

Newsletter of the Families of the Disappeared

Bulletin of the National Coordination of the Families of the Disappeared in Algeria

*This newsletter is dedicated to the memory of the disappeared,
to all the victims, with no exception, of savagery.*

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Leader

Justice!

In 1988, I was 'disappeared'. It was in Algiers, during the October uprising, the bloody repression of which is still engraved in our memories. On my way to the *Agence France Presse* offices, I was flanked by two plain-clothes security agents who grabbed me and threw me into an unmarked car. As soon as the doors closed, I was plunged into darkness and pinned to the rear seat while a canvass hood was put on my head. I was then held in secret detention in the basement of a military barracks at Bouzarea, not far from Algiers. Later, I crosschecked many testimonies, and understood that I had been held in one of the operation centres of the *Sécurité Militaire* (the actual heart of the power system now known as the DRS, *Direction du Renseignement et de la Sécurité* - Directorate of Intelligence and Security) where torture was practised as a routine matter.

My days were governed by the rhythm of intensive questionings and my nights by the cries of the tortured. This insidious psychological torture filled me with fear. This fear was to reach its apex when they took me to a waste ground and enacted a summary execution. I was terrorised and became very aware at that moment that I was an embarrassing witness: I had seen soldiers shoot defenceless teenagers, and their bodies torn apart by explosive bullet had been collapsing before my eyes.

Few hours after the mock summary execution I was thrown into a flight bound to Paris with the order to keep quiet if I wanted to avoid reprisals against myself and my family.

I had narrowly escaped death. My salvation was due to the attentiveness of Amnesty International, which drew the presidency's attention to my disappearance, after a colleague and friend had alerted the human rights NGO. My ordeal lasted a week and left me with a haunting trauma.

Despite this difficult trial, I continued to visit Algeria regularly. Algeria was living the stirrings of change after three decades of dictatorship. For the first time since independence, Algerians were openly expressing their desire for change and democratic openness. And then the military coup of January 1992, led by a faction of ultra-conservative generals, brutally cancelled the first free parliamentary elections. They put an end to all hopes and plunged the country into the worst nightmare: a low-intensity military campaign ruthlessly conducted against the people.

So when the courageous sister in law of one of the fifteen Ras el Oued disappeared contacted me in 1994 I knew instinctively what the matter was. The 'eradication' campaign conducted by the Algerian security agencies had entered its bloody phase. A large scale extermination of people suspected of links with the Islamic Front for Salvation, forcibly dissolved in March 1992, was under way, just like at the worst hour of Stalinism, as in Indonesia in 1965 when the 'Phoenix' operation was launched to eliminate more than 500 000 civilians suspected of 'communism' under the guise of a 'civil war', an process akin to the disappearance of 40 000 people in Argentina during the military dictatorship) 1976-1983).

Faced with the scale and savagery of the repression, and especially the horror of the massacres perpetrated in the second half of 1997, the international human rights NGOs finally got engaged, and began demanding, year after year, a commission of inquiry into human rights violations in the country. Emboldened by this support, the families of the disappeared stepped up their activities. Since then, they have been demonstrating, week in week out, in front of the courts of the major cities of the country, demanding that light be shed on the fate of their loved ones and that justice be rendered.

Their struggle is admirable, just like that of the 'Mothers of the Plaza de Mayo' in Argentina whose perseverance led not only to the acknowledgment of the crimes perpetrated by the dictatorship, but to opening up the political process to other struggles. The dynamism brought about by these 'passionarias' did help Argentinean society to resist

and later to restructure itself on solid and legitimate grounds. The motto 'There is no lost struggle except an abandoned struggle' in their demonstration gave courage to Argentinians and saved them from pessimism and isolation. They became the heroines of a whole people.

The struggle of the families of the disappeared is vital for the future of Algerian society. It is the duty of every one of us – Algerian women and men – to support this struggle wherever we are. The path is indeed long, but it is valuable for all Algeria. The demand for truth and justice within it will also make it possible to join a human chain throughout the world. To build a universal Algeria shaped by the values of equality and democracy. An Algeria that no dictatorship will be able to oppress or subdue!

Rabha Attaf, free-lance journalist

What is the NCFD?

In 2004, the Algerian president announced that amnesty laws would be promulgated to turn the pages of one Algeria's darkest moments in its recent history. This project was meant to absolve the criminals – be they from the security services or members of 'armed groups' controlled by these very services or not – an nip in the bud any process demanding truth (fate of the disappeared, identifying the dead under 'X-Algerian' graves, inquiring about mass graves, etc.) and justice (establishing judicial responsibilities, punishing those responsible, moral and material reparation of the families of the disappeared, etc.). Using this context, M. Farouk Ksentini, the president of the National Consultative Commission for the Promotion and Protection of Human Rights (Commission nationale consultative de promotion et de protection des droits de l'Homme – CNCPPDH) tried to pressure the families of the disappeared into accepting indemnities to buy their silence.

The families of the disappeared got organised into associations in various regions of the country, despite the refusal of the state to recognize them. They hold weekly public sit-ins, which are sometimes severely repressed by the security forces, to challenge the state with regard to its responsibility in their tragedy.

Lodging a large number of complaints has led neither to a single inquiry about the disappearance cases, nor to judicial prosecution. In one word, the families were coming up against a wall.

As the announced amnesty became imminent, a robust legal approach, grounded in internal law and international law, to face the Algerian authorities became imperative. Thus a platform with 25 demands (enclosed in this newsletter) drafted with the help of legal experts from *Justitia Universalis*, an international NGO against impunity based in e The Hague, was prepared.

In order to campaign for this platform, various associations of the families of the disappeared in the country decided to coordinate their actions through the National Coordination of the Families of the Disappeared (*Coordination Nationale des Familles de Disparus* in French) in May 2005. Besides its information activities with the families affected and within the larger society, the NCFD intervenes before the human rights commissions of the UN, in Geneva, where it has a permanent correspondent. Last September, the Constantine section of the NCFD gave the UN Working Group on Enforced Disappearances 1000 cases of disappearances, to be added on the 1500 cases already registered by the Working Group.

This action was undertaken at a time the Algerian authorities were trying to eschew their justice and truth responsibilities towards the families of the disappeared, through a pseudo-referendum, thus violated all the international covenants ratified by the Algerian state, as according to international law enforced disappearances are crimes to which the statute of limitations does not apply.

Anouar Koutchoukali, Justitia Universalis

Activities of the NCFD

Disappearances: We shall pursue our inquiries despite the surrounding guilty silence

Few months after the referendum on 'peace and reconciliation', a wall of silence seems to be surrounding the decade of bloody events Algerians have suffered. But the resilience and courage of the men and women, who challenge the current order of things and continue demanding truth and justice, is shattering this silence.

The list of the disappeared is getting longer as NCFD inquiries are making progress. During our visits to different cities in the country, we have opened new cases which shed more light on the number and circumstances of disappearances perpetrated by various security bodies. These inquiries allowed us to collect testimonies of torture survivors and eye witnesses of people killed under torture.

Thus we have recently documented 45 new disappearance cases — 15 of them deal with the district of Ras El Oued in the wilaya of Bordj Bou Arréridj while the rest documents this crime in the Aïn Oulmène district in the wilaya of Sétif — which will be presented soon to the UN Working Group in Geneva.

For example, these include the case of Mrs. D. who was disappeared by the gendarmerie of Aïn Oulmène in 1995. Courageous witnesses accepted to speak about her ordeal openly before the NCFD's camera and microphone. The fate of this mother of four children speaks volumes about the savagery of the security services. Witnesses saw her in the gendarmerie barracks in a humiliating body posture, her breasts uncovered. Out of decency witnesses did not wish to recount in too many details the odious sight they observed in this gendarmerie barracks, which is but an instance of the institutions where terror is employed as a routine security management procedure.

Another case is that of Mrs. B. from Constantine, a widow and grand-mother, whose house was attacked by members of the armed forces and military intelligence. She was taken injured to the Didouche Mourad military hospital in Constantine and then disappeared few days later. Her house was subsequently burnt down and destroyed. Her son, who is handicapped and a father of four children, became homeless.

This raises many questions: Who is really behind these crimes — including summary executions and displaying remains of people in the populous neighbourhoods of Constantine (Chalet des Pins, Oued El Had, Cité Daksi etc.) to terrorise the population? Who orders his subordinates to carry out these dirty tasks? Could a simple gendarme, soldier, police inspector or militiaman commit openly such crimes if he were not sure his hierarchy granted him immunity? One should add that these crimes did not prompt any strong opposition from either the political elites or the judiciary.

The numerous testimonies compiled by national and international human rights NGOs as well as the UN will sooner or later have an effect, and the Algerian state, like many other states recently, will be held accountable before international jurisdictions.

Rabah Benlatrèche, founding member of the NCFD, president of the Association des Disparus de Constantine

** The audio-video testimonies compiled by the Constantine section have been handed to three human rights NGOs: Al Karama for Human Rights (Geneva), the Arab Commission for Human Rights (Paris) and Justitia Universalis (The Hague)*

Workshop of the role of civil society in national reconciliation

(Sétif - 13 July 2005)

Organised by the Algerian League for Human Rights and Freedom House from the US, this workshop ended with the following joint declaration:

Building together the bastions of peace

We, women and men representative of some segments of Algerian civil society, especially the families of the civilian victims of the armed conflict in the country,

- Believe that durable peace is a fundamental prerequisite for enjoying human rights and that

social peace is impossible without breaking the silence about what happened and us happening;

- Are aware that Algerians, and Algerians only, can decide on how to deal with their past through a national debate in which freedoms of expression, gathering and association are guaranteed;
- Are taking part, as members of civil society and as victims, in the debate on 'national reconciliation'

despite the lack of substantive clarity of this project;

- Consider that national reconciliation is more than a reconciliation between two parties in conflict, it is a movement of social evolution aiming at bringing about the collective awareness enabling the Algerian people to go beyond their sectional interests and take their human responsibilities to stop the bloodshed and create a framework for peaceful coexistence regulated by the principles of tolerance and accepting the other.

It is the case that

- Algeria is before a new process of moralisation and humanisation of political action;
- This requires the greatest precision in delineating the interests at stake and the positions ;
- We believe that there is no cause more noble or important for our meeting than national reconciliation ;
- Our meeting and action to bring about reconciliation will not be depart from the principles of national et international legitimacy and law ;
- The widespread desire for peace in the country today fills us with joy and enthusiasm, but it also pains us because we cannot forget the thousands of dead or disappeared citizens, the women raped casually or on the grounds fatwas with no religious basis, the thousands of people who fled their homes and villages and are now homeless and rootless, the burnt down schools and factories.

Our understanding of national reconciliation entails the following recommendations:

- Truth and justice must precede any reconciliation so that we can face the past and allow the families of the disappeared to know the fate of their loved ones, whoever kidnapped them, state agents or members of the armed groups ;

- DNA techniques must be used to identify the individuals buried in mass graves or in cemeteries in graves denoted X ;
- The protection of collective memory by documenting all what happened during the bloody decade in an objective, courageous and sincere manner;
- The establishment of justice and equality ; However justice goes beyond the traditional notion of justice and its different structures (police, public prosecutor office, judge, sentence) but extends to a transitional justice experienced in various countries in the world which aims at identifying both criminals and victims, getting the criminals to confess, trying them, offering moral and material reparations to the victims, and granting them the social and judicial status of victims;
- This justice and equality will be administered by a sovereign commission made up of credible independent personalities in the presence of the victims and their representatives;
- The freeing of all persons in arbitrary and secret detention;
- The reform of the structures of the state in order to ensure the primacy of institutions and especially the independence of justice ;
- The adaptation of Algerian laws to international instruments especially those relating to crimes against humanity such as enforced disappearances, systematic rapes (as a war strategy), genocide and torture;
- The removal of constraints on associations of civil society so that they can act in greater freedom;
- The setting-up of structures for the psychological care of victims (of terrorism, families of the disappeared, children of victims of terrorism and disappeared persons, raped women, traumatised persons).
- The lifting of the state of emergency.

Meeting of the NCFD, Algiers 21-23 November 2005

Delegates of the NCFD from the cities of Oran, Relizane, Algiers, Setif, Constantine and Ouargla had a three-day meeting (21-23 November 2005) at the *Maison des Associations* of the Ministry of Solidarity. Officials from the Ministry of Solidarity and representatives of NGOs also attended the meeting.

The main aim of this meeting was to draw the attention of Algerian authorities to the difficult social situation lived by a large number of families of the disappeared. Besides their basic and non-negotiable demands (truth and justice with regard to the disappearances), these families requested the authorities to provide social care to them.

The delegates adopted a programme of actions to achieve the following demands: an undertaking by the Ministry of Labour and the Ministry of Solidarity to provide housing, jobs, and social security to the families of the disappeared, as well as education and holiday camps for their children, in addition to psychological care through the *Club des Amis des Familles de Disparus*.

Four working groups were set up: the *Truth and Justice Commission*, the *Social Commission*, the *Medical and Psychological Care Commission*, and the *Commission for Historical Memory*.

Friends of the Families of the Disappeared Club is set up

The tragedy lived by the families of the disappeared concerns the whole of Algerian society. Undermined socially, economically and psychologically, the families of the disappeared need the solidarity of Algerian society to support their demands and prevent the repetition of their ordeal. Solidarity with the families of the disappeared can take many forms as they require legal experts (lawyers, judges, academics) to assist them in their struggle for truth and justice, as well as medical doctors and psychologists to care for families and particularly children of the

disappeared. Families of the disappeared need all good wills to heal their wounds and cope with their losses. This is the only way our society will be able to face the future in peace and serenity.

The first associations which joined the club are the Association for the Protection and Promotion of Women's Rights (APPDF), the *NADA* network (works with UNICEF), the *ADHWAA* network (promotes the rights of women, children and the handicapped), the Algerian League for the Defence of Human Rights (LADH) and the Algerian Assembly of the Youth (RAJ)

Visits Abroad

Geneva mission (09-11 October 2005)

Mrs Safia Fahassi, member of the national office of the National Coordination of the Families of the Disappeared in Algeria, took part in many events held in Geneva. The first meeting, organised by the Commune of Meyrin and the Swiss association '*Jardin des disparus*' (Garden of the Disappeared), was held on 9 October 2005. Mrs Fahassi stressed the importance of holding such meetings to keep the memory of the disappeared alive in the world. She deplored the fact that it was impossible to hold this kind of meetings in Algeria because the state forbids them.

The representative of the NCFD also participated in the '3rd Assembly for Human Rights' organised by the *Conseil d'Etat* (State Council) of the Republic and Canton of Geneva held on 10 October 2005 at the *Centre International de Conférence*. This year the assembly focused on the role and status of women in conflict and post-conflict areas.

Mrs. Fahassi gave an account of the struggle of Algerian women for the cause of the disappeared.

Her account was welcomed by Mrs Louise Arbour, High Commissioner for Human Rights, who expressed her solidarity and reiterated her concern about the issue of the enforced disappearances in Algeria.

Mrs Fahassi was then invited to the headquarters of the High Commission for Human Rights where she was received by the Working Group on Enforced Disappearances to which she handed about two hundred cases of disappearances documented by the Constantine section.

This meeting was particularly fruitful. Mrs Fahassi expressed the readiness of the NCFD to follow up the thousands of cases presented to the UN Working group. Modalities of cooperation between the two parties were discussed and agreed upon.

Dublin Deputation (13-15 October 2005)

Mrs Safia Fahassi visited Dublin as a guest of the 'Front Line' organisation for the protection of human rights defenders.

She described in detail the problems faced by human rights activists in Algeria, with a particular focus on the difficult situation of women involved in the associations of the families of the disappeared.

The conference held at Dublin Castle gathered political figures from various foreign ministries, including Ireland, France, the Netherlands, Norway, and Austria, as well as international NGOs such as Amnesty International, Human Rights House, Lawyers Watch Canada, Concern Worldwide, Euro-

Mediterranean Foundation, and the Irish Council for Civil Liberties, in addition to human rights activists from all over the world.

Mrs Fahassi met Mrs Mary Lawlor, director of FrontLine, to inform her about the Algerian situation, and in particular explain to her the difficulties faced by the women and men who campaign for a resolution of the disappearances issue (denial of official approval, police and judicial harassment etc.)

In her speech Mrs Fahassi presented the history of the movement of the families of the disappeared, and the recent actions undertaken by the NCFD.

She objected to the Algerian authorities blocking the resolution of the enforced disappearances issue, and articulated the position of the families of the disappeared on the 'national reconciliation project' submitted to a referendum in September 2005.

Mrs Fahassi also insisted on the harmful effects of the crime of enforced disappearance on the families. This suffering is compounded by the continuous lies of the Algerian authorities and the sense of isolation felt at the silence of the international community which does not go beyond denouncing human rights violations. Mrs Fahassi concluded by saying that 'not knowing the fate of thousands of disappeared deserves the involvement of the whole planet.'

Mrs Fahassi met and exchanged views with participants from Colombia, the Indigenous Organisation of Kankuamo, Organizacion Feminina Popular, Organizacion Fraternal Negra Hondurena from Honduras, and Mothers of Srebrenica. Mrs Fahassi also took part in the launching of a regional network for the defence of human rights activists from the Middle East and North Africa with fellow members from the region.

Mme Fahassi also met Dr Magda Adly, president of the Nadeem centre for the Rehabilitation of Torture Survivors and Victims of Violence from Egypt. This centre works together with the International Centre for the Rehabilitation of Torture Victims based in Copenhagen, Denmark.

Mission to Bahrain (07-10 December 2005)

Mrs Fahassi took part in the meeting of the centres for the rehabilitation of torture survivors, organised by the Aman network and the International Rehabilitation Council for Torture victims (IRCT) from Denmark.

Delegates from different centres of rehabilitation in the Middle East (Lebanon, Egypt, Bahrain, Morocco, Iran, Palestine, Iraq) were present. Mrs Fahassi discussed the NCFD's plan to set up a centre for the rehabilitation of torture survivors in Algeria. She stressed the need for such an institution in our country for both torture victims and the families of the disappeared whose ordeal does constitute a form of collective torture, which will continue as

long as the truth of what happened to their loved ones has not been established.

The IRCT and other regional centres showed interest in the NCFD's proposals and committed themselves to cooperating and helping in the setting up of the Algerian centre for the rehabilitation of torture survivors.

Details of the Bahrain meeting and the activities of the Aman network are available at www.amannet.org

Sri Lanka workshop (29 November – 2 December 2005)

Mrs Farida Ouaghliissi, a member of the national office of the NCFD, attended the workshop on 'State repression and female human rights defenders' held in Sri-Lanka, and organised by *Human Rights First* (USA) and *Service International des Droits de l'Homme* based in Switzerland. The workshop discussed the security issues faced by women involved in the defence of human rights. She took part in a panel discussion and a debate moderated by Neil Hicks (*Human Rights First*) et

Nazima Kamalova, (Legal Aid Society, section Uzbekistan).

During this visit, Mrs Ouaghliissi met Mrs Hina Jilani, special human rights representative of the UN General-Secretary, and discussed the repression to which Algerian women involved in human rights work are subjected to. Mrs Ouaghliissi briefed Mrs Jilani on the role and objectives of the NCFD.

Legal Section

This section is open to the families of the disappeared and to the victims of other violations of human rights, and aims to raise issues of law. Our advisers are ready to answer your questions, and if necessary to counter the disinformation spread by some – such as Mr. Ksentini, who recently claimed that the crime of disappearance is subject to a statute of limitations after 10 years, which is totally false! The crime of forced disappearance is continuous and permanent and thus not subject to statutes of limitations (see the official statement of the Working group of the United Nations on Forced Disappearances below.)

For all your questions, please write to cnfd.jur@gmail.com

Inquiries & testimonies

The "disappeared" of Ras el Oued

On the night of July 22-23, 1994, the security forces of Bordj Bou Arreridj – "ninjas" from the antiterrorist units, military intelligence, CNS and gendarmes supported by former *moudjahidine* (independence fighters) organized in armed militias ("patriots") – simultaneously abducted 15 inhabitants from their residence in the commune of Ras el Oued. The operation started at 11 p.m. The eyewitnesses are categorical: each time, the same scenario was repeated. The "400 Lgts" housing estate was surrounded towards 1 a.m. by about fifty men, while some men in balaclavas accompanied by plainclothes military intelligence brutally broke into the targeted families' homes.

The kidnapped people were gathered at the local gendarmerie, then transferred to a former school converted to a barracks before, about 3 am, being put on board a Toyota and a Nissan Land Rover – models widely used by security forces – which took the road to Sétif or Bordj-Bou-Arréridj. Since then, no trace of them.

To all their questions, their families obtained only dilatory answers. The National Observatory of Human Rights (ONDH), an official organization chaired by Mr. Rezzag Bara, on whose desk hundreds of requests from the families of disappeared were vainly piled, gave this answer to the relatives of one of the disappeared: "No

security service has identified the interested parties, and no legal proceeding relating to them has been recorded by the public prosecutor's department of the Sétif court, which is territorially responsible. It seems to have been established that Mr. X was abducted by an unidentified armed group. Nevertheless, according to information received from the National Gendarmerie, it was stated that, on July 22, 1994, Gendarmerie brigade of Tixaine was informed by a citizen of the discovery of 15 bullet-filled corpses in the forest of Dalhaâ (municipality of Ain Taghrout)".

These corpses were indeed found in the night of July 23, 1994, but according to eyewitnesses who knew the disappeared of Ras el Oued, none of those missing appeared among them. Neither did they appear among the 13 corpses found tied up and killed by bullets three weeks later on the Sétif road. In both cases, the families suffered a menacing refusal of their request for identification. This did not prevent the Algerian government from affirming, in an answer to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions – informed of this case and many other cases of forced disappearances in Algeria – that three of the disappeared had been identified among these corpses. In fact, one of the people identified is alive today, and was never arrested in the first place!

One week after the arrest, the prefect and the commander of gendarmerie of Ras el Oued were transferred. Four months later, the chief of the local militia, Amar Boussaada, a former moudjahid nicknamed "Rambo I", was assassinated by a member of his own militia. He seems to have discovered that he had been manipulated by the security forces to take part in this operation, after the unexplained murder, before his eyes, of another former moudjahid. The latter was an old man who spent his time grazing his sheep in the hills. He had been killed after his return to the area. "Rambo I" must have been convinced by the security services that the persons responsible for the crime were "the Islamists", including some members of his own extended family, and that it was thus necessary to crack down on them. His insistence on finding out about the people whom he had previously helped arrest with his militia would have made him a "nuisance".

The disappeared of Ras el Oued were aged between 27 and 71. They were teachers, employees, tradesmen. Among them were an Imam and a retired gendarme, elected mayor in 1990 on the FIS list.

Thousands of Algerians disappeared under similar conditions.

Mohamed X

List of disappeared of Ras el Oued

AMAARCHAT Ali, born in 1923, married, retired
AMAARCHAT Lyazid, born on May 30, 1957, married, SNTV accountant
BELALMI Seddik, born on April 10, 1967, married, trader
BENHAMMADI Nadji, married, teacher
BOUADI El Kheir, born on September 1, 1958, married, imam
BOUADI Okba, married, teacher
BOUDIAF El Mekki, born on April 29, 1964, married, worker.
BOUKHATELAT Rabah, born on February 9, 1948, married, teacher
CHERGUI Mohamed, married, trader
CHERRAD Brahim, born on February 20, 1942, married, retired lieutenant of gendarmerie, elected official mayor on the list of the FIS in 1989
DJAÏMA Tayeb, born on July 26, 1963, married, expert in insurances, held for 1 year in the camp of Reggane following the arrests which took place in 1991.
KEBAÏLI Lyamine-Ali, born on 6 March 1956, married, employed.
LAÏEB Saïd, born on April 5, 1949, trader
SALHI Layachi, married, trader
MEZITI Rabah, born on August 24, 1943, married, trader

International events

This section is intended to provide information on the evolution of international law, in particular the issue of forced disappearances. The legal cases being handled currently in various countries will also be exposed here. Even if the road ahead is long, the news demonstrates that those responsible for crimes and infringements of human rights are not safe from prosecution!

Geneva: Working group on enforced or involuntary disappearances adopts general comment on amnesty laws and impunity (December 1, 2005)

In response to developments in a number of countries where amnesty laws or similar measures are being adopted or considered, the WGEID issued a statement today calling upon all States to avoid creating impunity for the crime of disappearance.

The Working Group on Enforced or Involuntary Disappearances, during its 77th session, adopted a General Comment on article 18 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance (hereinafter the "Declaration").

Article 18 (1) of the Declaration reads as follows: Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

Yet, articles 4 (2) and 18 (2) of the Declaration refer to "mitigating benefits" and the granting of pardon to alleged perpetrators of disappearances, which which could seem to lead to impunity.

To encourage a consistent interpretation of the provisions of the Declaration, the Working Group has issued the General Comment. It clearly states what kind of amnesty laws are contrary to the Declaration. The General Comment also establishes limits on laws and processes that are designed to

produce genuine and sustainable peace. The Working Group specifies the conditions under which pardons and mitigating benefits to alleged perpetrators of disappearances are permissible. In any peace and reconciliation scheme the victims' rights to truth, justice and reparation must be maintained.

The Working Group calls upon all States where amnesties or similar measures have been approved implemented or are being considered to take account of the General Comment. All States should align their domestic legislation and practice to the guidelines provided in the General Comment, to preclude impunity for the crime of disappearance.

The WGEID was established by the United Nations Commission on Human Rights in 1980 to assist the relatives of disappeared persons in ascertaining their fate and whereabouts and to act as a channel for communication between the families and governments concerned. The WGEID is composed of five independent experts: Stephen J. Toope (Chairperson-Rapporteur), J. Bayo Adekanye (Vice-Chairperson), Saied Rajaie Khorasani, Darko Götlicher, and Santiago Corcuera.

For more information on the WGEID, and for the full text of the General Comment, please refer to this web site:
<http://www.ohchr.org/english/issues/disappear/index.htm>

Draft International Convention for the Protection of all Persons from Enforced Disappearance

On September 22, 2005, after twenty-five years of worldwide mobilization, the United Nations working group adopted a draft international convention for the protection of all persons from enforced disappearance. The convention will be presented to the UN Commission on Human Rights in March 2006, then to the UN General Assembly for approval in November/December 2006. The new instrument defines preventative measures to be integrated in the national legislation of every state in order to guarantee that forced disappearances will not be committed. It creates an independent follow-up committee, equipped with

extended functions, enabling it to react quickly to any risk of forced disappearance. This Committee will be permanently available for any interested person to consult.

We reproduce here the broad outline of the convention, as reported by Mr. Jean-Marie Mariotte of the International Federation of ACAT (Action by Christians for the Abolition of Torture).

The broad lines of the Convention

- Enforced disappearance is defined, as follows:

- The deprivation of liberty committed by "agents of the State" or by "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 [which can be interpreted as a consequence or as a condition]

The case of enforced disappearances for which persons acting outside the control of the State are responsible is excluded from this definition - nevertheless, in such circumstances the State cannot remain passive and must carry out the proper investigations and take proceedings against such persons.

- The crime of enforced disappearance is:

- An offence under criminal law, the penalty for which should be proportionate to the extreme seriousness of the crime
- A crime described as a crime against humanity if its practice is "widespread or systematic"
- A crime for which the non-applicability of statutory limitations cannot be invoked
 - but whose term of limitation can only commence from the moment when the offence of enforced disappearance ceases, and must be "of long duration"
- A crime to be submitted by the State to its competent authorities, which does not preclude the possibility of extraditing a person alleged to have committed an offence of enforced disappearance or surrendering him or her to an international criminal tribunal
- A crime that cannot be regarded as a political offence
- A crime for which States shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings.

- The protection of victims requires:

- Cooperation between States with a view to locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains
- No secret detention
- Legislation that provides guarantees for lawful deprivation of liberty, such that this lawful deprivation of liberty does not become an enforced disappearance
- That persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released
- Guarantees that an official who refuses to obey an order of enforced disappearance will not be punished.

- The rights of the victims include:

- The right to know
- The right to reparation
- The right to form defence associations
- The rights of the children of disappeared persons - no wrongful removal from their families, and no falsification, concealment or destruction of documents attesting to their true identity.

-The Committee on Enforced Disappearances

- This is an autonomous committee consisting of ten independent experts. A revision clause stipulates that within a period of four to six years after the entry into force of the Convention, the State Parties shall evaluate the work of the Committee and decide whether it is appropriate to transfer its functions to another monitoring body, in light of the results of the United Nations reform on human rights
- The Committee shall have a four-year mandate (renewable once only)
- The Committee shall cooperate with other bodies, including the Commission on Human Rights and the Human Rights Committee Working Group on Enforced Disappearances - which will continue to provide a remedy for States that are not parties to the Convention
- The Committee shall consider the reports submitted to it by the State Parties (an initial report, followed by further information)
- The Committee shall have the ability to take urgent action
- If a State Party has declared that it recognises the competence of the Committee to receive and consider communications "from or on behalf of" individuals subject to its jurisdiction, the Committee shall have competence to consider such communications
- The Committee may undertake a visit to the State Party concerned, provided such a visit has been agreed by the said State Party
- If a State Party declares that it recognises the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention, the Committee shall have competence to consider such communications
- If the Committee receives information that enforced disappearance is being practised on a widespread or systematic basis, it may urgently bring the matter to the attention of the UN General Assembly which, faced with a crime against humanity, may then in turn use its prerogatives and act accordingly
- The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of the Convention
- The Committee shall submit an annual report to the UN General Assembly.

- General Provisions

- The Convention shall enter into force on the thirtieth day after ratification by 20 State Parties.
- State Parties may express reservations about the Convention - there is nothing to prevent them from expressing those reservations provided these are

compatible with the purpose of the Convention.

- The Convention is without prejudice to visits to places of detention by the International Red Cross.
- Funding will be provided through the UN ordinary budget (as for other monitoring bodies)

In the Sights of....



Pinochet Stripped of Immunity in Cases

Former Chilean dictator Augusto Pinochet was stripped of immunity from prosecution Friday in 59 cases of torture and kidnapping at a secret detention center where hundreds of dissidents were held - including President-elect Michelle Bachelet and her mother.

Villa Grimaldi was one of the most notorious detention centers used by Pinochet's feared security services. The site, in a southern suburb of the capital, Santiago, has been turned into a memorial to victims of repression under Pinochet, who ruled in 1973-1990.

Pinochet has been stripped of immunity and may face trial in three other cases - two on human rights charges, one for tax evasion and corruption - and is free on bail.

The previous cases included killing and kidnapping, but this was the first time torture was mentioned.

Friday's ruling came at the request of Judge Alejandro Solis, who said he decided to seek Pinochet's trial after a report by an independent

commission on torture and illegal imprisonment at Villa Grimaldi.

Solis also questioned some former agents of the secret police, and one of them, Ricardo Lawrence, told him that Pinochet was aware of what happened at Villa Grimaldi and even visited it once. That claim had been mentioned before but never confirmed.

In his request to the court to lift Pinochet's immunity, Solis wrote that the agents involved in the abuses were following "clear and specific orders from the director of the service, who was on its turn following orders from his superior, the President of the Republic and commander in chief of the army, Augusto Pinochet Ugarte."

Bachelet's mother has called Villa Grimaldi "one of the worst houses of torture in Santiago" under Pinochet, a description also used by Solis.

"I was kept for a week in a box, blindfolded, tied up, without food," she once told the Santiago daily Las Ultimas Noticias. (20 Jan. 2006 - AP)

Chile: The public prosecutor's department of Paris wants a lawsuit against Augusto Pinochet in France

On Monday 16, a legal source said that the public prosecutor's department of Paris has definitively summoned Augusto Pinochet and fifteen other Chilean military officers before the criminal court

for the disappearance of four French citizens, opening the way to a lawsuit against the ex-dictator in France. The source added that, last

December, the public prosecutor's department demanded the extradition of Augusto Pinochet, 90 years, for "complicity of arrest and arbitrary

detention" with the aggravating circumstances of "acts of torture or cruelty" to one of the victims and "sequestration of more than one month" for the other three.

The extradition of Mr. Pinochet before the criminal court in France depends on the examining magistrate in charge of this file of crimes during the Chilean military dictatorship (1973-1990). In France, the examining magistrate is not bound by the requisitions of the public prosecutor's department.

The French victims named in the procedure are George Klein, political adviser in the cabinet of president Salvador Allende, arrested on September 11, 1973; Etienne Presle, a former priest arrested on September 19, 1973; Alphonse Chanfreau and

Jean-Yves Claudet-Fernandez, member of the Movement of the Revolutionary Left (MIR), respectively arrested on July 30, 1974 and November 1, 1975. General Manuel Contreras, (76 years), the founder of the secret police of General Pinochet, the DINA (direction of the national information), is among the officials whose extradition to the criminal court the public prosecutor's department has demanded. The public prosecutor's department retained four victims out of the five named in the families' charges, for lack of "sufficient charges" for the fifth, whose identity was not communicated.

Nineteen accused

In all, nineteen people had been accused by the examining magistrate Sophie Clément. The public prosecutor's department of Paris required the total withdrawal of three cases and the partial withdrawal of two others, according to the same source. For the fourteen other soldiers – most now retired – the public prosecutor's department retained "arrest and/or the arbitrary sequestration" or the combination of these infringements with one

or two aggravating circumstances depending on their presumed intent.

The public ministry retained the aggravating circumstance of "acts of torture or cruelty" only in the case of Alphonse Chanfreau. For the other three, it was replaced by "sequestration of more than one month". In both cases, the accused people stand to incur life imprisonment. This could, however, be a point of contention with the examining magistrate, which had retained "acts of torture and cruelty" for all the victims.

Shortly before completing the instruction in June, the judge Clément signed nineteen international arrest warrants. While these warrants, diffused via Interpol and Schengen, are unlikely to be put into practice, they have value of setting a test case. The public prosecutor's department had already signed an indictment in October 2004 after the judge had first closed the instruction, before reopening it for complementary acts. A likely lawsuit in France, which would be held in the absence of the defendants, would be the first for General Pinochet. In spite of the investigations and the successive liftings of his immunity, it is not sure that the former dictator will be judged one day in Chile because of his age and his mental health. The regime of General Pinochet is accused of causing the death or disappearance of more than three thousand people between 1973 and 1990. (Le Monde-AFP, 17-01-2006)

Spain: 17000-year prison sentence sought against Argentinean torturer

The public prosecutor's department is seeking a sentence of up to 17000 years of prison for former captain of the Argentinean navy Ricardo Miguel and Cavallo. The ex-officer is charged with genocide terrorism. Cavallo, incarcerated near Madrid since

June 29, 2003 after his extradition by Mexico, is accused in Spain of 227 forced disappearances and 110 arrests made under the Argentinean dictatorship (1976-83).

El Salvador: US court orders ex-Generals of El Salvador to compensate victims

An American Court of Appeal has ordered two former Salvadorian Generals to pay 54.6 million dollars of damage to three victims of torture during the civil war in El Salvador in the 1980's. The federal Court of Appeal of Atlanta (southern Georgia) thus reversed a preceding decision by which it had rejected the verdict of a court which was favorable to the three plaintiffs, by evoking a mistake in the dates, according to the New York Times last Sunday. The two former Salvadorians in question are Jose Guillermo Garcia and Carlos Eugenio Vides Casanova. During the war, they were Ministers for Defense in the Washington-backed government. The Court ruled them responsible for the abuses committed by the troops which were then under their command.

The three plaintiffs are Juan Romagoza Arce, Neris Gonzalez and Carlos Mauricio. In its first judgment in February 2005, the Court of Appeal of Atlanta had ruled that the ten-year statute of limitations

could not be extended. But in June, the judges indicated that their judgment was mistaken in regard to the dates by which the plaintiffs had sued, as well as on the departure of one of the defendants from the Salvadorian government. On Wednesday, the Court thus ruled that the court's decision to extend the term beyond 10 years was justified since the plaintiffs had not been able to go to the United States to sue them any earlier.

"American law states clearly that the courts can extend the terms for the period during which the defendants do not have access to the legal system of the United States or courts of other democratic countries with equivalent equity", the three judges wrote. In 2000, the two former Salvadorian ministers for Defense had been discharged from murder of four nuns in El Salvador during the civil war of 1979 to 1992. (AFP - January 9, 2006).

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Latest News

Press Release

At a time the families of the disappeared were optimistic that their nightmare was about to end, the laws enacted in the so-called charter for 'peace and reconciliation' have come to dash their hopes and compound more than a decade of ordeals and pain.

Through the texts of this charter, the State has shown once again its contempt for thousands of victims and their families while glorifying acts of torture, extra-judicial killings, rapes, thefts, destruction and illegal seizures by state agents presented as 'saviours of the republic'.

In which republic are we going to live now? Is it not the republic that whitewashes those who committed massacres and displayed tens of dead bodies in the streets and neighbourhoods of working-class areas? Is it not the republic that shuts from us the doors of justice and threatens to punish us for exercising our last right, the right to freedom of speech?

The National Coordination for the Families of the Disappeared condemns strongly the texts of the Charter that legalise impunity, punish speaking against it, and seek to blame the disappeared and their families.

We reiterate our commitment to pursuing our struggle, whatever the sacrifices this will entail, for truth and justice for the disappeared, with the support of the sincere and justice-loving citizens as well as national and international human rights organisations.

Since our sole option is international justice, we referred today the matter to Mrs Louise Arbour, the UN Human Rights Commissioner, Mr Kofi Annan, the UN Secretary-General, as well as to the embassies of UN Security Council countries in Algiers.

Constantine, 23 February 2006

For the National Office of the NCFD

Rabah Benlatrèche

Yielding

1. There is nothing in the world more soft and weak than water, and yet for attacking things that are firm and strong there is nothing that can take precedence of it;—for there is nothing (so effectual) for which it can be changed.
2. Every one in the world knows that the soft overcomes the hard, and the weak the strong, but no one is able to carry it out in practice.
3. Therefore a sage has said,
'He who accepts his state's reproach,
Is hailed therefore its altars' lord;
To him who bears men's direful woes
They all the name of King accord.'
4. Words that are strictly true seem to be paradoxical.

Lao-Tse