



A LEGACY OF IMPUNITY

A THREAT TO ALGERIA'S
FUTURE

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in 2009 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Copyright Amnesty International Publications 2009

Index: MDE 28/001/2009

Original Language: English

Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publishers.

Cover photo: A demonstration organized by families of victims of enforced disappearance in November 2000. © Amnesty International

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

**AMNESTY
INTERNATIONAL**



CONTENTS

| | |
|--|----|
| 1. Introduction | 5 |
| 2. Institutionalized Impunity | 11 |
| First Significant Set of Amnesty Measures: The 1999 Civil Harmony Law and Presidential Decree No. 2000-03..... | 12 |
| Second Significant Set of Amnesty Measures: The Charter for Peace and National Reconciliation and its Implementation | 13 |
| 3. Abuses During the 1990s Internal Conflict and Beyond | 19 |
| 3.1. Unlawful Killings | 20 |
| 3.2. Enforced Disappearances..... | 26 |
| 3.3. Torture and Other Ill-Treatment | 34 |
| 4. Women Bear the Burden of Impunity | 43 |
| Impunity for Abuses Committed by Non-State actors | 43 |
| Impunity for Violations Committed by the State Actors..... | 45 |
| 5. Families of Victims and Activists Under Attack..... | 49 |
| 6. Conclusion and Recommendations..... | 55 |
| Annex I | 67 |
| Annex II | 69 |

1. INTRODUCTION

THE LONG SEARCH FOR TRUTH AND JUSTICE

Louisa Saker has not seen or heard from her husband Salah Saker since 29 May 1994, when he was arrested at 6:45pm at their home in the north-eastern city of Constantine. Fifteen years on, her life remains dominated by the pain of his enforced disappearance and her ceaseless efforts to find him and obtain justice in the face of the Algerian authorities' intimidation and harassment.

In January 1996, around 20 months after Salah Saker disappeared after his arrest, his wife Louisa gave up waiting for the authorities to answer her letters and filed a complaint with the public prosecutor of Constantine. She alleged that her husband, a member of the Islamic Salvation Front (Front islamique du salut, FIS), had been arbitrarily detained and called for those responsible to be brought to justice. On 4 September 1996, the Constantine judicial police confirmed in a letter to Louisa Saker that they had arrested her husband and had transferred him to a military investigation centre on 3 July 1994. This official acknowledgement by the judicial police of the transfer of Salah Saker to the custody of the military intelligence is unique, as in almost all cases of enforced disappearances known to Amnesty International, officials consistently denied their implication in enforced disappearances and claimed to have no knowledge of the disappeared individual's whereabouts.

In December 1998, Louisa Saker received contradictory information from the National Observatory for Human Rights (Observatoire national des droits de l'homme, ONDH) telling her that, according to the security forces, Salah Saker had been "abducted by an unidentified armed group" and that the authorities had no additional information.

To date, the authorities have given Louisa Saker no explanation for his arrest. They did, however, inform the United Nations Human Rights Committee that he was wanted by security forces due to his "membership of a terrorist group" and that he had been sentenced to death in his absence on 29 July 1995.

In a landmark decision on enforced disappearances in Algeria, the United Nations Human Rights Committee ruled in March 2006 that the Algerian authorities must launch a full investigation into the fate of Salah Saker, release him if he is still alive, compensate him and his family for the violations suffered, and bring those responsible for his enforced disappearance to justice. Despite this decision, in August 2008, the judicial authorities in Constantine dismissed Louisa Saker's complaint regarding the enforced disappearance of her husband without providing any explanation. She has appealed.

Louisa Saker, herself, was targeted for her efforts to obtain truth and justice. In February 2008, she was tried in Constantine on charges of undermining the authority of public officials, organizing an "unauthorized unarmed march", contempt of civil servants with use of weapons and theft. The charges related to her participation in a peaceful demonstration in 2004 in Constantine by families of people who had disappeared. After the protest, she was arrested, beaten and forced by police to sign an undertaking not to participate in such demonstrations again. She was convicted of participating in an "unauthorized unarmed march" and given a suspended fine. She was acquitted of the other charges. In November 2008, the Court of Appeals of Constantine confirmed the sentence. At the time of writing, Louisa Saker was awaiting the review of her case by the Supreme Court, after both she and the prosecution appealed.

As Algeria is preparing for its third multi-party presidential elections since the end of the worst of the violence that ravaged the country in the 1990s, the failure to adequately address the legacy of grave human rights violations and abuses in its context continues to undermine any prospects for genuine national reconciliation and lasting peace. Nearly 10 years have passed since the Algerian authorities began to introduce amnesty measures with the stated intention to “turn the page” on the “national tragedy” that took up to 200,000 lives according to official estimates. The internal conflict was sparked by the cancellation in 1992 of multi-party elections which the Islamic Salvation Front (Front islamique du salut, FIS) was set to win. A state of emergency was declared, the FIS was banned, the president resigned – apparently due to pressure from the military – and was replaced by a five-member High Council of State (Haut Comité d’Etat). Seeking to claim the electoral victory of the FIS by means of violence, armed groups targeted state institutions and increasingly civilians thought to have backed the military, or to have failed to conform to their conception of “Islamic” values. Armed groups committed widespread human rights abuses, including unlawful killings, collective massacres, abductions, torture and rape. The Algerian authorities also played a major part in escalating the violence to root out support for the FIS by some sections of the population or to punish real or perceived supporters of armed groups, in the name of countering terrorism. The security forces and, later, state-armed militia (referred to by the authorities as “legitimate defence groups”, “self-defence groups” or “patriots”) committed massive human rights violations, including extrajudicial executions and other unlawful killings, enforced disappearances, secret and arbitrary detentions and torture and other ill-treatment of thousands of real or suspected members or supporters of armed groups. Most of the crimes were never investigated and the perpetrators were never held to account.

Far from providing the hundreds of thousands of victims, survivors and their families with truth, justice and reparations, amnesty measures introduced from 1999 onwards further entrenched a climate of blanket impunity to the perpetrators of serious crimes under international human rights and humanitarian law.¹ Little has been done to ensure non-repetition of grave human rights violations and to introduce needed judicial and institutional reforms. This failure to combat impunity and address the structural framework that allowed for such grave violations of human rights to occur not only leaves a society unable to move on and heal from the legacy of a decade of widespread violence, but also fails to prevent further human rights violations from taking place.

Despite the notable decrease in the level of violence and death tolls since the 1990s, Algeria continues to suffer violent attacks and the Algerian security forces continue to conduct security operations against armed groups. The al-Qa’ida Organization in the Islamic Maghreb, formerly known as the Salafist Group for Preaching and Combat (Groupe salafiste pour la prédication et le combat, GSPC), is reported to be the main active Islamist armed group in Algeria, and continues to claim responsibility for attacks on both civilians and military personnel and installations. Amnesty International unreservedly condemns such deliberate attacks against civilians and indiscriminate attacks, which show a complete disregard for the right to life.² Governmental forces continue to kill dozens of alleged members of armed groups during search operations, armed confrontations and skirmishes. Few official details are made available as to the identity of those killed and the circumstances surrounding the deaths are rarely given, raising concerns that some of those killed may have been extrajudicially executed. According to media reports, the total death tolls were estimated at 300 in 2006, 490 in 2007 and 340 in 2008. Despite this, the Algerian authorities,

frequently make public declarations that they have been able to achieve stability in Algeria, that they have seriously undermined the ability of armed groups to carry out attacks in Algeria and that they have the threat of terrorism under control. Nonetheless, the Algerian authorities continue to justify the continuation of the state of emergency in place since 1992 by the persistence of the threat of terrorism.³

While there is no doubt that the scale and gravity of human rights violations and abuses is markedly less today than it was during the internal conflict, serious human rights violations continue to be committed particularly in the context of counter-terrorism by the same state agencies which committed serious human rights violations during the internal conflict in a climate of nearly total impunity. Serious concerns remain on the occurrence of human rights violations, such as secret and incommunicado detention, torture and other ill-treatment and unfair trials in cases involving individuals alleged to be involved in "terrorist or subversive" acts.⁴ Despite the authorities' statements in their reply to requests for clarification by the United Nations Committee against Torture in the context of its review of Algeria's third period periodic report in May 2008 that the state of emergency does not infringe on the enjoyment of human rights⁵, the occurrence of these violations in a climate of impunity is facilitated by the state of emergency. Under its framework, the authorities adopted specific emergency laws which are now for the most part incorporated into the Penal Code and the Code of Criminal Procedure and which are not in line with Algeria's international obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (see Chapter 3.3).

Impunity for human rights violations is taking place in the context of the general public's increased disillusionment with the political system and state institutions' ability to address the population's socio-economic grievances such as unemployment, housing shortages, low wages, corruption and other problems. This disenchantment is ostensibly reflected by the low turnouts in the last presidential elections held in April 2004 and the latest parliamentary elections that took place in May 2007; the frequent attempts by Algerian youth at migration despite the perils involved and the increased waves of protests in recent years across the country, as well as other instances of social unrest such as the events that shook the province of Ghardaia in May 2008 and January 2009. The November 2008 amendments to the Constitution allowing the current president, Abdelaziz Bouteflika, in power since April 1999, to stand for a third term in the upcoming elections scheduled to take place on 9 April 2009 were met with little surprise and resistance. In order to regain the confidence of the population, the Algerian authorities need to demonstrate political will and transparency in tackling the legacy of the 1990s internal conflict as well as the ongoing human rights violations particularly in the context of counter-terrorism and in upholding the economic, social and cultural rights of all Algerians. They specifically need to realize the promises they have been making since April 1999 to the Algerian people, including victims of the violence, that effective measures will be taken to re-establish peace and guarantee remedies to all those affected by the violence. Amnesty International believes that the achievement of these stated objectives will be facilitated by a genuine and transparent consultation with all relevant stakeholders in society including victims and their families. The authorities' efforts must be grounded in international human rights law in order to put an end to impunity and restore the rule of law through a series of institutional and judicial reforms and their effective implementation.

On the international level, Algeria has emerged as an important ally to the United States and other countries in the so-called "war on terror". The United States and European countries continued to overlook Algeria's human rights record at the expense of other interests including trade, the control of migration and security. In regards to security cooperation, European countries such as France and the United Kingdom transferred to Algeria in recent years individuals they deemed as threats to their national security, despite evidence of grave human rights violations such as torture and other ill-treatment in Algeria. These unlawful returns were justified by the United Kingdom by assertions that terror suspects would benefit from amnesty measures for members of armed groups adopted by the Algerian authorities from 1999 onwards, despite concerns over the fact that these measures contravene international law, their arbitrary application and declarations by Algerian authorities that they will not benefit persons suspected of terrorism offences abroad (see Chapter 2).

Nonetheless in recent years, Algeria's human rights record has been scrutinized by a number of United Nations bodies, including the Human Rights Council in the framework of the Universal Periodic Review, the Special Rapporteur on violence against women, its causes and consequences, the Human Rights Committee and the Committee against Torture. Amnesty International has particularly welcomed the recommendations by the latter two, pronounced in November 2007 and May 2008, respectively, calling on the Algerian authorities to take concrete measures to combat impunity; to investigate all cases of grave human rights abuses including enforced disappearances, torture and rape; to bring perpetrators to justice in proceedings meeting international standards for fair trial; to provide victims and their families with effective remedy and to bring national legislation in line with international standards.

ABOUT THIS REPORT: PURPOSE AND METHODOLOGY

Regrettably, Amnesty International has been unable to visit Algeria since 2005 and was notified by diplomatic representatives of Algeria in the United Kingdom in 2006 that its criticism of Algeria's amnesty measures was not well received at the highest level of the state. The material used to compile this report is the result of the organization's continuous research work on Algeria for the past 15 years and covers information up to March 2009. The report includes information provided to the organization by human rights victims, their families and lawyers and Algerian human rights organizations.⁶ The report builds upon information previously made publicly available by the organization in reports⁷ as well as submissions on Algeria to various United Nations mechanisms, including the Human Rights Committee, which reviewed Algeria's record after a nine year gap.⁸

This report is published in the hope that the next president of Algeria will take concrete steps to end impunity, including by implementing the recommendations of the United Nations bodies outlined above – steps which Amnesty International considers essential to truly "turning the page" on the conflict that ravaged the country in the 1990s. The report highlights the organization's main concerns on the lack of investigations and public information into serious past and present human rights abuses and the impunity afforded to their alleged perpetrators. The report hopes to contribute to the work of human rights defenders, victims and their families and others inside and outside of Algeria in their relentless struggle to ensure that the suffering of victims of human rights abuses is not forgotten, that the dignity of victims is restored, and that grave human rights abuses are never repeated. In this spirit, Amnesty International offers these key recommendations to the next president of Algeria (see Chapter 6 for an extensive list of recommendations):

- Repeal Articles 45 and 46 of Ordinance No. 06-01 of 2006, which, respectively, give impunity to security forces and state armed militias for serious human rights violations and threaten with imprisonment any individual criticizing the conduct of security forces; and other provisions of Ordinance No. 06-01 of 2006 which provide immunity from prosecution for members of armed groups who committed grave human rights abuses;
- As a demonstration of the commitment to bring to close the “national tragedy”, immediately publicly disclose detailed information about the numbers and the names of members of armed groups who have benefited under various amnesty measures adopted since 1999; the results of the ad hoc Commission on disappearances established in 2003; and details on the implementation of the financial assistance schemes for families of victims of enforced disappearance and families of those whose relatives were suspected to have been killed while in ranks of terrorist groups;
- Guarantee that no evidence of unlawful killings – particularly grave sites – is destroyed;
- Clarify the fate of victims of enforced disappearances and provide their families with an effective remedy, which includes access to justice and full reparation. Ensure that financial support to families of victims of enforced disappearances is not conditional upon presentation of death certificates;
- Conduct investigations into cases of enforced disappearances and unlawful killings by an independent judiciary or through the establishment of an appropriate mechanism with investigative powers to subpoena members of security forces and other officials, regardless of rank, and members of armed groups, even those who have previously benefited from amnesty measures;
- Ensure that all arrests and detentions comply fully with procedures established by the law; introduce additional safeguards to protect detainees against torture and other ill-treatment, in particular by granting anyone who is taken into detention prompt access to lawyers and put an effective end to incommunicado detention;
- Take immediate steps to ensure that officers of the Department for Information and Security (Département du renseignement et de la sécurité, DRS), who routinely violated and continue to violate legal safeguards, no longer carry out arrests and detentions and that they will no longer be able to exercise judicial police functions; and to bring all detention centres under the oversight of civilian authorities; and
- Implement the recommendations of the Special Rapporteur on violence against women, its causes and consequences to establish an independent and impartial commission to investigate crimes of sexual violence during the internal conflict, publish its findings, and provide adequate compensation and medical, psychological and social rehabilitation for the victims.

10 A Legacy of Impunity:
A Threat to Algeria's Future

2. INSTITUTIONALIZED IMPUNITY

"...amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability."

United Nations Committee against Torture, General Comment No. 2, 24 January 2008.

"...accountability of perpetrators, including their accomplices, for grave human rights violations is one of the central elements of any effective remedy for victims of human rights violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State..."

United Nations Commission on Human Rights, Resolution 2003/72 ("Impunity"), 25 April 2003.

No section of Algerian society has been left untouched by the violence that ravaged the country in the 1990s. Its grim legacy continues to weigh heavily on the Algerian people. Rather than addressing this legacy, the Algerian authorities have endorsed and institutionalized impunity and effectively deprived victims of their right to obtain truth, justice and full and effective reparation in the name of "national peace and reconciliation". The almost complete *de facto* impunity enjoyed by members of the security forces and state-armed militia has been extended to members of armed groups, who have, since 1999, benefited from successive amnesty measures, failing to recognize the right of victims and their families to obtain an effective remedy for the abuses to which they were subjected. Despite outcries by victims and their families, impunity for security forces, state-armed militias and members of armed groups has been further entrenched under Ordinance No. 06-01 of February 2006, implementing the Charter for Peace and National Reconciliation, a framework document adopted by national referendum in September 2005.

These two sets of amnesty measures adopted in 1999-2000 and 2005-2006 not only prevented victims and their families from obtaining justice at the risk of prosecution in the case of the latter, but have also closed the door to investigations into human rights violations committed by security forces and state-armed militias, denying victims and their families the right to obtain the truth in contravention to international human rights law. As for abuses committed by armed groups, the lack of transparency and public disclosure by the authorities on the investigations they had carried out and the basis on which amnesties were granted to members of armed groups who surrendered, also effectively translated into a denial of truth to victims and their families. Even though thousands of people were tried and convicted of vaguely worded terrorism-related charges, often on the basis of confessions allegedly extracted under torture, these trials did little to uncover the truth about abuses or establish responsibility.

These amnesty measures were presented as positive initiatives by the Algerian authorities to bring to an end to what they dubbed as "black years" or the "national tragedy" – terminology that implies that the authorities had no role in escalating the violence and had no responsibility for the grave human rights abuses that took place during the 1990s. In fact, the Algerian authorities continue to argue in national and international forums that security forces and state-armed militias demonstrated great patriotism and even heroism and made

"...the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights;"

United Nations Human Rights Council, Resolution 9/11, 24 September 2008.

invaluable sacrifices in the face of terrorism that threatened to destroy the nation. Abdelaziz Bouteflika, elected President of Algeria in 1999 and 2004, instigated and promoted both sets of amnesty measures. His speech on 14 August 2005 calling of Algerian citizens to vote in favour of the Charter for Peace and National Reconciliation provides an accurate depiction of the authorities' continuous public portrayal as blameless in the internal conflict and as successful in their efforts to achieve "national peace and reconciliation":

"It is due to the sacrifices of our security forces, led by the National Popular Army, worthy inheritor of the National Liberation Army, supported by all the patriots, that Algeria was able to push aside the scourge of terrorism... we have together opened the way for Civil Harmony, that you have supported massively and of which we have gathered priceless fruit in the re-establishment of security... the project of national reconciliation, submitted to your free choice is destined to hurry the definitive return of security and peace in our country, and also destined to bring us towards national reconciliation and towards the consolidation of our national cohesion".⁹

FIRST SIGNIFICANT SET OF AMNESTY MEASURES: THE 1999 CIVIL HARMONY LAW AND PRESIDENTIAL DECREE NO. 2000-03

At the initiative of the newly elected Abdelaziz Bouteflika¹⁰, the Civil Harmony Law, or Law 99-08, was passed and entered into force on 13 July 1999, after having been approved by the government and voted by the Parliament and the Senate. Two months later, in September 1999, it was also put to a national referendum which gave it large popular support.¹¹ It exempted from prosecution members of armed groups who surrendered within six months of the law's entry into force. The law did not cover those who had committed or participated in killing, raping, causing permanent disability or placing bombs in public places. Those who had committed such crimes would, however, receive reduced sentences, which would be further reduced for those who surrendered within three months.¹²

Presidential Decree 2000-03, announced on 10 January 2000, granted amnesty and blanket immunity from judicial prosecution without any exclusion clauses to "persons who belonged to organizations which decided voluntarily and spontaneously to put an end to acts of violence" and surrendered themselves to the authorities. The authorities never publicly provided information or precise figures on those who have benefited from this amnesty, despite the fact that the Decree specified that its purpose was to benefit specific identified individuals, whose names were to appear on a list appended to the Decree, which has not been the case to date.

Between July 1999 and January 2000, it has been reported that about 5,500 members of armed groups surrendered under the two amnesty measures. Of these more than 1,000 were members of the Islamic Salvation Army (Armée islamique du salut, AIS) and the Islamic League for Preaching and Holy War (Ligue islamique pour la da'wa et le djihad, LIDD), which had declared ceasefires in October 1997 and have benefited from the presidential amnesty under Decree 2000-03. The remainder, or 4,500, were members of the Armed Islamic Group (Groupe islamique armé, GIA) and other armed groups who were considered under the framework of the Civil Harmony Law. In May 2000, Algerian government officials confirmed to Amnesty International that about 4,500 individuals surrendered under the Civil Harmony Law; of which some 350 people were facing proceedings. It has been reported that since the expiry of the terms of the surrender under the Civil Harmony Law in January 2000, other

members of armed groups have surrendered, but it remains unclear whether they still benefited from amnesty measures. Reports indicate that some individuals who surrendered after the expiry period were released immediately following or shortly after their surrender.

The lack of transparency of the process; compounded by the fact that to date the authorities have not officially published exact figures as to how many surrendered under this set of amnesty measures, what investigations took place to determine eligibility under the laws, how many individuals were prosecuted and how many were acquitted or convicted and under what charges, left victims unable to obtain truth and justice.

SECOND SIGNIFICANT SET OF AMNESTY MEASURES: THE CHARTER FOR PEACE AND NATIONAL RECONCILIATION AND ITS IMPLEMENTATION

DECREE NO. 05-278 OF 14 AUGUST 2005, ANNEX TO THE DRAFT CHARTER FOR PEACE AND NATIONAL RECONCILIATION

Decree No. 05-278, instigated and supported by Abdelaziz Bouteflika who announced it on 14 August 2005, outlined a framework to bring closure to the internal conflict. It proposed measures to exempt from prosecution current and former members of armed groups, or offer them clemency. It completely absolved security forces and state-armed militias from responsibility in committing human rights violations during the internal conflict by stating that they had acted in the interest of the country. The Charter also denied that the security forces had been responsible for thousands of disappearances, although it promised families of the disappeared compensation and recognition as "victims of the national tragedy". While the Charter was approved by voters in a referendum on 29 September 2005¹³, a number of victims and their families and human rights defenders expressed opposition to the Charter, fearing its intention to exonerate perpetrators of grave human rights abuses from responsibility. For example, in the province of Blida, near Algiers, victims of abuses by armed groups and their families gathered at the cemetery on the day the referendum was held to remember the dead and bury their ballots in protest at the provisions of the charter. Their fears that the Charter set a framework for impunity materialized as exemplified by the provisions of the Decree Implementing the Charter for Peace and National Reconciliation, passed a few months after the referendum.

ORDINANCE NO. 06-01 OF 27 FEBRUARY 2006, DECREE IMPLEMENTING THE CHARTER FOR PEACE AND NATIONAL RECONCILIATION

The Decree Implementing the Charter for Peace and National Reconciliation was adopted in February 2006 by Algeria's Cabinet, having bypassed a parliamentary debate which was not in session at the time of its adoption.¹⁴ Furthermore, the Decree was adopted without prior disclosure of the text or consultation with relevant stakeholders, such as victims of human rights abuses and their families, effectively preventing any public debate. The Decree not only broadened the terms of the previous amnesty by granting immunity from prosecution for members of armed groups who had not committed abuses of a collective nature or rape, but also provided blanket immunity from prosecution for security forces and state-armed militias, despite the fact that the Charter itself did not explicitly include such a provision. The Decree effectively denied victims the right to remedy for serious human rights violations, in contravention to Article 8 of the Universal Declaration of Human Rights and Article 2 of the ICCPR, to which Algeria is a state party. As provided by international law, victims' right to remedy include equal and effective access to justice; adequate and prompt reparation for the

harm suffered and access to relevant information concerning violations and reparation mechanisms – all severely undermined by the Decree's provisions.

The Decree exempted from prosecution any member of an armed group who surrendered between 13 January 2000 and 28 February 2006. It also extended the list of offences eligible for amnesty to include one or more individual murders and acts of torture causing permanent injury, going beyond the exclusions stipulated in the 1999 Civil Harmony Law. Under the terms of this Decree, only those who had committed, were accomplices in, or instigated “acts of collective massacres, rape, or the use of explosives in public places” were not exempt from prosecution. According to official statements, up to 300 members of armed groups surrendered before the deadline expired, but it was not known how many of them were exempted from prosecution and by what process.¹⁵ Others who have surrendered after the expiry of the deadline seem to have also benefited from some form of clemency, although official statistics or details of the process have never been made public.

The Decree also provided for the release under an amnesty of those already detained or imprisoned for alleged involvement in terrorist activities, except for collective killings, rape and bomb attacks. According to media records, quoting official statements, some 2,200 people who had been charged with or convicted of involvement in terrorist activities were freed from detention in March 2006 and in the following months, but the names of those released and the process for determining eligibility were not published.¹⁶ The speed by which the releases occurred raised concerns that full investigations were not conducted in order to ensure that the individuals benefiting from amnesty measures had not committed crimes excluded from exemption from prosecution. Others detained or imprisoned for alleged involvement in terrorist activities and who appeared to be eligible did not benefit from the laws, further reaffirming suspicions on the arbitrary nature of the application of the various amnesty measures introduced by the authorities.

ARBITRARY APPLICATION OF ORDINANCE 06-01, DECREE IMPLEMENTING THE CHARTER FOR PEACE AND NATIONAL RECONCILIATION

Mourad Ikhlef, an Algerian born in 1968 and a refugee in Canada, was arrested in 2001 in Montreal and forcibly returned to Algeria in 2003. He was arrested by the Canadian authorities on account of alleged links with Ahmed Ressam, another Algerian convicted of trying to enter the USA with explosives in December 1999 and planning to carry out a bomb attack.

The Canadian authorities proceeded to deport him in 2003 as they stated that he posed a threat to national security. Mourad Ikhlef had been sentenced to life imprisonment in his absence in Algeria in 1993 for “membership of a terrorist group operating in Algeria and abroad” by the Algiers Special Court (Cour spéciale d'Alger). On his return he was detained and faced three separate trials: in the first one he was retried for his 1993 conviction and acquitted; in a second one, he was sentenced in 2005 to seven years' imprisonment on charges of “membership of a terrorist group operating abroad aiming to harm the interests of Algeria”, apparently solely on the basis of statements he had made while under custody of the DRS. He was acquitted in the third trial in 2008. On 26 March 2006 he was released and told that all judicial proceedings against him would be stopped in the context of “national reconciliation” measures. He was re-arrested a week later. On 9 April 2006, the minister of justice, Tayeb Belaiz, was quoted as saying that Mourad Ikhlef should not have

benefited from “national reconciliation” measures because of his alleged involvement in planning attacks with explosives.

By contrast, Mohamed Bel’asel, who was arrested in 2000, was not amnestied under Ordinance 06-01 of 2006, even though he should have been eligible as he is facing charges that are not excluded from the scope of the amnesty, such as “belonging to a terrorist group”, apologizing for and financing terrorism and murder of an individual nature. He was reportedly injured upon arrest in 2000 and spent three months in a coma in the Blida military hospital. He is currently incarcerated at El Harrach prison in Algiers, awaiting trial. Among the 11 other individuals implicated in the same case and facing similar charges, at least five are reported to have benefited from the amnesty measures under Ordinance 06-01 of 2006 and at least three are reported to be “in hiding”¹⁷.

Similarly, Abdelkader Mansour, arrested in 1992 in Tlemcen and sentenced to death in July 1993 by the Special Court of Oran (Cour spéciale d’Oran) for the establishment of an armed terrorist group, attempted murder and attacks on the state; has not benefited from the amnesty under Ordinance 06-01 of 2006. In an effort to secure the release of his son, given that he has not been charged or convicted for any crimes excluded by Ordinance 06-01, Abdelkader Masour’s father wrote numerous letters to the Algerian authorities, including to the Minister of Justice and President Abdelaziz Bouteflika. He pleaded with them to free his son and wondered why he hasn’t been released when others convicted for the same charges in the same case as his son have benefited from the amnesty. He also wrote to the President of the National Advisory Commission for the Protection and Promotion of Human Rights (Commission nationale consultative de promotion et de protection des droits de l’homme, CNCPPDH) asking him to intervene. To date, Abdelkader Mansour remains incarcerated at Berrouaghia prison.

The Algerian authorities told the Human Rights Committee in their replies to the list of issues that were considered during the committee’s review of Algeria’s third periodic report in October 2007 that over 7,000 individuals benefited from “pardons and the discontinuation of criminal proceedings” in the framework of the Decree.¹⁸ However, to date, the authorities have not confirmed the details of who has surrendered and benefited from amnesty under this law, the process by which eligibility was established, the number of people who were brought to justice after having surrendered and the number of those who were acquitted or convicted and for what crimes.

This lack of information coupled with the very nature of the amnesties refusing to hold members of armed groups accountable for serious crimes such as murder, abduction and torture deny families their right to truth and to justice.

Upon reviewing Algeria’s third periodic report in 2007, the Human Rights Committee emphasized the state’s obligation under international law to base any amnesty on a full, impartial and independent investigation in stating that:

“No pardon, commutation or remission of sentence or termination of public proceedings is granted in respect of any person, whether a state official or member of an armed group, who has committed or commits serious human rights violations such as massacres, torture, rapes and disappearances, that a thorough and exhaustive inquiry is conducted by the competent judicial authorities, into other violations and that the courts are able to examine the crimes of which these persons are allegedly guilty before any decision on a pardon, commutation or remission of sentence or termination of public proceedings is taken.”¹⁹

In addition to providing blanket immunity from prosecution for members of armed groups who had committed acts of murder, abduction and torture, among others, the decree stipulated for the inadmissibility of complaints to the judicial authorities against members of the security forces, and those who acted in conjunction with them such as state-armed militias. While security forces enjoyed de-facto impunity prior to the passage of this measure, it granted them complete immunity from prosecution for human rights violations such as enforced disappearance, extrajudicial executions and torture and other forms of ill-treatment, in flagrant disregard to international human rights law.

Article 45 protects security forces from prosecution regardless of how much evidence there is of their implication in serious human rights violations:

*"No legal proceedings may be initiated against an individual or a collective entity, belonging to any component whatsoever of the defence and security forces of the Republic, for actions conducted for the purpose of protecting persons and property, safeguarding the nation or preserving the institutions of the Democratic and Popular Republic of Algeria. The competent judicial authorities are to summarily dismiss all accusations or complaints."*²⁰

This exemption from prosecution seems to be extended to state-armed militias, implicated in serious human rights violations. Article 44, when read in conjunction to Article 45, grants blanket immunity to state-armed militias:

"Citizens who, through their involvement or their determination, contributed to saving Algeria and protecting the nation's institutions, performed acts of patriotism."

These provisions not only deny victims and their families their right to justice and prevent the truth from emerging through judicial investigations and trial proceedings, but also refuse to acknowledge the responsibility of security forces and state-armed militias in serious human rights violations. Acknowledgement of the facts and acceptance of responsibility are not only integral parts of any healing and reconciliation process, but are also essential elements of effective reparation for victims as laid out in the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted and proclaimed by the General Assembly in Resolution 60/147 of 16 December 2005.²¹

In its 2007 concluding observations on Algeria, the Human Rights Committee expressed concerns that human rights violations were committed and continue to be committed in complete impunity and that Ordinance 06-01 of 2006 promotes impunity and denies victims the right to an effective remedy. It specifically recommended that the Algerian authorities:

*"Ensure that Article 45 of Ordinance No. 60-01 [sic] does not impede enjoyment of the right to an effective remedy in conformity with Article 2 of the covenant and, in particular, that Article 45 is amended in order to make it clear that the article does not apply to crimes such as torture, murder and abduction. Furthermore, the state party should take steps to inform the public that Article 45 does not apply to statements or prosecutions for torture, extrajudicial execution or disappearances..."*²²

This recommendation of the Human Rights Committee was reiterated and expanded upon by the United Nations Committee against Torture, which considered Algeria's third periodic report in May 2008. The Committee against Torture concluded that Algeria, as a state party to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment should:

*"...amend Order No. 06-01, Article 45, Chapter 2, to specify that waivers of prosecution do not apply under any circumstances to crimes such as torture, including rape, and enforced disappearance, which are crimes to which the statute of limitations does not apply. The state party should immediately take all necessary steps to guarantee that past or recent cases of torture, including cases of rape, and enforced disappearance, are investigated systematically and impartially, the perpetrators of such acts are prosecuted and punished in a manner commensurate with the gravity of the acts committed and the victims are adequately compensated."*²³

Going even further in denying victims and their families an effective remedy, the decree placed constraints on criticism of the conduct of security forces during the years of the internal conflict. It allows for the imprisonment of victims and their families, human rights defenders, journalists and anyone who documents, protests or comments critically on the conduct of the security forces during the conflict. Article 46 states:

*"Anyone who, by speech, writing, or any other act, uses or exploits the wounds of the national tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the state, or to undermine the good reputation of its agents who honourably served it, or to tarnish the image of Algeria internationally, shall be punished by three to five years in prison and a fine of 250,000 to 500,000 dinars [approximately 3,425-6,850 USD]."*²⁴

While to the best of Amnesty International's knowledge this provision has not been used to date for any prosecutions; it creates a climate of fear and repression, shuts down public debate and can be used to deter any individual from raising legitimate concerns of human rights violations. As outlined in Chapter 5, victims and their families, human rights defenders and others continue to be targeted, and even prosecuted, by the Algerian authorities for criticizing these amnesty measures and raising sensitive issues such as enforced disappearances.

In its concluding observations, on 1 November 2007, the Human Rights Committee urged the Algerian authorities to:

*"...repeal any provision of Ordinance No. 06-01 enacting the Charter for Peace and National Reconciliation, in particular Article 46, which infringes freedom of expression and the right of any person to have access, at the national and international levels, to an effective remedy against violations of human rights."*²⁵

Amnesty International recognizes that the Algerian authorities, through broad public consultation with all relevant stakeholders including victims and their families, need to devise mechanisms to adequately respond to the legacy of the "national tragedy" in a climate that fully upholds freedom of expression, assembly and association, and the right to information. However, the rights to truth, justice and reparation cannot be compromised

"Even when intended to establish conditions conducive to a peace agreement or to foster national reconciliation, amnesty and other measures of clemency shall be kept within the following bounds: (a) The perpetrators of serious crimes under international law may not benefit from such measures until such time as the state has met the obligation... [to] undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and take appropriate measures in respect of the perpetrators, particularly in the area of criminal justice, by ensuring that those responsible for serious crimes under international law are prosecuted, tried and duly punished."

United Nations Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (UN Doc.: E/CN.4/2005/102/Add.1, 8 February 2005).

through amnesties, pardons and similar measures that prevent the emergence of truth, a final judicial determination of guilt or innocence, and full reparations to victims and their families. Amnesty International stresses to the Algerian authorities that they cannot evade their international obligations by adopting national legislation which runs contrary to them, even if the Charter on Peace and National Reconciliation was adopted through a national referendum in September 2005. Respect for and protection of fundamental human rights cannot be subject to a majority vote. Amnesties, pardons and similar national measures that lead to impunity for serious human rights abuses, such as torture, rape, extrajudicial executions and other unlawful killings, and enforced disappearances, contravene international law.

3. ABUSES DURING THE 1990S INTERNAL CONFLICT AND BEYOND

Serious human rights abuses were committed by all parties during the internal conflict. Armed groups have been responsible for deliberate killing of civilians, indiscriminate attacks, torture and other ill-treatment, abduction, rape and enslavement.²⁶ Security forces and state-armed militias also committed serious human rights violations such as extrajudicial executions, enforced disappearances and torture and other forms of ill-treatment in the name of countering terrorism. While the scale of human rights violations has markedly decreased since the 1990s internal conflict, grave human rights violations such as torture and other forms of ill-treatment continue to be committed by security forces today using the same security justification as in the 1990s. The DRS – the body alleged to be responsible for grave violations of the past such as enforced disappearances – continues to be implicated in ongoing human rights violations, particularly incommunicado detention and torture and other ill-treatment of persons suspected of terrorism. Consequently, Amnesty International believes that tackling the legacy of impunity for past abuses is intrinsically linked with preventing the repetition of human rights abuses and creating a culture of respect for human rights.

Based on its research on Algeria since 1992, Amnesty International considers that the unlawful killings, enforced disappearances, torture and rape to which civilians have been subjected in Algeria during the internal conflict amounted to 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 (see box below). Article 7 of the Rome Statute, which entered into force on 1 July 2002, reflects customary international law. Algeria has signed, but not yet ratified, the Rome Statute.

THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT'S DEFINITION OF CRIMES AGAINST HUMANITY REFLECTS CUSTOMARY INTERNATIONAL LAW

Article 7

1. For the purpose of this statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;

“Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations.”

United Nations Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (UN Doc.: E/CN.4/2005/102/Add.1, Principle 2, 8 February 2005).

- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

3.1. UNLAWFUL KILLINGS

No sector of society, age group or class was untouched by the wave of killings that engulfed Algeria for over a decade. Up to 200,000 people have been killed in the context of the internal conflict, according to official statements in 2006. Some were members of armed groups and members of the security forces, but most were civilians. Even the most vulnerable members of society – the elderly, the disabled, infants and pregnant women – fell victim to the relentless violence. All parties to the internal conflict, including armed groups, security forces and state-armed militia have been responsible for killings. Since 1993 armed groups increasingly targeted civilians from all walks of life. They have killed men and women whom they regarded as supporters of the authorities, relatives of government officials, people in certain professional categories such as journalists and writers, foreigners, and people whose lifestyle they considered as “un-Islamic” or “immoral”. As the conflict progressed, this pattern of targeted killings was gradually replaced by indiscriminate attacks. Civilians were threatened by bomb and mortar attacks on markets, cafes, trains, buses and other public places. They feared travelling by road because gunmen at roadblocks killed occupants of passing vehicles. Armed groups also raped and killed women (see Chapter 4). Large-scale massacres in rural areas also took place, particularly in 1997 and early 1998, in which hundreds of people were killed in the course of a single night. Security forces and state-armed militias shot dead unarmed civilians at home in front of their families, and tortured others to death. Thousands were subjected to enforced disappearance or were summarily, arbitrarily or extrajudicially executed by security forces or state-armed militias and thousands more were unlawfully killed by members of armed groups. Security forces paraded the bodies, sometimes mutilated or disfigured, of people they said had been killed by them in armed confrontations.

Many of the killings by armed groups were particularly brutal. Two sisters, aged 11 and 13, described to Amnesty International the night their parents were killed:

“We woke up at the noise. Some armed men were hitting dad with a shotgun... They pushed him into the kitchen and the others took mum into the courtyard and tied her hands. They cut her throat.”²⁷

Serious questions remain about the failure of the state to protect the life and security of the population, especially at the time of the large-scale killings of 1997 and 1998, most of which took place around Algiers, Blida and Medea, areas of the country with the most security and military presence at the time. Survivors of massacres told Amnesty International

of instances where security forces stood by while villagers were being slaughtered by armed groups. Some massacres took place next to army barracks. A survivor of a massacre of 300 men, women and children in Sidi Rais, south of Algiers, on 28 August 1997, wondered:

*"Why did this happen? Why didn't anyone stop it? The army and the security forces were right there... They waited for the terrorists to finish their dirty task and then they let them leave."*²⁸

Another survivor of the same massacre said:

*"People banged on my door screaming. Frightened neighbours wanted to pass through my house to run to the army barracks, which is not far – about 100 metres."*²⁹

The security forces also carried out countless summary killings as an alternative to arrest or as a form of punishment. Some of the victims were killed because they were relatives of people wanted by the authorities. On 10 May 1996, for example, four armed men, one of whom was recognized as a member of the security forces, killed an 84-year-old man and four of his sons in their home. The mother told Amnesty International:

*"They took my four sons and made them lie face down and shot all four of them in the back of the head and killed them. My husband panicked and started to scream and they shot him in the face and killed him... Another of my sons was a terrorist and he was killed over a year ago, but my other children and my husband had nothing to do with it."*³⁰

CASE

Hamza Ouali, a secondary school student, was killed on 28 June 1998 in Tazmalt, a village in the wilaya (province) of Béjaïa, east of Algiers, during a demonstration. Witnesses said that the boy was shot by the president of the local municipality (Assemblée populaire communale, APC) and well-known head of a local state-armed militia in the presence of members of the local gendarmerie. Despite this, no one was ever arrested. Hamza Ouali's family filed a complaint with the authorities, but the complaint was dismissed by the investigative judge. To date, no thorough investigation has been carried out into the killing.

The Algerian authorities have shown little concern for the surviving relatives, whoever was responsible for the killing. Throughout the worst years of the conflict, up to the middle of 1999, they systematically censored information about the number of victims, giving artificially low figures. Many families saw this as the ultimate denial of their loss and grief.

Since the middle of 1999, the authorities have acknowledged the magnitude of the atrocities suffered by the Algerian population, yet still refuse to take the necessary measures to convince victims and their families that serious efforts are being made to establish the truth. Even though thousands of individuals were charged and convicted of vaguely worded terrorism-related offences, often on the basis of confessions allegedly extracted under torture, these trials did little to restore confidence in the ability of the justice system to offer an effective remedy and to allow for the emergence of truth and the establishment of responsibility. In cases where the authorities claim they have conducted investigations, the lack of transparency about the procedures and the unwillingness to provide families with

details of the investigation have done little to assuage the concerns of people about the failure to prosecute those responsible for the death of their loved ones.

Even high-profile cases remain unresolved. For example, Abdelhak Benhammouda, leader of the Algerian Workers' General Union (Union générale des travailleurs algériens, UGTA), was assassinated in January 1997 outside the UGTA headquarters in Algiers. Two weeks later, the security forces stormed a nearby apartment block and killed eight people, including two women and two small children. The authorities promptly announced that those killed were Abdelhak Benhammouda's assassins.

Three days later, on 15 February 1997, the authorities announced that they had arrested the leader of the assassins, Rachid Medjahed. He was held in secret and unacknowledged detention until 23 February 1997, when he confessed on national television to planning the assassination of Abdelhak Benhammouda and confirmed that those killed by the security forces on 12 February 1997 had been the assassins. Rachid Medjahed was never brought to trial because he died while in secret detention at the hands of the security forces. His parents, who were allowed to see the body, noted several bullet wounds in his body, including in the abdomen, back and neck. Few believe that he or those killed in the apartment block were the assassins of Abdelhak Benhammouda.

MATOUB LOUNES' ASSASSINATION

In June 1998 the popular Berber singer Matoub Lounes was shot dead and his wife and two sisters-in-law were injured when their car was ambushed on 25 June 1998 near his home village of Taourirt-Moussa, in Kabylia.

The singer, who had spent most of the previous few years in France, was critical of both the Islamists and the government and was a fervent advocate of Amazigh cultural rights. Despite the attention his killing attracted, the authorities still failed to fulfil the most basic requirements of an investigation, such as forensic examinations, protecting evidence and interviewing witnesses. While the authorities claim that he was killed by members of armed groups and charged two individuals with his murder and with involvement in terrorism-related activities (see Chapter 3.3), his assassination sparked anti-government protests in Kabylia where demonstrators put the blame on the government. The singer's family continues to call for a full, impartial and independent investigation into his murder.

For less prominent citizens, the lack of transparency in the administration of justice is even more striking. Thousands of families have waited months or years before being told by the authorities that their relative had been killed. Some have been given a death certificate by the judicial police, but have not received the body or been informed of the place of burial or the exact date or circumstances in which their relative was killed or how s/he was identified.

Thousands of other families suffered the trauma of knowing that their relative had been killed by an armed group, either individually or in a massacre. In some cases, they knew the identity of the killers. Virtually none of them, however, has been able to obtain any information about investigations that might have been conducted into the deaths.

In some cases, the authorities have announced that those responsible for the killing have been shot dead by the security forces or state-armed militias. They have failed, however, to

give the family any information about how they identified the killers. Some families were shown a photograph of the supposed killer, again without any further information.

After the conflict subsided, many mass graves were uncovered, most containing scores of bodies. According to information made public by various authorities, the victims had been abducted and assassinated by armed groups. However, in most cases the local authorities said it was impossible to identify the majority or all of the bodies found. This prompted families of victims and associations representing them to question how the authorities had reached the conclusion that the victims were killed by armed groups. According to other sources, including people who participated in exhumations, the remains of members of armed groups were also found in some mass graves.³¹

In some cases, contradictory information was given about the number of bodies found in the graves. In the case of the mass grave in the village of Haouch Hafidh, for instance, the local judicial authorities told the Amnesty International delegation which visited the site in May 2000 that 52 bodies had been uncovered and that one had been identified by the family of the victim. According to Algeria's official human rights body, at the time, the National Observatory for Human Rights (l'Observatoire national des droits de l'Homme, ONDH), 64 bodies were found.

In other cases, questions were raised about the authorities' deliberate attempts to conceal evidence of massacres or other unlawful killings. For example, in January 2004 human remains were exhumed from a mass grave in the western province of Relizane in an apparent attempt to conceal or destroy evidence of human rights abuses. Between 1993 and 1998 over 200 civilians disappeared in the region at the hands of a state-armed militia. The site had been discovered in November 2003 by Mohamed Smain, a local human rights activist who also collected evidence indicating that it contained the remains of some of the victims of enforced disappearance (refer to Chapter 5). The authorities failed to prevent the apparent destruction of evidence and no investigation into the incident was known to have been opened to date. In their conduct, the Algerian authorities have failed to respect internationally established standards on the exhumation and identification of human remains, including the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions of 1991 and the United Nations Model Protocol for Disinterment and Analysis of Skeletal Remains. According to Principle 12 of the latter: "...if skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques". If respected, such procedures would play an important role in establishing the truth and in contributing to full investigations into human rights violations and abuses.

In its concluding observations of November 2007, the Human Rights Committee called on the Algerian authorities to conduct investigations into serious human rights violations and to ensure the accountability of perpetrators, whether members of armed groups or state officials by taking:

"...all appropriate measures to guarantee that serious violations of human rights brought to its attention, such as massacres, torture, rapes and disappearances, are investigated and that the perpetrators of such violations, including State officials and members of armed groups, are prosecuted and held to account for their acts."

FINANCIAL MEASURES FOR AFFECTED FAMILIES

In addition to their obligation to guarantee victims and their families the right to truth and justice, the authorities are required to provide victims with reparation from the harm suffered. In February 1999, Executive Decree No. 99-47 of 13 February 1999, was promulgated to set up compensation entitlements for victims of terrorism; having defined victims as persons who have died³² or who have suffered bodily harm or material damage following acts of terrorism. The authorities have allocated funds to compensate families of people assassinated by armed groups. Funds have been distributed, although some families have complained that they did not receive the money which they had been promised.

It took seven more years to address the financial needs of families of members of armed groups who have presumably been killed by security forces or state-armed militias in the context of the internal conflict. Presidential Decree 06-94 promulgated in the context of national reconciliation on 28 February 2006, introduced financial compensation measures for families of “persons implicated in terrorism” – that is, families of presumed members of armed groups who have been killed, presumably by state agents, and who have no financial resources. These families can claim financial assistance on presentation of a certificate by the judicial police, usually the gendarmerie, confirming that their relatives died while in the “ranks of terrorist groups”³³ and of a certificate by the *wali* (governor) of the province where they reside confirming that they have little or no resources. Amnesty International is concerned that certificates to confirm the death of an armed group member may be established without a proper investigation into the circumstances of the killing, which could have been an unlawful killing or could have amounted to an extrajudicial execution. The organization's concerns became even more salient when evidence gathered from families of the disappeared and organizations representing them emerged that a number of families of individuals disappeared following arrests by state agents or state-armed militias received certificates from the judicial police confirming that their relatives died while in the “ranks of terrorist groups”. These official certificates appear to consolidate the Algerian authorities' argument that victims of enforced disappearances in fact have gone missing to join armed groups (see Chapter 3.2). This demonstrates that no full, impartial and independent investigations were conducted into the fates of the missing individuals.

Even according to Presidential Decree 06-93 of 2006, adopted in the context of peace and national reconciliation on 28 February 2006, victims of the “national tragedy” do not need to prove financial need, unlike families of “persons implicated in terrorism” in order to claim financial compensation. Thereby, the classification of victims of enforced disappearance as deceased in “the ranks of armed groups” raises concerns that a number of families of victims of enforced disappearance considered to have financial resources are excluded from financial compensation in contravention to international law that every victim has a right to reparation.

In its replies to the Human Rights Committee, the Algerian authorities indicated that 6, 233 applications for compensation were approved out of a total of 11, 547 at the time of writing in October 2007, representing a financial commitment of over 2.8 billion dinars (about 38, 373, 614 USD). Different figures were reported in Algerian media, attributed to official statements by the Ministry of Social Solidarity in December 2008, that 7,103 compensation claims made by socially-deprived families who had a relative “implicated in terrorism” have been settled for a total of 5.4 billion dinars (about 74,038,807 USD).³⁴ A number of official

statements, including those made by Farouk Ksentini, head of the CNCPPDH³⁵ have also mentioned that the list of those “implicated in terrorism” reaches 17,000.³⁶ However, no official statistics or details have been made public to date.

While financial compensation is an integral component of reparation by providing victims with economically-assessable damages, in most cases compensation by itself will not provide full and effective reparations to victims. International standards on the right to remedy and reparation for victims provide that reparations should also include, as appropriate, restitution, rehabilitation, satisfaction and guarantees that such violations will not be repeated in the future. In identifying which forms of reparations to award, states should ensure to take into account the views and needs of the victims and ensure that measures are proportional to the gravity of the human rights violation. Compensation or other forms of reparation should not be conditional upon the financial situation of the victim. This process of determining reparation awards should be conducted by independent and impartial courts or administrative bodies whose decisions can be challenged.

There is an urgent need for the Algerian authorities to ensure that all victims of the conflict receive full and effective reparations. Where victims of human rights abuses by non-state actors are unable to obtain reparations from the perpetrators (including because they have been provided amnesty by the state), the state should provide reparations based on its failure to protect the fundamental rights of its citizens and international standards which provide that the state should provide reparations to victims of crime and abuse of power³⁷ and terrorism.³⁸ Instead, the Algerian authorities only provided financial assistance, and even that limited scheme excluded families who are deemed to have sufficient resources.

Although there are far fewer killings today than during the height of the internal conflict, killings continue to occur in Algeria (see Introduction). Some killings are committed by armed groups, particularly the al-Qa’ida Organization in the Islamic Maghreb (reported to be the most active armed group in Algeria today), during attacks targeting the military but also affecting civilians. Suspected active members of armed groups continue to be killed during operations by the security forces, generally in areas of reported armed group activities. There is little information and invariably no investigation into the circumstances in which armed groups members are killed. The rarity of declared arrests of armed group members during such security operations suggests that insufficient efforts were made to arrest and bring to justice members of armed groups and that extrajudicial executions may be committed by the security forces. Moreover, residents and bystanders are reported to have also been killed during such security operations, and there are concerns that some of these killings were unlawful. The lack of thorough investigations into these killings alongside the amnesty measures outlined in Chapter 2, further entrenches a culture of impunity in Algeria.

3.2. ENFORCED DISAPPEARANCES

UNITED NATIONS INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS AGAINST ENFORCED DISAPPEARANCE

Article 2

"For the purposes of this Convention (United Nations International Convention for the Protection of all Persons against Enforced Disappearance), "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

Article 1.2

"No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."

Article 24.2

"Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person."

Article 6

" 1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(c) Subparagraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance."

The enforced disappearance³⁹ of thousands of individuals continues to be one of the grimmest unresolved legacies of the 1990s internal conflict in Algeria. Thousands of Algerians, mostly men, disappeared without a trace after being taken away by the security

forces or state-armed militias mostly between 1993 and 1998, with fewer cases continuing to be reported in subsequent years. Exact figures of victims of enforced disappearance are difficult to establish given the complete absence of official lists or registrars in the public domain; but even according to the head of the CNCPPDH 7,000 people have disappeared since 1992. Organizations representing families of victims of enforced disappearance and other human rights organizations believe the real figures to be higher than 8,000 cases.⁴⁰ Despite the scale of the tragedy, the Algerian authorities continue to absolve themselves of responsibility and obstruct efforts by families of victims of enforced disappearance to find out what happened to their relatives. To Amnesty International's knowledge, no cases of enforced disappearance has been clarified by the authorities in a manner deemed satisfactory by families of victims, nor has one official been prosecuted for enforced disappearance, despite families' relentless efforts to uncover the truth about the fate of their loved ones and obtain justice. This situation leaves families in continual agony, unable to obtain closure and mourn for their loved ones.

Many of those who disappeared were arrested by the police, the gendarmerie, members of the DRS,⁴¹ as well as members of "self defence groups" in front of their families, neighbours or colleagues. Despite the presence of eyewitnesses, the authorities have persisted in denying any knowledge of the arrest. Many are thought to have been arrested because they were suspected of supporting the banned FIS. For others, there is no apparent reason as to why they were targeted. No genuine effort has been taken to establish the fate and whereabouts of the disappeared, suggesting a lack of political will – particularly since the authorities continue to argue that in most cases the victims were not taken away by members of the security forces or state-armed militias, despite evidence to the contrary.

CASE

Ahmed Abdelkader⁴² has not been seen since the night of 23 November 1993 when, according to his family, a group of drunk members of the security forces took him from his home in Algiers still wearing his pyjamas. The family say that he had been arrested two days earlier by police, detained for a day and told to shave off his beard if he wanted his identity card back. The beard was seen as symbolizing sympathy for the banned FIS. He was twenty years old at the time of his disappearance.

His family contacted the police, the judicial authorities in Algiers and the ONDH. At no point did they uncover any information. In 2007 the family was given a death certificate for Ahmed Abdelkader without any details of where he had been taken after his arrest, the circumstances of his death, or his place of burial. In 1996, the Algerian authorities responded to a communication from the Working Group on Enforced and Involuntary Disappearances (WGEID) by stating that Ahmed Abdelkader was not known to the authorities, nor that he was ever wanted by the authorities for involvement in terrorism-related activities. The family expressed little hope of ever obtaining truth and justice.

For the first few years of the conflict, officials simply denied that people had disappeared. In 1998 the authorities finally acknowledged the problem and took measures to register cases through offices in the country's 48 *wilayas* (provinces) to receive complaints about disappearances.⁴³ From the onset, many families of victims of enforced disappeared were doubtful about this initiative, because it was led by the Ministry of Interior, who supervised some law enforcement organs they suspected were responsible for the enforced

disappearance of their loved ones. The powers of investigation of these offices were never made public.

In early 2000 the authorities claimed that many of the disappeared had reappeared as members of armed groups who had surrendered to the authorities in the context of amnesty measures. The claim appeared to be an attempt to bolster their argument that many of the disappeared had in fact gone missing to join armed groups. To Amnesty International's knowledge, only individual and rare cases of reappearances took place since the end of the conflict.

In 2001, then Minister of Interior Yazid Zerhouni told parliament that in the previous three years, these offices within the *wilayas* had reviewed some 4,880 cases of persons declared missing.⁴⁴ He said that among these cases there were persons sought by the authorities on account of crimes, persons killed in clashes with the security forces and persons killed by armed groups, persons currently serving prison sentences and persons released. This categorization seemed to further boost the argument that the disappeared were in fact individuals who were members or sought to join armed groups. No list containing the names of the 4,880 cases or information uncovered about them was ever published, and to the best of Amnesty International's knowledge families were not contacted with concrete detailed information about the fate of their disappeared relatives.

In 2001, a new human rights body, the National Advisory Commission for the Promotion and Protection of Human Rights (Commission nationale consultative de promotion et de protection des droits de l'homme, CNCPPDH), was established by the authorities and publicly called for a commission of inquiry to investigate enforced disappearances. Through Presidential Decree 03-299 of 11 September 2003, President Abdelaziz Bouteflika established an *ad hoc* Commission to serve as an interface between the Algerian authorities and the thousands of families of those who have "disappeared". For 18 months, the *ad hoc* Commission collected information, but lacked the necessary investigative powers. Indeed, it had no mandate to clarify the fate and whereabouts of those who had disappeared or to identify those responsible. The Commission also had no authority to review official archives or subpoena members of security forces or other officials.

The *ad hoc* Commission, headed by Farouk Ksentini, also head of the CNCPPDH, told Amnesty International in 2005 that it had concluded that 6,146 people disappeared between 1992 and 1998. It based this on complaints made by relatives. It had not addressed the issue of justice for perpetrators of enforced disappearances, and its key recommendation revolved around the financial compensation to the families. The Commission's report, which was to be presented to President Abdelaziz Bouteflika in 2005, was never made public, further denying families of the right to truth.

To Amnesty International's knowledge, the overwhelming majority of families of victims of enforced disappearances in the 1990s have not been given verifiable information about the fate or whereabouts of their relatives – a grim situation that leaves thousands of devastated families suffering what has been internationally recognized as an ongoing abuse of their fundamental human rights.

CASE

Mohamed Reza Azza, a high school student from Batna in south-east Algeria, had supported the FIS before it was banned in 1992. It appears that he and other youths were arrested by state-armed militia in Cité Bouzourane, Batna province, in April 1995. One of the youths was allegedly shot dead by the security forces.

Mohamed Reza Azza's family has never received any official information on his whereabouts. They heard rumours that he was held at military barracks near Batna and that he was tortured following arrest. They also heard that he was transferred to a base of the Military Security (Sécurité Militaire – also known as DRS) in Constantine during the month of Ramadan 1998/1999.

Other members of his family have been arrested, tortured or killed – presumably because they were linked to the FIS. His brother Azzedine was killed by the security forces in 1995. His brother Kamel disappeared, and another brother, Ahmed, was arrested in 1995, interrogated under torture about his brothers' activities, and released nine days later.

FAMILIES STRUGGLE ON

"The Committee reminds the state party [Algeria] that the enforced or involuntary disappearance of persons may constitute inhuman treatment for the members of families of missing persons. The State Party [Algeria] should also guarantee the right of such families to seek redress or be fairly and adequately compensated, including by giving them the necessary psychological, social and financial support so that they may make the fullest possible readjustment."

United Nations Committee against Torture, Concluding Observation, 26 May 2008.

The families of victims of enforced disappearance have refused to give up their search for truth and justice. Many have repeatedly contacted the police, gendarmerie and other security forces to try and find out why their relatives were detained and where they were taken. Many have presented their case to the judicial authorities, demanding investigations. Many have also forwarded their cases to the human rights bodies established by the authorities: ONDH, and later to the CNCPPDH. Some have filed complaints about arbitrary detention with public prosecutors. Others have submitted the cases of their relatives to various United Nations bodies, including the Human Rights Committee and the Working Group on Involuntary and Enforced Disappearances (WGIED). In fact, the WGIED has reportedly registered over a thousand cases of enforced disappearances in Algeria between 1992 and 1998; yet it has been unable to visit Algeria, despite pending requests renewed in the past three years.

The domestic justice system has failed these families. Distressed relatives either received no response from the authorities; their complaints were closed supposedly because of lack of information or evidence or they were told that their relatives were wanted in connection to terrorism-related offences. Families say that investigators rarely questioned people who witnessed the arrest of their loved ones, and seemed to dismiss information that could have helped trace the missing person.

Some families were told by judicial authorities or the human rights bodies established by the authorities that their relative had been killed while in the ranks of armed groups, or had escaped from custody. None of them, however, were told how these conclusions were

substantiated or how their arrested relative in custody of state agents had managed to join an armed group or escape from custody. Sometimes, families received contradictory information from different authorities (see Case of Salah Saker in Introduction).

As described in Chapter 2, Ordinance 06-01 of 2006 closed the possibility for families to seek truth and justice through courts by rendering complaints against the conduct of security forces inadmissible and by preventing investigations from taking place. Ordinance 06-01 of 2006 along with Presidential Decree 06-93 of 2006 which sets out the details for the compensation for victims of the “national tragedy”, did, however, recognize the disappeared and their families as victims of the “national tragedy”, offering a route to compensation without acknowledging state responsibility for disappearances or the rights of the relatives to full reparation. Ordinance 06-01 of 2006 made financial compensation conditional upon presenting a “judgement declaring death” (i.e. death certificate) which itself could only be obtained through receiving a certificate from the judicial police confirming that their relative is missing, established after “searches for their whereabouts were inconclusive”.⁴⁵ A number of death certificates examined by Amnesty International state that those declared dead were individuals missing in the context of the “national tragedy” and refer to Presidential Decree 06-93 of 2006. In other cases of individuals subjected to enforced disappearances by state agents or state-armed militias, the families received death certificates from the gendarmerie attesting that their relatives were killed while in the “ranks of terrorist groups” and referred to Presidential Decree 06-94 of 2006, suggesting that no proper investigations took place into the circumstances in which the person has gone missing (see Chapter 3.1).⁴⁶

Ordinance 06-01 of 2006 also imposes a time limit of one year from its date of adoption for families to obtain a certificate attesting that their relative is missing, followed by a six-month limit to lodge a claim for compensation. There are no provisions regarding cases of relatives who would not have obtained, for one reason or other, a certificate that their relative is missing within the one-year time limit, which means that these relatives will no longer be legally entitled to compensation. Although it seems that in practice relatives are still able to obtain the required documentation even after the expiration of the time limit as the authorities appear to be eager to encourage families to accept Ordinance 06-01 of 2006 and the official process of dealing with enforced disappearances during the internal conflict.

A number of families refused to claim compensation, rejecting the notion of having to seek a death certificate. Some refused accepting a death certificate on principle, without the establishment of truth and without proper investigations into the case of their disappeared relative. Others also feared that accepting compensation would close the door on proper investigations into the fate of their loved ones and to potentially bringing perpetrators to justice. The obligation to declare the death of a disappeared relative in order to receive financial compensation was widely criticized by organizations of the families of the disappeared and United Nations' human rights mechanisms. For example, in 2007, the Human Rights Committee expressed concerns about this requirement, urging the Algerian authorities to abolish it and to base compensation and other forms of redress on the gravity of the violation committed and the harm suffered. In 2008, the Committee against Torture pronounced that this requirement may constitute a form of inhuman or degrading treatment and urged the authorities to:

“... abolish the rule obliging families to certify the death of the missing person in order to

receive compensation. The Committee reminds the State party that the enforced or involuntary disappearance of persons may constitute inhuman treatment for the members of families of missing persons. The State party should also guarantee the right of such families to seek redress or be fairly and adequately compensated, including by giving them the necessary psychological, social and financial support so that they may make the fullest possible readjustment. The Committee hopes that the State party will communicate to it as soon as possible the criteria for compensating the families of missing persons."

According to information Amnesty International gathered from families of the disappeared and associations representing them, far from implementing these recommendations, authorities are reported to apply pressure on families to accept financial compensation. Some families even received summons from the office of the *wali* (governor) to initiate proceedings to collect compensation without due delay or verbal notification by members of the gendarmerie who visited homes of families of the disappeared.⁴⁷

CASE

The family of Amine Amrouche, who disappeared on 30 January 1997 when he was 22 years old, were among those who refused to apply for the compensation measures proposed under Ordinance 06-01 of 2006 on the grounds that they first wanted the truth. According to his mother, Nassera Dutour, and his grandmother, Fatima Yous, the family has been pressured to accept compensation and received two visits by members of the local gendarmerie of Algiers and other officials to the family home of his grandmother urging them to accept the financial compensation. The latest incident occurred on 15 March 2008 by two men in civilian dress believed to be members of the DRS, who urged the family to initiate the compensation procedure.

No one saw Amine Amrouche being arrested, but security forces were seen rounding up youths in Baraki, where he lived, the afternoon he disappeared. His relatives, particularly his mother and grandmother, have spared no effort to find him. They went to the gendarmerie, the police, hospitals and morgues. They sent letters to the President, the Minister of Justice and the ONDH. They lodged complaints with the prosecutor in El Harrach. None of their efforts were rewarded.

In 1998 the family registered Amine Amrouche's case at the office of the *wilaya* (province) and subsequently talked to the *ad hoc* mechanism looking into disappearances.

Other families of the victims of enforced disappearance accepted financial compensation in order to alleviate their difficult socio-economic conditions, frequently caused by the loss of the bread-winner.

CASE

The mother of Mohamed Rezak⁴⁸, whose whereabouts have been unknown since he was taken by a group of men in uniform on a major highway in August 1994, sought a death certificate in 2006. She needed the certificate in order to be able to access his bank account and land holding. She was also experiencing financial hardship, and accepted the compensation of about 2188 dinars (30 USD), per month. The family feels powerless and frustrated, and believes that the Algerian authorities are not doing enough to alleviate the plight of the families of the disappeared.

The United Nations Working Group on Enforced or Involuntary Disappearances (WGEID),

which received the case in 1997, still considers it not to be clarified.

According to reports by the Algerian media, compensation started to be distributed in 2007. However, the authorities failed to provide detailed public information regarding the number of those who had received it. In May 2008, a senior official stated that 5,500 families of victims of enforced disappearance had accepted compensation and that 600 cases were pending, apparently because families refused to accept the compensation, insisting that they be told the truth about the fate of their missing relatives.⁴⁹ Later that year, the head of the CCNPPDH said that 96-97 per cent of the families of the disappeared had accepted compensation, but gave no details.⁵⁰ During a meeting organised by the Collective of Families of the Disappeared in Algeria (Collectif des familles de disparu(e)s en Algérie, CFDA) and the World Organization against Torture (Organization mondiale contre la torture, OMCT) in collaboration with Djazairouna and Soumoud⁵¹ held in Geneva on 5-6 March 2009 on enforced disappearances in Algeria, Abdelrahman Ayadi, member of the CCNPPDH, declared that 8,023 cases of disappearances have been “resolved” while 934 cases were rejected and that the total amount of compensation distributed reached over 37 million dinars (about 507,242 USD). Regrettably, when Amnesty International delegates attending the conference sought a meeting with the representative of the CCNPPDH to discuss human rights issues in Algeria and clarify the discrepancies in figures presented at the meeting with early official figures indicated above, their request was denied and they were told by Abdelrahman Ayadi that he had nothing more to add to his presentation at the conference.

Presidential Decree 06-93 of 28 February 2006 relating to the “compensation” of victims of the “national tragedy” stipulated that beneficiaries can receive compensation in various forms, including a service pension, a monthly pension or different lump sums depending on the disappeared person’s profession, age at the time of disappearance and civil status. For example, Article 43 provides that the amount of compensation is 120 times 16,000 dinars (about 26,300 USD in total), to be divided between family members. The amount lessens to 120 times 10,000 dinars (about 16,455 USD in total) if the disappeared was a minor or was over 60 and did not have retirement plans. Moreover, it details the proportion of the compensation that goes to each relative of the disappeared, but seems to exclude children over 19 and over 21 if they study, presumably on considerations that they are financially autonomous. Such exclusions run contrary to the right of every person to an effective remedy and should be lifted by the Algerian authorities. Decree 06-93 suggests that proportionality to the gravity of the violation and the harm suffered are not considered as criteria for compensation. Neither does it offer other forms of reparation, such as measures of psychological help or rehabilitation for families of the disappeared. The Decree also does not set out any conditions enabling families to challenge the compensation decision. From testimonies gathered by Amnesty International from families of the disappeared and associations representing them, it seems that in many cases families do not even receive a written decision on compensation as stipulated in Decree 06-93 of 2006, and directly received payments into bank accounts which they are required to open. The failure of the authorities to clearly communicate criteria for compensation to families and explain the basis upon which the decision on compensation has been made creates a climate of confusion and the perception by some families that the process is not equitable. Other victims who have suffered the disappearance of more than one family member have also complained that they have only been compensated for a single act of disappearance. This is in contravention to international standards that compensation should be proportional to the gravity of violations and harm suffered and that every person is entitled to reparation.

Amnesty International believes that financial compensation is merely one sub-element of redress. In line with Algeria's international obligations, victims of enforced disappearances and their families should have access to effective remedy which includes access to justice and full reparation for the harm suffered. Reparation should be proportional to the gravity of the violation suffered and may include restitution to the state before the violation took place in as much as possible; compensation; rehabilitation; satisfaction (such as a public acknowledgement of the harm and a public apology) and guarantees of non-repetition through, for example, judicial reform and strategies to effectively combat impunity.

In 2007, the Human Rights Committee expressed its concern that the authorities have not investigated serious human rights violations that took place in Algeria in the 1990s, including enforced disappearances, stated its regret of the near absence of public details on the work and results obtained by the *ad hoc* Commission on disappearances and called on the Algerian authorities to publish the final report of the *ad hoc* Commission. The Algerian authorities replied to this concern by stating that only the President of the Republic can take this decision as he mandated the Commission.⁵² The Human Rights Committee then urged the Algerian authorities to investigate all cases of enforced disappearance and make the results of investigations public, provide families with effective redress and bring perpetrators to justice. The committee stipulated in Point 12 of its concluding observations that:

"The State party should:

- (a) Undertake to ensure that disappeared persons and/or their families have access to an effective remedy and that proper follow-up is assured, while ensuring respect for the right to compensation and the fullest possible redress;*
- (b) Undertake, in all circumstances, to clarify and resolve each case of disappearance, in particular the circumstances of the case and the identity of the victims. The State party should furthermore ensure that any person held in secret detention is placed under the protection of the law, and that the right of these persons to be brought before a judge in the shortest possible time is duly respected. In the case of deceased persons, the State party should take all necessary measures to clarify the place and cause of death, together with the place of burial, and undertake to return the bodies of deceased persons to their families;*
- (c) Undertake to convey all information concerning investigations and their outcome to the families of disappeared persons, in particular by publishing the final report of the *ad hoc* National Commission on Disappearances;*
- (d) Conduct a comprehensive and independent investigation into all allegations of disappearance, in order to identify, prosecute and punish the culprits."*

Regrettably, the Algerian authorities failed to comply to their obligation as a state party to the ICCPR to provide the Committee with information by November 2008 regarding steps taken to implement the recommendation above.

In its review of Algeria's third period report in May 2008, the Committee against Torture reiterated the recommendations of the Human Rights Committee, calling on the Algerian authorities to investigate all cases of enforced disappearance even if no individual complaints have been made by families; to make the results of the investigations public, including by publishing a list of all registered cases of enforced disappearance; to identify and bring perpetrators to justice and to provide families of victims with full redress. Amnesty

Algeria signed the new International Convention for the Protection of All Persons from Enforced Disappearance on 8 February 2007 – the day before it banned a conference organized in Algiers by organizations of the families of the disappeared (see Chapter 5).

Algeria has yet to ratify the convention.

International believes that these steps are necessary to restore the dignity of victims and their families; to allow Algerian society to truly enter an era of “peace and national reconciliation” and to prevent further human rights abuses from taking place. Addressing the legacy of enforced disappearances during the internal conflict in accordance to international human rights law is also key in ending the ongoing violations including enforced disappearances committed in the context of counter-terrorism. For as long as a climate of impunity prevails, no measures to ensure non-repetition are taken and the same bodies such as the DRS implicated in both violations of the past and present continue to effectively operate with immunity from prosecution, human rights violations will continue to occur. Even through enforced disappearances are no longer widespread as during the years of the internal conflict, Amnesty International continues to receive reports of individuals suspected of terrorism-related activities being deprived of liberty by security forces, who refuse to acknowledge their arrests and to reveal their whereabouts, placing them outside the protection of the law for weeks and even months (see Chapter 6).

3.3. TORTURE AND OTHER ILL-TREATMENT

CASE

Malik Medjnoun was arrested on 28 September 1999 when he was 25 years old and remains in the civil prison in the north-central city of Tizi Ouzou in Great Kabylia awaiting trial. He is accused of killing Matoub Lounes (see Chapter 3) – a crime he vehemently denies. He was implicated in the crime following a “confession” by Abdelhakim Chenoui accused of the same crime. Chenoui later retracted his “confession”, alleging that it had been made under duress and threats of further torture.

For seven months after Malik Medjnoun’s arrest, he was held in unacknowledged and secret detention by the DRS. He told his lawyer that after he arrived in the DRS-run Antar barracks in the Ben-Aknoun region of Algiers, he was continuously tortured. Torture methods included beatings with the handle of a pickaxe all over his body, electric shocks and the *chiffon* method. After that, he said, he was routinely beaten by guards and given insufficient food. He ended up in hospital.

Abdelhakim Chenoui, a former member of an armed group, surrendered himself to the public prosecutor of Tizi Ouzou on 17 September 1999 under the framework of the Civil Harmony Law. He was arrested later and then “disappeared” for six months. He was held secretly at the Centre of Chateauneuf in Algiers, run by the DRS, where he is alleged to have been tortured. Like Medjnoun, he ended up in hospital. He is currently in the civil prison of Tizi Ouzou awaiting trial.

In 2004, Ali Medjnoun lodged a complaint before the United Nations Human Rights Committee detailing the abuses suffered by his son. In July 2006, the United Nations Human Rights Committee ruled that Malik Medjnoun should be tried immediately or released, that his allegations of torture and other human rights violations should be investigated and that individual perpetrators should be brought to justice. The committee also recommended that Malik Medjnoun should be compensated for the human rights violations he endured. The government is not known to have taken any action in response to this decision and Malik Medjnoun remains detained without trial.

In its response to the list of issues raised by the Committee against Torture in the context of its third periodic review of Algeria’s report in May 2008, the Algerian authorities stated that

“the maximum length of pretrial detention is determined by law according to the nature of the case. Pretrial detention may last for eight days, 20 days, or four months, subject to renewal. The average length of detention before being tried for an offence varies between one and three months, except in complex cases. In criminal cases, it varies between six and eight months, except in *complex cases* (italics added)”⁵³ The political nature of the assassination of Matoub Lounes (see Chapter 3) seems to render Medjnoun and Chenoui's case complex in the eyes of the Algerian authorities, leading to over nine years in pretrial detention.

Throughout the internal conflict of the 1990s, thousands of cases of torture and other ill-treatment by the police, gendarmerie and security forces particularly the DRS, were committed in the name of counter-terrorism. Yet to the best of Amnesty International's knowledge, very few investigations have been conducted, let alone ended up with a prosecution of perpetrators. While reports of torture by police and gendarmerie have significantly decreased in recent years, torture and other ill-treatment continue to be used regularly by the DRS, a branch of the Algerian intelligence services which is involved in detaining and interrogating persons they seem to suspect of links with terrorism. Suspects detained by the DRS continue systematically to be held in secret or unacknowledged detention for weeks or even months and denied any contact with their families and lawyers, often for prolonged periods. It is when detainees are held incommunicado that they are most at risk of torture and other ill-treatment.

The most frequently reported methods of torture used by the DRS include beatings, electric shocks, and the *chiffon* method, 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. Detainees have also reported that they had been stripped of their clothes and humiliated, beaten on the soles of their feet (a method known as *falaka*), or suspended by the arms from the ceiling for long periods until they give information. In some cases, detainees said that they were threatened that female relatives would be arrested and raped.

According to Algerian law, DRS personnel can open police investigations, arrest suspects, and detain them for questioning for a fixed period of time, known as *garde à vue*,⁵⁴ (pre-arrest detention) until they are either charged or released. The period of *garde à vue* can reach to up to 12 days in cases linked to alleged terrorist activity. During this period, detainees are not allowed access to their lawyers; albeit other safeguards against torture, such as their right to communicate immediately with their families 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* are prescribed by the law (Article 51 *bis* 1 of the Algerian Code of Criminal Procedure). These limited safeguards are usually ignored in practice by the security forces, routinely generating a pattern of secret and unacknowledged detention, during and beyond the 12-day period of *garde à vue*. In some cases prolonged incommunicado detention can last for months.

CASE

On 11 September 2007, about eight men in plainclothes arrested Kamal Akkache, who was 36 years old at the time, outside a mosque in the municipality of El-Mouradia, in Algiers. As he reportedly resisted them, they pointed a gun to his head. Passers-by reportedly tried to intervene in the struggle, but the men identified themselves as agents from the DRS. They forced him into his own car and drove him to an unknown location. Market worker Kamal Akkache suffers from epilepsy and it is not known if he is given the medication he needs.

On the morning of 16 September, six men in plainclothes who identified themselves as Military Security agents searched Kamal Akkache's home in the presence of his father Mourad. Apparently on the pretext of fetching personal belongings to take to Kamal Akkache, they took his computer, video camera, religious books and a DVD. They also took the medication he takes on daily basis for epilepsy. The men refused to reveal his whereabouts or the reason for his arrest.

Since the arrest of Kamal Akkache, his father has reported his abduction to the police, who have passed the case on to the public prosecutor. The case has also been reported to the CNCPPDH. On 16 November 2007, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment urged the Algerian authorities to reveal the whereabouts of Kamal

The family did not have any information about Kamal's whereabouts, until his father heard from another detainee's family around the end of April 2008 that Kamal was held in the Serkadji prison of Algiers. He remains there to date, awaiting trial. He is now allowed visits from his family. Sadly, his father passed away in early 2009 not knowing the fate awaiting his son.

In 1992, Kamal Akkache was sentenced to six years in prison, after he was convicted of belonging to a "subversive" group. Kamal Akkache was released in 1998 on completion of his sentence.

DRS personnel operate in a virtually complete climate of impunity. Unlike members of the police and gendarmerie, which operate under the authority of the public prosecutor, DRS personnel appear to function, in effect, without oversight by the any civilian authorities. No civilian institutions are known to visit DRS barracks, which are used as places of *garde à vue*, to ensure that they comply with provisions of Algerian law designed to protect detainees from torture and arbitrary detention.

Even though the Algerian authorities consistently deny the existence of secret detention centres⁵⁵, the DRS continues to take detainees to unrecognized places of detention, usually military barracks, a practice known to render detainees even more vulnerable to torture and other ill-treatment. It appears that some arrests are made on the basis of information obtained from other detainees under torture or duress. Detainees are usually forced to sign an interrogation report, which often contains a confession about involvement with armed groups or international terrorism, even though detainees are not allowed to read the report or are too scared to ask to read it. Sometimes, interrogation reports contain declarations that the detainees were well-treated in detention.

CASE

M'hamed Benyamina was arrested in September 2005 – apparently at the request of the French authorities – and detained at an undisclosed location without charge or trial, and without access to the outside world, for five months. He was denied access to legal counsel and to a court to challenge his detention, kept in conditions amounting to torture and cruel, inhuman and degrading treatment, and only allowed to speak to his interrogators during his five-month detention. M'hamed Benyamina was first brought before an investigative judge on 6 February 2006. He was not given access to a lawyer even at that time, and the judge reportedly failed to inform him of his right to legal counsel and to a medical examination. Despite complaining to the investigative judge that he had been ill-treated and forced to sign

the interrogation report without reading it, no investigation is known to have been opened into these allegations. In December 2007, M'hamed Benyamina was sentenced by a criminal court to three years' imprisonment for belonging to a terrorist group abroad. He testified before the court he had travelled to Syria with the intention to join Iraq and that he met a recruiter of foreign fighters in Syria. When M'hamed Benyamina's lawyer presented the court with the November 2006 United Nations Working Group on Arbitrary Detention's opinion that M'hamed Benyamina's detention was arbitrary under international law, the prosecutor accused him of tarnishing the reputation of Algeria. The defendant is serving his sentence and did not appeal the court's decision. His lawyer expects him to be released before the end of 2009.

In most cases known to Amnesty International, the purpose of the torture and other ill-treatment has been to extract information from the detainees about activities of armed groups in Algeria or about international terrorism.

Fear of the DRS stops some torture victims from complaining to the public prosecutor, the investigative judge or the courts. But even those who do lodge complaints appear not to have their allegations investigated.

Amnesty International has repeatedly expressed its concern that judges and prosecutors fail to investigate allegations of torture, and has submitted numerous cases of allegations to the authorities. To the best of Amnesty International's knowledge, to date, no full, impartial and independent investigation is known to have been carried out in relation to torture allegedly committed by DRS personnel.

CASE

Mohamed Fatmia, a bricklayer, was arrested in the morning of 6 June 2007 by plainclothes security officers while he was working on a building site in Ain El Kerma. His manager, who had been arrested with him, was released that evening. His family enquired about him at several Algiers police stations, but were told at each of them that the police did not have any information about him. Three other men who were arrested around the same time in connection with the same case were presented before the judicial authorities after some 12 days in custody.

On 18 November 2007, Mohamed Fatmia was presented before an investigative judge and remanded in custody in El Harrach prison in Algiers where he was allowed visits. He was reportedly detained during this period by the DRS in Antar. He was reportedly tortured or otherwise ill-treated during the first 12 days of detention before being officially put under control order. He was acquitted of terrorism-related charges on 11 February 2009 by the Criminal Court of Algiers, but no investigation has been conducted into allegations that he was tortured and otherwise ill-treated while in custody of the DRS.

Not only do judicial authorities fail to investigate allegations of torture, but also interrogation reports allegedly extracted under torture continue to be used as a basis for convictions. According to Article 215 of the Code of Criminal Procedure, interrogation reports are only to be used for "information" in trial proceedings and do not constitute evidence. However, no provision in Algerian law forbids the use of statements or confessions allegedly extracted under torture in contravention to Article 15 of the CAT, and in practice interrogation reports are frequently used as the only evidence in trial proceedings.

CASE

Abderhamane Mehalli was arrested at his home in the Bachdjarah district of Algiers on 26 December 2006 by a group of plainclothes security officers, believed to include members of the DRS. Abderhamane Mehalli was held for 11 days without any contact with the outside world, at an undisclosed location believed to be the Antar barracks of the DRS, in Algiers.

On 6 January 2007, he was brought before an investigative judge in Algiers and charged with belonging to a terrorist group, apology of terrorism, and failing to denounce his brother Bedrane who joined an Islamist armed group in 1993, after supposedly having contacts with him. In court, Abderhamane Mehalli reportedly appeared to be in fragile health and distressed. When the judge asked him about the conditions he had been held in, he apparently replied that he had been tortured but that he could not say any more for fear of being taken back to the barracks of the DRS.

He admitted to the charges against him, but there are concerns that he did so under coercion. The security officials who escorted him to the court apparently threatened him with being returned to the barracks and subjected to further torture or other ill-treatment if he did not do so. Abderhamane Mehalli was accompanied by a lawyer when he appeared before the judge, but was not permitted time to consult with him before the hearing. In December 2008 he was sentenced to four years' imprisonment and is serving his sentence in the Serkadji prison in Algiers. No investigation took place into allegations that he was tortured or otherwise ill-treated while in custody of the DRS, despite the fact that he seemed to have "confessed" to the charges against him under duress and fear of further torture or other ill-treatment.

Impunity for torture and other-ill treatment is not only reserved for personnel of the DRS. For example, in February 2008, at least 30 detainees held for terrorism-related charges in El Harrach prison in Algiers said they were beaten severely by guards after they refused to return to their cells in protest at the loss of their prayer zone. They were reported to have been stripped naked, kicked, punched, beaten with metal bars and threatened with sexual abuse. One inmate had his leg broken, another had his jaw fractured. Several launched complaints and have reportedly been questioned by officials from the judicial authorities regarding the incident, but to date no results of any investigation have been made public and no perpetrators are known to have been brought to justice. In response to a complaint submitted on behalf of a detainee in El Harrach who alleged being ill-treated in detention, the Public Prosecutor of the Sidi Mohamed Court responded in writing to the detainee's lawyer on 19 February 2009 stating that an "administrative enquiry" concluded that there was no proof of the allegations against officials of El Harrach prison. Amnesty International is concerned that an administrative enquiry from the body alleged to be responsible for the torture and ill-treatment of detainees was treated as a substitute for a full, impartial and independent investigation into allegations of torture and other ill-treatment.

In another case of alleged torture in the El Harrach prison, Fatouch El Tahir Yacine reported being tied up, drenched in water and beaten with wooden sticks all over his body, including the soles of his feet, by prison guards in the office of the Director of the First Department of the El Harrach prison on 30 March 2008. After the beating, he was reportedly placed in solidarity confinement without water or access to the toilet for two days. On 20 April 2008, his lawyer filed a complaint on his behalf with the General Prosecutor of Algiers, but to date

has received no response, even though officials from the Ministry of Justice are reported to have met with Fatouch El Tahir Yacine to ask about the complaint.

Fatouch El Tahir Yacine was reportedly arrested following the bombings in Algiers on 11 December 2007⁵⁶ by officers of the judicial police in Algiers⁵⁷. Fatouch El Tahir Yacine was allegedly held in *garde à vue* for 12 days in two police stations in Algiers, before being presented to the investigative judge and remanded in custody in El Harrach prison. He was reportedly subjected to torture and other ill-treatment during his *garde à vue*, including being tied to a radiator. He is still awaiting trial.

The framework of the state of emergency, in place since 1992, facilitates the occurrence of torture and other ill-treatment. Under this framework the authorities adopted specific emergency laws which were for the most part incorporated into the Penal Code and the Code of Criminal Procedure in 1995. These have extended the period of *garde à vue*, lowered the age of criminal responsibility to 16, and increased the scope of applicability of the death penalty. Also, a broad and vague definition of “terrorist” or “subversive” activities was enacted in the Penal Code and other measures extended offences threatening state security to include reproducing or distributing “subversive literature”, “justifying terrorism by whatever means”, or “being active in any terrorist or subversive association, group or organization abroad”.⁵⁸ This definition of terrorism in Algerian legislation is very broad and can encompass activities that amount to the peaceful exercise of civil and political rights. The vagueness and breadth in Algerian legislation of the definition of “terrorism”, and thereby any offence which is based on it, may violate the principle of legality and legal certainty. It would therefore fail to meet the clarity and precision requirements for criminal law and may not amount to a “recognizably criminal offence” under international human rights law.

It has been reported that in sensitive cases that touch upon the “security of the state”, civilians can and have been tried by military courts as stipulated in Article 25 of the Code of Military Justice. According to the Code of Military Justice, the *garde à vue* for civilians is still regulated in Article 51 of the Code of Criminal Procedure, which limits the period to 12 days in terrorism-related cases and provides detainees with the right to communicate and receive visits from their families and to receive a medical examination by a doctor of their choice. Additionally, under Article 79 of the Code of Military Justice, detainees have the right to a lawyer of their choice, except in cases relating to a “special offence to the military order” (Article 18). These limited safeguards appear not to be respected in practice.

Amnesty International opposes the jurisdiction of military courts over civilians and calls on the Algerian authorities to immediately halt all pending trials of civilians in military courts, and transfer the cases to civilian courts for new trials in proceedings that meet international fair trial standards or release the individuals. Amnesty International also urges the Algerian authorities to order retrials for all civilians already convicted by military courts or release them.

Amnesty International is particularly concerned that the right to fair trial is not respected under the Code of Military Justice, including the right to be tried before an independent and impartial court and the right to review by a higher tribunal as enshrined in Article 14 of the ICCPR. The military is part of the executive branch of government. Cases before military

Article 52 of Algeria's Code of Criminal Procedure states that all places of pre-trial detention can be inspected at any time by the public prosecutor to ensure that they satisfy the guarantees provided under Algerian law. There is no evidence that this has ever happened for detention centres operated by the DRS.

courts are investigated by military prosecutors and trials are heard by military judges. They cannot as a result be seen to be independent and impartial. Furthermore, according to the Code of Military Justice, the right of individuals to have their sentences or convictions reviewed by a higher tribunal is restricted to appealing decisions on legal and procedural grounds and not on the grounds of the evidence itself or the factual basis of the charges.

CASE

Mohamed Rahmouni was arrested in the morning of 18 July 2007 by three security officers in plainclothes, at a bus stop near his home in the Algiers district of Bourouba. On 24 July, security officers searched his home. On 29 July, they came back and asked his family to sign a declaration saying that the security forces had found the keys of a truck and a Mercedes car during their search. The family refused, saying that they owned no such vehicles.

The family filed a complaint with the judicial authorities on the grounds that he was being arbitrarily detained. On 18 August, his mother was called to the office of the judicial police in Bourouba, where she was apparently asked why the family had filed a complaint and told that her son was being treated well by the DRS. In October 2007, she was told by the police in Bourouba that Mohamed Rahmouni is detained in a prison in Blida, south of Algiers. The guards at the Blida military prison, however, denied that he was there. On 26 January 2008, the Blida military prison guards acknowledged the detention of Mohamed Rahmouni.

Mohamed Rahmouni is expected to stand trial before the military court in Blida, however, it is unknown why he is not referred to an ordinary criminal court since he is a civilian. He is accused of involvement in terrorist activities. His lawyers were not allowed to visit him, nor access his case file and he is reported to have refused to use a lawyer appointed by the military court. His family is now allowed supervised visits that are reported to last less than half an hour.

Even though amendments were introduced in the Penal Code in 2004 to criminalize torture and extend liability to any public official that uses, incites or orders the use of torture, as well as to those who are complicit in its use⁵⁹, it seems that the passage of the law has done little to end the impunity enjoyed by personnel of the DRS or other security forces for alleged violations. Even though, the Algerian authorities claimed in their third period report to the Committee against Torture, submitted in 2006, that “perpetrators (of torture) have been sanctioned in the framework of the law”⁶⁰, to Amnesty International’s knowledge, the Algerian authorities have never publicly disclosed any details concerning whether and how many DRS or other security officers were ever convicted on charges of torture, the investigations carried out and the results obtained, as well as the trial proceedings in which these individuals were brought to justice. In its response to the Committee’s question six, in the framework of the Committee’s review of Algeria’s third periodic report on the number and types of cases in which officials have been prosecuted for alleged acts of torture or other ill-treatment since 1991, the authorities replied in March 2008 that 32 persons “from all units and ranks were prosecuted for ill-treatment, violence, and assault and battery. Penalties ranged from suspended sentences to imprisonment”, without providing any further details.⁶¹

In its concluding observations pronounced in May 2008, the Committee against Torture called on the Algerian authorities to bring its counter-terrorism measures into compliance with international human rights law; to ensure that all places of detention, including those operated by the DRS, are brought under the control of civilian authorities in view of persistent reports of the existence of secret detention centres run by the DRS, to ensure that

the maximum period of *garde à vue* is respected and that detainees are granted unhindered access to lawyers, their families and independent medical examinations; and to investigate all allegations of torture and bring those responsible to justice. The Algerian authorities are not known to have taken any steps to address these recommendations.

When perpetrators of torture get away with their crime, and when evidence or information extracted under torture is used in the justice system or as a basis of additional arrests, torture will persist. The only way to stop torture is for the authorities to send a strong message that torture will never be tolerated, whatever the circumstances, and that anyone who resorts to such behaviour will be punished within the framework on the law. As an immediate step, the Algerian authorities should disclose genuine information on the number of lodged complaints for acts of torture and other ill-treatment, the number of investigations of acts of torture and ill-treatment as well as information on the number of convictions of security officers, including DRS personnel, for acts of torture and other ill-treatment.⁶²

4. WOMEN BEAR THE BURDEN OF IMPUNITY

While the whole of Algerian society has been affected by the violence that engulfed the country in the 1990s – and continues to suffer as a result of the authorities' failure to adequately address the legacy of the conflict and provide victims and their families with access to truth, justice and reparation – women have endured and continue to endure gender-specific abuses. Women have also suffered in the past and are suffering today disproportionately from abuses committed by state and non-state actors in a climate of impunity for perpetrators. Their struggle is compounded by the fact that the authorities not only fail to comply with their obligations under international law to protect their right not to be subjected to torture and their right to life and security, but also rarely provide women victims of human rights abuses with adequate care and redress.

IMPUNITY FOR ABUSES COMMITTED BY NON-STATE ACTORS

During the internal conflict, armed groups have been responsible for gender-based abuses, including rape and enslavement of women. At the height of the violence, hundreds of women were abducted and raped. Some were mutilated and killed after being raped, while others were forced to stay with their abductors and made to cook and clean for them. Some escaped; others were discarded after being raped. A number became pregnant and/or contracted sexually-transmitted diseases or developed gynaecological problems.⁶³

RAPE AND WOMEN'S RIGHTS

Most women with unwanted pregnancies as a result of rape in the 1990s could not consider having a termination as abortion was illegal under Article 304 and following of the Penal Code.

In 1998, however, the High Islamic Council, a state institution, ruled that women who had been raped could have an abortion in extreme cases where it had been medically established that their life was seriously threatened. Crucially, the ruling affirmed that women who had been raped had not lost their honour and that they should not be blamed or punished for having been raped. Members of women's organizations, however, have denounced the lack of implementation of measures to allow abortion for survivors of rape by armed groups.

The women who suffered sexual and other violence by members of armed groups have been particularly let down by the authorities. Most continue to suffer the physical and mental trauma generated by their ordeals. Social ostracism has often added to their woes because of the stigma associated with rape, including rejection by the husband and family. As a result, many women have not made official complaints or have kept their experience secret. Even in cases where official complaints have been made, little efforts have been done to hold those responsible to account.

The Algerian authorities have recognized that rape occurred during the conflict, but to Amnesty International's knowledge, virtually no members of armed groups have been

prosecuted for rape. In a welcome move, the authorities excluded from the 1999 and 2006 amnesty measures members of armed groups responsible for rape, although they never confirmed that those responsible for rape had actually been denied an amnesty. The speed by which members of armed groups were granted amnesty upon surrender or released in cases of those convicted or imprisoned for terrorism-related charges, suggest that no thorough investigations were conducted to determine their eligibility and ensure that no members of armed groups who committed rape were immune from prosecution (see Chapter 2).

It has been impossible to obtain detailed information about cases of any individual arrested or brought to justice for committing gender-based abuses during the internal conflict. Not one of the women who had spoken to Amnesty International about her abduction and rape by armed groups was aware of whether those who had abused her had been brought to justice. Some of these survivors said that they were informed by the security forces that their assailants had been killed by the security forces. However, none were provided with any details or information about any investigation.

Women's organizations say that survivors of rape by members of armed groups have not benefited from rehabilitation services provided by the government, including medical, psychological and other post-traumatic counselling, nor from compensation which other victims of abuses by armed groups have received. Measures of compensation adopted for the "victims of terrorism" (see Chapter 3) do not explicitly mention survivors of rape, nor do they contain specific provisions to support their particular needs.

Non-governmental organizations offer medical and psychological assistance to a limited number of individual women, but do not have adequate resources to help the hundreds of women and girls in desperate need of assistance. The lack of such provisions is especially worrying in Algeria, where survivors of rape are forced to deal not only with the trauma caused by the crime, but also with the associated social shame and stigma. Many of the women survivors of rape live in rural and socially conservative areas of the country, compounding the problem. Others, who have been rejected by their families or have left their homes for fear of stigmatization, are homeless and jobless.

In her 2008 report following her visit to Algeria in 2007, the United Nations Special Rapporteur on violence against women, its causes and consequences, expressed her concerns that victims of sexual violence during the internal conflict of the 1990s have not been provided with adequate redress. She called on the Algerian authorities to establish an independent commission to investigate acts of sexual violence committed during the conflict, identify and bring perpetrators to justice and provide women victims of sexual violence with prompt and adequate compensation. The Committee against Torture reiterated these recommendations in its concluding observations pronounced in May 2008, re-emphasizing the need to provide adequate compensation to victims of sexual violence during the internal conflict as well as medical, social and psychological rehabilitation.

Despite long-standing calls and campaigning by women's rights groups, there is an absence of legislation to adequately address violence against women, including rape. Under Algerian law, rape is punishable by up to 10 years' imprisonment, but it is not defined. Forms of sexual violence other than rape are not defined either by the Algerian Penal Code, but can be

considered under indecent assaults.

CASE

In July 2001, a group of women living and working in Hassi Messaoud, an oil-rich region in southern Algeria were attacked by some 300 men. The attack was reportedly spawned by rumours that the women were sex workers. The majority of the women attacked were subjected to sexual assaults, some were raped and three gang-raped. Some women were stabbed with knives on their face or body; others were burned. Their rooms were ransacked and looted. Similar attacks reportedly occurred in the town of Tebessa, in the same month. The attack received some publicity in the Algerian press and judicial proceedings were opened. However, only a few women testified at the trial. The others were too scared. In the end, only one man was sentenced to eight years for rape. No one was prosecuted for other sexual assaults. The women who went to testify at the trial have complained that they have not received proper protection after testifying at the trial and said they are still scared that the men or their families may seek revenge.

There are no explicit provisions criminalizing either marital rape or other forms of domestic violence. Domestic violence is considered to be widespread in Algeria and the authorities have acknowledged that violence in the home is an increasing concern. According to the judicial police 4,500 cases of violence and harassment against women were registered for the first six months of 2008; however, real numbers are believed to be much higher. Many women do not report instances of violence particularly domestic violence given the social stigmas attached and social pressures for resolving cases without the interference of judicial authorities. It also seems that many women are deterred from lodging formal complaints given the failure of officials to adequately respond to domestic violence cases, and often lax sentencing imposed by the judges in those cases that reach the courts.⁶⁴ Furthermore, state mechanisms fail to protect women victims of violence, and while women's groups such as *SOS Femmes en Détresse* run women shelters, they do not have sufficient resources to meet the increasing needs.

In order to protect women from violence in Algeria, the authorities need to undertake and implement legal reforms that explicitly criminalize all forms of violence against women. In line with the international law and standards relating to violence against women, Algerian authorities are legally obliged to exercise due diligence to prevent, investigate and punish acts of violence against women; even in those cases where these acts are committed by private individuals or entities. The authorities also need to introduce programmes to provide psychological help and rehabilitation for women victims of violence; and raise awareness publicly condemning violence against women. Moreover, state officials that come in contact with women victims of violence ought to be trained and the authorities must send a signal to society that abuses against women are not to be tolerated by ending the climate of impunity and prosecuting individuals who had committed such crimes.⁶⁵

IMPUNITY FOR VIOLATIONS COMMITTED BY THE STATE ACTORS

Women have shouldered many of the problems associated with the enforced disappearances of thousands of Algerians, most of them men. Their disappearance left their relatives, mostly women, in the agony of not knowing the whereabouts of their husbands, sons or brothers, and in some cases more than one member of the family. The discriminatory nature of Algeria's Family Code and other administrative hurdles rendered their daily struggle even more difficult as certain bureaucratic procedures, such as registering children in schools, obtaining school

graduation certificates and other official documents, cannot be completed without the signature of the father, unless the father is registered as dead. Most disappeared people were not registered as dead until the passage of Ordinance 06-01 of 2006; and many remain unregistered as dead given the refusal of families to accept death certificates without first obtaining the truth. Similar problems arose for the women themselves with regard to receiving inheritance. Women also faced the onerous task of entering a male-dominated job market – often for the first time – to provide for their families.

For years, these women tried to uncover the truth about their missing relatives without publicly protesting, fearing that vocal campaigns would endanger their disappeared loved one or other family members. They hoped that their patience and tireless searches would bear fruit.

In recent years, their frustration has driven them to overcome their fears and they have begun to vent their anger and grief in public. These women have been at the forefront of the public campaigning work that has broken the wall of silence on enforced disappearances in Algeria. They have led the demonstrations and had the loudest voices demanding truth and justice. Women frequently head associations of the families of the disappeared. Some have suffered as a result. In March 2000, for instance, women relatives of the disappeared were beaten with clubs, kicked and intimidated by the authorities in the western cities of Relizane and Oran. More recently, Louisa Saker, head of the Association of the Families of the Disappeared in Constantine and wife of a victim of enforced disappearance, was convicted for participating in an “unauthorized unarmed march” where families of the disappeared called on the authorities to reveal truth and provide justice for the victims (see Chapter 5, below).

CASE

In November 2006, Zohra Bourefis, a wife and mother of victims of enforced disappearance, in the north-eastern town of Jijel, whose husband has been disappeared since 1996, was fined a nominal sum of 100 dinars (around 1.37 USD) for hosting a foreigner in her home without informing the Algerian authorities. The foreigner concerned was a French member of the France-based Collective of Families of the Disappeared in Algeria (Collectif des familles de disparu(e)s en Algérie, CFDA). The charge is rarely used, according to Zohra Bourefis' lawyers, and appears to have been brought against her as a form of harassment by the local authorities in response to the campaigning activities on the issue of enforced disappearances in Algeria.

Amnesty International reminds the Algerian authorities of the right of these women to uncover the fate of victims of enforced disappearances and stop this pattern of abuse from ever happening again and calls on the Algerian authorities to implement the following recommendation presented in the 2008 report of the Special Rapporteur on violence against women, its causes and consequences following her visit to Algeria, to:

“Respect the rights of women who suffered violence during or in relation to the black decade, as well as human rights defenders, journalists and others who support them, to publicly present views on national reconciliation, peace, truth and justice that diverge from official policy. They should be allowed to organize without bureaucratic impediments or legal obstacles and public officials at all levels of Government should receive written instructions to this effect. Officials who threaten or harass persons with such divergent views should be subject to disciplinary measures and, where appropriate, prosecution.”⁶⁶

While the majority of victims of enforced disappearance have been men, a number of women themselves have also been disappeared. During the years of the internal conflict, women were arrested by security forces in order to place pressure on their male relatives suspected of belonging to armed groups to surrender to the authorities, to extract information about their male relatives suspected of involvement in armed groups or simply to punish them for the real or perceived implication of their male relatives in "terrorist or subversive" activities. While most were released after questioning, others were never seen again, despite relentless efforts by their families to find their whereabouts and to uncover the truth about their fate.

CASE

Douia Gat Benaziza, a widow, housewife and mother of four, was approximately 68 years old at the time of her arrest by security forces at 11pm on the night of 2 June 1996 at her home in Constantine. The men who arrested her were looking for her son, Ali, who was wanted by the authorities. They took her away, allegedly to collect information on her son's whereabouts and promised she would be released two hours later. While two days later Ali went to the military prosecutor, who was allegedly looking for him, and was released the same day and cleared of the allegations against him, Douia Gat Benaziza was never seen again.

Douia Gat Benaziza's family have made many enquiries with civilian and military authorities, and has sent letters to the Algerian President, the Minister of Justice, the Prime Minister and the ONDH. Her sons also met with the authorities, notably with a military commander from the *5ème region militaire* (the regional military command), whom they asked to investigate Douia Gat Benaziza's fate and to confirm the validity of rumours that she died while in custody. Douia Gat Benaziza's state of health at the time of her arrest was fragile. She had high blood pressure and other complications, and had to frequently go to Constantine Hospital for observation and to receive injections to lower her arterial pressure. There were rumours that she died in custody from the fact that she was put under pressure during interrogation despite pre-existing medical problems. To date, the authorities have not provided the family with any information confirming or rejecting the rumours.

Hers sons were severely affected by their mother's disappearance, having lost a second parent and being unable to truly mourn her loss. Her son Abdelkader reported that the family was denied financial compensation under Ordinance 06-01 of 2006, reportedly because she was too "old" and not considered the breadwinner of the family; confirming the suspicions that the Ordinance provides financial assistance rather than compensation proportional to the gravity of the violation and the harm suffered. Abdelkader expressed his frustration at the authorities' approach to the issue of enforced disappearances and the provisions of Ordinance 06-01 which threaten with imprisonment those who criticize the conduct of security forces during the internal conflict. He said: "Families of the disappeared are victims of a double injustice: They take your mother; and then they force you to shut up."

5. FAMILIES OF VICTIMS AND ACTIVISTS UNDER ATTACK

The climate of impunity that persists in Algeria is facilitated by continuing constraints in legislation and practice on freedom of expression, association and assembly. Families of victims of the internal conflict, human rights defenders, journalists, lawyers and others who bring to light human rights violations committed by the Algerian authorities and campaign for an end to impunity continue to face intimidation, harassment and even prosecution. These individuals seem to be targeted in order to deter them and others within society from pursuing human rights activities and criticising the authorities' conduct or in order to punish them for denouncing human rights violations committed by the Algerian authorities.

In addition to provisions of Ordinance No. 06-01 of 2006 which threaten with imprisonment anyone who criticizes the conduct of security forces during the years of the internal conflict (see Chapter 2), there are other legal impediments facing Algerian human rights defenders and others who express public criticism of the authorities, particularly on sensitive issues. Amendments to the Penal Code introduced in June 2001 (Law 01-09 of 26 June 2001) have curtailed the right to freedom of expression, including by increasing penalties for the offence of defamation by prescribing prison terms of up to one year and fines of up to 250,000 dinars (about 3,427 USD) for individuals found guilty of defaming the President of the Republic or other state institutions, such as the army, the parliament or the judiciary. These provisions have not only been used in penalizing journalists and editors, but also have been used against human rights defenders critical of the conduct of the authorities.

CASE

Hafnaoui Ghoul, a journalist and human rights activist with the Djelfa branch of the Algerian League for the Defence of Human Rights (Ligue algérienne de défense des droits de l'homme, LADDH), at the time of writing, was facing four separate judicial proceedings for defamation and contempt after five Djelfa governorate officials complained about articles he had published in the *Wasaf* newspaper about mismanagement and corruption. The charges also related to allegations he had made about the existence of secret detention centres in the region, where torture was reported to occur. He had been imprisoned for six months in 2004 after being convicted of defaming local officials. In January 2009, he survived a knife attack in the street by an unknown person. No investigation is known to have been carried out following the incident.

In another example of repression of the peaceful exercise of freedom of expression, Mohamed Smain, president of the Relizane branch of the LADDH, was convicted on 27 October 2007 of "denouncing imaginary crimes". This conviction relates to allegations he had made publicly that the bodies of some 20 people who had disappeared after they were seized by security forces and local state-armed militia had been buried in a mass grave in Sidi Mohamed Benaouda and that the groups responsible had relocated the bodies when the site was discovered in order to cover up their crimes. The authorities maintained that it was not possible to identify the majority or all of the bodies found. The Supreme Court ordered his retrial after his initial conviction by a lower court in 2002. In the retrial in October 2007, he

was sentenced to two months' imprisonment and ordered to pay a fine and damages. He has appealed the ruling.

The authorities also place restrictions on freedom of assembly when the intended events touch upon topics of which the authorities do not approve. The holding of assemblies and public meetings are subject to an authorization by the *wali* (governor) under the authority of the Ministry of Interior, which is frequently denied in practice.

CASE

A seminar on "Truth, Peace and Reconciliation" was to be held on 7 February 2007 in Algiers with associations of the families of the disappeared and associations representing victims of armed groups as well as international experts on transitional justice. A request for authorization was reportedly filed, but was then refused the night before the event. Some international experts had their visa for travelling to the seminar reportedly denied. On the following day, people gathered for the seminar in front of a hotel were blocked from entering by the security forces. The seminar did not take place.

Since their inception, associations of families of victims of enforced disappearance have been reporting difficulties in obtaining legal registration. For example, members of *SOS Disparus* told Amnesty International that the authorities refused to acknowledge receipt of their application for registering the association in 2004 and that officials of the Ministry of Interior did not heed to their representatives' request to meet with them in February 2009 to submit another application for registration. In a similar vein, the authorities did not officially respond to the Association of the Families of the Disappeared of the Province of Constantine's application for registration.

Associations of the families of the disappeared continue to operate without legal registration, rendering their activists vulnerable to intimidation and harassment. While some of the associations' activities such as protests have been tolerated, there are instances where demonstrations and marches have been dispersed by force and in some cases a number of participants were convicted for participating in "unauthorized" gatherings.

In 2008, Louisa Saker was tried in Constantine under charges of disturbing public order, organizing an "unauthorized unarmed march", contempt of and attacks on civil servants with use of weapons and theft. The charges relate to her participation in a peaceful demonstration in 2004 by families of victims of enforced disappearance in Constantine. After the demonstration she was arrested, beaten up by the police and forced to sign a statement that she would not participate in such protests again. In March 2008, Louisa Saker was found guilty of participating in a "unauthorized unarmed march" and given a suspended fine. The Court of Appeals of Constantine confirmed her conviction and upheld the sentence in November 2008. Both she and the prosecution appealed the sentence in front of the Supreme Court. Two other men who participated in the same demonstrations were found guilty of similar charges and sentenced to one year in prison in their absence.

Members of associations of victims of armed groups, once supported by the authorities, have been subjected to harassment following their public opposition to the various amnesty measures introduced by the authorities in 1999/2000 and later in 2005/2006. (see Chapter 2)

CASE

Cherifa Keddar, president of Djazairouna, an NGO defending the rights of the families of victims of terrorism in Algeria to seek truth and justice, has been the subject of a series of attempts by the Algerian authorities to silence her and deter her from her human rights work. She was downgraded from her position in May 2008 from her job as a senior civil servant in the *wilaya* (regional governmental body) of Blida, and reinstated as an administrator, the permanent position she held, on a reduced salary. Although she was never officially notified of the reasons, she was informally told by colleagues that it was caused by her participation in a seminar organized in Rabat by the International Centre for Transitional Justice. She is the main breadwinner in her family and supports her mother and her disabled brother who both live with her. This is not the first time Cherifa Keddar has been penalized for her human rights activism, as in 2001 she was dismissed from her job after taking time off from work to travel to the United States of America to participate in a training organized by a United States civil society organization. She was reinstated after successfully appealing her dismissal on procedural grounds.

Despite these examples of harassment and intimidation of individuals criticizing amnesty measures adopted by the Algerian authorities from 1999 onwards, the authorities claimed in their Reply 22 to the list of issues considered by the Human Rights Committee during Algeria's review in 2007 that "to date, no criticism of the virtually unanimous endorsement of the Charter by the Algerian people has been observed and there have been no reports concerning constraints imposed on anyone who may have taken such action".⁶⁷

In addition to targeting individuals raising awareness of past human rights violations and abuses, the repression has also touched those vocal about ongoing human rights violations.

For several years, Amine Sidhoum, one of the few lawyers in Algeria consistently taking up sensitive cases, has been subject to judicial harassment. Amine Sidhoum has acted as defence counsel in a number of terrorism-related cases. He has openly denounced human rights violations, including the systematic incommunicado detention of terror suspects in secret locations, torture and other ill-treatment, denial of fair trial guarantees and the failure of the judicial authorities to investigate allegations of torture and other ill-treatment. Amine Sidhoum has faced two separate prosecutions in recent years. In the more recent case, he was found guilty of bringing the Algerian judiciary into disrepute on 13 April 2008. This conviction and his sentence of six months' imprisonment, which is suspended, and a fine of 20,000 dinars (about 275 USD) was confirmed by the Court of Appeals of Algiers in November 2008. The conviction relates to a 2004 newspaper article in which Amine Sidhoum is quoted as saying that the 30 months one of his clients spent in prison without trial amounted to an "abusive judgement". Amine Sidhoum says that he actually described the case as one of "arbitrary detention". He is currently awaiting appeal in front of the Supreme Court.

In the earlier case, he and another lawyer were accused of passing prohibited items to prisoners. He was specifically accused of giving several of his business cards containing his contact details to a client in detention. Both were acquitted by a court in Algiers in March 2007.

During one of Amine's court hearing in November 2008, the head of the Algiers Bar Association highlighted that no professional mistake has been committed by Amine Sidhoum

and that a conviction would not bar him from practicing law. However, the independence of the Algiers Bar Association itself seems to be coming under attack. In January 2009, the Council of State (Conseil d'Etat) cancelled election results of the Algiers Bar Association held in February 2008. This decision coincided with the Algiers Bar Association General Assembly's discussion on a draft law proposed by the authorities to govern the legal profession, replacing Law 91-04 of January 1991 regulating the legal profession.⁶⁸

A number of lawyers, including the head of the Algiers Bar Association, have been highly critical and opposed to the proposed changes, arguing that they threaten the integrity and independence of lawyers by increasing the oversight of the Ministry of Justice. The cancellation of election results nearly a year after they took place was also perceived by a number of members of the Algiers Bar Association as retaliation for its head's and some of its members' stance against the proposed law governing the legal profession. There are concerns that Article 124 of the proposed law, which calls for the immediate suspension of lawyers who are facing legal proceedings or who have committed grave professional mistakes, does not provide sufficient safeguards against abusive use of the provision. It is feared that such provisions could be used to prevent lawyers such as Amine Sidhoum from practicing through politically-motivated charges, in a framework where judicial proceedings can drag on for years.

Other concerns about the threats posed to the independence of lawyers by provisions of the draft law revolve around the authority provided to the Minister of Justice to move disciplinary proceedings against lawyers or to appeal decisions of the disciplinary councils within bar associations. In other countries with similar legal systems such as Belgium, France, Morocco/Western Sahara and Tunisia such functions are reserved for the head of the bar association or for the public prosecutor. These provisions allowing for the Minister of Justice to move disciplinary proceedings against lawyers already existed in Law 91-04 of 1991, and Amnesty International regrets that envisaged amendments to the law were not used as an opportunity to strengthen guarantees that lawyers are able to perform all their professional functions without intimidation, hindrance, harassment or improper interference as set out in the United Nations Basic Principles on the Role of Lawyers.

Even human rights defenders raising awareness of past and present violations committed by the Algerian authorities based outside of Algeria have been targeted by the authorities. Amnesty International suspects that the Algerian authorities continue to seek to undermine the work and credibility of human rights lawyer and defender Rachid Mesli because of his activities exposing violations committed by the Algerian authorities during the 1990s internal conflict and violations that continue to be committed in the present in the context of counter-terrorism measures. In January 2009, the Algerian authorities requested action against the Arab Commission for Human Rights, which has United Nations consultative status, condemning the fact that an individual against whom an arrest warrant has been issued had addressed, on behalf of the Arab Commission for Human Rights, the eighth session of the Human Rights Council in Geneva on 10 June 2008, in a clear reference to Rachid Mesli.⁶⁹

In 2002, an international arrest warrant was issued against Rachid Mesli on request by the Algerian authorities for his alleged involvement in terrorist groups abroad. The arrest warrant alleged that Rachid Mesli committed the offences attributed to him in June 1999 in north-central city of Dellys in the province of Boumerdès, when in fact he was in prison until July

1999. In 2002, he was sentenced to 20 years' imprisonment in his absence for terrorism-related offences. More recently, in December 2008, he was again convicted to 20 years' imprisonment and a million dinars (about 13,704 USD) fine in his absence by the Criminal Court of Algiers for charges of "belonging to an armed terrorist group...and involvement in a terrorist organization abroad which attempts to target Algerian interests".

Rachid Mesli has been targeted by the Algerian authorities for over a decade. In fact, Rachid Mesli served a three-year prison term between 1996 and 1999 on terrorism-related charges. Amnesty International considered him to be a prisoner of conscience, solely detained because of his activities as a human rights defender, activities he has carried out in his professional capacity as a lawyer. At the height of the internal conflict, he represented individuals wanted by the authorities in connection to terrorism-related charges and collaborated with international human rights organizations in providing information about human rights violations taking place in Algeria. Rachid Mesli is currently a staff member of Alkarama, an organization which has submitted over a 1,000 cases of enforced disappearances in Algeria to the WGEID and other United Nations human rights mechanisms.

In addition to penalizing human rights defenders and others for exposing past and present human rights violations committed by the Algerian authorities, Algeria continues to resist international scrutiny of its human rights record. It has failed to extend invitations to the WGEID, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur for the promotion and protection of human rights while countering terrorism, despite pending requests. The visit of the United Nations Special Rapporteur of freedom of expression had been postponed in December 2005, but no new date was agreed.

Amnesty International hopes that rather than resisting scrutiny of its human rights record and punishing those that raise concerns regarding past and present violations, the Algerian authorities, under the leadership of the next president of Algeria, will transparently and seriously confront Algeria's shortcomings in human rights protection with the view of improving the situation. In particular, the Algerian authorities should take concrete measure to guarantee that human rights defenders and others conduct their human rights work and express their views and opinions on human rights issues without fear of intimidation, harassment or prosecution.

6. CONCLUSION AND RECOMMENDATIONS

"Article 2 [of the ICCPR], paragraph 3, requires that States Parties make reparation to individuals whose Covenant rights have been violated. ...the Committee considers that the covenant entails appropriate compensation. The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations."

Human Rights Committee General Comment No. 31 (16): the Nature of the General Legal Obligation imposed on States Parties to the Covenant, adopted on 29 March 2004 at its 2187th meeting.

It is vital that the Algerian authorities take immediate and concrete measures to end impunity for past and ongoing human rights abuses to bring justice and redress to the victims and their families, and in order to ensure that serious abuses will not be tolerated or repeated. Amnesty International believes that genuine peace and national reconciliation rest on the Algerian authorities taking effective measures to combat impunity and introducing and implementing reforms to ensure the non-repetition of serious human rights abuses. While Amnesty International appreciates that such measures require a long-term commitment and time to be fully effectuated; it regrets that rather than addressing the legacy of past abuses, the Algerian authorities promote a climate of impunity and fail to prevent ongoing human rights violations, putting into question their political will to overcome the consequences of a conflict which affected every single member of society.

The persistence of human rights violations in the administration of justice remains a major impediment in Algeria to putting an end to impunity and guaranteeing non-repetition of serious human rights abuses. As highlighted throughout this report, the absence of an effective oversight mechanism over security forces, coupled with serious concerns over the independence of the judiciary, creates a situation where victims of human rights abuses find themselves denied the protection of the law.

In terrorism-related cases, detainees' right to fair trial is routinely violated. Detainees are frequently taken to investigative judges upon the end of their *garde à vue* period without the presence of a lawyer. Reports persist that investigative judges and public prosecutors frequently fail to inform detainees of their rights or launch investigations into detainees' allegations of torture and other ill-treatment. Algerian courts continue to use interrogation reports obtained by the DRS as evidence in proceedings.

In addition to these violations of the right to a fair trial; to Amnesty International's knowledge, full, impartial and independent judicial investigations are generally not launched into allegations that detainees suspected of involvement in terrorism-related acts are not protected by existent legal safeguards, which are routinely flouted by the DRS; and no efforts seem to be made to prevent their re-occurrence.

Judicial authorities are not known to take decisive steps into complaints by victims of human

rights violations and their families against the conduct of the security forces during the years of the internal conflict. Either families have received no response from the courts since their complaint was made, or there has been no progress in investigations, or complaints were closed on the grounds of lack of information or evidence. With the advent of Ordinance 06-01 of 2006, judicial authorities are no longer even permitted to consider complaints into the conduct of security forces during the years of the internal conflict and launch investigations.

An independent judiciary is vital to ensuring the protection of human rights and the rule of law, including by conducting investigations into alleged human rights violations by state agents. However, the current structure of the judiciary, including the lack of security of tenure of judges and their dependence on the executive for career promotion, makes the judiciary susceptible to interference from the government.⁷⁰

In line with the recommendations pronounced by United Nations' human rights mechanisms in recent years, Amnesty International is putting forth a series of recommendations to guarantee non-repetition of serious human rights violations and abuses, to put an end to impunity and consolidate a human rights culture. The organization strongly believes that the success of these reforms rest on the existence of an independent judiciary, enabled to offer effective remedy to victims of abuses. To that end, Amnesty International makes the following recommendations to the authorities in the hope that the president elected in April 2009 will take them into account in developing new policies and directions for governmental action:

AMNESTY MEASURES

- Repeal Articles 44 and 45 of Law No. 06-01 of 2006, which give impunity to security forces and those acting in conjunction with them for serious human rights violations; and other provisions of Law No. 06-01 of 2006 which provide immunity from prosecution for members of armed groups who committed grave human rights abuses, such as individual acts of murder and torture and other ill-treatment;
- Publish detailed information about the number and the names of members of armed groups who have benefited from pardon or reduction or commutation of sentences under various amnesty measures adopted since 1999, the offences they were accused of and the circumstances in which amnesty measures were applied to them; and
- Ensure that no amnesty or immunity from prosecution is granted to any person, whether a member of the security forces, state-armed militias or armed groups, who has committed serious human rights abuses and that a thorough impartial and independent investigation is launched into all allegations of human rights violations before any decision on amnesty or closure of judicial proceedings is taken.

UNLAWFUL KILLINGS

- Promptly investigate all allegations of unlawful killings, even when no formal complaint has been brought; make the findings of investigations public; ensure that those found responsible, whether members of armed groups, security forces or state armed militias are brought to justice in proceedings meeting international standards of fair trial and provide victims with full and effective reparation;

- Guarantee that no evidence of unlawful killings is destroyed and follow the methods set out in the United Nations Model Protocol for the Disinterment and Analysis of Skeletal Remains and in the United Nations Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions in conducting investigations of unlawful killings. Particularly in investigations of mass grave sites, ensure 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; and
- Ensure that security forces and other law enforcement officers act in line with the United Nations Code of Conduct for Law Enforcement Officials and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, by giving clear instructions that force may only be used when reasonably necessary and in accordance with the principle of proportionality, and that lethal force should only be used when strictly unavoidable in order to protect their lives or the lives of others.

ENFORCED DISAPPEARANCES

- Conduct prompt, impartial and independent investigations into all enforced disappearances, even when no official complaint has been made. Such investigations could be conducted by an independent judiciary or through the establishment of an appropriate mechanism with investigative powers to subpoena members of security forces and other officials, regardless of rank, and a mandate to identify both individual perpetrators and official bodies responsible for the violation. Ensure that all relevant stakeholders, including families of the disappeared and organizations representing them, are widely consulted in the establishment of such a specific mechanism;
- Make the results of investigations into enforced disappearances public; identify, prosecute and punish the perpetrators in trials meeting international standards; and provide full and effective reparations to the families of the disappeared;
- Publish the names of people registered as missing since 1990 and the report of the *ad hoc* Commission established in 2003 under the auspices of the National Advisory Commission for the Promotion and Protection of Human Rights; and
- Abolish provisions within Decree 06-01 of 2006 and Decree 06-93 of 2006 obliging families to obtain death certificates in order to receive financial compensation; ensure that there are no time limitations imposed on families wishing to claim financial compensation under the decrees; guarantee that all victims, including those presumably financially independent, are provided with compensation; and ensure that any financial compensation or other form of reparation adequately reflects the gravity of the violation and of the harm suffered.

TORTURE AND OTHER ILL-TREATMENT

- Conduct prompt, impartial and independent investigations into all allegations of torture or other ill-treatment, even where no formal complaint has been made, and bring those responsible to justice in proceeding meeting international standards of fair trial;
- Amend legislation criminalizing torture and other ill-treatment to bring it in line with

international standards as set out by the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment;

- Repeal or amend legal provisions on terrorism-related offences which violate international law, including the principle of legality in its use of a broad and vague definition of terrorism;
- Amend the Code of Criminal Procedure to ensure its compliance to international law and standards on the administration of justice and the protection of detainees, particularly in regards to detainees' access to their lawyers, families and independent medical examinations and ensure that existing legal safeguards, including those stipulated in Article 51 *bis* 1 against torture and ill-treatment are respected in practice and that no detainee is held incommunicado;
- Introduce legislation to prohibit the use of statements established to have been obtained under torture and other ill-treatment in legal proceedings, except against a person accused of torture as evidence that the statement has been made;
- Put effective measures in place to end secret and unacknowledged detention in military barracks and other centres operated by the DRS, where detainees are at risk of torture or ill-treatment and where detention conditions may in themselves constitute a form of cruel, inhuman and degrading treatment or punishment;
- Take immediate steps to ensure that officers of the DRS, who routinely violate legal safeguards, no longer carry out arrests and detentions and that they will no longer be able to exercise judicial police functions;
- Bring all detention centres under the oversight of civilian authorities and establish a national register of detention centres and people in detention that is accessible, particularly to the families and lawyers of detainees, which specifies the authority responsible for the detention;
- Establish a system of regular, unannounced visits by independent national bodies to all places of detention, including those used for *garde à vue*, in order to monitor the treatment of detainees and their conditions of detention; and
- Ensure that all officers investigating terrorism-related offences, including personnel of the DRS, are appropriately trained and comply fully with safeguards under Algerian and international law which protect detainees from arbitrary arrest, in particular the obligation to notify detainees of their rights during detention, and to inform prosecutors of arrests and of the reasons for the arrests without delay.

RAPE AND VIOLENCE AGAINST WOMEN

- As recommended by the Special Rapporteur on violence against women, its causes and consequences; establish an independent and impartial commission to investigate crimes of sexual violence during the internal conflict, publish its findings, and provide adequate compensation and medical, psychological and social rehabilitation for the survivors;

- Ensure that women victims of rape and other sexual violence benefit from existent schemes promulgated by the authorities for “victims of terrorism” such as executive Decree No 99-47 of 13 February 1999, and to guarantee that victims of rape by armed groups benefit from adequate rehabilitation;
- Ensure that no one suspected of rape and other forms of sexual violence, benefits from pardon, amnesty or commutation of sentences before full, impartial and independent investigations are conducted and before being brought to justice in accordance with fair trial standards; and
- Introduce legislation to criminalize domestic violence and amend legislation on sexual violence against women in line with international law and standards.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

- Repeal Article 46 of Law No. 06-01 of 2006, which curtails freedom of expression and threatens individuals critical of the conduct of security forces with imprisonment;
- Bring provisions of the Penal Code and the Press Code in line with international standards on freedom of expression as stipulated in Article 19 of the ICCPR, to which Algeria is a state party, particularly by ensuring that activities amounting to the peaceful exercise of freedom of expression are not criminalized;
- Ensure that human right defenders, families of the victims and others can conduct their human rights work and express views and opinions on human rights issues without fear of intimidation, harassment or prosecution by respecting the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human rights and Fundamental Freedoms; and
- Ensure that freedoms of association and assembly, as set out by Articles 21 and 22 of the ICCPR, are respected in practice and that no restrictions are placed on the exercise of these rights other than those prescribed by the law and which are necessary in a democratic society.

COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS TO END IMPUNITY

- Ratify the United Nations Convention for the Protection of all Persons from Enforced Disappearances and ensure that the criminalization of enforced disappearance in national legislation is in line with provisions of the convention;
- Ratify the Rome Statute of the International Criminal Court; the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination for All Forms of Discrimination against Women; and lift reservations of the Convention on the Elimination of All Forms of Discrimination against Women; and
- Extend invitations to the United Nations Special Rapporteur on extrajudicial, arbitrary or summary executions; the Special Rapporteur on the promotion and protection of the right to

freedom of expression and opinion; United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the United Nations Working Group on Enforced or Involuntary Disappearances, and facilitate their visits.

INDEPENDENCE OF THE JUDGES AND LAWYERS

- Strengthen the independence of the judiciary by bringing existent legislation and practice in line with international law and standards, including the United Nations Basic Principles on the Independence of the Judiciary, particularly, by reducing the role and interference of the executive in the conditions of service of the judiciary.

- Ensure that the proposed draft law on the legal profession is in line with international standards on the independence of lawyers, including the United Nations Basic Principles on the Role of Lawyers and that adequate safeguards are introduced in the provisions of the draft law to ensure that the right to fair trial is not undermined, by weakening the independence of lawyers.

In addition to these recommendations to the Algerian authorities, Amnesty International urges armed groups still active in Algeria to:

- Immediately stop indiscriminate or targeted attacks against civilians and respect the most fundamental human right, the right to life.

¹ For more information on amnesty laws see:

Amnesty International, *Algeria: Eighth session of the UN Human Rights Council, 2-20 June 2008: Review of Algeria under the Universal Periodic Review: Amnesty International's reflections on the outcome* (Index: MDE 28/005/2008), 18 July 2008: <http://www.amnesty.org/en/library/info/IO41/034/2008/en> [Last accessed on 24 March 2009.]

Amnesty International, *Algeria: Submission to the UN Universal Periodic Review: First session of the UPR Working Group, 7-11 April 2008* (Index: MDE 28/021/2007), 28 November 2007: <http://www.amnesty.org/en/library/info/MDE28/021/2007/en> [Last accessed on 24 March 2009.]

Amnesty International, *Algeria: Steps Towards Change or Empty Promises?* (Index: MDE 28/005/2003), 15 September 2003: <http://www.amnesty.org/en/library/info/MDE28/005/2003> [Last accessed on 24 March 2009.]

Amnesty International, *Algeria: Truth and Justice Obscured by the Shadow of Impunity* (Index: MDE 28/011/2000), 8 November 2000: <http://www.amnesty.org/en/library/info/MDE28/011/2000> [Last accessed on 24 March 2009.]

² See:

Amnesty International, *Algeria: Amnesty International condemns bomb attacks in Issers and in Bouira* (Index: MDE 28/006/2008), 20 August 2008: <http://www.amnesty.org/en/library/info/MDE28/006/2008/en> [Last accessed on 24 March 2009.]

Amnesty International, *Algeria: Amnesty International condemns new bomb outrages in Algiers* (Index:

MDE 28/022/2007), 11 December 2007: <http://www.amnesty.org/en/library/info/MDE28/022/2007>
[Last accessed on 24 March 2009.]

Amnesty International, *Algiers bomb attacks kill at least 52*, 11 December 2007:
<http://www.amnesty.org/en/news-and-updates/news/algiers-bomb-attacks-kill-least-52-20071211> [Last
accessed on 24 March 2009.]

Amnesty International, *Algeria: Amnesty International condemns suicide attack in Batna* (Index: MDE
28/016/2007), 7 September 2007: <http://www.amnesty.org/en/library/info/MDE28/016/2007/en>
[Last accessed on 24 March 2009.]

Amnesty International, *Algeria: Amnesty International condemns Algiers bomb attacks* (Index: MDE
28/009/2007), 11 April 2007: <http://www.amnesty.org/en/library/info/MDE28/009/2007> [Last accessed
on 24 March 2009.]

³ UN Doc.: CAT/C/DZA/Q/3/Add.1, 17 April 2008.

⁴ For more information see: Amnesty International, *Unrestrained Powers: Torture by Algeria's Military
Security* (Index: MDE 28/004/2006), 9 July 2006:
<http://www.amnesty.org/en/library/info/MDE28/004/2006> [Last accessed on 24 March 2009.]

⁵ UN Doc.: CAT/C/DZA/Q/3/ADD.1, 17 April 2008.

⁶ Amnesty International is grateful for all the assistance provided by victims of human rights abuses,
their families and lawyers and Algerian human rights organizations. We are grateful for their time,
expertise and willingness to share their experiences or concerns with the organization.

⁷ See:

Amnesty International, *Unrestrained Powers: Torture by Algeria's Military Security*;

Amnesty International, *Algeria: Steps Towards Change or Empty Promises?*;

Amnesty International, *Algeria: Truth and Justice Obscured by the Shadow of Impunity*.

⁸ See:

Amnesty International, *Algeria: Briefing to the Committee against Torture* (Index: MDE 28/001/2008),
17 April 2008: <http://www.amnesty.org/en/library/info/MDE28/001/2008/en> [Last accessed on 24 March
2009.];

Amnesty International, *Algeria: Submission to the UN Universal Periodic Review: First session of the
UPR Working Group, 7-11 April 2008*;

Amnesty International, *Algeria: Briefing to the Human Rights Committee* (Index: MDE 28/017/2007), 1
October 2007: <http://www.amnesty.org/en/library/info/MDE28/017/2007/en> [Last accessed on 24 March
2009.]

⁹ Unofficial translation by Amnesty International, see:
<http://www.elmouradia.dz/francais/president/recherche/Presidentrech.htm> [Last accessed on 24 March
2009.]

¹⁰ He was elected in April 1999.

¹¹ The question asked in the referendum and to which the voters could respond by "yes" or "no" was:

"Do you agree with the president's approach to restoring peace and civil harmony?"

¹² For additional details of the Civil Harmony Law, see:

Amnesty International, *Algeria: Briefing to the Human Rights Committee*;

Amnesty International, *Algeria: Truth and Justice Obscured by the Shadow of Impunity*.

¹³ The question asked in the referendum and to which the voters could respond by "yes" or "no" was: "Do you agree with the proposed project on the Charter for Peace and National Reconciliation?"

¹⁴ According to Article 124 of the Algerian Constitution, the President of the Republic has the authority to legislate through an ordinance when parliament is not in session.

¹⁵ Amnesty International, *Algeria: Briefing to the Human Rights Committee*, p11.

¹⁶ See:

Amnesty International, *Algeria: Briefing to the Human Rights Committee*, p8;

Amnesty International, "Algeria", *Amnesty International Report 2007*, 23 May 2007:
<http://www.amnesty.org/en/region/algeria/report-2007> [Last accessed on 24 March 2009.]

¹⁷ One of the individuals "in hiding" in this case is Rachid Mesli (see Chapter 5) who was convicted in December 2008 in his absence. The ruling in this case, which relates to 12 individuals, only addressed two individuals: Rachid Mesli and Kamal Boudhiri, also in "hiding". The Criminal Court of Algiers rendered this decision under the title of "criminal ruling for those not present". Hassan Hattab, the alleged "emir" of the grouping, who is also reportedly "in hiding", was not included in the ruling.

¹⁸ UN Doc.: CCPR/C/DZA/Q/3/Add.1, 4 October 2007.

¹⁹ UN Doc.: CCPR/C/DZA/CO/3, 12 December 2007.

²⁰ *Journal Officiel de la République Algérienne Démocratique et Populaire*, 28 February 2006:
http://www.joradp.dz/JO2000/2006/011/F_Pag.htm [Last accessed on 24 March 2009.]

²¹ UN Doc.: A/RES/60/147, Annex, 21 March 2006

²² UN Doc.: CCPR/C/DZA/CO/3, para7, 12 December 2007.

²³ UN Doc.: CAT/C/DZA/CO/3, para11, 26 May 2008.

²⁴ *Journal Officiel de la République Algérienne Démocratique et Populaire*, 28 February 2006.

²⁵ UN Doc.: CCPR/C/DZA/CO/3, para8, 12 December 2007.

²⁶ Gender-specific violence such as rape addressed in Chapter 4.

²⁷ See: Amnesty International, *Algeria: Civilian Population Caught in a Spiral of Violence*, p21 (MDE 28/023/1997), 18 November 1997: <http://www.amnesty.org/en/library/info/MDE28/023/1997/en> [Last accessed on 24 March 2009.]

²⁸ See: Amnesty International, *Algeria: Civilian Population Caught in a Spiral of Violence*.

²⁹ See: Amnesty International, *Algeria: Civilian Population Caught in a Spiral of Violence*.

³⁰ See: Amnesty International, *Algeria: Fear and Silence: A Hidden Human Rights Crisis*, p12 (MDE 28/011/1996), 19 November 1996: <http://www.amnesty.org/en/library/info/MDE28/011/1996> [Last

accessed on 24 March 2009.]

³¹ Amnesty International, *Algeria: Truth and Justice Obscured by the Shadow of Impunity*, pp14-19.

³² Financial assistance would be distributed to their next of kin.

³³ See Annex I for an example of a document from the judicial police certifying that a person has died in "the ranks of terrorist groups".

³⁴ C. Salah, "Réconciliation nationale: 9,5 milliards de dinars d'indemnisations", *Le Quotidien d'Oran*, 26 February 2009.

³⁵ C. Salah, "17.000 demandes d'indemnisation", *Le Quotidien d'Oran*, 28 July 2007.

³⁶ This scheme was complemented with a compensation scheme for families of victims of enforced disappearance as outlined in Chapter 4.

³⁷ United Nations Basic Principles of Justice for Victims of Crime and Abuse of Power, as set out by General Assembly resolution 40/34.

³⁸ See: UNHCHR, *Fact Sheet No. 32, Human Rights, Terrorism and Counter-terrorism*, July 2008: <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf> [Last accessed on 24 March 2009.]

³⁹ Before the adoption of the International Convention for the Protection of all Persons against Enforced Disappearance, Amnesty International used the term "disappearance" to refer to instances where people were taken into custody by agents of the state, whose whereabouts and fate were concealed, and whose custody was denied; cutting them off from the world and placing them outside the protection of the law. Amnesty International used quotation marks to emphasize that it did not accept official explanations that the person had simply vanished, but that their whereabouts and fate were, concealed from the outside world, and that someone was responsible for it. In line with international human rights law, today Amnesty International uses the terminology and the broader definition set out in the convention and no longer uses the quotation marks. However it should be noted that the cases in this report, which date from 1992, were described by Amnesty International at the time as, and meet the narrower definition of, "disappearance".

⁴⁰ Le Collectif des Familles de Disparu(e)s en Algérie (CFDA), *Rapport Alternatif du CFDA au Comité des droits de l'Homme*, July 2007, p17: http://www.algerie-disparus.org/cfda/index.php?option=com_docman&task=doc_download&gid=16&Itemid=198 [Last accessed on 24 March 2009.]

Algeria Watch: Informations sur la situation des Droits Humains en Algérie, *Les disparitions forcées en Algérie : un crime qui perdure*, http://www.algeria-watch.org/fr/mrv/mrvdisp/cas_disparitions/disparitions_introduction.htm [Last accessed on 24 March 2009.]

⁴¹ The DRS, known as Military Intelligence, is a branch of the Algerian intelligence services which is involved in detaining and interrogating persons they seem to suspect of links with terrorism. For more details see: Amnesty International, *Unrestrained Powers: Torture by Algeria's Military Security* and Chapter 5.

⁴² Pseudonym used at the request of the family of the victim of enforced disappearance.

⁴³ Amnesty International, *Algeria: Truth and Justice Obscured by the Shadow of Impunity*, p22.

⁴⁴ Amnesty International, *Algeria: Briefing to the Human Rights Committee*, p14.

⁴⁵ See Annex II for an example of a document from the judicial police confirming that a person has gone missing.

⁴⁷ CFDA, *Rapport alternatif du CFDA - La torture en Algérie: persistance et impunité*, April 2008: http://www.algerie-disparus.org/cfda/index.php?option=com_docman&task=doc_download&gid=5&Itemid=198 [Last accessed on 24 March 2009.]

⁴⁸ Pseudonym used at the request by the family of the victim of enforced disappearance.

⁴⁹ A. Aït Hamlat, "17.000 terroristes abattus", *L'Expression*, 6 May 2008.

⁵⁰ K. Kebir, "Disparus: 97% des familles ont accepté l'indemnisation", *Liberté*, 25 October 2008.

⁵¹ Djazaioura and Soumoud are Algerian associations for the families of victims of terrorism. See Chapter 6.

⁵² UN Doc.: CCPR/C/DZA/Q/3/Add.1, Reply 12, 4 October 2007.

⁵³ UN Doc.: CAT/C/DZA/Q/3/Add.1, para48, 17 April 2008.

⁵⁴ *Garde à vue*, a concept found in legal systems based on the French civil law system, is a period during which someone is held in police custody for questioning, before charges are filed.

⁵⁵ See:

UN Doc.: CAT/C/DZA/Q/3/Add.1, 17 April 2008;

UN Doc.: CCPR/C/DZA/Q/3/Add.1 ; 4 October 2007 ; reply 14

⁵⁶ See: *Algeria: Amnesty International condemns new bomb outrages in Algiers*

⁵⁷ It is reported that Fatouch El Tahir Yacine was arrested by officers of the Brigade of Research and Intervention (Brigade de Recherches et d'Intervention, BRI), a body reported to operate under the auspices of the General Directorate of National Security (Direction générale de la Sureté Nationale, DGSN) and exercise powers of judicial police. The body is allegedly mandated with investigating organized crime such as trafficking and terrorism, and has reportedly received assistance from the French authorities (see http://www.ambafrance-dz.org/article.php3?id_article=1944 [Last accessed on 24 March 2009.]).

⁵⁸ For more details, see: Amnesty International, *Unrestrained Powers: Torture by Algeria's Military Security*.

⁵⁹ Amnesty International retains some concerns that a number of requirements under international human rights law for the criminalization of torture are not met in Algerian legislation. For more information see: Amnesty International, *Algeria: Briefing to the Committee against Torture*.

⁶⁰ UN Doc.: CAT/C/DZA/3, paras91-94, 10 February 2006.

⁶¹ UN Doc.: CAT/C/DZA/Q/3/Add.1, para15, 17 April 2008.

⁶² For more information on Amnesty International's recommendations on measures to end of torture, please see Amnesty International's 12-Point Programme for the Prevention of Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment by Agents of the State, available at <http://www.amnesty.org/en/library/info/ACT40/001/2005> [Last accessed on 24 March 2009.]

⁶³ For more information see:

Amnesty International, *Civilian Population Caught in A Spiral of Violence*, p22;

Amnesty International, *Algeria: Steps Towards Change Or Empty Promises?* p21;

Amnesty International, *Algeria: Briefing to the Committee on the Elimination of Discrimination Against Women* (Index: MDE 28/011/2004), 1 December 2004:

<http://www.amnesty.org/en/library/info/MDE28/011/2004> [Last accessed on 24 March 2009.]

⁶⁴ UN Doc.: A/HRC/7/6/Add.2, paras53-54 (police treatment of domestic violence) and 67-68 (lax sentencing), 13 February 2008.

⁶⁵ For more information, see Amnesty International's 14-Point Programme for the Prevention of Domestic Violence at <http://www.amnesty.org/en/library/info/ACT77/012/2006> [Last accessed on 24 March 2009.]

⁶⁶ UN Doc.: A/HRC/7/6/Add.2, para103, 13 February 2008.

⁶⁷ UN Doc.: CCPR/C/DZA/Q/3/Add.1, 4 October 2007.

⁶⁸ The decision of the Council of State was announced on 14 January, while the General Assembly of the Algiers Bar Association was held the following day, on 15 January.

⁶⁹ The ECOSOC NGO committee voted on 28 January to uphold Algeria's complaint and decided to suspend the Arab Commission for Human Rights for a year.

⁷⁰ For more details, see: Amnesty International, *Algeria: Briefing to the Human Rights Committee*.

ANNEX I

ENGLISH TRANSLATION

Death Certificate

Algerian People's Democratic Republic

Ministry of National Defence

National Gendarmerie Headquarters

The Fifth Regional Headquarters of the National Gendarmerie of Constantine

Provincial Group of National Gendarmerie of Constantine

Number 06/323/s.m.w.

Death Certificate

Within the ranks of Terrorist Groups

We, lieutenant colonel [REDACTED] officer of the judicial police with the:
Provincial Group of the National Gendarmerie in Constantine,

-Having considered the Ordinance number 06-01 dated 28 Muharram 1427 H
corresponding to 27 February 2006 implementing the Charter for Peace and
National Reconciliation, namely Article 42 thereof,

-Having considered the presidential decree number 06-94 dated 29 Muharram 1427
H corresponding to 28 February 2006 G, regarding the compensation of deprived
families whose relatives were implicated in terrorism, namely article 2, paragraph 2
and article 3 thereof,

Pursuant to the application made by the so called [REDACTED] born 19[REDACTED]
[REDACTED] - daughter of: [REDACTED] and daughter of: [REDACTED] (...)
[REDACTED], residing at: [REDACTED], Constantine city

Relation: mother

Pursuant to the outcome of our investigations,

We certify:

That the so called [REDACTED]
Born on 08/01/1962 in: Constantine
Son of [REDACTED] and son of [REDACTED]

His death has been established to have occurred within the ranks of terrorist groups
This certificate has been provided for use according to the law.

Executed in Constantine on 27/05/2006

Signed and stamped by the Judicial Police Officer lieutenant colonel [REDACTED]

[REDACTED]
Stamps and signature

ARABIC ORIGINAL
Death Certificate

21-104-04 16115

PROJET

051009040

الجمهورية الجزائرية الديمقراطية الشعبية

وزارة العدل
مجلس الدولة
السلطة القضائية
مجموعة الدرك الوطني

رقم 323 / 06 / م - م - و

شهادة وفات
في صفوف الجماعات الإرهابية

نحن المقدم [REDACTED] ضابط الشرطة القضائية بـ : مجموعة الدرك الوطني
بمستقلة
بعد الاطلاع على الامر رقم: 08-01 المؤرخ في 28 محرم عام 1427 الموافق 27 فبراير
سنة 2006 المتضمن تكليف ميثاق السلم والمصالحة الوطنية ، لاسيما المادة 42 منه .
بعد الاطلاع على المرسوم الرئاسي رقم: 08-04 المؤرخ في 29 محرم 1427 الموافق 28
فبراير سنة 2006 المتعلقة بإعادة التوكة للأمر المحرمة التي تمليك بظنوح أحد أفرادها في
الإهاب ، لاسيما المادتين 2 و 3 منه .
بعد بناء على الطلب المكمم من طرف المصانة : [REDACTED] من مواليه خلال 19
بمسن الدين ولاية ميلة : [REDACTED] : ولاية : [REDACTED]
المسكنة (ب) : [REDACTED] دينة مستطبة
درجة القرابة : الأم .
بعد بناء على نتائج التحريات التي قمنا بها .

فقد

م جان التمسني : [REDACTED]
م المواتة تسمى : [REDACTED] بـ : مستطبة
م ابن : [REDACTED] وابنة : [REDACTED]

تمت معالجة وفاته في صفوف الجماعات الإرهابية .
بمسنه هذه للشهادة لاستعمالها فيما يسمح به القانون .

حرر بمستطبة في : 2006/05/27

الدكتور [REDACTED] رئيس اللجنة القضائية

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

مجلس الدولة

Zoufir KATHALU
"Constitutional disappearance" Case

ANNEX II

ENGLISH TRANSLATION

Missing Person's Report

Algerian People's Democratic Republic

Ministry of National Defense

National Gendarmerie Headquarters

The Fifth Regional Headquarters of the National Gendarmerie in Constantine

Provincial Group of National Gendarmerie in Constantine

Number: 06/616/s.m.f

Missing Person's Report

In the particular circumstance stemming from the National Tragedy

We, lieutenant colonel [REDACTED] a judicial police officer with: the Provincial Group of the National Gendarmerie in Constantine;

- Having considered the Ordinance number 06-01 dated 28 Muharram 1427 H corresponding to 27 February 2006 G implementing the Charter for Peace and National Reconciliation, namely Articles 27 paragraph 2 and 30 paragraph 2 thereof,

- Having considered Presidential Decree number 06-93 dated 29 Muharram 1427 H corresponding to 28 February 2006, regarding compensation for the victims of the national tragedy, namely Articles 2 and 8,

Pursuant to the application made by the so called: [REDACTED]

Born on [REDACTED]

Son/Daughter of: [REDACTED] and [REDACTED]

Residing at: [REDACTED] City of Constantine.....

Relation: (Wife)

To the so called: [REDACTED]

Pursuant to the outcome of our investigations

We Certify

That the so called: [REDACTED]

Born on: [REDACTED] in: Constantine.....

Son of: [REDACTED] and son of: [REDACTED]

Date the person went missing: [REDACTED] 994

Is considered missing after investigations and searches for his whereabouts which we conducted were inconclusive.

This missing person's report has been provided for use according to the law.

Executed in Constantine in 06/07/2006

Signature and stamp of the judicial police officer

Signed by Police Officer [REDACTED]

Stamps and signature

ARABIC ORIGINAL
Missing Person's Report

وزارة الدفاع الوطني
قيادة المدرك الوطني
القيادة الجهوية الخامسة للمدرك الوطني بقسنطينة
المجموعة الولائية للمدرك الوطني بقسنطينة

رقم: 06 / 616 / س ، م ، ف

معانة فقدان

في الظرف الخاص الناجم عن الماساة الوطنية

نحن المقدم [REDACTED] ، ضابط الشرطة القضائية بـ : المجموعة الولائية للمدرك الوطني بقسنطينة .
بعد الاطلاع على الامر رقم: 06-01 المؤرخ في 28 محرم عام 1427 الموافق 27 فبراير سنة 2006 المتضمن تنفيذ ميثاق السلم والمصالحة الوطنية، لاسيما المادتان 27 الفقرة 2 و 30 فقرة 2 منه.
بعد الاطلاع على المرسوم الرئاسي رقم: 06 - 93 المؤرخ في 29 محرم 1427 الموافق 28 فبراير سنة 2006 المتعلق بتعويض ضحايا الماساة الوطنية ، لاسيما المادتان 2 و 8 منه .
بناء على الطلب المقدم من طرف المسماة : [REDACTED] المولودة بتاريخ 1958/10/09 بفرجيوة ولاية ميله ابنة : [REDACTED] و [REDACTED] .
السكن (ة) بـ : [REDACTED] مدينة قسنطينة
ذوي حقوق (الزوجة)
للمسمى : [REDACTED] .
بناء على نتائج التحريات التي قمنا بها .

نشاهد:

بأن المسمى : [REDACTED]
المولود في [REDACTED] بـ : قسنطينة .
ابن : [REDACTED] وابن [REDACTED]
تاريخ الفقدان: [REDACTED] / 1994 .
يعتبر مفقودا بعد التحري والبحث الذي اجريناه وبقي بدون جدوى .
سلمت هذه المعانة بالفقدان لاستعمالها فيما يسمح به القانون .

حرر بقسنطينة في : 2006/07/06
توقيع وختم ضابط الشرطة القضائية

امضاء المقدم
[REDACTED]

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW

www.amnesty.org

**AMNESTY
INTERNATIONAL**

