;
- during the same period, a total of around 600 gendarmes and police officers were injured during the protests (Only one of them sustained a bullet wound, though no conclusion could be drawn on the circumstances of this injury. One gendarme was killed, though this was by electrocution and not believed to be linked to the actions of demonstrators.);
- the proportion of deaths to injuries of unarmed demonstrators by live ammunition would have been considered high even in a situation of military combat, with two sides fighting each other with equal weapons;
- the violations committed by the security forces could not be explained away by deficiencies in the training of their personnel and the impunity of those responsible could not thereby be justified.

Amnesty International welcomed these findings, which were consistent with its own conclusions about the killings. Eyewitnesses described how members of the gendarmerie fired on unarmed protesters standing more than 100 metres away from them and shot others in the back after dispersing them using tear gas. In several instances, protesters were reportedly pursued to their homes and shot dead inside. In all cases, the security forces used live ammunition when no lives were at risk and failed to take the steps required by international standards, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,²¹ before resorting to the use of force and firearms.

After completing its preliminary report, the Commission of Inquiry had planned to continue its investigations, with a view to being able to interview more witnesses with time. In its final report, published in December 2001, however, it conceded that the investigations could not be completed because a climate of fear continued to prevent witnesses from testifying. Instead, the Commission took a closer look at domestic legal texts and concluded, among other things, that:

- ambiguities in Algerian law meant that the military were effectively able to delegate authority to themselves in any situation involving the maintenance or restoration of public order;
- the liberty that certain state agents at all levels continued to take with regard to the law showed that “respect for the law has not yet entered the culture of Algeria’s officials”.

b) Follow-up by the authorities

The Algerian authorities took positive steps, both by setting up the Commission of Inquiry in the first place and then by making public its findings. In the months that followed the publication of the preliminary report, the authorities made a number of welcome announcements stating that those responsible for the killings would be brought to justice.

²¹ Adopted by the Eighth UN Crime Congress in 1990.

Almost one year after the killings had begun, the authorities took a step towards awarding compensation to those affected. On 7 April 2002, a presidential decree²² was issued establishing the rights to compensation of those who had been injured during demonstrations between April 2001 and April 2002 and the families of those who had died. Local commissions, headed by a provincial governor, were charged with assessing applications for compensation made by victims and their families. Interior Ministry officials told Amnesty International delegates during a meeting in February 2003 that hundreds of applications were being assessed and that at least one payment had been allocated.

Families of victims and their advocates have expressed concerns, given the legacy of impunity in Algeria, that the compensation is being offered by the authorities as a substitute for legal redress for crimes committed by the security forces. However, Interior Ministry officials told Amnesty International that applying for or receiving such compensation did not affect the person's or family's right to seek justice through the courts and there is no such suggestion in the decree itself.

(i) Prosecutions

Two and a half years after the killing of Massinissa Guermah only two named law enforcement agents have, to Amnesty International's knowledge, been prosecuted in connection with killings in Kabylia since April 2001. One of the two was the gendarme who shot Massinissa Guermah on 18 April 2001. Reportedly arrested on 26 April 2001, Merabet Mestari was tried in the military court of Blida in September and October 2002 and sentenced to two years' imprisonment on charges of involuntary manslaughter, involuntarily causing harm by firearms and disobeying orders.

The other trial involved Madjid Teldji, a policeman operating in the province of Bouira in Kabylia. He was convicted in March 2003 of the murder of 29-year-old Fouad Adara in the town of Sidi Aïch on 29 June 2001 and sentenced by a criminal court to 20 years' imprisonment. Although the killing took place at a time when demonstrations were being held in the area, Adara was shot dead by Teldji inside a café, allegedly in the context of a dispute between the two men, rather than during a demonstration.

There is no publicly available information that any member of the security forces has been investigated and prosecuted for any of the killings that took place when gendarmes fired on unarmed demonstrators during protests. This is despite the conclusions of the Commission of Inquiry pointing to the need for those responsible to be identified and brought to justice and despite the authorities' pledges that such actions would be taken.

However, the authorities claim that steps have been taken to bring those responsible to justice. During a research mission to Algeria in February 2003, Amnesty International delegates discussed the issue with officials from the Ministry of Justice and Ministry of the Interior, as well as members of the official human rights body, the CNCPPDH. Officials from both ministries indicated that 23 gendarmes had been prosecuted in military courts and sentenced on charges of abusive use of firearms to punishments ranging from several months'

²² Presidential decree no. 02-125 of 7 April 2002.

suspended imprisonment to two years' imprisonment. However, members of the CNCPPDH said that one gendarme only had been prosecuted, presumably referring to Merabet Mestari mentioned above, who was sentenced to two years in jail. They also stated that cases involving 23 other gendarmes were said to be under investigation by the military court of Blida.

Clearly, these versions contradict each other and Amnesty International wrote to the authorities on 28 April 2003 to seek clarification and request further information on the judicial proceedings. No reply had been received at the time of writing. It is worth noting, too, that none of the human rights activists with whom Amnesty International is in regular contact, including the lawyers who act on behalf of the families of the victims of the killings, was aware of the investigation or prosecution of any gendarme other than Merabet Mestari. If more than 20 other gendarmes have been prosecuted, the authorities have, at the very least, failed to ensure that the Algerian public, including those most affected by the crimes, were aware that justice had been done. They have thereby failed to contribute to building popular confidence in the state's declared commitment to transparency and the rule of law.

In addition, the hundreds of complaints made by the families of those killed and by those injured during demonstrations have made little progress within the judicial system. Many of the cases brought against the gendarmerie by relatives of those who were killed in the demonstrations have been dismissed for lack of evidence. Lawyers acting on behalf of the victims allege, however, that this was often because the authorities prevented the identification of those responsible, rather than working to ascertain the truth. In many cases, despite requests from the lawyers, witnesses who could have helped identify those responsible were reportedly not heard and important evidence, such as the local gendarmerie's duty roster on the day of the killing, was not provided. Furthermore, the transfer of some 90 per cent of the gendarmes based in Kabylia following the killings, often portrayed as an act of appeasement towards the population by the authorities, was seen by many as shielding the identity of gendarmes who could have been identified by witnesses.

In at least one case known to Amnesty International, the family of a victim was able to identify and name the gendarme allegedly responsible for the death of their relative, yet no thorough investigation and criminal proceedings followed. This case appears overleaf.

CASE: Mohand ou Idir KHENNACHE

Photocaption: Mohand ou Idir Khennache

Mohand ou Idir Khennache, a 25-year-old unemployed man from the village of Sidi Yacoub in the province of Tizi Ouzou in Kabylia, was shot dead by a uniformed gendarme on 28 April 2001 during clashes between protesters and gendarmes in the town of Larbâa Nath Irathen, also in Tizi Ouzou province. Some six other protesters were shot dead by the gendarmerie in the same town on the same day.

An investigation was opened into the killing and Mohand ou Idir Khennache's family was questioned by an examining magistrate. The family managed to identify the gendarme they believed was responsible for the killing on a photograph. However, no further progress is known to have been made with the investigation to this day.

(ii) Rejection of Commission's findings

Part of the reason behind the general lack of progress towards initiating judicial proceedings against those responsible for the killings which were committed during demonstrations in Kabylia may be the apparent rejection by the authorities of the Commission of Inquiry's findings.

During discussions with officials from the Ministry of the Interior in February 2003, Amnesty International delegates were told that the Commission of Inquiry was biased and that the Ministry of Interior disagreed with its key findings. The killings of demonstrators were said to have followed acts of violence committed by them and to have been the result of legitimate acts of self-defence, rather than excessive use of force. Rubber bullets, not live ammunition, were said to have been used by the gendarmerie from the beginning, despite the evidence to the contrary apparent on dozens of medical reports seen by Amnesty International.

To the organization's knowledge, there has been no further examination of one of the most worrying findings of the Commission of Inquiry, namely that orders not to use firearms had been ignored, suggesting either that the gendarmerie's commanders lost control of their troops or that the gendarmerie was infiltrated by "external forces" which gave conflicting orders. There has been a certain amount of speculation in the Algerian press and within civil society about who these "external forces" might be. Much of it has pointed the finger at Military Security – mentioned earlier in this report – because of the wide-ranging unofficial powers they are perceived to enjoy, their lack of accountability to the civilian authorities and the secrecy in which their operations are shrouded.

c) Recommendations

Amnesty International calls on the Algerian authorities:

- ▶ to ensure that the conclusions of the Commission of Inquiry are followed up by thorough, impartial and independent investigations to identify the individuals responsible for every one of the killings of demonstrators which have occurred since April 2001 and ensure that they are brought to justice in proceedings that meet international standards for fair trial;
- ▶ to stipulate that these investigations include an examination of who gave the orders to shoot at demonstrators, why the civilian authorities did not intervene to stop the killings, whether the gendarmerie was infiltrated by “external forces”, as posited by the Commission of Inquiry, and what these “external forces” were;
- ▶ to make public information on all investigations and trials of law enforcement officials involved in the killings in order to help rebuild trust in the justice system;
- ▶ to guarantee that compensation will not be used to substitute for truth and justice and to do their utmost to allay the fears of victims, their families and their advocates in this regard;
- ▶ to take immediate action to ensure that the security forces comply with international standards governing the conduct of law enforcement officials and the use of force and firearms and thereby respect and protect the right to life;
- ▶ to initiate a review of policing of demonstrations without delay to ensure that in the future, the practices of its security forces in policing demonstrations are consistent with international human rights standards.

2. Crimes against humanity

Since 1992 tens of thousands have been unlawfully killed by armed groups, the security forces and state-armed militias. Thousands have been abducted by armed groups, presumed to have been assassinated and their remains never found. Thousands more have “disappeared” following arrest by the security forces or state-armed militias. Thousands of men, women and children have been tortured in detention by state officials and thousands more kidnapped and tortured by armed groups.

To date there has been almost no movement towards establishing the truth surrounding these abuses and bringing those responsible to justice. The situation is exacerbated by the continuing failure of the authorities to acknowledge the responsibility of the state and state agents in widespread patterns of violations. The abuses and the impunity enjoyed by those responsible have been extensively documented in the reports of Amnesty International and other human rights organizations, both local and international, since 1992.

Algeria’s lack of effective cooperation with UN human rights mechanisms has obstructed scrutiny of these serious abuses at the international level. The visit of the UN Special Rapporteur on freedom of religion or belief, Abdelfattah Amor, in September 2002 was a positive development in the sense that it was the first time a UN human rights mechanism had been given access to the country. However, the UN bodies working on some

of the most burning human rights issues facing Algeria today – namely the Special Rapporteur on torture, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on extrajudicial, summary or arbitrary executions – have not been invited to the country despite their repeated requests for visits and their published concerns over practices.

The lack of progress towards truth and justice is of particular concern when taking into account the severity of the abuses that remain uninvestigated. Amnesty International believes that the killings, “disappearances” and torture to which civilians have been subjected in Algeria since 1992 constitute crimes against humanity, since they are crimes “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”, as defined by Article 7 of the Rome Statute of the International Criminal Court. Article 7 of the Rome Statute, which entered into force on 1 July 2002, reflects the most recent and generally accepted definition of crimes against humanity. Algeria has signed, but not yet ratified, the Rome Statute.

The recent proposal by Algeria’s official human rights body for a commission of inquiry to be set up into “disappearances”, one element of these crimes against humanity, is welcome since it recognizes that in order to move forward the crimes of the past have to be addressed. The authorities must take concrete steps to ensure that there is no further delay in carrying out investigations into “disappearances” and other crimes against humanity committed in Algeria since 1992.

Furthermore, to ensure that future investigations can be effective, the authorities must do everything they can to ensure that vital information, records and other evidence are preserved. There are clear indications that they are currently failing in their duty to do this, as illustrated by the absence of thorough investigations, and sometimes destruction of evidence, at mass grave sites discovered in the country during recent years.

a) “Disappearances”

Since 1992, thousands of Algerian men and women have “disappeared” after arrest. Some are subsequently reported to have died, but the fate of not one of them has been satisfactorily clarified. People from every walk of life and of all ages have been taken away from their homes, often at night and in front of their families or neighbours, from their places of work in the presence of colleagues, or from the street, by police, gendarmerie and Military Security units, as well as by militias armed by the state. Many are believed to have been arrested because they were suspected by the security forces of being connected in some way with an armed group or of having sympathies with the banned Islamist party, the FIS, or had been denounced as such. For others, there is no apparent reason why they might have “disappeared”.

Amnesty International has received information on the cases of some 4,000 “disappeared”, the vast majority of whom were arrested between 1994 and 1998. The organization recognizes, however, that the true figure may be much higher. CNCPPDH President Farouk Ksentini, for instance, has said, on several occasions, that he believes at least 7,000 people have “disappeared” in Algeria since 1992. Local human rights

organizations estimate that the total number may be higher still. Some of the thousands of reported cases have been submitted by local and international human rights organizations, including Amnesty International, to the UN Working Group on Enforced or Involuntary Disappearances, which has 1,089 outstanding cases on its records, according to its latest report.²³

Since 1998, the number of people “disappearing” each year has dropped significantly, though sporadic cases continue to be reported. At least three men remain “disappeared”, for instance, following arrest by the security forces in 2002. One of the cases, that of Abdelkader Mezouar, is highlighted on page 29.²⁴ Although their cases do not appear to fall into a continuing wider pattern of such violations, their occurrence is evidence that the necessary safeguards are not yet in place to prevent the crimes of recent years being repeated.

The issue of “disappearances” in Algeria has been extensively documented by Amnesty International and other human rights organizations.²⁵ Two key points underline the necessity of a commission of inquiry being set up to pursue the truth in detail.

The first is that the “disappearances” which have been carried out in Algeria since 1992 constitute a crime against humanity, as noted above. The second is that “disappearances” are a continuing crime. In other words, the violation continues as long as the fate and whereabouts of the victims have not been established. The UN Declaration on the Protection of All Persons from Enforced Disappearances, adopted by the UN General Assembly in 1992, states this characteristic expressly in Article 17:

*Acts constituting enforced disappearances shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.*²⁶

(i) Government measures

The issue of “disappearances” was a taboo subject in Algeria until, in 1998, the wall of silence was breached by the efforts of the families of “disappeared” and local and international human rights organizations. The authorities then began to take a series of steps with the stated intention of resolving the problem.

In previous country reports, Amnesty International has shown in detail how and why measures which the authorities claimed were meant to “clarify” cases of “disappearance”

²³ UN document E/CN.4/2003/70.

²⁴ Another case, that of Mohamed Briki, who “disappeared” in November 2002, appears in the May 2003 edition of Amnesty International’s publication *The Wire* (AI Index: NWS 21/004/2003).

²⁵ See, in particular, Amnesty International’s reports *Algeria: “Disappearances”: the wall of silence begins to crumble* (AI Index: MDE 28/001/1999) and *Algeria: Who are the “disappeared”? Case-studies* (AI Index: MDE 28/002/1999), both issued on 1 March 1999.

²⁶ The continuing nature of “disappearances” is also explicitly mentioned in the draft International Convention on the Protection of All Persons from Forced Disappearance, Article 5 of which states: *This offence is continuous and permanent as long as the fate and whereabouts of the disappeared person have not been determined with certainty.*

were only a source of further frustration for relatives of the “disappeared”. The lack of achievements five years later clearly points to the failure of all measures taken so far. In not one “disappearance” case has the family of the victim been provided with verifiable details about the fate or whereabouts of their relative, nor is a single person accused of participating in an act of “disappearance” known to have been charged or brought to trial.

Although the President of the official human rights body now speaks with unprecedented openness about the scale of the problem, the authorities continue to refuse to recognize the true nature of the issue. The authorities recognize that thousands of people have gone missing in Algeria during the last decade, but do not accept the reality that thousands of people have “disappeared”, despite using this term to refer to the victims. The difference is fundamentally important. A “missing” person may be evading arrest for an offence committed, have left the country or have been killed during armed confrontations. A person has “disappeared”, on the other hand, if there are reasonable grounds to believe that they were taken into custody by the authorities or their agents, and the authorities deny that the victim is or was ever in custody, thus concealing their whereabouts or fate.

The authorities acknowledge that they have received thousands of complaints from families alleging that relatives have “disappeared” following arrest by the security forces or state-armed militias, but generally do not accept the complaints as well-founded. Ministry of Justice officials provided Amnesty International delegates, during a meeting in February 2003, with a breakdown of the 1,600 cases they said they had clarified. Some of those reported as “disappeared” were said to have been abducted or killed by armed groups, others to be evading arrest or to have been killed by security forces during armed confrontations. Significantly, in not one single “clarified” case had the Ministry of Justice drawn the conclusion that the person had “disappeared” following arrest and that consequently the state or state agents were responsible.

The Ministry of Justice officials underlined this point later in the meeting. When asked whether they accepted that the state was culpable of “disappearances”, they insisted that it was not. “The Algerian state never authorized agents to violate the law,” Amnesty International was told, “It would be unthinkable.”

(ii) Talk of a commission of inquiry

In marked contrast to the state’s discourse on “disappearances”, CNCPPDH President Ksentini has, since his appointment as head of the body in October 2001, pointed in no uncertain terms to the state’s responsibility. He has also repeatedly emphasized his commitment to finding a solution to the problem.

Farouk Ksentini has made a particular point of receiving families of the “disappeared” in the CNCPPDH offices in Algiers on a regular basis to listen to their concerns. During a meeting in February 2003, he told Amnesty International delegates that he wanted to be seen as the representative of the families of the “disappeared” at the level of the authorities, rather than vice versa. He said that the CNCPPDH was proposing compensation to help families combat the financial problems they faced as a result of the loss of a relative who, in many cases, was the breadwinner of the family. The aid, he insisted, would not

compromise any legal proceedings the families might already have begun or might begin in the future to seek justice for their “disappeared” relatives.

As mentioned earlier, the CNCPPDH has also proposed the establishment of a national commission of inquiry to establish the truth about each of the “disappearance” cases. In addition, Farouk Ksentini told Amnesty International delegates in their February 2003 meeting that the UN Working Group on Enforced or Involuntary Disappearances was welcome to visit Algeria. The Working Group, which asked in 2000 to visit Algeria, has not yet been given access by the Algerian authorities.

These proposals are positive initiatives. It should be noted, however, that the CNCPPDH, although funded by the government, is mandated to act in a purely advisory role to the President of the Republic and is not authorized to investigate abuses or invite UN bodies to the country.

Farouk Ksentini has told Amnesty International and others that the CNCPPDH would make the recommendations on compensation and the commission of inquiry a key element in the body’s first annual report, which was due to be presented to President Abdelaziz Bouteflika by the end of March 2003, but had not been made public by the time of writing this report. There has far been no reaction by the authorities to these proposals.

With nothing concrete on the table, associations of families of the “disappeared” remain sceptical. They are deeply concerned that the proposed compensation might be conditioned on renouncing claims to truth and justice, a fear heightened by recent reports that relatives of the “disappeared” in some parts of the country have been offered money by officials in the local administration in exchange for giving up their campaigning activities. They also fear that any commission of inquiry established by the authorities will lack independence and the powers to investigate effectively and identify responsibilities, which they believe extend to military commanders seen to be “untouchable”.

Given the history of the authorities’ handling of the issue of “disappearances” over the last decade and their failure to make any tangible progress, the families’ mistrust is understandable. At the end of 2002 and beginning of 2003, Farouk Ksentini was quoted by several Algerian and foreign newspapers as indicating that persons responsible for “disappearances” might be granted an amnesty in order to allow Algeria to “turn the page” on its recent past.

Algeria is required by international treaties to which it is a state party, such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to investigate and bring to justice alleged perpetrators of “disappearances”. In order to reduce the anxieties of families of the “disappeared”, a clear statement by the authorities of their intent to apply Article 18 of the UN Declaration on the Protection of All Persons from Enforced Disappearances would be important. Article 18 affirms the principle that perpetrators of “disappearances” should not be eligible for exemption from prosecution:

Persons who have, or are alleged to have, committed... [acts of enforced disappearance] shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

CASE: Abdelkader MEZOUAR

Photocaption : Abdelkader Mezouar

Abdelkader Mezouar, a 44-year-old self-employed mechanic living in his workshop in the village of Hraoua near Ain Taya, east of Algiers, was arrested by four plainclothes men, suspected of being security officers, in the early morning of 2 July 2002. An eyewitness of the arrest told Amnesty International that when Abdelkader Mezouar resisted he was held by two of the men while another slit his tongue with a piece of broken glass. He was reportedly dragged out of the workshop into an unmarked car, while being kicked and beaten with an iron bar. The men who arrested him broke several items in the workshop and confiscated others, including all his paperwork. Since that day there has been no news of him.

His father has spared no effort to trace his son. He was told at the gendarmerie in Hraoua that Abdelkader Mezouar had been held at the station for one night, but that he had then been transferred elsewhere. Following an official complaint the father made about the “disappearance” of his son he was questioned by the prosecutor at the local military court. He was later notified that a judicial inquiry had been opened into the “disappearance”. In the following months the father was summoned on several occasions by Military Security for questioning and was told that they were looking for his son. After an article was published about the case in an Algerian newspaper in February 2003 the father received a visit from two plainclothes men believed to be members of Military Security who told him that his son was currently being detained in army barracks, that he was alive and well and that he should stop looking for him. However, the father has not been notified of any results of the official investigation.

The “disappearance” of Abdelkader Mezouar occurred eight days after he had won a judicial case against a neighbour with whom there had been a long-standing conflict about the use of the workshop and the street outside the workshop. On three separate occasions during the year preceding the incident, the neighbour is reported to have threatened Abdelkader Mezouar with “disappearance”, claiming that he had links with Military Security. Abdelkader Mezouar had told his family that he was worried about his personal safety.

b) Mass graves

The way in which the authorities have dealt with mass graves which have been discovered since 1998 has generated considerable fears and anxieties that the available evidence is either not being processed in line with internationally accepted standards or, worse, is being destroyed.

The fears and anxieties are felt particularly acutely by the families of the thousands of people who have been abducted by armed groups during the last decade and presumed to have been assassinated by them, but whose bodies have never been found. These families believe that the remains of their relatives may lie in a mass grave and hope that sooner rather than later those remains might be exhumed, allowing them to lay their relatives to rest with dignity. Associations of families of the “disappeared” are also deeply concerned, as they believe that some sites may contain bodies of individuals who “disappeared” after arrest by the security forces or state-armed militias.

Since 1998 the Algerian press has reported the discovery of around a dozen mass grave sites, many of them in areas, such as the outskirts of Algiers or the region around the city of Relizane in the west of the country, which were particularly badly affected by violence during the mid-1990s. Newspaper reports suggested that the remains of up to scores of people appeared to be contained in each.

Although the authorities have generally exhumed the mortal remains found in these graves, they usually report that it has not been possible to identify the majority or all of the bodies found. To Amnesty International’s knowledge, out of the scores of bodies exhumed from mass grave sites since 1998, only a few have been identified. One of these was the body of a girl, Samira Bellal, exhumed in 2002 (see page 32).

Part of the problem seems to have been the manner in which exhumations at mass grave sites have been conducted. Press reports, video evidence seen by Amnesty International²⁷ and interviews with families of victims conducted by the organization in recent years suggest that neither the exhumation of the mortal remains nor the ensuing investigation was conducted in line with agreed standards, in particular the UN Model Protocol for Disinterment and Analysis of Skeletal Remains, which provides detailed guidelines for governments to follow when exhuming human remains.²⁸

Interior Ministry officials whom Amnesty International met in February 2003 admitted that, when mass grave sites were first found in Algeria, they had problems with preserving the evidence, but insisted that “scientific methods” were now used by the police to extract mortal remains and that a representative of the judicial authorities, namely the local

²⁷ A video of the exhumation in 1998 of a mass grave found inside a well at a farm in Haouch Hafiz, near the town of Larbâa, some 20kms south of Algiers, was shown to Amnesty International delegates by the Larbâa judicial authorities during a mission conducted in May 2000.

²⁸ The Protocol is contained in the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions; UN document E/ST/CSDHA/.12; available on Amnesty International’s website.

prosecutor, was present at the scene to supervise the process. However, disinterment still appears frequently to be undertaken by law enforcement officials untrained in the techniques of forensic anthropology. According to the UN Protocol quoted above, “Valuable information may be lost in this manner and false information is sometimes generated. Disinterment by untrained persons should be prohibited.”

Another concern is that unidentified human remains are reburied without specimens being retained for further forensic examinations, such as DNA tests, which have not yet been employed in Algeria in the analysis of human remains. The Protocol states that, if “the remains are to be reburied before obtaining an identification”, samples of various parts of the body, such as “several molar teeth”, should be retained for further analysis. The Protocol goes on to state:

In cases where the body cannot be identified, the exhumed remains or other evidence should be preserved for a reasonable time. A repository should be established to hold the bodies for 5-10 years in case they can be identified at a later time.

There have been other problems connected with mass grave sites. *Somoud*, the non-governmental organization which campaigns on behalf of families whose relatives have been abducted and presumably killed by armed groups, alleges that the authorities have ignored available information which could help them to locate mass grave sites. *Somoud* have told Amnesty International that some former armed group members who have given themselves up have provided such information to the authorities and that others could have done so had they been properly questioned at the time of their surrender.

Mortal remains at one mass grave site were reportedly exhumed and transferred elsewhere. Mohamed Smaïn, head of the local branch of the *Ligue algérienne pour la défense des droits de l'homme* (LADDH), Algerian League for the Defence of Human Rights, alleges that the bodies of some 20 victims of “disappearances” carried out by the security forces and local state-armed militias have been buried at a mass grave site in Sidi Mohamed Benaouda in the province of Relizane, western Algeria, and that the groups responsible relocated the bodies when the site was discovered in order to cover up their crimes.

Mohamed Smaïn’s work to document the alleged crimes and his denunciation of those presumed to be responsible led to a court case being launched against him in 2001. He was convicted of defamation of nine militiamen in January 2002 and sentenced, on appeal, to one year’s imprisonment, a fine of 5,000 dinars (approximately US\$65) and total damages of 270,000 dinars (US\$3,500). He is currently at liberty, pending a decision by the Supreme Court on the case. If imprisoned, Amnesty International would consider him a prisoner of conscience.²⁹

²⁹ See Amnesty International’s press release *Algeria: Human rights activist sentenced to a year in prison* (AI Index: MDE 28/005/2002) of 25 February 2002.

CASE: Samira BELLAL Photocaption: Samira Bellal

One of the very few cases known to Amnesty International where a family has been invited to participate in the identification of a victim is that of Samira Bellal, a 15-year-old secondary school student who was reportedly abducted by unknown armed men after leaving school on 19 February 1997. Her body was found in August 2002 when a mass grave was discovered and opened near Gaïd Gacem, a village near Algiers, on the basis of testimony taken by the authorities from a member of an armed group that had been operating in the area. Two other bodies were recovered from the grave, while several bodies were reportedly left inside the grave when it was closed again in November 2002.

Samira Bellal could be identified only by personal belongings found on her body, in particular an exercise book that bore her name. When Amnesty International delegates met with officials at the Ministry of Justice in February 2003 they were told that an autopsy on the body had been carried out, that the cause of death had been established and that the judicial investigation was ongoing.

In contrast to this, the permission to bury the body received by the father from the local authorities stated that the cause of death was unknown and that it was “unnecessary to reveal the truth” about the circumstances of the death prior to the burial of the body, thereby suggesting that she had died of natural causes as no forensic examination was requested. The death certificate, moreover, declared that the date of her death was 10 November 2002, while her body had been found in the grave three months prior to this date. Such contradictions and inaccuracies fuel the fears of families of victims that the authorities are not taking seriously their duty to investigate human rights abuses and bring those responsible to justice.

c) Recommendations

Amnesty International calls on the Algerian authorities:

- ▶ to respond favourably and without delay to the proposal to set up a commission of inquiry on “disappearances”;
- ▶ to establish appropriate bodies to investigate fully, impartially and independently all crimes against humanity committed in Algeria during the past decade;

- ▶ to ensure that any commission of inquiry into “disappearances” or other crimes against humanity is independent, empowered, effective and committed to the victims’ interests;³⁰
- ▶ to ensure that those responsible for “disappearances” and other crimes against humanity committed in Algeria during the past decade are investigated and brought to justice, as required by international treaties to which Algeria is a state party, such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ▶ to state clearly their intent to apply Article 18 of the UN Declaration on the Protection of All Persons from Enforced Disappearances, which affirms the principle that perpetrators of “disappearances” should not be eligible for exemption from prosecution;
- ▶ to invite the UN Working Group on Enforced or Involuntary Disappearances to visit the country;
- ▶ to follow the methods set out in the UN Model Protocol for Disinterment and Analysis of Skeletal Remains to guide investigations of mass grave sites, in particular by ensuring that disinterment is carried out only by professionals skilled in forensic anthropology and that, when remains are not identified swiftly, specimens are retained in a suitable repository for further analysis, including DNA tests.

PART C: NATIONAL RECONCILIATION MEASURES

The Algerian authorities have taken several measures in recent years with the stated intention of bringing about peace and national reconciliation to a country which has seen over 100,000 people killed by armed groups, the security forces and state-armed militias since 1992.³¹ Perhaps the most significant steps were taken in 1999 and 2000, when a so-called Civil Harmony law was passed to encourage armed group members to renounce violence and an amnesty was granted to hundreds of members of certain armed groups.

Amnesty International’s November 2000 report *Algeria: Truth and justice obscured by the shadow of impunity* (AI Index: MDE 28/011/2000) looked in detail at these measures and their impact on the human rights situation several months after their application. It expressed concern at the manner in which the Civil Harmony law had been applied to the

³⁰ For more detailed information on the way in which investigations into “disappearances” should be conducted, see Amnesty International’s *“Disappearances” and political killings: human rights crisis of the 1990s – a manual for action* (AI Index: ACT 33/001/1994), published in February 1994. For more detailed criteria of how commissions of inquiry should be set up, see Amnesty International’s report *National Human Rights Institutions: Amnesty International’s recommendations for effective protection and promotion of human rights* (AI Index: IOR 40/007/2001), published in October 2001.

³¹ It is impossible to give a precise figure for the number of people killed since 1992. President Bouteflika acknowledged in 1999 that some 100,000 had been killed, but some estimates by the media and local human rights organizations put the figure at between 150,000 and 200,000.

cases of thousands of armed group members who surrendered to the authorities and the amnesty of hundreds more armed group members without any judicial proceedings taking place. This had led to a situation in which armed group members who might have committed human rights abuses, including involvement in grave abuses such as killings of civilians, had been granted impunity. Since then, hundreds more armed group members appear to have been granted exemption from prosecution on an equally arbitrary basis, despite the possibility that some have committed human rights abuses which may amount to crimes against humanity.

1. Level of violence

Although the authorities do not release official figures for the number of killings which occur in Algeria each month or each year, they argue that there has been a dramatic fall in the level of violence. In meetings during February 2003, the Algerian authorities told Amnesty International delegates that they believed they were now “turning the page” on a decade of violence and pointed to the success of the measures taken in 1999 and 2000, as well as of government policy and security operations since then.

The level of violence certainly has fallen significantly since it peaked in the years 1996-1998. Algerian press reports indicate that in 1999 and 2000, some 200 to 300 people were being killed each month; by mid-2003, the average had dropped to around 100. This is a clear improvement, even though the actual number of people killed may be higher than this. Not all killings of civilians are reported, particularly if they are committed in remote areas. Also, numbers of deaths are generally reported immediately after an attack, but many attacks cause serious injuries which may lead to further deaths in the aftermath of the attack, and these are not always reported in the press. A striking example of this is a bomb explosion which occurred in the town of Larbâa on 5 July 2002 (see case example on page 35).

The perpetrators of the vast majority of these killings are members of armed groups, on one side, and members of the security forces and state-armed militias, on the other. While many killings are committed in armed confrontation or ambushes, civilians appear to bear the brunt of the violence. Reports in the press indicated that the number of civilians killed in 2002 was higher than the number of either security force personnel or armed group members killed during the same year.³²

Amnesty International welcomes any reduction in the grim toll of killings in Algeria. The development should not, however, obscure the fact that the death toll is still shockingly high. Below, we highlight some of the key human rights abuses which continue to be of concern and which account for a large part of the ongoing violence: killings of civilians which are believed to be perpetrated by armed groups; abduction and rape of women by armed groups; and killings of suspected armed group members by security forces and state-armed militias, some of which may constitute extrajudicial executions.

³² See, for example, the annexe of the report *Algérie: Guerre, émeutes, Etat de non-droit et destruction sociale* (Algeria: War, riots, a lawless state and social destruction) by Salah Eddin Sidhoum and Algeria-Watch, March 2003, available in French online at http://www.algeria-watch.org/fr/mrv/2002/rapport_2002.htm, which cites figures compiled from press reports.

CASE: Bomb explosion of 5 July 2002

Killings of civilians rose sharply during the summer of 2002, particularly around the 40th anniversary of independence on 5 July, when a bomb detonated in a densely populated street market in Larbâa, instantly killing 38 people and causing a large number of injuries. When Amnesty International delegates met with victims of the attack and representatives of victims' organizations in Blida in March 2003 they were told that many of those injured succumbed to their injuries up to one month after the attack, raising the total number of dead to around 90 people.

The bomb had been planted in a place where the perpetrators knew they would cause the maximum number of civilian casualties. A large number of the victims were young people and children. There was no claim of responsibility for the attack. Interior Minister Nouredine Yazid Zerhouni publicly blamed the attack on a splinter group of the *Groupe islamique armé* (GIA), Armed Islamic Group, said to be operating mainly in the urban area of Algiers, but so far no investigation is known to have confirmed these allegations.



Survivors of the Larbâa bomb explosion during a meeting with Amnesty International in Blida in March 2003

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a) Killings of civilians by armed groups

It is difficult to know the true number of armed group members who are currently active in Algeria. Representatives of the military, such as those speaking at the International Symposium on Terrorism, held in Algiers from 26 to 28 October 2002, have quoted figures of between 500 and 1,000 active armed group members in recent months – figures which appear to have changed little in the last two or three years. Others consider the number to be much

higher. In December 2002, the Algerian newspaper, *Al Fajr*, quoted undisclosed security sources as estimating the number of remaining armed group members to be 8,719.

Whatever the true figure is, many of the remaining armed group members are believed to belong to the *Groupe salafiste pour la prédication et le combat* (GSPC), Salafist Group for Preaching and Combat, led by Hassan Hattab. The group appears to operate mainly in the central, eastern and southern parts of the country and reportedly claims to focus its attacks on military targets in an effort to overthrow the authorities. The other major active group is the *Groupe islamique armé* (GIA), Armed Islamic Group, which is reported to be responsible for many of the continuing killings of civilians and to operate throughout large sections of the northern part of the country. All available information indicates that the GIA is a loose assembly of groups which are sometimes described as GIA factions and sometimes given separate titles. Most observers point out that the GIA includes hardline Islamist activists striving to impose their particular view of what an "Islamic" society should be, autonomous groups of common-law criminals whose actions are not dictated by any political or religious objectives, and groups acting in the framework of mafia-type organized criminality.

As has been the case since these groups came into existence, information about their leadership, composition and demands remain unclear since they have no spokespeople and issue few, if any, public statements. The possible rationale behind individual attacks on civilians by armed groups is particularly difficult to clarify. Almost never are the perpetrators of attacks identified or caught and their motives revealed. In some cases, civilians may be attacked because they are accused of supporting the authorities or of not supporting the armed groups, or because armed group members object to their behaviour or lifestyle. In other cases, the attacks may be linked to criminal activities, such as theft, racketeering and extortion.

As indicated above, hundreds of civilians continue to die each year as a result of attacks by armed groups. The vast majority of killings take place in rural areas, smaller towns and the outskirts of cities in the more densely populated north of the country. It is often in these areas that the poorest strata of society live. Although abuses by armed groups are more frequently reported in remoter areas and attacks on civilians are now relatively rare occurrences in the centres of larger cities, it cannot be said that any part of northern Algeria is safe from armed group attacks. Areas which were believed to be safe may become the target of attacks again, and certain patterns of attacks may return unexpectedly. For example, before a series of bomb attacks struck the capital Algiers in August 2001 the capital had been considered safe and bomb attacks had not been reported there for some two years. The unprecedented abduction of dozens of foreign tourists in the extreme south of the country, allegedly by an armed group, in February and March 2003 came as a surprise to those who considered tourism in the Algerian Sahara to be safe.

Some of the attacks appear to be indiscriminate, such as when bombs are exploded in busy public places, such as markets, killing dozens of people. Other attacks involve bogus roadblocks when small groups of men armed with machine guns, automatic pistols or hunting rifles shoot dead the drivers and passengers of passing vehicles.

There are also attacks that appear to be targeting particular individuals or groups of individuals, such as when extended families, of a dozen or more people, are attacked and killed in their homes or at times of celebration, such as wedding parties, when families are gathered together. The most vulnerable – women, children and the elderly – are not spared and the killings are often carried out in a brutal fashion. The assailants often knife their victims to death, cut their throats, decapitate them or smash their heads, sometimes mutilating the body afterwards. Disturbingly, the perpetrators generally escape without being apprehended, even when killings are reported close to security force bases. While victims and relatives of victims may sometimes be able to identify perpetrators of killings or provide important testimonies to locate those responsible, little attempt appears to be made to investigate killings and apprehend those responsible, so that most questions remain unanswered.

CASE: Bus attack of 28 June 2002



Survivors Sid-Ahmed Amrouche, Mustapha Ammara and Mustapha Boudjadi © AI

Teenagers Sid-Ahmed Amrouche, Mustapha Boudjadi, Sid-Ahmed Kerkar and Yazid Meziani were travelling home on a bus from a day on the beach in the evening of 28 June 2002. At around 9pm the bus was stopped by a group of armed men on the road between El-Harrach and Eucalyptus, two outlying districts of the capital Algiers. One man entered the bus and remained at the door, while the others surrounded the vehicle. They fired on the passengers from the door of the bus and through the windows. Sid-Ahmed Amrouche and Mustapha Boudjadi were able to escape through one of the broken windows, sustaining bullet wounds. Their two friends Sid-Ahmed Kerkar and Yazid Meziani were killed in the attack, along with 15 other passengers.

Among the five survivors of the attack is Mustapha Ammara, 14, who lost his 15-year-old friend in the attack. Some of the survivors were questioned by the authorities after the attack, but the motive remains unknown and the perpetrators of the attack are not known to have been identified.

Those who survive violent attacks suffer serious injuries and psychological trauma. For many there are dire economic consequences, such as the damage or loss of a home or no longer being able to work. Hundreds have reportedly abandoned their homes in the last few

years for fear of further attacks and moved to live with relatives, often in metropolitan areas, a trend that continues to exacerbate the acute housing crisis in the country. Survivors feel abandoned in their struggle to cope with the impact of extreme violence. State programs of psychological rehabilitation for survivors are few and it is left to independent associations with poor resources to take on the few cases it can. One such organization is *Chrysalide*, a group working primarily on the rehabilitation of children who have been exposed to violence.

b) Abductions and rape by armed groups

While abductions, torture and killings of male victims by armed groups appear to have become isolated cases, abductions and rape of women continue to be reported in the Algerian press, albeit at much lower levels than in the years preceding 1999.

During the height of the violence in Algeria, particularly between 1996 and 1998, hundreds of women and girls were reportedly abducted and raped each year by members of armed groups. Many were subsequently killed by their captors. Others managed to escape or were released and have since had to cope with the trauma of their experiences with almost no support.

Newspaper reports indicate that the number of women and girls abducted and raped by members of armed groups has dropped considerably since, but cases continue to be reported. It is particularly difficult to research these abuses, since survivors are often not prepared to testify, or even report, the crime because of the social stigma attached to rape victims and, consequently, no reliable statistics are available. It is usually impossible to independently verify press reports about the abduction and rape of women and girls.

Reports suggest that abductions usually take place in the context of an armed group attack on a village. Other family members or neighbours are often killed in the same incident. In some cases, women are reportedly abducted and raped and later mutilated and killed by the assailants. In other cases, women who are abducted are reportedly forced to stay with an armed group, during which time they are raped and forced to carry out domestic duties, such as cooking and cleaning, and are later able to escape or are left behind when the group moves on. In February 2003 Amnesty International was able to interview two females who reported having been abducted and gang-raped by members of armed groups in the western province of Chlef. One of them had been young as 15 when was abducted and raped by armed group members in 2002. The other was a woman in her twenties who was abducted and raped in 2001. Her case is described below.

CASE: Cherifa BOUTEIBA

Cherifa Bouteiba, a married woman of around 20 years of age, was abducted by seven armed men in the morning of 2 June 2001. She had been visiting relatives in Douaïdia, in the province of Chlef, all of whom, including three children, were killed by her abductors. She told Amnesty International that she was forced to walk into the mountains where she was raped by several men repeatedly during a period of two days and threatened with a sharp implement. On the third day she was able to escape.

She had been pregnant at the time of her abduction and subsequently miscarried, seemingly as a consequence of her ordeal. She was treated in hospital for the injuries she sustained, given medication, including sedatives, and discharged. She was told not to be alone, but did not receive any therapy to help her deal with her experiences.

Her husband divorced her after the incident on the grounds that she had soiled his honour. She does not have a place to live and stays with different relatives for periods of time, but she says people are reluctant to house her for long, fearing her presence will put them in danger from armed group attacks. There has been no financial support from the authorities. She tries to make a living by working as a domestic help, but claims she is sacked as soon as her employers find out about the assault. She has trouble going to sleep at night and cannot always afford the medicine she was told to take.

Cherifa Bouteiba still fears her assailants may come back for her one day. She believes some of the men who assaulted her gave themselves up to the authorities in 2002 and were exempted from prosecution. When the police took her statement she was shown photographs of people and says that she was able to identify some of her attackers, but the crime does not appear to have been investigated. She says she hides behind her veil, hoping that she will not be recognized, since she has seen some of her attackers walking freely in the area where she lives.

Women's organizations have complained that victims of rape by armed groups do not benefit from rehabilitation provided by the government, including medical, psychiatric and other post-traumatic counselling, nor from compensation which other victims of armed groups have been able to receive. Non-governmental organizations, such as the member organizations of the *Wassila* Network, offer medical and psychological assistance to a limited number of individuals, but do not have adequate resources to provide it to the hundreds of women and girls who need help. The lack of such provisions is especially worrying in a society such as Algeria's, where victims of rape are forced to deal not only with the trauma caused by the crime, but also with the social taboos, shame and stigma attached to this sensitive issue. The fact that many of the women who have been victims of abduction and rape by armed groups live in rural and socially conservative areas of the country exacerbates the problem.

c) State killings

Hundreds of armed group members or suspected armed group members continue to be killed each year by the military, the security forces and state-armed militias in attacks, ambushes and armed confrontations, mostly in areas where armed groups are thought to be active throughout the northern part of the country.

Some of the incidents reported involve armed confrontations or skirmishes between the military, sometimes supported by security forces and state-armed militia groups, and armed groups in forested or mountainous areas of the country. Some are attacks by the military, frequently using heavy artillery supported by helicopters, on armed group camps or bases. Other incidents are raids by law enforcement agents on buildings in urban areas in

which suspected armed group members are believed to be staying or killings of individuals suspected of being armed group members in public places in city centres.

The authorities issue statements about such incidents on an almost daily basis and these are quoted, often in full, by the Algerian press and foreign news agencies, which are almost never able to access independent accounts of what has happened. There are two particularly striking features about the hundreds of official statements on these incidents issued each year. One is the paucity of information they contain. Apart from mentioning the number of armed group members allegedly killed, little detail is given about the circumstances of the killing. Only approximate locations are given and no mention is made of how the authorities had known that the persons killed – who are rarely identified, by name or even by the group they are suspected of belonging to – were “terrorists”. The other striking feature is that only very rarely is any suspected armed group member mentioned as being arrested, no matter what the nature of the operation was or how many people were being targeted.

Amnesty International is concerned that a shoot-to-kill policy is being enforced, since no information is available to suggest that the authorities attempt to arrest suspected armed group members during security operations. The Code of Conduct for Law Enforcement Officials³³ states in Article 3:

In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials further states in Principle 5:

Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

The apparent lack of attempt made to arrest suspects and the lack of any known investigations into such incidents point to the likelihood that many of the ongoing killings of suspected armed group members constitute extrajudicial executions.

Although the Algerian authorities maintain that state-armed militias only act in self-defence, militia groups reportedly continue to operate throughout the country outside the parameters of the law and without supervision, and are allowed to carry out law enforcement tasks and counter-insurgency operations either on their own or in conjunction with the security forces or the military. Worrying reports even indicate that, in some areas, state-armed militias have been cooperating in criminal activities with armed groups. Some militia groups

³³ Adopted by the UN General Assembly in 1979.

are said to have been dismantled in areas where the level of violence has fallen sharply in recent years, but estimates of the total number of armed militia group members are disturbingly high, ranging up to 300,000.

2. Impunity for armed group members

The Civil Harmony law entered into force on 13 July 1999 and expired on 13 January 2000.³⁴ Under this law, members of armed groups who surrendered within the six-month period and who had not killed, raped, caused permanent disability or placed bombs in public places were exempt from prosecution; those who had committed such crimes would receive reduced sentences, which would not include the death penalty or life imprisonment.

Article 41 of the Civil Harmony law provided the basis for the amnesty granted by President Bouteflika on 10 January 2000 to the members of two groups which had declared cease-fires in October 1997, namely the *Armée islamique du salut* (AIS), Islamic Salvation Army, and the *Ligue islamique pour la da'wa et le djihad* (LIDD), Islamic League for Preaching and Holy War. The presidential decree granted exemption from prosecution to all members of these groups without exception, no matter what crimes they might or might not have committed.³⁵ The text of the decree stated that the names of the amnesty's beneficiaries would be appended to it, but no such list has been published to date.

The Algerian authorities have not published any precise official figures on how many members of armed groups benefited from each of these two measures and Amnesty International has been unable to obtain these figures despite repeated requests. However, government sources have indicated to the press that just over 1,000 AIS and LIDD members benefited from the amnesty and around 4,500 members of other armed groups, such as the GIA and GSPC, surrendered to the authorities under the terms of the Civil Harmony law.

There is even less clarity about how many of those who surrendered under the Civil Harmony law were brought to justice and how many of these were convicted and for what crimes. Algerian government officials told Amnesty International delegates in May 2000 that judicial proceedings had been initiated against some 350 people who had surrendered under the Civil Harmony law, but it is not known whether any of these have been convicted of human rights abuses.

Some families of people who were killed by armed groups have since told Amnesty International that those who are responsible for the killing of their relatives were exempted from prosecution under either the Civil Harmony law or the amnesty of 10 January 2000. This has led Amnesty International to believe that full and thorough investigations had not been carried out to establish what crimes surrendering armed group members might or might not have committed. In this way, Amnesty International believes that the measures taken have

³⁴ Law no. 99-08.

³⁵ Presidential Decree no. 2000-03.

undermined the administration of justice, prevented the truth about the abuses from being uncovered and ultimately deprived the victims of their right to legal recourse.³⁶

Since 13 January 2000, hundreds more armed group members are reported to have surrendered to the authorities. During this time, no legal provisions have existed allowing for such people to be granted exemption from prosecution, or even to receive reduced penalties. Justice Ministry officials confirmed this during a meeting with Amnesty International delegates in February 2003, stating that all armed group members who gave themselves up were systematically brought to justice so that any crimes they might have committed could be investigated.

However, government authorities, including President Bouteflika himself, have indicated, since January 2000, that members of armed groups who surrendered voluntarily would still benefit from some unspecified measures of clemency. The President, moreover, has repeatedly talked of a National Harmony project since January 2001. No information has been provided about what this project entails in detail, but the President has suggested that it may involve an expanded version of previous amnesty measures.

The contradiction between the law and political pronouncements appears to be reflected in practice. Consistent reports during the last three and a half years have indicated that individuals or groups of individuals who gave themselves up after 13 January 2000 have been allowed to return home immediately or shortly after their surrender, suggesting that they are being granted exemption from prosecution. Given that such measures do not fit within the framework of any legal provisions, they can only be described as arbitrary. Moreover, no investigations appear to be conducted into what human rights abuses, such as killings of civilians, these former armed group members may have committed.

Amnesty International has learnt that some armed group members who have surrendered to the authorities since 13 January 2000 have been given an official certificate, bearing their name, photograph and dossier number, to prove that they are exempt from prosecution. Significantly, the certificate reportedly bears no date, in a possible attempt to conceal the fact that exemptions from prosecution continue to be granted outside of any legal framework. The organization has also received information that some of those who give themselves up are given back their weapons after leaving armed groups in order to defend themselves against former comrades.

Amnesty International's concerns about these measures are based on its belief that they are detrimental both to the rights of victims and to lasting human rights protection in Algeria. The organization believes that persons who have committed serious crimes under international law, such as killings of civilians, which may amount to crimes against humanity, should be brought to justice. There should be no amnesties, pardons or similar measures for such crimes if such measures would prevent the emergence of the truth, a final judicial determination of guilt or innocence and full reparation for victims and their families.

³⁶ For more details, see Amnesty International's November 2000 report *Algeria: Truth and justice obscured by the shadow of impunity* (AI Index: MDE 28/011/2000).

The victims of often atrocious crimes and their relatives have a right to see the truth revealed and justice done. Measures which arbitrarily guarantee exemption from prosecution to armed group members who surrender themselves deprive victims and their families of these right to seek redress.

Amnesty International believes that the impunity which ensues further undermines confidence in the justice system. Without proper investigations leading to the truth being established and perpetrators of human rights abuses being brought to justice, lasting human rights protection will be difficult to achieve. Amnesty International recognizes that every country should develop its own way of “turning the page” on a period of conflict or human rights crisis. However, the organization believes that whatever process is decided upon, it must be underpinned by three essential principles – those of truth, justice and reparation – in order to build lasting peace, guarantee security for all citizens and prevent the atrocities of the past from being repeated.

3. Recommendations

a) To all armed groups

Amnesty International once again repeats its call on all armed groups:

- ▶ to immediately stop targeting civilians and respect the most fundamental human right, the right to life;
- ▶ to immediately stop the practice of abducting women and girls and subjecting them to rape and other forms of torture.

b) To the Government of Algeria

Amnesty International calls on the Algerian government:

- ▶ to ensure that no one is arbitrarily deprived of their right to life, as required by international and regional treaties to which Algeria is a state party, such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights;
- ▶ to ensure that there “shall be a thorough, prompt and impartial investigation of all cases of extra-legal, arbitrary and summary executions” and “that persons identified by the investigation as having participated in [them] are brought to justice”, as stipulated by Principles 9 and 18 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions;³⁷
- ▶ to put an immediate stop to the practice of granting exemption from prosecution to armed group members who surrender to the authorities;
- ▶ to declare the amnesty of 10 January 2000 null and void;

³⁷ Adopted by the UN Economic and Social Council in May 1989 and endorsed by the UN General Assembly in December 1989.

- ▶ to provide reparations for victims of violence;
- ▶ to instruct members of the security forces that force may only be used when reasonably necessary and in accordance with a principle of proportionality and that lethal force should not be used except when strictly unavoidable in order to protect their life or the lives of others, as required by international standards;³⁸
- ▶ to account for all killings committed by the military, security forces and state-armed militias in a detailed and transparent fashion and bring to justice those suspected of carrying out unlawful killings;
- ▶ to disband all state-armed militias and ensure that security operations are carried out by law enforcement personnel who have received the necessary training and qualifications and who operate in an official framework which ensures accountability;
- ▶ to give access to Algeria to the UN Special Rapporteur on extrajudicial, arbitrary or summary executions, who has a long-standing request pending to visit the country.

CONCLUSION

This report examines the key initiatives taken by the authorities in the last three to four years with the stated intention of addressing human rights concerns in Algeria. To summarize some of the key points made about these initiatives in this report:

- Some are positive at face value, but have not been translated into practice. This is the case with many of the changes made to the Criminal Procedure Code in 2001. If implemented, they could have helped to address long-standing human rights concerns, such as torture and secret detention. Instead, they, like previous safeguards in the law, have remained largely dead-letter.
- Some are positive in themselves, but have been undermined by subsequent developments. The conclusions of the National Commission of Inquiry into the Events in Kabylia of 2001, for instance, pointed clearly to the authorities' responsibility for the unlawful killing of dozens of unarmed demonstrators. However, the authorities have rejected the findings and failed to investigate the violations and prosecute the vast majority of those responsible.
- Some contain inherently negative aspects. Measures, such as the January 2000 amnesty of around 1,000 armed group members and the subsequent extra-legal application of clemency measures for armed groups, have prevented the truth from emerging about grave human rights abuses and ensured impunity for the perpetrators, thus depriving tens of thousands of victims of their right to redress.

³⁸ Relevant international standards include the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

● The initiatives which have been implemented or are being planned by the authorities fail to address the gravest human rights concerns in Algeria. This is particularly the case for concerns related to the legacy of the human rights crisis. No full, independent and impartial investigations have taken place or are known to be planned to look into the gravest abuses which have occurred in Algeria since 1992. While a commission of inquiry into the thousands of “disappearances” carried out by the state is being proposed by the official human rights body, there have been no proposals to investigate the tens of thousands of killings and thousands of cases of torture committed by the security forces, state-armed militias and armed groups throughout the last decade.

Amnesty International’s conclusion therefore is that, while some of the initiatives contain positive elements, many of the core problems related to the human rights situation in the country will persist unless the concrete recommendations put forward by national and international non-governmental and intergovernmental organizations, including the ones contained in this report, are put into effect without delay. Legal safeguards against torture and secret detention should be strictly applied; proposals such as the one to establish a commission of inquiry into “disappearances” should be translated into immediate action; continuing human rights abuses should be investigated in an independent and transparent manner; and concrete steps should be taken to ensure that all law enforcement personnel, including Military Security agents, comply with the law and are held accountable for their actions.

The authorities must show that they are serious about tackling the population’s pressing concerns in order to regain the confidence of ordinary Algerians. They must demonstrate that their stated commitments to greater openness and to improved human rights protection for all are not empty promises, but genuine steps towards change.