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TRUTH AND JUSTICE FOR THE DISAPPEARED IN ALGERIA NEWSLETTER

Number 30 – January/March 2009

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TRUTH IN ALGERIA: ASSESSMENT AND PERSPECTIVES A YEAR AFTER UN RECOMMENDATIONS

A conference was held in Geneva on 5 & 6 March 2009 on the subject of 'Truth in Algeria: assessment and perspectives a year after the UN made recommendations'. The conference was organised by the CFDA in partnership with *Djazairouna*, *Somoud* and the World Organisation against Torture (OMCT). This conference followed the seminar in Brussels 'For Truth, Peace and Reconciliation' on 18 & 19 March 2007; it also followed the recommendations addressed to (the government of) Algeria by various United Nations Human Rights bodies between October 2007 and May 2008. We may recall that these recommendations foresaw the amendment of clauses in the Charter (for Peace and National Reconciliation) which are contrary to the fundamental rights of truth and justice of victims. One year after the recommendations, far from conforming to them, the Algerian representatives, represented at the conference by members of the CNCPPDH (*Commission nationale consultative de promotion et de protection des droits de l'homme* - Algerian National Consultative Commission for the Protection and Promotion of Human Rights), proudly presented a financial and pithy assessment of the politics of reconciliation.

The presence of representatives of the CNCPPDH at an event organised by Associations of victims was a first and it was appreciated by the participants. Added to this, at the opening ceremony the organisers were honoured to see the Vice President of the Committee of Human Rights, His Excellency Marius Grinius; the President of the FIDH (*Fédération internationale des droits de l'homme*; International Federation of Human Rights), Mme Souhayr Belhassen, and the Secretary General of the OCMT (World Organisation against Torture), Mr Eric Stottas. Experts in

international law and transitional justice made presentations. In the debates that followed, the presentations by experts and representatives of the CNCPPDH were of a high quality. Some 90 participants took part in the two-day conference. The closing common declaration by the organising Algerian Associations may be consulted on the CFDA website: http://www.algeriedisparus.org/cfda/index.php?option=com_content&task=view&id=254&Itemid=121

The conference was covered by Agathe Duparc in the French daily *Le Monde* in its issue dated 10 March 2009: 'Algerian families of the disappeared looking for justice'. The Algerian daily *El Watan* carried an article by Adlene Meddi on 07 March 2009: 'Dialogue between NGOs and the Algerian authorities?'

8023 DISAPPEARANCES OFFICIALLY RECOGNISED BY THE ALGERIAN AUTHORITIES

We learned with surprise, during the presentation of an assessment of the Charter by representatives of the CNCPPDH, that the officially recognised number of disappeared people has risen from 6143 to 8023. It is only some years ago that the Algerian authorities denied any disappearances and spoke only of some individual excesses during the anti-terrorist struggle.

These figures appeared in order to justify the existence and legitimacy of clauses in the Charter as well as President Bouteflika's assessment at the end of the preceding mandate. In the same way we learned that the authorities spent 22.6 billion dinars in order to apply the various measures in the Charter, of which 6.634 billion dinars were the costs of compensation to victims (without any details).

The assessment of the politics of reconciliation was confined to numbers, evading any question about truth, justice and the need for psychological and moral assistance for the victims. In reference to this Abdelkader Benaziza, son of Mme Benaziza arrested and disappeared in Constantine in 1996, questioned the CNCPPDH representatives at the end of their presentation, treating the Charter as a development plan.

ENFORCED DISAPPEARANCE RECOGNISED AS A CRIME AGAINST HUMANITY

During its 87th session, the UN Working Group on Enforced and Involuntary Disappearances adopted a general observation: that the practice of forced disappearance can be considered a crime against humanity. In doing this, the Working Group recalled the notion of crime against humanity defined by Article 7/1 of the 1988 Rome Statute of the International Criminal Court: *'A crime against humanity is understood to be one of the undermentioned acts committed as part of a widespread or systematic attack directed against any civilian population and with knowledge of the attack'*.

The practice of enforced disappearance is a part of those acts susceptible of constituting a crime against humanity according to Article 7/1. Paragraph 15 of the general observation by the Working Group on Enforced Disappearances affirms that: *'when there is an allegation of the practice of enforced disappearances susceptible of constituting a crime against humanity, the Working Group will examine these allegations in the light of criteria established by the definition in Article 7/1 of the Rome Statutes, as interpreted by various international and mixed courts, and if it finds that the complaint is founded, it will transmit the allegations to the competent bodies, international, regional or national'*.

RESOLUTIONS ADOPTED CONCERNING ENFORCED DISAPPEARANCES

The UN Human Rights Council, during its 10th session, through its resolution on enforced or involuntary disappearances (document A/HRC/10/L20 revised), demanded that governments reply to the complaints about cases of disappearance that had occurred in their country; it stated that they should also pay the attention wanted to the recommendations of the Working Group on Enforced or Involuntary Disappearances in its reports. It recommended that states should organise, within their legal system, a mechanism that would allow victims of forced disappearances, or their family, a fair and adequate compensation within a reasonable time; they should also seek - when the occasion presented itself - symbolic measures that both recognised the suffering of the victims and would uphold their dignity and reputation. The Council also called on states to engage in, and ratify, the Convention for the Protection of All Persons from Enforced Disappearance.

Prior to this, during its 9th session, the Council for Human Rights had already adopted a resolution concerning the **right to the truth** (A/HRC/9/L23) (see Newsletter 29).

By means of a resolution (A/HRC/10/L36) on medico-legal genetics and human rights, the Council encouraged states to use this technique to facilitate the identification of the remains of victims (...) and to resolve the question of impunity.

INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

Nassera Dutour, Spokesperson for the CFDA, was invited to participate, on 5 February 2009 in Paris, in the commemoration of the signing of the International Convention against Enforced

Disappearance. The day was organised by the *Colegio de España*, with the collaboration of the *Maison d'Argentine* and the *Maison d'Italie* and three *maisons* from the *Cité Internationale Universitaire de Paris*. To commemorate this, the study day considered the history, the contents of the Convention, the perspectives for the future, and the problems and obstacles to it being applied. Many organisations were present or represented: Associations of families of the disappeared from various countries, specialists who had participated in the production of the Convention text, negotiators representing NGOs at the UN, and representatives of the International Coalition against Enforced Disappearance.

Brief history and the state of ratification of the Convention

The need to adopt a universal legal instrument to prevent and eradicate forced disappearances was posed for the first time in 1981. In 1998 a project for a Convention presented by the French expert Louis Joinet was adopted by the UN Human Rights Sub-Commission, which passed it on to the UN Human Rights Commission in 2001. In 2002, the expert Manfred Nowak, mandated to effect an evaluation of existing mechanisms, submitted a detailed report to the Human Rights Commission; this confirmed the creation of a Working Group for the production of a legally constraining mechanism by a resolution: 2002/41 of 23 April 2002. The Convention for the Protection of All Persons against Forced Disappearances was finally adopted by the United Nations General Assembly on 20 December 2006. The Convention, signed in Paris on 06 February 2007, has been open for signing and ratification since that time. Beyond the victory that this represents after long years of struggle, this text constitutes an effective and innovative tool. The Convention will come into force when ratified by 20 states.

In recent months, new countries - Cuba, Kazakhstan and Uruguay - have ratified the Convention, bringing the total of those that have done so to ten.

MALIK MEDJNOUN'S SITUATION IS NOT IMPROVING

After ten years of waiting, the trial of Malik Medjnoun finally opened on 09 July 2008, only to be immediately postponed awaiting further information. Within this framework he was heard once more on 18 March; this brought nothing new at all. Between times, and seeing no other way of being heard, Malik Medjnoun began a hunger strike on 01 February 2009 in order to claim that he be freed under surveillance until the trial. After a month, seeing that his health was deteriorating worryingly, Malik Medjnoun was forced to put an end to the hunger strike, without obtaining any satisfaction.

A NEW FORCED DISAPPEARANCE SOME WEEKS BEFORE THE PRESIDENTIAL ELECTIONS

Moussa Rahli, a 43 year-old builder and father of four children, was arrested on 17 March 2009 at 1900 hrs by four officials in civilian clothes, at his home in Boumerdes (near Algiers). Days passed without the family having any news of Moussa. His father, Mohamed Rahli, therefore began the usual searches and enquiries only too well known by all families of disappeared. He went to police stations, *gendarmeries* and military barracks in his district. He was sent from one to another without obtaining the least information on where Moussa might be. On 21 March he deposited a complaint at the *gendarmerie* of Sidi Daoud (*wilaya* of Boumerdes). On 27 March, the four officials who originally arrested Moussa again went to the family home of the Rahlis in order to make a search and to take away Moussa's car. Mohamed Rahli was summoned to follow them to the military barracks of Ouled Aissa in order to sign a *procès*

verbale. It is now well beyond the maximum legal time of 12 days of *garde à vue* (in police custody), but Moussa has not appeared before a judge; he has of course not been allowed to have contact with any members of his family. The reason for his arrest and secret detention remain unknown.

The CFDA has launched an urgent appeal to the UN Working Group on Disappearances.

INTERNATIONAL CENTRE FOR TRANSITIONAL JUSTICE (ICTJ) AT SOS DISPARU(E)S OFFICE

The Director of the North Africa / Middle East Programme for International Centre for Transitional Justice, Hanny Megally, accompanied by Habib Nassar, visited Algiers to attend the parliamentary day to assess the Charter for Peace and National Reconciliation. This took place in January 2009, and the representatives of ICTJ attended at the invitation of the initiators of the parliamentary day. Hanny Megally made a presentation about international justice in front of the Assembly of parliamentarians, ministers and journalists.

The ICTJ representatives were able, during their visit, to meet the various Associations of victims. A meeting was therefore organised in the offices of *SOS Disparu(e)s*, attended by members and their lawyers, and by representatives of *Djazairouna* and *Somoud*. The many difficulties faced by families of victims during the reconciliation process, and the grave human rights violations resulting from the process, were raised. The victims spoke about their expectations, their need for the truth, and their hope for the birth in Algeria of a system of transitional justice that will satisfy them.

A DAY FOR TRUTH IN BARCELONA

A conference, to launch a campaign for a Commission of Truth, took place in

Barcelona on 21 March 2009. The Catalan Association SODEPAU had organised this following the day for Truth, Justice and Reconciliation in Algeria. Nassera Dutour, Spokesperson for CFDA, Cherita Kheddar, President of *Djazairouna* and Karim Merabel of *SOMOUD*, made presentations about their respective Associations and their common actions to obtain Truth in Algeria.

The results of the Brussels conference on 17 & 18 March 2007, 'For Truth, Peace and Reconciliation', which should have taken place in Algiers, were presented during the course of the conference. These are in a book which is published in four languages: French, English, Arab and Catalan. It contains the witness of victims, the state of human rights in Algeria, the international mechanisms for the protection of human rights and various experiences of transitional justice across the world. The conclusions of workshops concerning the practical details of a Truth Commission and the various forms of compensation are also reproduced.

The documentary *Chanson pour Amine*, filmed by the Italian Alberto Bougleux (see Newsletter 29) was previewed at this conference. This documentary, produced by the Catalan NGO *SODEPAU*, will be used to support the campaign to establish a Truth Commission.

Chanson pour Amine recounts the drama of forced disappearances in the life of Nassera Dutour, Algerian mother who, since the disappearance of her son Amine in 1997, decided to dedicate her life to a building up a movement of families to fight disappearances. See: <http://www.memorial-algerie.org/>

THEATRE: LA BEAUTE DE L'ICONE

La Beauté de l'Icone, a play by Fatima Gallaire about the disappeared in Algeria, was presented for the first time in 2006 in Arras and had not been played again since

that time. During the month of March 2009 a new version, directed by Khadidja El Mahdi, and played by the *Baracca Suivre* company, was presented in two theatres in Paris suburbs. The company gave five performances on 14 and 15 March at the *Cave à théâtre* in Colombes, and on 20, 21 and 22 March at the Charenton theatre. A discussion about participation and art took place at the end of each performance. Nassera Dutour, mother of a disappeared son and Spokesperson for the CFDA and *SOS Disparu(e)s*, took part twice in these debates.

SHORT NOTES

THE CFDA AT THE UN COUNCIL OF HUMAN RIGHTS

On 4 March 2009 Nassera Dutour - Spokesperson for CFDA - took part in the 10th session of the Council of Human Rights on the issue of human rights defenders. She spoke again about the difficult fight led by human rights defenders within the Arab world. The speech can be seen on the following link:
<http://www.un.org/webcast/unhrc/archive.asp?go=090304>.

AMNESTY INTERNATIONAL REPORT ON IMPUNITY IN ALGERIA

Ten days before the Algerian presidential elections, Amnesty International (AI) called on the next president to take into account the thousands of victims of the 1990s conflict. In a new report, entitled "A Legacy of Impunity: a threat to Algeria's future", AI sets out its concerns about the absence of inquiries into past and present infringements

of human rights, and to the impunity enjoyed by the security services and armed groups.

DEBATE IN PARIS ABOUT ENFORCED DISAPPEARANCES

On 13 March 2009 a public debate took place in Paris on the theme: 'Political disappearances in Algeria: is peace possible without knowing the truth?'. The debate was organised by the 20th and 29th sections of the French Human Rights League. Several campaigners and experts spoke on the issue. The meeting was another occasion to project the film *Y a plus d'Amine*.

PROJECTION OF FILM "HAQIQA"

Nassera Dutour and the struggle of families of disappeared in Algeria within the CFDA and *SOS Disparu(e)s* are the central themes of this documentary. It was shown in Geneva on 11 March at the International Film Festival on Human Rights. The documentary "Haqiqa" ('The Truth'), by Anne Amzallig, gave rise to a speech by Nassera Dutour and a debate on forced disappearances in Algeria.

VISITS TO THE ALGIERS OFFICE

Cyril Gerardon, Advisor at the French embassy, together with representatives from the UK, Northern(?) Ireland and Denmark embassies, each asked to visit the *SOS Disparu(e)s* office. Discussions took place on the objectives and actions of the Association, on contacts and the question of the disappeared in Algeria, on national reconciliation and the difficulties that the Association encounters. The Algiers office also had visits from foreign researchers and journalists.