

Algeriet 2

48

Im. Fln.sekr. 1997J.nr. 71511-3

NWJ

21/11 '00

[EMBARGOED FOR: 8 November 2000]

Antal bilag

Aktør 21

Public

amnesty intern

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Dato: 8/11 '00
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ALGERIA

Truth and justice obscured by the shadow of impunity

November 2000

SUMMARY

AI INDEX: MDE 28/11/00

DISTR: SC/CO/GR

For almost a decade now Algeria has been afflicted by a human rights crisis of terrible dimensions. Tens of thousands have died since the current conflict began in 1992, thousands have "disappeared" after being taken away by the security forces and thousands have been abducted and killed by armed groups and their bodies never found. Hundreds of thousands have been wounded in violent attacks, tortured or suffered the agony of losing a family member. Although the level of killing and human rights abuses has fallen significantly over the last two years, it remains very high. The need for independent and impartial investigations into all these abuses is urgent, yet the authorities have failed to take concrete steps to clarify the truth about human rights abuses in Algeria in the last eight and a half years, to establish accountability for past and current human rights abuses and to bring to justice those allegedly responsible.

In 1999-2000, the Algerian authorities took several measures with the stated intention of bringing about peace and national reconciliation. Thousands of political prisoners were pardoned and several thousand members of armed groups were granted exemption from prosecution. However, Amnesty International is concerned that impunity, which had been and continues to be enjoyed, almost universally, by members of the security forces and state-armed militias, has been extended to members of armed groups who may have been responsible for killings, torture and other human rights abuses. Amnesty International calls for the recent amnesty law to be declared null and void and for all members of armed groups who have allegedly committed human rights abuses to be brought to justice.

Even though the problem has diminished over the past two years, cases of people being held in secret detention for prolonged periods of time after arrest still occur. Despite the efforts made by families, lawyers and human rights organizations to obtain information from the Algerian government and judicial authorities about the whereabouts of such people, the authorities continue systematically to deny all knowledge of the cases until after the detainees have been brought before the judicial authorities or have been released.

Despite Algeria's obligations under domestic law and international human rights standards, successive governments have failed to take the necessary measures to ensure that thorough,

independent and impartial investigations of past and present abuses are carried out. In the vast majority of cases of human rights abuses, no matter whether they were perpetrated by the security forces, state-armed militias or armed groups, the truth about what happened has not been clarified and little has been done to hold those responsible accountable. The blanket of impunity has allowed many of those responsible for the most appalling crimes to escape justice and has denied victims and their families the opportunity to seek redress.

Amnesty International continues to be concerned that the activities of state-armed militias have not been brought under the effective control of the law and that their members are not held accountable for their actions. Even though some militia members, as well as some members of the security forces, have reportedly been brought to justice and convicted on charges of murder, abduction, rape and other crimes, to date the authorities have refused to provide any concrete details about such cases.

Non-governmental organizations and associations which have criticized or opposed the policies and actions of the government continue to face problems such as being refused legal registration by the national or local authorities and being denied permission to hold meetings and public events. In the past year as in previous years, demonstrations organized by some of these associations were prevented from taking place or dispersed by security forces who ill-treated, intimidated, threatened or arrested the organizers and/or the participants.

Over the past eight years, Amnesty International has addressed numerous recommendations to the Algerian government, among them urging the authorities to set up an independent and impartial commission of inquiry to investigate the thousands of killings, massacres, "disappearances", abductions, incidents of torture, extrajudicial executions, deliberate and arbitrary killings of civilians and other human rights abuses committed in Algeria since 1992 by the security forces, state-armed militias and armed groups and to prosecute those allegedly responsible in proceedings which meet international standards for fair trials. The organization again calls on the Algerian government to implement the recommendations it has made in the past without further delay. It reiterates its appeal to all armed groups to stop targeting civilians and calls for all those who commit such crimes and other human rights abuses to be brought to justice.

KEYWORDS: IMPUNITY / AMNESTIES FOR VIOLATORS / NON-GOVERNMENTAL ENTITIES / POLITICAL PRISONERS / PARDONS / ARBITRARY ARREST / MASS KILLING / EXTRAJUDICIAL EXECUTIONS / TORTURE/ILL-TREATMENT / DISAPPEARANCES / COMPENSATION / CIVIL DEFENCE / HUMAN RIGHTS DEFENDERS / FREEDOM OF EXPRESSION / FREEDOM OF ASSOCIATION /

This report summarizes a 36-page document (17,900 words), *Algeria: Truth and justice obscured by the shadow of impunity* (AI Index: MDE 28/11/00), issued by Amnesty International in November 2000. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

[EMBARGOED FOR: 8 November 2000]

Public

amnesty international

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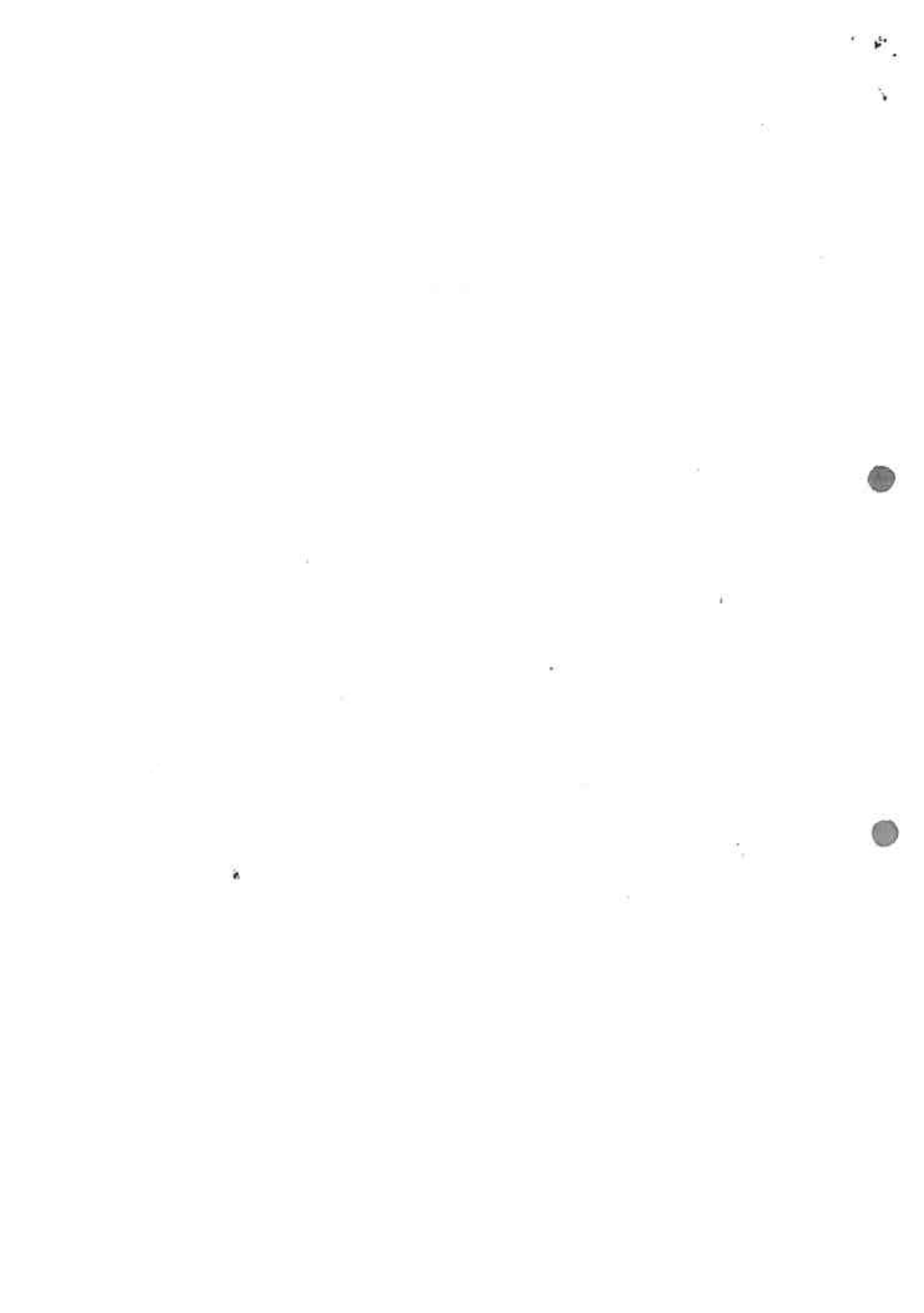
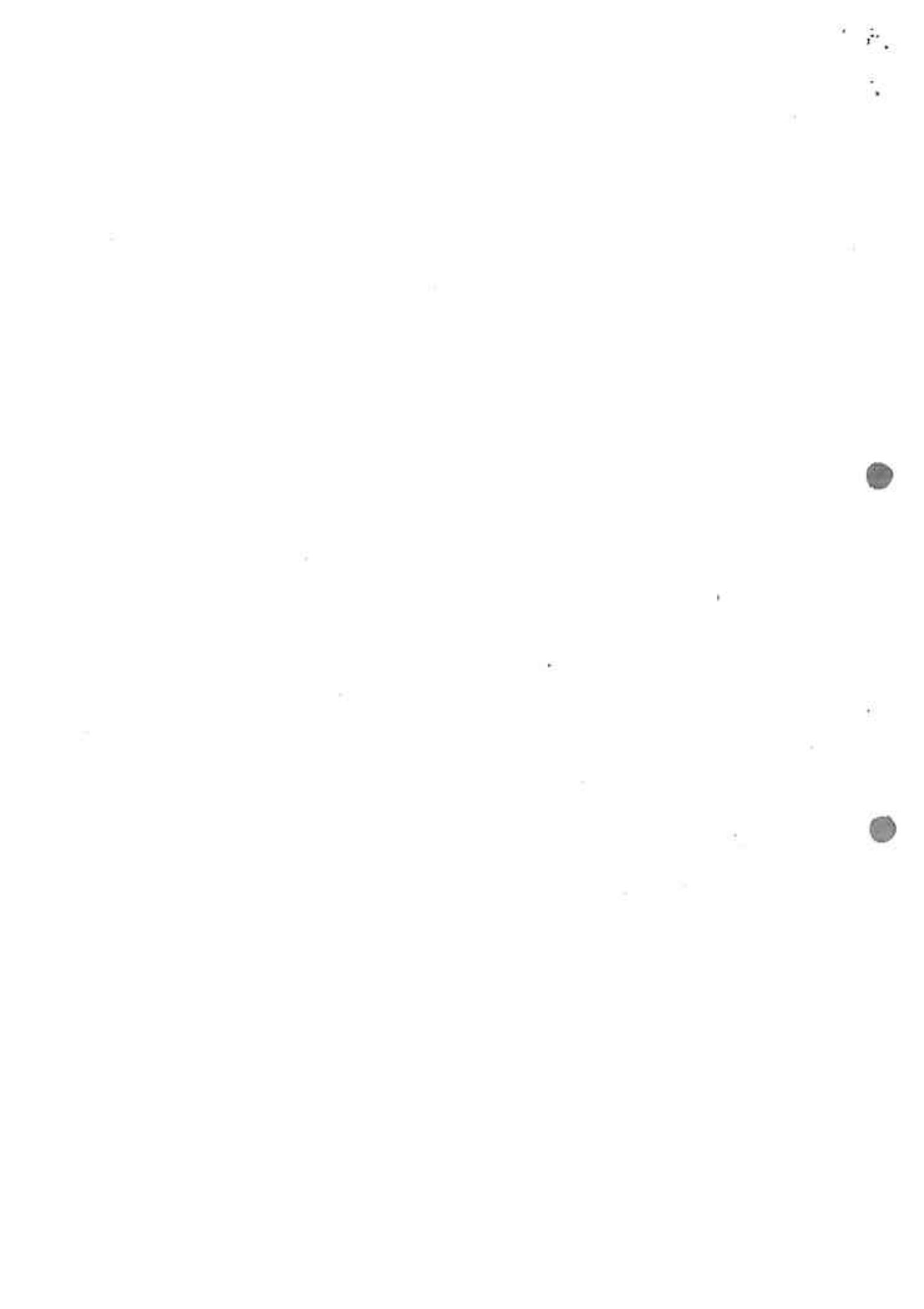


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ALGERIA

Truth and justice obscured by the shadow of impunity

INTRODUCTION

The scale and depth of the tragedy which Algeria has experienced for nearly a decade cannot be underestimated. Tens of thousands have died since the current conflict began in 1992, thousands have "disappeared" after being taken away by the security forces and hundreds of thousands have been injured in acts of violence or afflicted by the pain of losing a close relative. No sector of Algerian society has been left untouched by a crisis in which human rights abuses of the most brutal nature have been committed by security forces, state-armed militias and armed groups.

The Algerian authorities have talked of their intention to turn the page on this dark chapter. Yet they have failed to take any concrete and effective measures to tackle the huge problem of impunity in the country. Despite the urgent need, no independent and impartial investigations have taken place into the thousands of killings, massacres, "disappearances", abductions, incidents of torture, extrajudicial executions and deliberate and arbitrary killings of civilians which have occurred in recent years - and which, though on a lesser scale, continue to occur.

There is a continuing lack of transparency within the justice system. In 1999-2000, the Algerian authorities took several measures with the stated intention of bringing about peace and national reconciliation. Thousands of members of armed groups were granted exemption from prosecution. Yet not only is the Algerian public in the dark about how these measures have been applied, but the authorities appear unable or unwilling to provide crucial facts and figures regarding them. Amnesty International is concerned that impunity, which had been and continues to be enjoyed, almost universally, by members of the security forces and state-armed militias, has been extended to members of armed groups who may have been responsible for killings, torture and other human rights abuses.

Amnesty International shares the concerns of victims and families of victims in Algeria that their appeals for truth and justice have not been heeded. Given that in the last decade large-scale human rights abuses have been perpetrated with complete impunity, the organization believes that there is an urgent need for the government to institute promptly wide-ranging independent investigations into past and present human rights abuses, to make the findings public and to bring those reportedly responsible to justice in compliance with internationally recognized standards for fair trial. Amnesty International believes that addressing these concerns would be a crucial step in ensuring that justice is done, enhancing human rights protection and fostering the creation of a human rights culture, all of which are central to national reconciliation and a lasting peace in Algeria.

Over the last two years Amnesty International has publicly welcomed a certain number of positive developments in Algeria. The level of violence, including killings, in the country has significantly dropped, and reports of arbitrary arrests, prolonged incommunicado detention,

torture, "disappearances" and unfair trials have also diminished markedly. In the last year thousands of prisoners sentenced to imprisonment in unfair trials have been freed after retrials or pardons. However, violence remains at a very high level. Scores of civilians continue to die every month in direct or indiscriminate attacks allegedly carried out mainly by armed groups which define themselves as "Islamic groups", while scores of members of the security forces, state-armed militias and armed groups continue to be killed in attacks, ambushes and armed confrontations. Cases of torture and ill-treatment, prolonged incommunicado detention and "disappearance" continue to be reported.

After four years of being refused access to Algeria by the authorities, Amnesty International was able to visit the country in May 2000. Amnesty International's delegates met with officials, human rights organizations, victims and families of victims, human rights lawyers and activists, and with associations and groups working on a variety of issues including women's rights and rehabilitation of victims of human rights abuses. During their visit, the delegation heard first-hand concerns expressed by hundreds of victims and their families, concerns which all too often have fallen on deaf ears, inside and outside the country. Some of the material used to compile this report was collected during the May 2000 visit. However, much of it is the result of the organization's continuous research work on Algeria over the last decade.

Over the last eight and a half years, Amnesty International has documented and campaigned against a wide range of human rights abuses which since 1992 have been - and, to a lesser extent, continue to be - committed in Algeria by the security forces, state-armed militias and armed groups. Previous reports¹ by the organization have examined these abuses in detail and included cases to illustrate them. Although this report describes the general human rights situation found in Algeria today, it is principally an analysis of the lack of investigations into human rights abuses, the impunity afforded to those allegedly responsible and the lack of transparency within the justice system. The use of cases in this report is meant principally to provide examples of particular aspects of these patterns.

¹ Recent Amnesty International reports on Algeria include:

- *Algeria: "Disappearances": the wall of silence begins to crumble* (AI Index: MDE 28/01/99); March 1999.
- *Algeria: Who are the "disappeared"? Case-studies* (AI Index: MDE 28/02/99); March 1999.
- *Algeria: Civilian population caught in a spiral of violence* (AI Index: MDE 28/23/97); November 1997.
- *Algeria: Fear and silence: A hidden human rights crisis* (AI Index: MDE 28/11/96); November 1996.
- *Algeria: Killings in Serkadji Prison* (AI Index: MDE 28/01/96); February 1996.
- *Algeria: Repression and violence must end* (AI Index: MDE 28/08/94); October 1994.
- *Algeria: Executions after unfair trials: a travesty of justice* (AI Index: MDE 28/15/93); October 1993.
- *Algeria: Deteriorating human rights under the state of emergency* (AI Index: MDE 28/04/93); March 1993.

LEGAL MEASURES FOR PEACE AND NATIONAL RECONCILIATION

After his election in April 1999 President Abdelaziz Bouteflika announced that he would take measures to bring about peace and national reconciliation. In the following months a number of legal measures were taken in relation to the conflict. Thousands of political prisoners were pardoned, a law on Civil Harmony (*Concorde civile*) was passed, and the leaders and members of certain armed groups were granted amnesty.

The Civil Harmony law and the presidential amnesty

The Civil Harmony law (No. 99-08) was passed and entered into force on 13 July 1999, after having been approved by the government and voted by the National Popular Assembly (parliament) and by the Council of the Nation (senate). Two months later, on 16 September 1999, it was also put to a referendum in which by all accounts, official and unofficial, it received widespread popular support.² The law sparked extensive public debate in all circles of Algerian civil society and raised to an unprecedented level the hope that peace was finally within reach. It is not the objective of this report to assess or analyse the political considerations which led to the passing of the Civil Harmony law and its political implications, as these go beyond the mandate of Amnesty International. The organization's concerns with regard to some of the provisions of this law and its application relate exclusively to its impact on the human rights situation.

Under this law, members of armed groups who surrendered within six months (from 13 July 1999) and who had not killed, raped, caused permanent disability or placed bombs in public places were exempt from prosecution and those who had committed such crimes would receive reduced sentences,³ which would be further reduced for those surrendering within three months. The law also ruled out the death penalty or life imprisonment for members of armed groups who surrendered within the six-month time frame, regardless of the crimes committed. This law being limited in time to six months, members of armed group who surrendered after the expiry of the law on 13 January 2000 cannot benefit from reduced sentences or exemption from prosecution and are to be dealt with under the ordinary provisions of the permanent legislation.

² 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?"

³ In this respect the provisions of the Civil Harmony law were very similar to those of the Clemency (*rahma*) law of 25 February 1995 (No. 95-12), which was repealed by the passing of the Civil Harmony law. One of the main differences between the two laws was the six-month limit of the Civil Harmony law, which came into force on 13 July 1999 and expired on 13 January 2000.

Those wishing to surrender under the Civil Harmony law could turn themselves in to the military, civilian, administrative or judicial authorities, who were to decide whether the person should be granted exemption from prosecution or brought to trial. In addition, the law contained a discretionary probation provision. For this purpose probation committees were established in each *wilaya* (province), presided by the general prosecutor responsible for the area and composed of representatives of the Ministries of Defence and of the Interior, the commander of the gendarmerie for the *wilaya*, the chief of security for the *wilaya*, and the head of the Bar Council or his or her representative.

An important provision of the Civil Harmony law is its Article 41, which constituted the basis for the amnesty granted by President Bouteflika to members of certain armed groups on 10 January 2000, three days before the expiry date of the Civil Harmony law.⁴ Whereas under the Civil Harmony law only those who did not kill, rape, cause permanent disability, or place bombs in public places were exempt from prosecution, Presidential Decree No. 2000-03 of 10 January 2000 granted exemption from judicial prosecution - without any exclusion clause - to "the persons who belonged to organizations which decided voluntarily and spontaneously to put an end to acts of violence and which put themselves at the full disposal of the state and whose names are appended to the original of this decree". However, no appendix containing the names of the beneficiaries of this amnesty was ever published, either in the Official Journal of 12 January 2000, which contained the decree, or anywhere else and the names and number of those who benefited from this amnesty has never been made public.

The surrender and amnesty of members of the AIS and of the LIDD

The Algerian authorities have not provided officially any precise figures for the members of armed groups who have benefited from the presidential amnesty and for those who surrendered under the Civil Harmony law.

According to information which is now available in the public domain and which has been provided or confirmed by official government sources to media and NGOs, about 5,500 members of armed groups surrendered in the period between July 1999 and January 2000. Of these just over 1,000 were members of the *Armée islamique du salut* (AIS), Islamic Salvation Army, and of the *Ligue islamique pour la da'wa et le djihad* (LIDD), Islamic League for Preaching and Holy War, who benefited from the presidential amnesty, and the rest were members of the *Groupe islamique armé* (GIA), Armed Islamic Group, and other armed groups, whose cases were dealt with under the terms of the Civil Harmony law.

The AIS was created in 1993 and was generally known as the armed wing of the *Front islamique du salut* (FIS), Islamic Salvation Front, even though the latter maintained an

⁴ Article 41 of the Civil Harmony law states that the provision of the law "... do not apply, except in case of need, to the persons who belonged to organizations which decided voluntarily and spontaneously to put an end to acts of violence and which put themselves at the full disposal of the state".

ambiguous position vis-à-vis its links with the AIS, at times denying them and at other times sanctioning the discourse and actions of the AIS and acting as its communication channel.⁵ The LIDD is a much smaller group which, according to public declarations to Algerian and foreign media by its leader, was composed of former members of the GIA who seceded in 1995 because they disagreed with the GIA's attacks on civilians. Armed conflict between AIS and LIDD groups on the one hand and GIA groups and other armed groups on the other reportedly started in 1995. Up to 1994, and possibly as late as 1995, AIS and GIA groups in different areas of the country cooperated to varying degrees.

The AIS publicly announced a unilateral cease-fire on 1 October 1997, following a secret agreement which its leaders had negotiated in previous months with the Algerian army. The existence of this agreement was initially denied by the Algerian authorities but was eventually acknowledged in June 1999, after the presidential elections. In October 1999 the then Interior Minister confirmed that the Civil Harmony law did not apply to AIS members, whose cases would be dealt with by the authorities in a separate unspecified framework, which, as was later confirmed, was to be the presidential amnesty of 10 January 2000. However, the terms of the agreement have not been made public. Less is known about when negotiations between the Algerian army and the LIDD occurred and when the LIDD began its cease-fire. According to declarations by its leader to the media, the LIDD did not engage in direct negotiations with the army but joined the agreement between the army and the AIS by means of contact with the latter and declared its cease-fire on 10 October 1997.

In the period between the beginning of the cease-fires of the AIS and LIDD in October 1997 and the presidential amnesty of January 2000, the AIS and LIDD groups retained their weapons and appeared to control certain villages and rural areas in the different parts of the country where they were based. During the same period AIS groups reportedly cooperated with the army and the security forces in military operations against GIA groups and other armed groups which refused to surrender. Throughout these years, posters of AIS and GIA leaders promising a reward of 4,500,000 Algerian dinars (\$60,000) - equivalent to about 80 times the minimum month's salary - for their capture or killing remained posted on walls all over the country. From the middle of 1999 the Algerian authorities began allowing Algerian journalists to go to the areas where AIS and LIDD groups were based to interview them, something which had previously been impossible. No Algerian journalists are known to have previously met armed groups and only two foreign journalists were able to elude the surveillance of the Algerian security forces to go and meet AIS groups, one in late 1994 and the other in mid-1997. The journalist who in 1994 produced a documentary containing footage of AIS armed groups

⁵ The FIS website contains AIS communiqués and it was leading FIS figures inside and outside the country who organized, or offered to organize, contacts between foreign journalists and AIS leaders and members in Algeria.

has since been banned from Algeria and the journalist who met an AIS group in 1997 was expelled from Algeria immediately after he returned to his hotel following the meeting.⁶

The surrender of members of the GIA and other armed groups

In late 1999 the *Groupe salafiste pour la prédication et le combat* (GSPC), Salafist Group for Preaching and Combat, reportedly composed of former GIA members who seceded around 1996 and which has reportedly been targeting mainly members of the security forces, was reported to be in contact with the authorities with a view to negotiating its surrender. However, the surrender of this group did not materialize, though some of its members are reported to have surrendered individually under the terms of the Civil Harmony law and after its expiry.

Even though it was at times suggested by some Algerian and foreign media that contacts may have existed between the army and some GIA groups with a view to negotiating the surrender of the latter under the terms of an agreement similar to that concluded between the army and the AIS and LIDD, no such agreement is known to have been reached. To most informed observers and analysts of the Algerian crisis such a wholesale agreement never appeared possible because of the nature of the structures of GIA groups, whose leadership and composition remain to a large extent obscure. All available information indicates that what is normally referred to as the GIA is a loose configuration of groups of hardline Islamist activists striving to impose their particular view of what an "Islamic" society should be, autonomous groups of common-law criminals whose actions are not dictated by any political or religious objectives, and groups acting in the framework of mafia-type organized criminality.

As indicated above, some 4,500 members of the GIA and other smaller and lesser known groups are reported to have surrendered under the terms of the Civil Harmony law before its expiry on 13 January 2000. Since then hundreds of others are reported to have surrendered, but it is unclear whether all or some of them have still been able to benefit from all or some of the provisions of the Civil Harmony law. Prior to 13 January 2000 there had been widespread speculation about the expiry the law being postponed, but no such extension was officially announced. Hence, given that the Clemency law of 1995 was abrogated with the passing of the Civil Harmony law, since 13 January 2000 there are no longer any provisions in the Algerian legislation for reduced penalties for members of armed groups who give themselves up.⁷ However, after 13 January 2000 some government authorities, including President Bouteflika himself, have stated, both publicly and off the record, that the door remains

⁶ Phil Rees met AIS groups in the late summer of 1994. His documentary "The hidden war" was broadcast in November 1994. Mark Dennis published an account of his meeting with an AIS group in the US weekly magazine *Newsweek* of 30 June 1997.

⁷ Under the Algerian law on "terrorist or subversive acts", anyone having created, organized, led, belonged to or supported in any way an armed group can face the death penalty. However, the moratorium on executions declared by the authorities at the beginning of 1994 remains in place.

open for those wishing to give up their armed struggle and return to the fold of civil society - thus suggesting that members of armed groups who surrender voluntarily would still benefit from some unspecified measures of clemency. Indeed, consistent reports that individuals or groups of individuals who surrendered after 13 January 2000 have been allowed to go home immediately or shortly after their surrender indicate that the provisions of the Civil Harmony law have been applied after the expiry of the law and continue to be applied at the time of writing this report.

Concerns relating to the application of the Civil Harmony law and the presidential amnesty

A range of concerns arise from the provisions of the presidential amnesty as well as from the application of the Civil Harmony law in practice. Amnesty International takes no position on the granting of pardons *after* the truth is known and the judicial process has been completed.⁸ However, the organization opposes amnesty laws or other mechanisms which prevent the emergence of the truth and accountability before the law for individuals who may have been responsible for human rights abuses. Such measures undermine the administration of justice and may prevent the truth about the abuses from being uncovered and ultimately deprive the victims of their right to recourse. Moreover, such measures also foster impunity and may thereby contribute to encouraging further human rights abuses.

In Algeria Amnesty International has repeatedly expressed concerns about the lack of accountability and impunity widely enjoyed by members of the security forces and of paramilitary militias armed by the state, and has consistently called on the authorities to take concrete measures to put an end to impunity and ensure accountability for members of the security forces and paramilitary militias. The organization is now also concerned that individuals who belonged to armed groups which are known to have committed human rights abuses, including killings of civilians, have been granted amnesty and thereby exempted from judicial prosecution, no matter what evidence of their responsibility for such abuses may have existed at the time of them being granted amnesty or may come to light in the future.

With regard to the application of the Civil Harmony law, Amnesty International was told by Algerian government officials in May 2000 that prosecution had been initiated against some 350 people who had surrendered under this law (and whose number, according to the same sources, is reported at some 4,500). However, to date the authorities have not provided any exact figures concerning how many surrendered under this law, how many were brought to justice, and how many of those who were brought to justice were acquitted or convicted and for what crimes. The Civil Harmony law having expired on 13 January 2000, it should not have been too difficult for the Ministry of Justice to have collated the above figures from the

⁸ Amnesty International takes no position on what sentences should be passed (provided that the death penalty or other cruel, inhuman or degrading punishments are not imposed) unless there is a pattern of penalties which bear little relationship with the seriousness of the offence.

probation committees and other relevant authorities responsible for the application of this law throughout the country.

Some families of people who were abducted and killed by armed groups have told Amnesty International and the media that those who are responsible for the killing of their relatives have either been amnestied or exempted from prosecution under the Civil Harmony law. Most associations of families of victims of armed groups have expressed the same concerns. Amnesty International believes that the Algerian authorities have a duty to ensure that full, independent and impartial investigations are promptly carried out into these allegations and that the findings of these investigations be made public, both to ensure proper administration of justice and to address the concerns expressed by the families of the victims.

The absence of information concerning those who have benefited from the presidential amnesty or from exemption from prosecution under the Civil Harmony law makes it difficult to establish how widespread this phenomenon is. However, the speed with which people who gave themselves up under the Civil Harmony law after spending years or months with armed groups were granted certificates of exemption from prosecution - in some cases within days - indicates that full and thorough investigations could not have been carried out to establish what crimes they may or may not have committed during the period they spent with the armed groups.

In some cases people who had given themselves up under the Civil Harmony law and obtained certificates of exemption from prosecution were subsequently arrested and charged with offences for which they had just been cleared. Such practices also indicate that the decisions about exemption from prosecution may have been made without the necessary in-depth investigations having been carried out first.

Amnesty International believes that human rights protection and promotion should be key elements of any process of national reconciliation. Furthermore, the organization fully acknowledges the importance of the Algerian people's quest for peace and national reconciliation. However, the organization remains concerned that human rights have not been put at the heart of purported efforts on the part of the authorities to bring about a durable process of national reconciliation and lasting peace in the country. The process undertaken by the authorities undermines human rights protection by officially sanctioning the perpetration of human rights abuses in the past decade by members of the security forces and paramilitary militias, as well as by members of armed groups through the passing of the Civil Harmony law and the presidential amnesty.

Only by establishing the truth about all the violations and abuses of the last decade, through full, independent and impartial investigations, and ensuring accountability for all those responsible for past and current human rights abuses, can confidence in the justice system be restored and the shroud of impunity finally lifted. This, in turn, will contribute to ensuring that

in future such abuses will not be committed without victims' redress, as well as without perpetrators being brought to justice, and would be a crucial step in enhancing human rights protection and in fostering the strengthening of a human rights culture, both of which are central to a lasting peace in Algeria.

Presidential pardon of prisoners

On the occasion of the 37th anniversary of Algeria's independence on 5 July 1999, a presidential decree (No. 99-133) was issued granting pardon to prisoners convicted under the law on "terrorist or subversive acts"⁹. Under this decree those who had five years or less of their sentence left to serve were released and the rest had their sentences reduced, except those convicted of crimes which caused death, explosions in public places or rape, and those sentenced by military courts. The exact number of the prisoners who benefited from this pardon and who were released or had their sentences reduced is not known as the figures have not been made public by the authorities, but according to some government officials the measures concerned about 5,000 prisoners.

Amnesty International welcomed the measure for it considered that these prisoners had not had access to fair legal proceedings and it had been calling for them to be retried in compliance with international standards for fair trial.

However, the organization remains concerned that other prisoners who were also convicted in unfair trials since 1992 remain detained serving sentences of up to life imprisonment. The majority of the prisoners who were excluded from this measure, because they had been convicted under certain articles of the *Code Pénal* (CP), Penal Code, were convicted in unfair trials at a time when such articles of the CP tended to be applied in a rather wholesale fashion, notably by the Special Courts up to 1995¹⁰ but also by ordinary courts in later years.

At present there is a paradoxical situation whereby people who have already spent up to eight years in prison continue to serve prison sentences imposed in unfair trials, whereas people who spent years as leaders or active members of armed groups have been granted an amnesty or exempted from judicial prosecution in a matter of days after giving themselves up.

⁹ This law was issued as an emergency decree in September 1992. Although officially repealed at the beginning of 1995, the decree was incorporated, virtually in its entirety, into the *Code Pénal* (CP), Penal Code, and *Code de Procédure Pénale* (CPP), Code of Penal Procedure.

¹⁰ The Special Courts, set up in October 1992, were eventually abolished in February 1995.

OUTSTANDING CONCERNS ABOUT ARBITRARY ARRESTS AND SECRET DETENTION

Over the past two years Amnesty International has noted that the number of people being held in secret detention for prolonged periods of time has markedly diminished, and has welcomed this positive development. The organization has also noted with interest the announcement made by the Algerian authorities in August 2000 that certain steps have been taken at the level of the Ministries of Justice, Interior and Defence with the aim of reinforcing judicial supervision over the operations of law-enforcement officers. This would be done by making the medical examination of detainees at the end of the period of pre-arraignment (*garde à vue*) detention compulsory (except in the case of refusal by the detainee) and by identifying places where detainees are held by different security forces prior to being brought before the judicial authorities. At the time of writing this report it had not been possible to obtain any further information from the authorities about these measures, which if applied could contribute to improving safeguards for those arrested and held in pre-arraignment detention by the security forces.

Even though they have decreased, cases of prolonged secret detention after arrest have continued to occur in the past year in violation of both Algerian law and international human rights standards. Even though Algerian law (see details on page 12) contains no provision for detainees in pre-arraignment detention to be held incommunicado, in practice so long as detainees are held by the security forces they are held not only incommunicado, but in secret and unacknowledged detention. Throughout the past nine years and up to the present time, all efforts made by Amnesty International, as well as by the families and lawyers of detainees, to obtain information and clarification from the Algerian government and judicial authorities about the whereabouts of those held by the security forces in pre-arraignment detention have been in vain, as the authorities have systematically denied all knowledge of the cases until after the detainees have been brought before the judicial authorities or have been released.

For example, Malik Medjnoun, arrested on 28 September 1999, and Samir Hamdi-Pacha, arrested on 22 December 1999, were held in secret detention until the beginning of May 2000, that is for seven and four months respectively. In a more recent case, Ali Mebroukine, a lawyer and lecturer at the National School of Administration who used to work in the cabinet office of former President Liamine Zeroual, head of state from 1994 to 1999, was arrested on 25 May 2000 on arrival at Algiers airport after returning from a visit to his mother in Paris. He was held in secret detention for over a month, only being allowed to receive a visit from his lawyer for the first time on 28 June 2000 and from his family several days later.

During the entire duration of their secret detention all the authorities contacted by their families and lawyers, as well as by Amnesty International, either failed to respond or denied any knowledge of their cases. Since their "reappearance", in Tizi Ouzou prison for Malik Medjnoun and Blida military prison for Samir Hamdi-Pacha and Ali Mebroukine, no information could

be obtained from the Algerian authorities about the findings of any investigations which they said would be carried out to clarify why these detainees were held in prolonged secret detention after their arrest.

Other people arrested earlier this year have not yet been located. For example, El Hadj M'lik, a 73-year-old father of eight, was arrested at his home in the centre of Algiers on 14 April 2000 at 8pm, in broad daylight and in front of his family and neighbours. The day before his arrest, on 13 April, officers from the gendarmerie went to M'lik's home and questioned him and his family about two of his sons, one who has been living abroad since 1991 and the other who left home in 1993 and is believed to be still alive and active with an armed group. The family told the gendarmerie officers that they had no contacts with this son. The following day a group of plain-clothes members of the security forces came to the house at about 8pm and took El Hadj M'lik away, in broad daylight and in front of family and neighbours, reassuring the family that they would bring him back shortly, but they did not. Two days later, on 16 April, gendarmerie officers again returned to his home at about 5pm, searched the house, promised the family that El Hadj M'lik would be brought back home shortly and gave the family a paper attesting that the house had been searched and nothing had been found. However, to date El Hadj M'lik remains "disappeared" and all inquiries made to the Algerian authorities have been in vain, as the authorities continue to deny any knowledge of his arrest and secret detention. A man who was detained in the security centre of Ben Aknoun, in the capital, until around 20 April 2000, reportedly saw El Hadj M'lik there in the days following his arrest; this is the last information available about him and there are serious concerns that he may have died in detention, especially given his fragile health.

The available information about the case of El Hadj M'lik indicates that he was arrested to put pressure on his son to give himself up. Amnesty International has received information about a number of other cases where relatives of people who are known or believed to be still active with armed groups inside Algeria and relatives of Algerian Islamists who live outside Algeria, either as refugees or as ordinary residents, and who are believed to support or to have supported armed groups in Algeria have been arrested in the run-up to or after the expiry of the Civil Harmony law on 13 January 2000 as a means of putting pressure on their relatives to give themselves up. Others have been visited at home by members of the security forces and put under pressure to intercede with their relatives to convince them to surrender or to return to Algeria under the terms of the Civil Harmony law.

Nassima Fodail was arrested at her home in Algiers in October 1999 by the security forces who were seeking her husband, who is reported to be linked to an armed group. She reported that she was interrogated about his possible whereabouts, tortured by being burned with cigarettes, beaten and forced to swallow large quantities of dirty water and chemicals while tied to a bench (known as the "*chiffon*" method). She was released without charge after having been held in secret detention for 10 days. A complaint about the torture was filed with the judicial authorities, but no investigation is known to have been carried out.

Such practices were widespread in earlier years, when relatives of people who were wanted by the authorities were arrested and detained as hostages outside any legal framework and clearly in order to put pressure on their relatives to give themselves up.

Algerian law and international human rights standards on pre-arraignment detention

The practice of holding detainees in secret and often prolonged detention after their arrest violates both Algerian law and international human rights standards. Article 51 of the Algerian *Code de procédure pénale* (CPP), Code of Penal Procedures, limits pre-arraignment (*garde à vue*) detention by the security forces to a maximum of 12 days and stipulates that during this period all means must be put at the disposal of persons held by the security forces in pre-arraignment detention to allow them to communicate immediately and directly with their families and to receive their visits. The provisions of Article 51 of the CPP are in violation of international standards concerning the right of detainees to prompt access to lawyers¹¹ and to be promptly brought before a judge. However, if these provisions were applied in practice, detainees would not be held in secret detention, would at least be able to communicate with their families, and this would in turn contribute to reducing the risk "disappearances" and of torture or ill-treatment.

Article 6 of the African Charter of Human and Peoples' Rights stipulates that all detainees must be promptly brought before a judge and informed of the charges held against them. Similarly, Rule 92 of the UN Standard Minimum Rules for the Treatment of Prisoners stipulates:

"An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family..."

In all cases, the detention of any individual by whatever security service and in whatever circumstance must be subject to judicial scrutiny. Article 9 of the International Covenant on Civil and Political Rights (ICCPR) stipulates:

- "1. [...] No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. [...]"

¹¹ For instance Principle 7 of the UN Basic Principles on the Role of Lawyers and Principle 17 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Article 51 of the Algerian CPP also stipulates that law-enforcement officers who violate the provisions governing pre-arraignment (*garde à vue*) detention are liable to prosecution for arbitrary detention. However, in none of the cases of secret and prolonged detention known to Amnesty International are investigations known to have been carried out in order to bring those responsible for these violations to justice. In August 1998 the UN Human Rights Committee had expressed its concern about such practices and had asked the Algerian government to take the necessary measures to address these concerns.¹²

The information made available to Amnesty International by different governmental and judiciary authorities in Algeria concerning the procedures for arrest and pre-arraignment detention indicates that, on the one hand, the degree of effective scrutiny and control exercised by the judiciary over the different security services - police, gendarmerie and military security - remains very limited and that, on the other hand, there is a lack of centralization of the information about the arrests and ensuing detention carried out by these different security services. These factors appear to be one of the main causes of the difficulties in establishing the whereabouts of detainees held in secret detention by the different security forces. The judicial authorities are not usually informed by the security forces of the arrests they have carried out and of the detention of those arrested. When those arrested are released without charge by the security services, after periods of secret detention which can last from a few days to several months, the judicial authorities are often not informed that the arrest and detention ever took place and hence there is no official record of these arrests and detentions. In virtually all the cases raised by Amnesty International in previous years and up to the present time it has not been possible to obtain any information from the authorities about those detained until after they were brought before the courts or released. The families and lawyers of the detainees have faced the same problem.

In addition, in the above-mentioned cases, as in many others, the members of the security services who carried out the arrests wore plain clothes, used unofficial cars and did not present any arrest warrant or document identifying them as members of the security forces. Such practices, especially in the Algerian situation, contribute to increasing the confusion which already exists about who is responsible for what abuses. Moreover, some families of detainees were at times told by the authorities and security services that their relatives had been abducted by armed groups, even though in some cases the families had been able to obtain confidential information, including from officials speaking off the record, that their relatives were indeed detained by the security forces.

¹² The Committee considered the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st, 1682nd, 1683rd and 1684th meetings, held on 20 and 21 July 1998 (CCPR/C/SR.1681-1684). In its concluding observations adopted at the 1696th meeting, held on 29 July 1998, (CCPR/C/SR.1696) the Committee requested the Algerian authorities to ensure that: "all specific allegations be investigated by an impartial body and that the results of such investigations be published".

Given that secret detention by security forces acting without the necessary judicial control remains an outstanding concern, the recent announcement by the Algerian authorities of measures aimed at increasing the control of the judiciary over the security forces could, if implemented, contribute to increasing safeguards for the detainees and reducing the occurrence of violations such as torture and "disappearance". However, the large number of cases which Amnesty International and other organizations have followed and documented constitutes a body of evidence of an entrenched and grave pattern of systematic secret detention which requires the authorities to take concrete and effective measures, beyond the passing of new laws, to ensure that all the security forces adhere to the law in practice and are held accountable when they do not.

THE NEED TO CONDUCT INVESTIGATIONS

Since 1992 more than 100,000 Algerians have been killed, thousands have suffered torture and thousands more have "disappeared". No sector of society, age-group or class has been left untouched by the unbroken wave of killings and other abuses which has engulfed Algeria for almost a decade. Even the most vulnerable members of society - the elderly, the infirm, infants and pregnant women - have fallen victim to the relentless violence. The civilian population has been terrorized by bomb and mortar attacks on markets, cafes, trains, buses and other public places and made to fear travelling by road by the presence of roadblocks at which gunmen selectively kill the occupants of passing vehicles. Individual and collective killings by armed groups calling themselves "Islamic groups" have seen men, women, children and babies shot dead, decapitated and mutilated, burned to death or blown apart by bombs. Women abducted by these armed groups have been raped. Unarmed civilians have been shot dead, sometimes in their homes in front of their families, by security forces or paramilitary militias. Others have been tortured to death. Security forces have paraded and exposed in public places the bodies, sometimes mutilated or disfigured, of individuals they said had been killed by them in armed confrontations.

Yet, in the vast majority of such cases, no matter whether the perpetrators of the human rights abuse were the security forces, state-armed militias or armed groups, the truth about what happened has not been clarified and little has been done to hold those responsible accountable. Despite Algeria's obligations under domestic law and international human rights standards, successive governments have failed to take the necessary measures to ensure that thorough, independent and impartial investigations of past and present abuses are carried out and to bring to justice those responsible. The blanket of impunity for human rights abuses has allowed many of those responsible for the most appalling crimes to escape justice and has denied the victims and their families the opportunity to seek redress.

The crisis which Algeria has lived through for the last eight and a half years is of shocking proportions. The sheer number of victims and the complexity of the situation have

undoubtedly presented obstacles to carrying out investigations within what would normally be considered acceptable time frames. It is understandable that at the present time answers cannot be provided to all the questions and not all the necessary information is available to establish the facts surrounding every death or to identify those responsible for every killing and every abuse. However, the fact that for the majority of killings and massacres the alleged perpetrators have not been brought to trial, and many of them have benefited from amnesties, while the authorities claim, on the other hand, that many perpetrators of massacres and attacks have been killed by security forces without providing details or clarifications, is a stark indication of an absence of the rule of law.

Moreover, although the level of killing and human rights abuses has fallen significantly over the last two years, it remains very high. Since early 1999, some 200 people have been killed every month. Hundreds have been civilians killed in attacks carried out by armed groups calling themselves "Islamic groups". Some have been deliberately targeted; others have been the unfortunate victims of an indiscriminate bomb or mortar attack. Others have been members of the security forces, paramilitary militias and armed groups killed in attacks, ambushes and armed confrontations.

Massacres, assassinations and other killings

Since 1992 over 100,000 people, many of them civilians, have been killed in Algeria but the international community and media have shown little concern for the vast majority of the victims. The interest of the outside world in the Algerian human rights crisis has remained sporadic and limited to killings of high-profile Algerians and of foreigners and to the large-scale massacres of 1997 and early 1998 in which hundreds of people were killed in a single night and which it would have been difficult to ignore. In Algeria the authorities have also for the most part failed to show due concern for the victims and their families. Throughout the worst years of the conflict, up to the middle of 1999, the Algerian authorities systematically censored the information about the real number of victims, giving artificially low figures - less than half - and accusing those who provided accurate figures of deliberately exaggerating the seriousness of the situation. This was seen by the families of the victims as the ultimate denial of their loss and of their grief.

Since the middle of 1999, the authorities have radically changed their discourse about the tragedy which has befallen the country, recognizing the magnitude of its scale and pledging to address the outstanding concerns which result from it. It might have been hoped that, more than a year after these promises were made and more than eight years after the killings began, some concrete action might have been taken to begin to address the multitude of unresolved cases.

Yet to date the Algerian authorities have not taken the necessary measures to convince victims and their families that serious efforts are being made to establish the truth in as many cases as possible and to identify those responsible for the crimes and bring them to justice. No

thorough investigation is known to have been carried out by the Algerian authorities to establish the facts and uncover the truth about the killings of thousands of civilians in Algeria. Serious questions raised about the failure of the state to protect the civilian population, particularly at the time of the large-scale massacres of 1997 and 1998, have not been answered. The manifestly unfair trials of thousands of individuals charged with and convicted of vague and generalized accusations of "terrorism" over the past years, and especially up to 1998, have done little to further the good administration of justice. The results of such trials, in which confessions extracted under torture from the accused or from others were often the sole basis for the conviction of both detained defendants and of those tried *in absentia*, do not constitute reliable data for establishing the truth about the abuses.

In cases where the authorities claim they have conducted investigations, the lack of transparency about the procedures and the unwillingness to provide the families of the victims with the details of the investigation and to make the findings public have done little to assuage the concerns of hundreds of thousands of people about the workings of the justice system and the failure to prosecute those responsible for the death of their loved ones.

Even the well-known and high-profile cases, which were often widely publicized by the authorities themselves, remain unresolved and no one has been brought to justice for these crimes. Either the killers have never been identified or they are officially reported to have been killed in clashes with the security forces. No information is provided on how these persons were identified as those responsible for the killing in question or on why they were systematically killed and not brought to justice.

Over two years have passed since the popular Berber singer, Matoub Lounes, was assassinated and his wife and two sisters-in-law seriously wounded on 25 June 1998 near his village of Taourirt-Moussa, in Kabylia. The singer, who had spent most of the last few years in France, was fiercely critical of both the Islamists and the government and was a fervent advocate of Amazigh causes. His family is still waiting for a thorough and impartial investigation to be carried out into his death. The case has attracted much publicity because of the profile of the singer and the tough campaigning of the Matoub Lounes Foundation, headed by his sister, Malika. Hundreds turned out on the streets of Algeria - and in some instances were beaten and ill-treated by the security forces - to commemorate the second anniversary of Matoub Lounes' death this year and to demand an investigation into the assassination.

Immediately following the assassination, Matoub Lounes' wife publicly declared that it was the GIA who had killed her husband. However, she has since made it known that she had made that declaration at the time after being pressured into doing so by the authorities, when, in fact, she did not and does not know who killed him. Even in such a high-profile case as this, the authorities' failure to fulfil the most basic requirements of the investigation, such as forensic examinations, protecting evidence and interviewing witnesses, is striking. The Foundation has

also declared that it does not consider the man currently detained by the authorities and accused of Matoub Lounes' assassination to be connected with the affair.

In another high-profile case, the assassination on 28 January 1997 of Abdelhak Benhammouda, the leader of the *Union générale des travailleurs algériens* (UGTA), Algerian Workers' General Union, the handling of the investigation is equally alarming. On 12 February, two weeks after Abdelhak Benhammouda was shot dead outside the UGTA headquarters in central Algiers, 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 the people who had carried out the assassination of Abdelhak Benhammouda. The man presented by the authorities as the leader of this group, Rachid Medjahed, was arrested three days later, on 15 February, and was held in secret and unacknowledged detention until he appeared on national television on 23 February, confessing to having planned the assassination of Abdelhak Benhammouda and confirming that those killed by the security forces on 12 February had indeed carried out the assassination. However, Rachid Medjahed was never brought to trial as he died in the hands of the security forces during secret detention. The death certificate states that he died of bullet wounds and his family noted more than 10 bullet wounds in his body, including in the abdomen, back and neck. The extrajudicial execution of Rachid Medjahed during secret detention raised further questions about the murder of Abdelhak Benhammouda and these questions remain unanswered as no investigation has been carried out into either case.

For ordinary citizens the lack of transparency in the justice system is even more striking. There are thousands of families who have experienced the abduction of a close relative by an armed group and who have been informed by the authorities, often months or years later, that the relative has been killed, and in certain cases have received a death certificate, but have not received the body or remains of the victim, nor been informed of the place of burial, or the exact circumstances in which their relative was killed, or how he or she was identified. Given that an identification must presumably have taken place for the person's death to have been established, there would seem to be no reason why the authorities could not have provided the family with these details.

Thousands of other families have experienced the killing of a close relative by an armed group, either individually or in massacres, and in certain cases know the identity of those who perpetrated the crime, but have been unable to obtain any information concerning investigations which might have been conducted. In other cases, the authorities have announced, either directly to the families, or via public declarations appearing in the national media, that those responsible for the killing have been shot dead by the security forces or state-armed militias but have not relayed to the family any information on the investigations which allowed them to proceed to their identification. Sometimes the family are shown a photograph and informed of the identity of the person or persons whom the authorities claim are responsible for the killing, but are unable to obtain any further details on how such conclusions were reached.

Over the last two years, around a dozen mass graves have been uncovered by the security forces, mostly containing scores of bodies each. According to information made public by various authorities, the people buried in the mass graves have been men and women abducted and assassinated by armed groups. However, the local authorities generally report that it has not been possible to identify the majority or all of the bodies found, leading families of victims and associations representing them to question how the authorities have reached such a conclusion. According to other sources, including people who participated in the exhumation of bodies from certain mass graves, the remains of members of armed groups have also been found.

Information about the number of bodies found in the mass graves has sometimes been contradictory. In the case of the mass grave found in the village of Haouch Hafidh, the local judicial authorities told the Amnesty International delegation which visited the site in May of this year that 52 bodies had been uncovered and that one had been identified - by the family of the victim, who, hearing of the excavation work, presented themselves to the authorities and were taken to the hospital where the human remains were then kept. The mass grave of Haouch Hafidh was discovered inside a 20-metre deep well on 25 November 1998, allegedly as a result of information provided by an armed group member who had surrendered himself to the authorities in the context of the Clemency (*rahma*) law of 25 February 1995. According to the report by the *Observatoire national des droits de l'homme* (ONDH), National Human Rights Observatory¹³, 64 bodies were found. The discrepancy in figures given by two different authorities only serves to increase the confusion and anguish of families of victims waiting for news on whether the remains of their loved ones have been found.

According to information received from families of victims of armed groups and their associations, the authorities have generally not asked families of victims living in the region in which a mass grave has been discovered to assist in the identification of bodies. In the case of the mass grave of Haouch Hafidh, some 20kms south of Algiers, although the local authorities presumed that most of the bodies found were of people who had lived in neighbouring districts and had been abducted and assassinated by armed groups operating in the area, they made no effort to contact the hundreds of families who had filed complaints regarding abducted relatives in these districts so that they might come forward and help with the identification of victims.

¹³ The ONDH, Algeria's official human rights body, which reports directly to the presidency, was set up in 1992 and replaced the Ministry of Human Rights. Although the mandate of the ONDH specifically requires it to "undertake any action when human rights abuses are observed or brought to its attention", its leadership has publicly declared in recent years that it is not authorized to carry out investigations into human rights violations. Whenever it has received complaints regarding human rights violations, the institution has confined itself to forwarding cases to the security forces for their comments, without making inquiries with other sources or checking information provided in the security forces' responses.

Some families, having learnt of the existence of mass graves, have contacted the authorities to obtain information which might allow them to locate the final resting place of relatives, but have been unable to obtain any details. Others have managed to obtain information from unofficial sources - such as former armed group members who have surrendered themselves to the authorities - about the burial place of relatives who had been abducted and killed by armed groups, but, despite repeated efforts, have been unable to get the authorities to investigate the claims or to begin excavating the site.

Extrajudicial executions

Extrajudicial executions have been widespread in Algeria since early 1994 after judicial executions were suspended by the authorities, yet for not one of the hundreds of cases of which Amnesty International is aware have the perpetrators been brought before a court and tried. Although reports of cases have substantially decreased in the last two years, dozens of people suspected of being members of, or of being linked to, armed groups have reportedly been extrajudicially executed during recent months and no investigations into these deaths, let alone judicial proceedings against those allegedly responsible, are known to have been carried out.

In some cases, people suspected of being members of, or of being linked to, armed groups appear to have been targeted for extrajudicial execution. They may have been shot dead by members of the security forces or state-armed militias in their homes or in the street, sometimes after being taken from their homes in raids on a particular district or village. Alternatively they may have been arrested and extrajudicially executed in custody, often following torture, which may have been the direct cause of death. In other cases, people have been unlawfully killed by members of the security forces or state-armed militias arbitrarily taking revenge on families or communities or firing into crowds of civilians.

The case of Hamza Ouali illustrates the lack of investigations into extrajudicial executions and the impunity afforded to their alleged perpetrators. Hamza Ouali, a secondary school student, was shot dead on 28 June 1998 some 150 metres from the headquarters of the local authorities of Tazmalt, a village in the *wilaya* of Béjaïa, east of Algiers, during a demonstration. Eyewitnesses allege that the boy was shot by the president of the local *Assemblée populaire communale* (municipality) and well-known head of a local state-armed militia group in the presence of members of the local gendarmerie, yet no arrest was made, either at the time or at a later date. Hamza Ouali's family filed a complaint with the authorities about the killing, but the complaint was dismissed by the investigating magistrate and to date no thorough investigation has been carried out.

Hundreds of families have experienced a close relative being killed after arrest by the security forces or paramilitary militias and been informed, often months or years later, that their loved one was killed, and in certain cases have received a death certificate, but have not received the body or remains of the victim nor been informed of the place of burial, nor the exact circumstances in which their relative was killed, nor how he or she was identified. Some

have been told that their relative was shot as he or she tried to escape; others that the relative escaped from custody to join an armed group and was killed later in an armed confrontation. Given that an identification must presumably have taken place, there would seem to be no reason why the authorities could not have provided the family with the details which would have allowed them to begin to overcome the pain of the death.

Torture

Despite the magnitude of the problem, throughout the years of the conflict not one of the thousands of cases of torture or ill-treatment committed by either the security forces or armed groups of which Amnesty International is aware has been the subject of an investigation, let alone one which has led to judicial proceedings against those allegedly responsible.

Reports of torture and ill-treatment by the security forces have substantially decreased in the last two years. However, dozens of people arrested during recent months on suspicion of being linked to armed groups have been subjected to torture or ill-treatment in custody. There continues to be a lack of investigations into these human rights violations and impunity is afforded to those allegedly responsible. Redouane Dahmani, a 15-year-old secondary school student, was arrested in the town of Dellys on 20 June 2000 and taken to a nearby police station. He was shown another detainee being tortured and told he would face the same ordeal if he refused to talk. When he said he had no information to provide, he was taken to a cell and completely undressed. The policemen laid him on a bench and dealt blows to his face and body until he started vomiting blood. Then his feet were bound with rope, his hands were handcuffed and his body was soaked in water, before electricity was applied to first his toes and then his genitals, making him pass out. Redouane was also made to swallow large quantities of dirty water through a cloth placed in his mouth and had burning cigarette ash thrown into his eyes. During the following days, Redouane suffered further torture, being hit with belts and electric cable and having a cigarette extinguished on his face. Even though his face bore visible traces of torture when he appeared before an examining magistrate on 28 June 2000, no investigation was ordered. Redouane was too scared to make reference to his ordeal in the courtroom because his torturers were present at the time.

In another recent case of torture, Mokrane Saadoun, a 31-year-old engineering student, was arrested by military security agents in Tizi Ouzou on 7 June 2000 and taken to a local military base, where he was tortured for six days before being transferred to Tizi Ouzou Prison. He was beaten, forced to swallow dirty water and had electricity applied to his body. Mokrane Saadoun thinks he was arrested and tortured because the security forces believed he had information about human rights violations in the region.

Thousands of people have complained to examining magistrates and in court regarding the torture to which they have been subjected and requested investigations into the complaints. Amnesty International has also raised with the authorities hundreds of cases of detainees who reported that they had been tortured. Yet, to Amnesty International's knowledge, not a single

judicial investigation has taken place, even when the detainees appeared before the judicial authorities bearing visible signs of the torture they had suffered. The authorities have, when asked, provided basic statistics according to which a certain number of members of the security forces and state-armed militias have been prosecuted for their part in torture or ill-treatment and other human rights violations and a smaller number convicted and sentenced. However, the information given has been of too limited a nature to allow for any independent verification.

In May 2000 officials in the Ministry of Justice informed the visiting Amnesty International delegation that between 1993 and February of this year, 348 members of the security services or state-armed militias had been brought to justice for what the authorities termed "excesses" in the course of duty. According to the officials, eight of the 348 were acquitted. The "excesses" included a variety of crimes such as threatening people with death, arbitrary detention, torture and ill-treatment of detainees and murder. However, no further details could be obtained concerning the identity of those prosecuted or the victims, the precise nature of the violations, the investigations carried out and the results obtained, or the trials in which these people were brought to justice. The authorities' insistence on maintaining the anonymity of prosecuted members of the security forces and state-armed militias is incompatible with the fact that the administration of justice is of public interest and that its transparency is essential if the Algerian people's confidence in it is to be restored. Moreover, there is no reason why prosecuted members of the security forces and state-armed militias should benefit from an anonymity from which other citizens sentenced in Algerian courts do not.

Although fewer cases of abduction and torture by armed groups which define themselves as "Islamic groups" have been reported in the past two years, hundreds have been recorded since 1993, when such groups began to operate and to increasingly target civilians. Especially in rural areas, scores of women have been abducted from their homes by armed groups and held captive for varying periods of time during which they were raped and subjected to other forms of torture - such as beatings, burning with cigarettes and death threats. Many were subsequently killed and some were reportedly left permanently disabled. In some cases the victims were raped by more than one member of the armed group.

Armed groups have also abducted hundreds of conscripts and other members of the armed forces, of the security forces and of paramilitary militias and held them captive and tortured them before killing them. Some are alleged to have died under torture, others were tortured and mutilated and subsequently killed.

However, until now it has not been possible to obtain information about cases of any individuals arrested, brought to justice for such crimes and sentenced. None of the women who have testified to Amnesty International about their abduction and rape by armed groups are aware that those who abducted and raped them were ever brought to justice. Some of these victims told Amnesty International that they were informed by the security forces that those who

had abducted them and raped them had been killed by the security forces. However, none were provided with any details or information about any investigation which may have been conducted or about how it had been established that those killed and identified as those who had abducted and raped them were indeed the ones who had perpetrated the crimes against them. Concern about this situation has been expressed by victims of torture, including rape, by armed groups and their families, as well as by women's associations within Algeria.

"Disappearances"

The problem of "disappearances" has blighted Algeria for over seven years. Thousands of Algerian men and women have "disappeared" after being taken away by the security forces or paramilitary militias between 1993 and 2000¹⁴. Although the number of "disappearances" reported in the last year and a half has been considerably lower than in previous years, cases continue to be reported.

Since 1998 the authorities have acknowledged the existence of "disappearances" and subsequently taken measures to register complaints about them. Before that time, the subject was completely taboo in Algeria. Developments such as the opening in November 1998 by the Ministry of the Interior of offices in each *wilaya* where complaints about the "disappearance" of a relative could be registered, and promises made by the authorities to investigate such complaints, raised great hopes among the families of the "disappeared". Amnesty International welcomed pledges made by President Abdelaziz Bouteflika during the presidential election campaign and in the period following his election to take steps to ensure that the fate of the "disappeared" was clarified. Other positive developments initiated by the authorities, such as the release of over 2,000 people in a presidential pardon in July 1999, also fuelled expectations.

However, Amnesty International is not aware of any concrete action that has been taken to date to establish the fate and whereabouts of the "disappeared". Appeals by the mothers of the "disappeared" have subsequently been dismissed by President Bouteflika and other authorities, who have called on them to "turn the page". Despite the overwhelming evidence to the contrary, government authorities continue to argue that in most cases claims by the families of the "disappeared" that their relatives were taken away by members of the security forces or paramilitary militias are unfounded.

Independent investigations are urgently required, particularly since the 4,000 or so cases recorded by Amnesty International may not even approach the true figure. The organization recognizes that the information it has received is not comprehensive and that the number of

¹⁴ Amnesty International has, since 1994, received some 4,000 dossiers on individuals who have "disappeared" after being taken away from their homes, their workplaces, or elsewhere by security forces or state-armed militias, often in front of relatives, neighbours, colleagues or bystanders. However, the number of cases of "disappearance" recorded by some Algerian human rights organizations reportedly exceeds this figure by several thousand.

"disappeared" in Algeria may, in fact, be substantially higher. Some families have been unwilling or unable to notify national or international organizations about the "disappearance" of a relative. Some continue to fear that such an action might expose them and their "disappeared" relatives to further risks of human rights abuses; others are unaware of the existence of such organizations or, living in remote areas of the country, are unable to contact them. These reasons also explain why, in most cases, families have tended to report the "disappearance" of their relatives well after the incident.

During their visit to Algeria in May 2000, Amnesty International delegates raised the issue of "disappearances" and the lack of investigations into the issue in all their meetings with the authorities. The delegation was particularly interested to learn from the Ministry of Justice and the ONDH about the cases which they claimed to have clarified. The Ministry of Justice informed Amnesty International that they had received 3,019 complaints of "disappearance", clarified 1,146 of them and divided these cases into several categories: 82 who are or were in detention; 833 who are sought by the authorities for acts of "terrorism"; 92 who have been killed in armed combat with the security forces; nine who have been killed by other armed groups; 74 who are at home with their families; 49 who had been arrested and later released; five who either benefited from the January 2000 amnesty for AIS members or were exempted from prosecution in the context of the Civil Harmony law; and two who were released from prison following the presidential pardon of July 1999.

The officials provided Amnesty International with the names and dates of birth of the seven people in the final two categories, but no other information about them. The delegation requested a list of all the cases which the Ministry of Justice claimed to have clarified, with a minimum of information to allow identification, including their date of birth and date of "disappearance". By such a request Amnesty International wished to ensure that its list of "disappeared" was as accurate as possible and did not contain the name of anyone who had, for instance, "disappeared" but later reappeared. Despite indications by officials that the requested information would be provided, no such information has been forthcoming.

Of the seven cases for which names and dates of birth were provided, six did not appear on Amnesty International's list of some 4,000 "disappeared". Only one appeared to be on the list, but with a slightly different date of birth. Since no other information was provided by the Ministry of Justice about the case, the organization was unable to confirm whether the two references concerned the same person.

At the same time the ONDH informed the delegation that it had received some 4,150 allegations of "disappearance" and had forwarded most of these allegations to the security forces, who had replied on some 2,100 cases, often a year or so after receiving the communication from the ONDH. The ONDH had divided these cases into several categories: those who had died; those who are imprisoned; those who are sought by the authorities; those freed after a period of detention; those abducted by an unknown armed group; those who had

surrendered themselves to the authorities in the context of the Civil Harmony law; those released after being held for questioning; those who "disappeared" in unknown circumstances; and those cases where the victim's family were not satisfied with the reply from the security forces forwarded to them by the ONDH.

The ONDH provided Amnesty International with a couple of names of cases falling into each of the categories and, for some of them, the date of arrest alleged by the family. The majority of the names did not appear on Amnesty International's list. Although the ONDH promised, in its first meeting held during the visit of the Amnesty International delegation in May 2000, to provide a categorized list of "disappearance" cases it was studying, it has not done so. The ONDH gave no indication that it had made enquiries with anyone other than the security forces about the complaints of "disappearance" sent to it by families of victims.

As for the families who have filed complaints of "disappearance" in the justice system, some of them have been summoned and questioned by prosecutors and examining magistrates, but there is no indication that, apart from in some cases where the complaint was forwarded to the security forces for comment, adequate investigations have been carried out into any "disappearance" case. In many cases, not only are there testimonies from relatives, neighbours or bystanders attesting to the victim's abduction by members of the security forces, but additional evidence is available which could form the basis of a comprehensive investigation. In some cases, some or all of the members of the security forces who carried out the abduction were known to witnesses, who passed on their names in testimonies to the authorities. In some cases too, the witnesses have provided the authorities with other identifying data, such as the registration numbers of the cars in which the members of the security forces took away the victim, or the brigade or division to which they belonged. Sometimes, the initial place of detention of the "disappeared" is known to the family, either because they managed to follow the car in which the victim was taken away to a military barracks, or other security forces' base, or because they learnt from unofficial sources, such as released prisoners, that their relatives were being held there.

Instead of ensuring that investigations are undertaken by an independent mechanism, the authorities have provided inadequate responses to families who have registered complaints about the "disappearance" of their relatives. The responses consistently fail to provide the necessary details to substantiate the conclusions arrived at, merely giving a cursory statement of the authorities' opinion on the case. If the person is "not known to the authorities", no details are provided of any steps taken to find them. If the person is "believed to have joined a terrorist group and sought by the security forces" or "believed to have been abducted by a terrorist group", no information is given explaining what this belief is based on. If the person is "a terrorist killed by the security forces", no reasons are provided why the family has never been summoned to identify their relative's body, or been informed of the place of burial, or been told how their relative was identified.

Some of the most striking evidence of the involvement of security forces in "disappearances" is contained in documents which some families obtained from the authorities. One example is the case of the family of Salah Saker, who alerted numerous authorities in October 1994 to the fact that he had "disappeared" after being arrested at his home in Constantine by the police on 29 May 1994. Having received no response to their letters, the family filed an official complaint with the judicial authorities of Constantine against the judicial police of the *wilaya* of Constantine in January 1996. The family first received a reply from the authorities on 27 February 1997 in which was enclosed a copy of a police statement dated 4 September 1996 confirming that the judicial police of the *wilaya* of Constantine had arrested Salah Saker and transferred him to the Regional Centre for Investigations of the Fifth Military Region on 3 July 1994.

The family had written to the ONDH on 27 September 1996 to make a complaint about the difficulties they were encountering in obtaining information from the authorities and to ask for assistance in this matter. On 10 December 1998, the ONDH replied to the family informing them that, according to the information it had received from the security services, Salah Saker had been "abducted by an unidentified armed group".

Despite exhausting all conceivable methods of recourse to justice, the family has still not been informed of the reasons for the arrest of Salah Saker over six years ago, or been provided with any information about his fate and whereabouts, or been given an explanation for the clear contradictions between the police statement provided by the authorities and the ONDH reply. What the family find particularly difficult to understand is why the authorities have failed to open any judicial proceedings into the case, despite all the evidence available and Algeria's obligation under national law and international standards to do so.

Amnesty International is concerned, not only that comprehensive investigations have not been carried out into individual "disappearance" cases or the phenomenon of "disappearances", but that there also appears to be a lack of coordination between different authorities on the limited amount of information available on the subject. Different authorities have different numbers of complaints of "disappearance" in their hands. Officials from the Ministry of Interior told the Amnesty International delegation in May that 4,693 dossiers had been submitted to it via the offices it had established in each of the country's *wilayas*. As noted above, the Ministry of Justice has received 3,019 complaints of "disappearance" and claims to have clarified 1,146 of them, while the ONDH is aware of 4,150 allegations, for which they have replies from the security forces on 2,100 of them. Moreover, the Ministry of Justice and the ONDH use a different system to categorize the cases they have examined.

It also appears that some of the information provided by the Ministry of Justice and the ONDH is at variance. Three of the seven "disappearance" cases provided by the Ministry of Justice to the Amnesty International delegation during its May 2000 visit as examples of cases which they had clarified were later also mentioned by the ONDH. Both the Ministry of Justice

and the ONDH claimed that they had clarified the cases of Fathi Merabtine, Yassine Boudjemrine and Mohamed Yazid Benkherrab, but gave different reasons for the clarification. According to the Ministry of Justice, the three men were armed group members who had either surrendered to the authorities in the context of the Civil Harmony law or benefited from the amnesty of January 2000. According to the ONDH, the three men were armed group members who had given themselves up to the authorities in the context of the Clemency law of February 1995 (which was abrogated when the Civil Harmony law was passed and entered into force on 13 July 1999). No date was given by either authority for the alleged surrender.

As a member of the UN, Algeria should act in accordance with the Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the UN General Assembly on 18 December 1992, without a vote. Paragraphs 1 and 2 of Article 13 of the Declaration stipulate that:

"1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

"2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits."

In early 2000 claims had been made by the authorities that many "disappeared" had reappeared amongst armed group members who had surrendered to the authorities in the context of either the amnesty of January 2000 or the Civil Harmony law. The claims appeared to be an attempt to bolster the argument that many of the "disappeared" have in fact voluntarily disappeared to join armed groups. Some Algerian newspapers carried the claims and an article in the 1 February 2000 edition of *El Watan* newspaper included the first names of some of those who were supposed to have reappeared. Amnesty International wrote to the Algerian authorities in February requesting the full names and details of the "disappeared" alleged to have reappeared. However, to date no response has been received from the authorities and, to Amnesty International's knowledge, no family of anyone on the organization's list of "disappeared" has been informed by the authorities of the reappearance of a missing relative.

Repercussions for families of the "disappeared"

In recent months, some families of the "disappeared" have been summoned by the judicial authorities and issued with a certificate of disappearance concerning their "disappeared" relative. Some families have willingly accepted the certificate of disappearance, since it begins a process which should lead to the alleviation of some of the problems they face. Other families allege that they have been threatened by the security forces and forced against their will to appear before the authorities to receive the certificate. While the authorities talk of dealing with the issue of "disappearances" in two ways simultaneously, by investigating cases and by regularizing the legal status of families of the "disappeared", many families fear that the second might in fact be a way of postponing, perhaps indefinitely, any investigation into the fate and whereabouts of their family member.

Most of the problems currently faced by families with "disappeared" relatives are faced by women. Quite apart from the personal grief brought on by the loss of a husband or son, women are confronted with often unsolvable practical obstacles. The discriminatory nature of Algerian personal status law means that certain bureaucratic procedures, such as registering children in schools and obtaining passports, school graduation certificates and other documents for them, cannot be completed without the signature of the father, unless the father is registered as dead, which "disappeared" people are not. Similar problems arise for the women themselves with regard to receiving inheritance. In addition, women who have lost the principal breadwinner in their family are burdened with the onerous task of entering a depressed male-dominated job market - often for the first time - and of providing for their families on little or no income.

It is also the women - mainly mothers of the "disappeared" - who have been at the forefront of the public campaigning work on "disappearances" in Algeria. They have led the demonstrations, which the authorities have generally allowed them to carry out, and been the loudest voices in the appeals for the truth which families have made to the authorities. Although they have felt that as women, sometimes of an advanced age, they would be less in danger of physical violence from the security forces, some have been exposed to repressive treatment. In March 2000 mostly women relatives of the "disappeared" were beaten with clubs, kicked and intimidated by the authorities in the western cities of Relizane and Oran. For two weeks in succession in Relizane, relatives of the "disappeared" were also arrested and threatened with imprisonment as they gathered for a weekly demonstration in Relizane in the *Place de la Résistance*, a public square in the city centre. On both 15 and 22 March around 40 people, the majority of them women, were arrested, forced to sign police statements and threatened with prosecution and imprisonment, but released after a few hours.

Compensation

Over recent years, the authorities have allocated funds to compensate families of people assassinated by armed groups. These funds have in many cases been distributed to the families

concerned, although some have complained that they never received the money which they had been pledged by the state or associations of families of victims of armed groups.

Women's associations have complained that victims of rape by armed groups have not benefited from rehabilitation, including medical, psychiatric and other post-traumatic counselling, following their ordeal, nor from compensation which other victims of armed groups have been able to receive. The lack of such provisions is especially worrying in a society such as Algeria's, where victims of rape are forced to deal not only with the trauma caused by the crime, but also with the taboos, shame and stigma attached to this sensitive issue. The fact that many of the women who have been victims of abduction and rape by armed groups live in rural and conservative areas of the country has exacerbated the problem.

Moreover, in not one of the cases of extrajudicial execution, torture or "disappearance" for which the security forces or state-armed militias were responsible and which Amnesty International has recorded over the last eight and a half years have the victims or their families received any form of compensation. This is the case even for families of people who "disappeared" or were found dead after being taken away by the security forces or state-armed militias and whom the authorities subsequently claimed had been abducted or assassinated by armed groups. Families who have filed a complaint with the authorities about a relative who had been abducted by an armed group and presumed to have been later assassinated, but whose body has never been found, have also not received compensation.

These victims appear to have been deliberately excluded from receiving compensation, in violation of Algeria's domestic legislation and its international obligations. Although it makes no mention of victims of human rights violations intentionally committed by the security forces and state-armed groups, such as extrajudicial executions and torture, Executive Decree No. 99-47 of 13 February 1999 does contain provisions for the compensation of victims or families of victims of "accidents occurring in the framework of the anti-terrorist struggle", as well as of human rights abuses committed by armed groups.

The Convention against Torture, ratified by Algeria in 1989, stipulates in Article 14:

"1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

"2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law."

Article 9 of the ICCPR, to which Algeria is a state party, stipulates:

"5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

The Declaration on the Protection of All Persons from Enforced Disappearance states clearly in Article 19 that:

"The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation."

MILITIAS ARMED BY THE STATE

There is no precise and reliable information, official or otherwise, about the number of members of militia groups armed by the state since 1994 and different estimates vary between 100,000 to over 200,000. The only time an Algerian official gave a figure was in February 1998, when then Prime Minister Ahmed Ouyahia told the National Assembly that more than 5,000 militia groups, redefined as *Groupes de légitime défense* (GLD), Legitimate Defence Groups, and also known as "patriots", had been set up and that more would be created.

Militia groups exist almost exclusively in rural areas, where the local civilian population was particularly vulnerable to attacks from armed groups and benefited from little or no protection from the security forces, notably at the height of the conflict up to 1997. During these years the authorities armed civilians and encouraged them to create or join militia groups to protect their communities from attacks by armed groups.

Since 1996 Amnesty International has expressed concern that by allowing and encouraging the creation of militias the authorities were contributing to creating a situation where the civilian population would be increasingly drawn into the conflict. Whilst in the absence of protection from the security forces many villagers saw the creation of militias as the only means of protecting their families and communities from attacks by armed groups, others feared that the presence of militias would make the civilian population even more the target of armed groups. Moreover, as the number of militias increased so did the reports of human rights abuses committed by militias, often affiliated or closely linked to certain political parties, military and security forces and local officials seeking to impose their control over the local population.

Even though the Algerian authorities have maintained that militia groups only acted in self-defence when attacked by armed groups, militia groups openly operated outside the parameters of the law and without supervision, and were allowed and encouraged to carry out law-enforcement tasks and counter-insurgency operations either on their own or in conjunction

with the security forces and the army. In 1995-96 Algerian state television showed militia groups, wearing military and security forces uniforms and using military and security forces vehicles and roadblock signs, setting up roadblocks, questioning and searching passers-by and boasting about their ambushes and military expeditions against armed groups, including their killing of people whom they described as members of armed groups outside the context of armed confrontation.

The legalization of the militias in January 1997¹⁵ gave a legal cover to groups of individuals, recruited arbitrarily and acting outside the framework of law-enforcement legislation and without the necessary training or sufficient supervision, to carry out law-enforcement tasks. This decree contains none of the essential safeguards against the abuse of force and violations of human rights by law enforcement officials contained in human rights standards such as the ICCPR, the Convention against Torture, the African Charter on Human and Peoples' Rights, the UN Body of Principles on the Use of Force and Firearms by Law Enforcement Officials, and the UN Code of Conduct for Law Enforcement Officials. It contains no provisions for recruitment and training requirements, for ensuring the accountability of militia members or for disbanding thousands of militias set up in previous years outside any legal framework.

Even though some militia members have reportedly been brought to justice and convicted on charges of murder, abduction, rape and other crimes, to date the authorities have refused to provide any concrete details about such cases. In addition, according to the information available to date, such cases of prosecution do not concern well-known and powerful militia leaders. For example, two militia chiefs who were also mayors of Relizane and Jdiouia for the *Rassemblement national démocratique* (RND), National Democratic Rally, the then leading party in government, were arrested in April 1998. They were accused of widespread human rights violations, including murder, torture, abductions and racketeering, committed since 1995. However, they were released on bail within days - a measure which is virtually never granted to anyone accused of such serious crimes - and have not been brought to trial to date. Another well-known militia leader who was accused of deliberately and arbitrarily killing 17-year-old Hamza Ouali in the summer of 1998 (see details on page 19) was discharged by the investigating magistrate and never brought to trial.

In the past two years, after reports of human rights abuses by militia groups became widespread, the authorities have been playing down the role of militias; state television and newspapers no longer publicize their activities and foreign journalists are discouraged by the security forces who accompany them everywhere from going to visit and interview them. In recent months some militia members and leaders have complained in interviews to the Algerian

¹⁵ Executive decree No. 97-04, issued by the then Prime Minister Ahmed Ouyahia on 4 January 1997, officialized and legalized the existence of the militias and set out a loose framework for their activities.

media that they are being sidelined by the authorities and that they no longer receive their salaries, or receive them late - though, according to Executive decree No. 97-04, GLD members are volunteers and are not supposed to receive any salary or recompense whatsoever. To date no concrete measures are known to have been taken either to disband these militia groups or to bring the activities of the members of the militias under the effective control of the law.

RESTRICTIONS ON FREEDOM OF ASSOCIATION AND EXPRESSION FOR VICTIMS AND HUMAN RIGHTS DEFENDERS

According to figures provided by officials in the Ministry of the Interior to Amnesty International there are about 55,000 NGOs and associations working on different issues at the national and local level. However, the 10 or so NGOs and associations or groups which have criticized or opposed the policies and actions of the government have faced and continue to face a range of problems and restrictions. Some have been refused legal registration by the national or local authorities and others, including legally recognized NGOs, have been refused the authorization to hold meetings and public events. Others found that the foreign guests they had invited to attend some of their activities were refused visas to enter Algeria. In addition, in the past year as in previous years, demonstrations organized by some of these associations were prevented from taking place or dispersed by security forces who ill-treated, intimidated, threatened or arrested the organizers and/or the participants.

To date neither the *Association nationale des familles des disparus* (ANFD), National Association of Families of the Disappeared, nor the *Association des familles de disparus de la wilaya de Constantine*, Association of Families of the Disappeared of the Wilaya of Constantine, have been able to obtain legal registration. Even though the weekly demonstrations which mothers of the "disappeared" have been holding since the summer of 1998 have on the whole been allowed to take place, on a number of occasions the security forces have broken up the demonstrations by force and beaten, ill-treated and/or arrested the women. Such incidents happened for example on 22 March in Oran and on 23 August 2000 in Algiers.

The associations which face such problems and restrictions are mainly those whose actions concern human rights violations committed by security forces, as well as associations acting on behalf of victims and families of victims of armed groups and whose activities, previously tolerated and often encouraged, are now in opposition to the government policy - notably on the issue of the Civil Harmony law and the amnesty of armed group members. For example, the increased repression of the activities of the Matoub Lounes Foundation has coincided with its increasingly severe criticism of the authorities for the lack of investigations into the assassination in June 1998 of the popular Berber singer Matoub Lounes. Somoud, an association of families of people abducted by armed groups, has also reported having faced numerous difficulties in obtaining legal registration and carrying out its activities. In 1999 its president staged a hunger strike to protest at the authorities' lack of response to his demands.

Other NGOs which have been legally recognized for many years, such as the *Ligue algérienne pour la défense des droits de l'homme* (LADDH), Algerian League for the Defence of Human Rights, and the *Rassemblement Action Jeunesse* (RAJ), Rally for Youth Action, have for years systematically been refused authorization to hold meetings, conferences or other public activities, and they are never allowed to use public halls, which are generally made available to other associations. On 11 May 2000 a meeting organized by the LADDH to give the opportunity to the families of the "disappeared" to meet with the Amnesty International delegation present at the time in Algeria could not take place as the LADDH was not granted the use of the hall nor the authorization to hold the meeting. Yet, at the same time another public meeting organized by members of a political party belonging to the government coalition and whose objective was to criticize Amnesty International and its work on Algeria was allowed to take place.

Even though in some cases such problems may possibly be due to misunderstandings, the scale and the recurrence of the phenomenon indicates that these are deliberate practices aimed at restricting the activities of human rights defenders and victims.

Such restrictions violate international standards to which Algeria is a State party and which guarantee the right to freedom of association, assembly and expression, and contradict the spirit of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which was adopted by the UN General Assembly (Resolution 53/144) at its 85th plenary on 9 December 1998 and which stipulates:

"Article 1:

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."

"Article 2:

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed."

"Article 5:

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations."

CONCLUSION AND RECOMMENDATIONS

The last decade has seen massive human rights abuses perpetrated in Algeria with total impunity. Although the scale of the conflict and the number of reported cases of violations have diminished markedly over the last two years, the problem of impunity has grown more, rather than less, serious. A privilege which had been and continues to be enjoyed almost universally by members of the security forces and state-armed militias has been conferred on members of armed groups who may have been responsible for killings, torture and other human rights abuses. The public continues to have little confidence in a justice system which fails to prevent or investigate ongoing cases of arbitrary arrest, secret detention, torture and other human rights violations.

The authorities have recently taken measures with the stated intention of bringing about peace and national reconciliation. Yet, only by clarifying the truth about what has happened in Algeria in the last eight and a half years, establishing accountability for past and current human rights abuses and bringing to justice those allegedly responsible can confidence in the justice system be restored and human rights be guaranteed, elements essential for a lasting peace.

Over the past eight years, Amnesty International has addressed numerous recommendations to the Algerian government, among them urging the authorities to set up an independent and impartial commission of inquiry to investigate the thousands of killings, massacres, "disappearances", abductions, incidents of torture, extrajudicial executions, deliberate and arbitrary killings of civilians and other human rights abuses committed in Algeria since 1992 by the security forces, state-armed militias and armed groups. The methods, findings and conclusions of all such investigations should be made public and anyone reasonably suspected of being responsible for human rights abuses should be brought to justice in proceedings which meet international standards for fair trials. The organization again calls on the Algerian government to implement the recommendations it has made in the past without further delay.

Amnesty International has repeatedly called on all armed groups in Algeria to stop targeting civilians and to respect the most fundamental of human rights, the right to life. It once

again reiterates this call and will continue to oppose and campaign to end human rights abuses by armed groups. However, the organization places the primary focus of its recommendations on the Algerian authorities since it is the state which has ratified international human rights treaties and adopted other international human rights instruments within the framework of the UN and which is obliged to implement them. With particular reference to concerns highlighted in this report, it is the state authorities which have the responsibility to investigate human rights abuses and bring those allegedly responsible to justice. Consequently, Amnesty International urges the authorities:

Concerning the presidential amnesty and the application of the Civil Harmony law:

- To declare the wholesale amnesties, which have been extended also to perpetrators of human rights abuses and other serious violations of international law, to be null and void, as they are unlawful under international human rights standards;
- To ensure that full, thorough and independent investigations are carried out in each individual case of armed group members or leaders who have surrendered or may surrender in the future and that each individual who is responsible for human rights violations be promptly brought to justice in full accordance with international standards for fair trial.

Concerning arbitrary arrests and secret detention:

- To ensure that detainees are not held in secret detention under any circumstances and that the families of lawyers of all detainees be immediately informed of their place of detention;
- To ensure that the judicial authorities exercise an effective and concrete control over the security services who carry out arrest and hold detainees in custody;
- To set up a centralized register where all arrests and detention by the different security services are recorded and to ensure that the central register is kept up to date;
- To ensure that the laws governing pre-arraignment (*garde à vue*) detention be revised so as to ensure all detainees' rights to prompt access to a lawyer and to be brought promptly before a judge and that these rights be protected rigorously, and that all violations of these provisions are thoroughly investigated and those found responsible brought to justice.

Amnesty International reminds the Algerian authorities that in August 1998 the UN Human Rights Committee made several recommendations in relation to arbitrary arrests and secret detention. In particular the Committee urged Algeria to ensure that:

- "a) nobody may be arrested or detained 'outside the law';
- b) complaints about such arrest or detention be given immediate attention and that relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;
- c) all persons arrested be kept at officially designated places of detention; their families be immediately informed; they have immediate access to a lawyer; and they are promptly charged and brought to trial;

d) their detention not exceed the limit provided by the law and that they have a right to medical examination on arrest and at the end of their detention.”¹⁶

Concerning extrajudicial executions, torture and ill-treatment:

- To take concrete measures to put an immediate end to the practice of extrajudicial executions, torture and ill-treatment and to ensure that prompt, independent and impartial investigations are carried out into all cases of these human rights violations and that those allegedly responsible are brought to justice in full compliance with international standards for fair trials.

In August 1998 the UN Human Rights Committee made the following recommendations:

“The State party should urgently ensure that

- a) independent mechanisms be set up to investigate all violations of the right to life and security of the person;
- b) the offenders be brought to justice [...]”¹⁷

“The Committee urges the State party to ensure:

- (a) A credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;
- (b) That all specific allegations be investigated by an impartial body and that the results of such investigations be published;
- (c) That officials involved in torture be prosecuted and, if convicted, severely punished.”¹⁸

Concerning mass graves:

- To ensure that all reports of existence of mass graves are investigated, that adequate resources are provided for excavations and exhumations and that sufficient forensic capacity is made available for the identification of bodies found.
- To inform immediately the families of victims whose bodies have been identified.

¹⁶ Human Rights Committee (Sixty-third session); August 1998 CCPR/C/79/Add.95; Algeria: Consideration of reports submitted by states parties under article 40 of the covenant. Concluding Observations of the Human Rights Committee: Algeria; paragraph 12. [Comité des droits de l'homme (63^e session), août 1998, CCPR/C/79/Add.95. Algérie. Examen des rapports présentés par les États parties conformément à l'art. 40 du Pacte. Observations finales du Comité des droits de l'homme, Algérie, paragr. 12.]

¹⁷ *ibid*; paragraph 7.

¹⁸ *ibid*; paragraph 9.

Concerning "disappearances":

- To take concrete measures to put a total and immediate end to all acts of "disappearance";
- To centralize the different information on "disappearance" cases compiled by the Ministry of Justice, the Ministry of the Interior and the ONDH and reconcile the differences in the numbers and details of "disappearance" cases recorded by the three bodies;
- To establish, as recommended by the Human Rights Committee in August 1998, "a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared, and to assist the families concerned to retrace the disappeared"¹⁹;
- To ensure that a full and independent investigation has been carried out into the fate and whereabouts of each case of "disappearance", that steps are taken to verify information provided by the security forces and that the family of the "disappeared" person has been informed of the results;
- To ensure that all newly reported "disappearance" cases and the results of investigations into them are added to the central register.

Concerning compensation:

- To provide all victims of human rights abuses, including victims of abuses committed by the security forces and by state-armed militias, or their immediate relatives, in the case of those killed or "disappeared", with fair and adequate redress, including financial compensation.
- To make special efforts to ensure that victims of rape by armed groups can benefit from adequate rehabilitation, including medical, psychiatric and other post-traumatic counselling.

Concerning militias armed by the state:

- To disband all state-armed militias and ensure that security operations are carried out by law-enforcement personnel who have received the necessary training and qualifications and who operate in an official framework which ensures accountability.

Concerning NGOs and human rights defenders:

- To ensure that human rights NGOs and human rights defenders within the country are able to carry out their work without any hindrance, including arbitrary arrests, detentions and ill-treatment.

¹⁹ *ibid*; paragraph 10.