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In Algeria, relatives of the "disappeared" hold photographs of their missing loved ones at a weekly demonstration held on their behalf in Algiers.  
(c) 1998 Agence France Presse

In February 2002 the prosecutor summoned me and asked if I had any new information about Riad. I replied, "No. But it is not my job to conduct the investigation into a person who 'disappears.' It is your job."

The prosecutor opened Riad's file and said, "I see that your son is a terrorist."

I replied, "Of course he's a terrorist – to you, anyone who 'disappears' is a terrorist. But this country has a judicial system. If someone is a terrorist let him be put on trial."

Since then, there have been no traces of Riad. Still, I will never stop looking for my son, until my last breath.

Human Rights Watch interview, Algiers, October 25, 2002.

## TIME FOR RECKONING: ENFORCED DISAPPEARANCES AND ABDUCTIONS IN ALGERIA

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# ALGERIA

## TIME FOR RECKONING: ENFORCED DISAPPEARANCES IN ALGERIA

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## I. SUMMARY

Algerian security forces and their allies, between 1992 and 1998, arrested and made “disappear” more than 7,000 persons who remain unaccounted for to this day. This number exceeds the number of “disappearances” known to have been carried out in any other country, except wartime Bosnia, over the past decade. In addition, armed groups fighting the government kidnapped hundreds if not thousands of Algerians who also remain missing. These acts, systematically committed both by state actors and by organized non-state actors, are crimes against humanity.

Today, state-sponsored “disappearances” have virtually stopped in Algeria. However, not one person accused of participating in an act of “disappearance” has been charged or brought to trial, and not one family of a “disappeared” person has been provided with concrete, verifiable information about the fate of their relatives. Nothing has been done to prevent the security forces from reviving this method. They routinely, and with impunity, flout laws designed to ensure that a person’s arrest is recorded and regulated.

For their part, families of persons kidnapped by armed groups feel abandoned by the state. They say that no proper criminal investigation of the kidnapping has taken place, and that authorities do not consult or inform the families when mass graves are found that might contain the remains of their relatives.

Government discourse on the “disappeared” has evolved substantially over the years, due to domestic and international pressure. Authorities first denied the problem. Then, beginning in 1998, they minimized it while claiming to be investigating and resolving individual cases. But the issue continued to tarnish Algeria’s image abroad. Since 2002 officials have acknowledged the problem as a difficult one that needed finally to be addressed.

The year 2003 may be the pivotal year. At a time when Algeria wishes to exploit its improved relations with the U.S. and France, due in part to its professed terrorist-fighting credentials, a presidentially appointed human rights commissioner is publicly urging aid to the families, state admission of culpability – and an amnesty for the perpetrators.

Human Rights Watch believes that the solution must include disclosure of the truth regarding what happened to victims of “disappearances,” and accountability for the perpetrators. In keeping with principles of international human rights law, an amnesty, if one is ever enacted, should exclude persons responsible for acts of “disappearance.” In deliberating over pardons for perpetrators of “disappearances,” the extreme seriousness of that crime should be taken into account. A solution that lacks truth and accountability plants the seeds for a repetition of “disappearances” and other atrocities.

Skeptics may doubt that truth and accountability can be achieved so long as a country’s power structure remains intact. It is true that the most dramatic gains on the issue of past abuses have occurred in countries that experienced a radical break with the past, such as Argentina and South Africa. However, other countries, such as Sri Lanka and Mexico, have shown that even where there has been no fundamental disruption in political institutions, a government that has the political will can take certain steps, however modest, to establish truth and accountability for massive “disappearances.”

## II. RECOMMENDATIONS

### **To the Government of Algeria**

With respect to state-sponsored “disappearances,” authorities should:

- Acknowledge at the highest level that state agents are responsible for large numbers of “disappearances” since 1992;

- Introduce legislation making "disappearance" a criminal offense that is punishable by sanctions commensurate with the gravity of the crime; the statute should apply explicitly to all state agents or those acting on their behalf;
- Commit to providing families information on the fate of the "disappeared" and on the parties responsible for "disappearances," except in those cases where families elect to forego this information;
- Declare that investigations into "disappearances" should continue for as long as the fate of the victim remains unclarified. Toward this end:

Establish a commission to investigate "disappearances" that meets criteria for effectiveness outlined by Amnesty International,<sup>1</sup> among others, including:

- The independence, authority and integrity to obtain information from state agencies, including the security forces, about the "disappeared" – their whereabouts, their status, and who bears responsibility for their plight;
- Working methods that are clearly and publicly defined;
- Structural and operational independence from any government institution; the financial resources and staff with the necessary expertise and integrity to examine impartially, effectively and speedily, information relating to "disappearances" across the country;
- Investigative powers to search unannounced and unaccompanied military, police and intelligence facilities and archives;
- Full and effective powers to compel the attendance of those implicated in carrying out, ordering or acquiescing in "disappearances," and to compel the disclosure and production of documents, including medical-legal records and existing court files, and other items of evidence.

The country's highest authorities should order all state agencies to cooperate with the commission, and state that officials that obstruct or fail to cooperate with the commission will face penalties.

Algerian authorities should also:

- Provide compensation to victims of state-sponsored "disappearances" or their beneficiaries who elect to receive them, and ensure they have access to counselling and social assistance programs. Compensation, counselling, and social assistance programs must in no way substitute for the provision to families of information, as noted above;
- Declare that the widespread and systematic "disappearances" perpetrated in Algeria over the past decade constitute crimes against humanity whose perpetrators must be brought to justice. They should benefit neither from amnesty laws nor from statutes of limitation. Similarly, members of armed groups who have abducted persons who remain missing or who have been killed or grievously harmed by their abductors should not be eligible under any amnesty and their crimes should not be subject to statutes of limitation;
- Issue a standing invitation to visit Algeria to all mechanisms of the U.N. Commission on Human Rights (CHR); as a member of the CHR, it should join the forty-two U.N. member nations that have already done so;
- In particular, grant long-standing requests to visit by the U.N. Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Torture and the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions. Algeria should ensure that these thematic mechanisms have full

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<sup>1</sup> See Amnesty International, "Fourteen-point program for the prevention of 'disappearances,'" online at <http://web.amnesty.org/web/aboutai.nsf/5451236ceac8ca36802567750034ca9a/472772b3583aa3028025677f004c3f00!OpenDocument> (retrieved February 19, 2003).

access to regular and ad-hoc detention facilities, sites of mass or makeshift graves, and official documents relevant to their mandates;

- Grant legal status to all Algerian NGOs, such as Somoud, Association of the Families of the Disappeared of Constantine, and the National Association of Families of the Disappeared, that work on “disappearances” and abductions and that apply for legal recognition; and
- Respect the right of freedom of assembly by ending the frequent practice of forcibly dispersing peaceful and non-disruptive public rallies staged by relatives of the “disappeared.”

With respect both to state-sponsored “disappearances” and persons abducted by armed groups, Algerian authorities should:

- Instruct Algeria’s courts to fulfill their responsibility as guarantors of impartial justice; investigating judges and prosecutors should fully investigate “disappearance” cases by, among other things, identifying and questioning witnesses – including, where warranted, members of the security forces – capable of shedding light on the perpetrators of “disappearances” or “abductions.” Plaintiffs who submitted “disappearance” complaints to investigating judges or prosecutors only to have their petitions unfairly dismissed should be encouraged to re-submit them for a proper hearing;
- Establish procedures, in consultation with victims’ families, on keeping them informed of progress in investigations into “disappearances” and abductions, as well as about the discovery of mass graves and any work carried out to identify or remove the bodies found;
- Ensure that any information derived from the interrogation of captured or surrendering militants that pertains to the identity and fate of abducted persons is made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation; ensure that families are informed of the prosecution of persons in connection with specific abductions, so that relatives can provide relevant testimony or attend or follow any resulting trial; and
- Take steps to ensure that all persons involved in the investigation of “disappearances,” including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

Regarding mass graves:

- Immediately put in place procedures to preserve evidence at all discovered and yet-to-be-discovered unmarked gravesites that are suspected of holding victims of political violence, and inform families of “disappeared” and “abducted” about the procedures in place for exhuming and identifying human remains; and,
- If the state lacks resources or technical means to properly conduct exhumations, it should seek the involvement of qualified domestic and international nongovernmental organizations and other institutions that are able to provide assistance. Qualified independent organizations or individuals should be invited to be present as observers during exhumations.

In order to prevent future “disappearances”:

Review all practices of detention that facilitate “disappearances” and implement the following steps when persons are arrested:

- Keep a detention record regarding every detainee, including information on the date, time, and location of detention, the name of the detainee, the reasons for the detention, and the name of the forces effecting the

detention; such registers should be readily available to detainees' family, counsel, and other legitimately interested persons;

- Hold all detainees only in officially recognized places of detention, and cease the practice of secret detention even if it takes place on the premises of an officially recognized detention facility;
- Inform detainees immediately of the grounds of arrest and any charges against them, and provide immediate and regular access to lawyers of their own choosing;
- Promptly convey to the family accurate information about a detainee's whereabouts and legal status, and provide them with prompt access to the detainee;
- Ensure that arresting officers always identify themselves to the person arrested and produce official identification showing their names, the agency they work for, and the branch of that agency where they are based;
- Ensure that detainees are taken into custody only on the basis of an arrest warrant issued by a judge (except where genuinely detained *en flagrante delicto*); and
- Introduce legislation to shorten the maximum duration of *garde à vue* (pre-arraignment) detention from the twelve-day maximum allowed under 1995 legislation. The proposed amendment should conform to the U.N. Human Rights Committee's determination that a suspect must be brought before a judge or other officer authorized to exercise judicial power within "a few days" (General Comment 8 interpreting Article 9 of the International Covenant on Civil and Political Rights, which requires that detainees be brought "promptly" before a judge).

### **To Political Parties in Algeria**

In the May 30, 2002 elections, two opposition parties that had distinguished themselves in their advocacy on behalf of the families of the "disappeared" made substantial gains in the National Popular Assembly, the lower house of parliament. The Workers Party, led by Louiza Hanoune, and the Movement for National Reform (al-Islah), led by Abdallah Djaballah,<sup>2</sup> won twenty-one and forty-three seats, respectively, out of a total of 389. Although pro-government parties control a majority of seats and the Assembly's powers are quite limited under the constitution, deputies have the means to publicize issues of concern. Accordingly, they should:

- Initiate a parliamentary inquiry into "disappearances," and summon ministers to reply to formal questions (*interpellations*) about the issue;
- Use the chamber as a platform to address the nation on the rights and concerns of the families of the "disappeared" via the live and uncensored broadcast on Algerian television of parliamentary debates; and
- Introduce and adopt legislation designed to prevent "disappearances, including, as noted above, statutes incorporating the crime of "disappearance" into the penal code and reducing from twelve days the maximum length of *garde à vue* detention under the code of penal procedure.

### **To Armed Groups Implicated in the Abduction of Civilians**

Armed groups and their members should:

- Cease immediately and renounce the practice of abducting civilians;

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<sup>2</sup> Addressing "disappearances" was one of Djaballah's campaign themes. See, for example, Naima Djekhar, "Djaballah à Constantine: Appel à un vote massif et mise en garde contre la fraude," *La Tribune*, May 4, 2002.

- Free any civilians who are alive and in their custody; and
- Disclose, where known, the name of the victim and location of the body in those cases where an abducted person is no longer alive.

### **To the European Union and its Member Nations**

The European Union for the past three years has submitted names of “disappeared” persons in bilateral meetings with Algerian authorities, without receiving credible information clarifying the whereabouts of any of these missing persons. The European Union should now elevate its bilateral dialogue about “disappearances,” in the wake of the signing of the E.U.-Algerian Association Agreement and pursuant to the European Parliament’s resolution of October 10, 2002, which states that “respect for human rights, which includes resolving the problem of the ‘disappeared’... is an essential element of the new association agreement.”

The European Union should declare that the pattern of “disappearances” in Algeria constitutes a crime against humanity; therefore, perpetrators of “disappearances,” whether state agents or members of armed groups, should not benefit from any amnesty from prosecution or any statute of limitation.

The European Council, the Commission, and E.U. member states should urge Algerian authorities to implement the above recommendations, in particular, to:

- Provide specific and verifiable information to the families of the “disappeared”;
- Establish a body to investigate “disappearances” that has the independence, authority and integrity to obtain information in the possession of state agencies, including the security forces, about the “disappeared” – their whereabouts, their status, and who bears responsibility for their plight;
- Approve standing requests for in-country visits by the U.N. Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Torture and the Special Rapporteur on Extrajudicial Executions;
- Grant long-denied legal status to nongovernmental organizations that work on the plight of the “disappeared” or “abducted” persons; and
- Respect the right of Algerians to freedom of assembly and end the frequent practice of forcibly dispersing peaceful and non-disruptive public rallies staged by relatives of the “disappeared.”

### **III. ABOUT THIS REPORT**

Wherever possible, Human Rights Watch conducts research at the site where the abuses occur. Algerian authorities have granted us visas only twice since 2000, preventing us from visiting the country on a regular basis. We were nevertheless able to collect much information from families of the “disappeared,” Algerian human rights lawyers, activists, organizations, and the media.

We also solicited information from Algerian authorities on several occasions, notably in a detailed letter sent on May 16, 2002 (attached as Appendix 2). Authorities did not provide a single written response to requests for information that we submitted over the last few years.

A number of government officials received the Human Rights Watch delegation that visited in May 2000. They provided us with information that has been incorporated into this report. Official viewpoints and information have also been collected also from reports in the media and from the reports of other organizations and delegations that have visited Algeria. However, during Human Rights Watch’s most recent visit in October-November 2002, no officials other than the head of the President’s human rights commission, the National



Consultative Commission for the Promotion and Protection of Human Rights (Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, CNCPPDH), responded to requests for meetings.

This report is a follow-up to Human Rights Watch's first report on state-sponsored "disappearances," researched during our 1997 mission to Algeria and published in February 1998.<sup>3</sup> That report, published when the issue was first attracting attention in Algeria and abroad, featured twelve case studies as a sample.

The focus of the present report is to evaluate everything that Algerian authorities have said and done to address the thousands of outstanding cases of "disappearances" in the past five years. This report also covers the parallel issue of persons who are missing after having been abducted by armed groups fighting the government.

### **Acknowledgments**

We wish to thank officials who met with us during our May 2000 visit, including representatives of the ministries of foreign affairs, justice, interior, and national solidarity. We also wish to thank Moustapha Farouk Ksentini, president of the CNCPPDH, for receiving us in November 2002.

We are grateful to the many human rights activists and journalists who provided information, reflections, and logistical assistance. Five organizations – the two Algerian human rights leagues, SOS Disparus, Somoud, and the Association of the Families of the Disappeared of Constantine – were particularly helpful. Most of all, we thank the relatives of the "disappeared" and abducted who shared their testimony, dossiers, and insights. We could include in this report only a sample of cases. However, we hope that the testimonies presented here demonstrate that each case of "disappearance" is a tragedy, and that the issue will not be resolved until every family receives an adequate response concerning the fate of their relative, and the perpetrators are brought to justice.

Special recognition is due three persons who assisted us during our mission in 1992 who subsequently "disappeared": rheumatologist Charif Benlahreche of Constantine, journalist Djamel Fahassi of Algiers, and a third young man who must remain nameless.

This report was edited by Hanny Megally and Joe Stork, executive director and Washington director, respectively, of the Middle East and North Africa division of Human Rights Watch; and by Widney Brown, deputy program director of Human Rights Watch. Wilder Tayler, the legal and policy director, provided legal review. Research assistance was provided by Samir Ben Amor, Juliette Abu Iyun, consultants to Human Rights Watch, as well as by intern Juan Valdivieso. Mohamed Abdel Dayem, an associate with the Middle East and North Africa division, assisted with translation from Arabic. This report was prepared for publication by Mohamed Abdel Dayem, Patrick Minges, Human Rights Watch publication director, and Veronica Matushaj, Human Rights Watch photo editor.

### **A Note on Terms: "Disappearances" and "Abductions"**

The term "disappearance" is used to connote a case where state agents or their associates have taken a person into custody and do not acknowledge holding that person, or do not disclose the person's location. The definition in the U.N. General Assembly's Declaration on the Protection of all Persons from Enforced Disappearance (see below) does not specify a minimum period of illegal, unacknowledged detention before a case is classified as a "disappearance." This report examines cases where the person has "disappeared" not for hours or days, but rather for many months or years.

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<sup>3</sup> Human Rights Watch, "Neither Among the Living nor the Dead": State-Sponsored 'Disappearances' in Algeria," *A Human Rights Watch Report*, vol. 10, no. 1(E), February 1998, online at [www.hrw.org/reports98/algeria2](http://www.hrw.org/reports98/algeria2) (retrieved February 19, 2003).

In Algeria, the security forces are not the only party that has taken into custody persons who have subsequently “disappeared.” Armed groups fighting the government have also abducted hundreds, if not thousands, of persons since 1993, some of whom have been later released or found dead, and others who are missing to this day.

The terminology describing these acts in the Algerian context is not used consistently by all who refer to them. In general, the term “disappearance” (*disparition* in French) is used to refer to acts attributed to state agents or their explicit allies, such as armed civilian patrols. The term “abduction” (*enlèvement* in French) refers to acts attributed to armed groups calling themselves Islamist. The perpetrators might also be criminal gangs with little if any political affiliation. This report observes this distinction in using the terms “disappearances” and “abductions.” We put the former term between quotation marks as a reminder that the person did not disappear in the literal sense.

### **Algeria’s International Human Rights Obligations**

The U.N. General Assembly’s Declaration on the Protection of all Persons from Enforced Disappearance (hereinafter the U.N. Declaration on “disappearances”) provides an authoritative legal description of the phenomenon of “disappearances.” In its introduction it describes “disappeared” persons as those who are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.<sup>4</sup>

The crime of “disappearing” a person is not found in Algerian law. However, the penal code criminalizes some of its constituent elements, namely illegal arrest and detention, in Articles 291 and 292 (see Appendix 1 for text).

A widespread or systematic pattern of “enforced disappearances” is a crime against humanity. The notion of “crimes against humanity” refers to acts that, by their scale or nature, outrage the conscience of humankind. The most recent definition of crimes against humanity is contained in the Rome Statute of the International Criminal Court, which entered into force on July 1, 2002.<sup>5</sup> The Rome Statute provides that “enforced disappearances” are a crime against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack” (Article 7). Algeria has not yet ratified the Rome Statute, although it has signed it.

The principle that “enforced disappearances” constitute crimes against humanity has been affirmed by other declarations and treaties. The U.N. Declaration on “disappearances” termed “the systematic practice” of “disappearances” to be “of the nature of a crime against humanity.”<sup>6</sup> The Inter-American Convention on the Forced Disappearance of Persons, adopted in 1994 by the General Assembly of the Organization of American States, states that the “systematic practice of the forced disappearance of persons constitutes a crime against humanity.”<sup>7</sup>

The disparate components of the crime of “disappearance” are also expressly prohibited under international human rights law; many violate customary international law. “The act of enforced disappearance constitutes a multiple human rights violation,” notes Manfred Nowak, who is the U.N. Commission on Human Rights’ independent expert for examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance. Nowak is also a former member of the United

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<sup>4</sup> United Nations, “General Assembly Resolution 47/133 dated December 18, 1992,” (New York: United Nations, 1992), A/RES/47/133.

<sup>5</sup> United Nations Doc. A/CONF.183/9\*.

<sup>6</sup> United Nations, “General Assembly Resolution 47/133 Supplement #49 at 207, adopted December 18, 1992,” (New York: United Nations, 1992), A/47/49.

<sup>7</sup> Online at <http://www.oas.org/juridico/english/Treaties/a-60.html> (retrieved February 19, 2003).

Nations Working Group on Enforced or Involuntary Disappearances (WGEID).<sup>8</sup> The rights that are violated are set out in the International Covenant on Civil and Political Rights (ICCPR)<sup>9</sup> and Algeria, as a state party to the ICCPR, is obligated to respect them. They include:

Article 6(1). Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9(1). Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. 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...

(4). Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

Article 14(1). All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

A large number of other international treaties, including the U.N. Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment,<sup>10</sup> which Algeria has ratified, also prohibit specific aspects of violations of human rights that occur during “disappearance.”

The most detailed exposition of pertinent legal principles is to be found in the U.N. Declaration on “disappearances.” Although it is not binding under international law, the Declaration nevertheless reflects the consensus of the international community against this type of human rights violation and provides authoritative guidance as to the safeguards that need to be implemented in order to prevent it. Four key principles affirmed by the Declaration are that “disappearances” cannot be justified under any circumstance; that “disappearances” are continuing offenses, exempt from statutes of limitation; that their perpetrators should not be eligible for amnesty from prosecution; and that their victims and their survivors have a right to compensation.

The Declaration’s Article 7 states:

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 17 calls “disappearance”

a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.

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<sup>8</sup> United Nations Commission on Human Rights, "Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46" (New York: United Nations, 2002), E/CN.4/2002/71, p. 36.

<sup>9</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1966; entered into force March 23, 1976.

<sup>10</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of December 10, 1984; entered into force June 26, 1987.

Article 18 states:

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

However, under Article 4,

Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive.

International jurisprudence and standard setting of the last ten years have consolidated the view that those responsible for crimes against humanity and other serious violations of human rights should not be granted amnesty.<sup>11</sup>

This point is emphasized by expert Manfred Nowak in his 2002 report on “disappearances” to the U.N. Commission on Human Rights:

As the [U.N.] Human Rights Committee rightly concluded, in the case of particularly serious human rights violations, such as enforced disappearances, justice means criminal justice, and purely disciplinary and administrative remedies cannot be deemed to provide sufficient satisfaction to the victims. Perpetrators of enforced disappearance should, therefore, not benefit from amnesty laws or similar measures.<sup>12</sup>

Article 19 of the Declaration states:

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.

Further guidance on compensation is found in the “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law,” drafted by M. Cherif Bassiouni, the U.N. special rapporteur on the right to restitution, compensation, and rehabilitation for victims of gross violations of human rights and fundamental freedoms:

15. Adequate, effective and prompt reparation shall be intended to promote justice by redressing violations of international human rights or humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered.

16. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for its acts or omissions constituting violations of international human rights and humanitarian law norms.

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<sup>11</sup> For example, on July 7, 1999, the Special Representative of the Secretary-General attached a disclaimer to the Sierra Leone Peace Agreement, saying "The United Nations interprets that the amnesty and pardon in article nine of this agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law." United Nations Secretary-General, “Statement on July 17, 1999 referring to the “Sierra Leone Peace Agreement” (New York: United Nations, 1999). See also, Commission on Human Rights, resolutions 1999/34 and 1999/32; the Annual Report of the U.N. Committee against Torture to the General Assembly, 09/07/1996, A/51/44, paragraph 117; and U.N. Human Rights Committee General Comment 20, April 10, 1992.

<sup>12</sup> Report by Nowak, E/CN.4/2002/71.

17. In cases where the violation is not attributable to the State, the party responsible for the violation should provide reparation to the victim or to the State if the State has already provided reparation to the victim.

18. In the event that the party responsible for the violation is unable or unwilling to meet these obligations, the State should endeavour to provide reparation to victims who have sustained bodily injury or impairment of physical or mental health as a result of these violations and to the families, in particular dependents of persons who have died or become physically or mentally incapacitated as a result of the violation. To that end, States should endeavour to establish national funds for reparation to victims and seek other sources of funds wherever necessary to supplement these.

19. A State shall enforce its domestic judgements for reparation against private individuals or entities responsible for the violations. States shall endeavour to enforce valid foreign judgements for reparation against private individuals or entities responsible for the violations.<sup>13</sup>

Nowak, in his report to the U.N. Commission on Human Rights, states, “In the case of enforced disappearance, which is a particularly serious and continuing human rights violation committed with the very intention of evading responsibility, truth and legal remedies, reparation is of the utmost importance, not only as a matter of redress for the individual victims, but also as a pre-condition for establishing truth, justice and peace in the societies affected by such practices.”

#### IV. INTRODUCTION

If there is a case that captures the reality of “disappearances” in Algeria, it might well be that of Rachid Sassene. A welder by profession and father of four, Sassene was forty-seven years old when a force of more than twenty police – some in plainclothes, some in uniform – burst into his home in Hamma Bouziane, a town near Constantine, at 11p.m. on May 18, 1996. The force seized both Sassene and his wife, Bariza Zaier, thirty-one, and brought them to the central police station in Constantine, where they were placed in separate cells. Zaier was released after fifteen days, tried, and given a suspended sentence for “aiding a terrorist group.” Her husband was never seen again.<sup>14</sup>

Zaier searched for him everywhere, inquiring at police stations and writing to every state agency that might have information. Authorities answered her inquiries, but the replies were unpersuasive and ultimately contradictory. The judicial police informed her on April 27, 1997, that her husband had never been arrested. The Ministry of Interior stated in a letter of February 2, 2000, that it had conducted an inquiry and could not locate him. The National Human Rights Observatory (Observatoire national des droits de l’Homme, ONDH) wrote in 2001 that he was neither being held nor sought by the security forces.

Then on February 11, 2001, police informed Zaier that according to an official record dated May 19, 1996 – the day after she and her husband were taken into custody – her husband had been “eliminated” by the security forces. This was the first notification she had received that Sassene had been killed five years earlier. It included nothing about the date or circumstances of his death. Since that notification two years ago, Zaier has received no further information on the fate of her husband or where he is buried.

The case of Rachid Sassene debunks two themes of the government’s management of the “disappeared” issue – first, that the identification of the perpetrators as security force members is to be doubted in many cases and, second, that the authorities are doing all they can to locate the missing. In the Sassene case, as in countless

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<sup>13</sup> United Nations Commission on Human Rights, “Item 11/d of the provisional agenda of the 56<sup>th</sup> session, dated January 18, 2000” (New York: United Nations, 2000), E/ CN. 4/2000/62. It is available online at <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/42bd1bd544910ae3802568a20060e21f?Opendocument> (retrieved February 19, 2003).

<sup>14</sup> Human Rights Watch interview with Bariza Zaier in Hamma Bouziane, November 2, 2002.

other cases, the evidence is incontrovertible that security forces carried out the arrest and that the official effort to locate him was, at best, callous and inept.

From 1992 until 1998, Algeria's security forces and their accomplices made "disappear" more than 7,000 persons, according to the president's own human rights commission (see below). This number exceeds the number of "disappearances" known to have been carried out in any country, except wartime Bosnia, during or since that period.

Although Algerian security forces have all but abandoned the practice since 1999, almost none of the "disappearances" that occurred have been solved, and – in a sign that safeguards against its recurrence are absent – security forces continue to violate Algerian law with impunity by flouting arrest procedures, detaining persons secretly, and holding them longer than the legal limit of twelve days before they are presented to a magistrate.

Facing domestic and international pressure, the government first acknowledged the existence of the problem of "disappearances" in 1998 and vowed to investigate cases brought to its attention. It has since developed mechanisms and bureaus to address the problem and reported at intervals on its supposed progress in elucidating the cases. President Abdelaziz Bouteflika has voiced concern about the issue in general terms and promised to help the families. Officials of various ministries have responded to regular inquiries on the subject from members of Algeria's parliament, the European Union, the U.N. Commission on Human Rights, and others, providing the results of investigations that were supposedly carried out but never furnishing verifiable and specific information to resolve the cases in question.

This report scrutinizes what the government of Algeria has done since it first vowed four years ago to address allegations of "disappearances," and shows that it has done nothing. The executive branch, the judiciary, and official human rights institutions have utterly failed to provide the thousands of affected families with any concrete, verifiable information about their relatives. Neither the authorities nor the courts have identified or brought to justice a single state agent implicated in carrying out "disappearances." Nor has a single family received compensation for the "disappearance" of a relative, despite the devastating emotional and financial impact the crime has had on thousands of parents, spouses, and children.<sup>15</sup> The government has failed even to acknowledge the responsibility of state agents for a pattern of "disappearances." And it has certainly failed to establish institutional or legal safeguards to prevent a revival of the practice should decision-makers deem it once again to be a useful tool.

Although organizations that advocate the cause of the "disappeared" enjoy greater freedom to act and to speak out than five years ago, the government continues to restrict their freedoms and curb access to Algeria for international bodies concerned with the issue. The National Association of Families of the Disappeared (Association Nationale de Familles des Disparus, ANFD) was refused legal recognition when it applied for it in 1998. The Association of the Families of the Disappeared of Constantine (Association des familles des disparus de Constantine, AFDC) is also awaiting a reply to its application. Somoud, an organization of families whose relatives remain missing after being kidnapped by armed groups, has been waiting for legal status as a national organization since first submitting its application in 1997. Somoud's Algiers branch received legal recognition in 2000.<sup>16</sup>

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<sup>15</sup> Two executive decrees that address compensation could be interpreted as potentially applicable to the relatives of "disappeared" persons. Executive Decree 99-47 of February 13, 1999, orders compensation for victims of "accidents [sic] occurring in the framework of the anti-terrorist struggle, as well as their beneficiaries." [Article 1] The same decree provides for the compensation of victims of human rights abuses committed by armed groups. An earlier executive decree, number 97-49 of February 12, 1997, also provided compensation to victims of "accidents occurring in the framework of the anti-terrorist struggle." The decrees are online at [www.joradp.dz](http://www.joradp.dz), website of the secretary-general of the Algerian government (retrieved February 20, 2003).

<sup>16</sup> In a written response, dated December 27, 1998, to a parliamentary question regarding the failure to grant Somoud legal recognition at a national level, the Interior Minister stated that the government is in the process of reviewing Algeria's laws governing nongovernmental organizations. During the review process, he wrote, decisions on organizations applying for recognition would be delayed.

Demonstrations and sit-ins staged by relatives of the “disappeared” are usually tolerated but they are also periodically broken up with force by police, especially when these rallies are likely to be witnessed by prominent foreign visitors.<sup>17</sup> On November 6, 2002, for example, police blocked the path of family members shortly after they began a march in Algiers toward the office of the president, shoving and beating those who refused to disperse.<sup>18</sup>

An international conference on “disappeared” and abducted persons, co-sponsored by Somoud, the Algerian League for the Defense of Human Rights and SOS-Disparus and scheduled to take place in Algiers on January 17 and 18, 2003, had to be postponed when the foreign participants were not granted visas in time to attend. However, two of the sponsoring groups were able to hold a national conference on January 18, a first in Algeria.)

In a case showing the impunity that protects the perpetrators of “disappearances,” Mohamed Smaïn, a human rights activist in the western city of Relizane, was sentenced to a prison term and heavy fines for libelling the gendarmerie<sup>19</sup> and members of local “self-defense groups”<sup>20</sup> whom he publicly accused of involvement in “disappearances” and summary executions.<sup>21</sup> Meanwhile, one of the men he accused, Relizane ex-mayor El-Hadj Fergane, remains at liberty despite the testimony of numerous local relatives of “disappeared” persons that Fergane was himself present at, and often directing, the arrests of the persons who then “disappeared.”

Algerian authorities have not responded to a request for an invitation, submitted in August 2000 by the U.N. Working Group on Enforced or Involuntary Disappearances, to conduct a mission. The WGEID is the chief mechanism within the U.N. system dealing with the phenomenon of “disappearances.” Nor has Algeria granted access to the U.N. special rapporteur on torture, who has a request to visit pending since 1997, or to the special rapporteur on extrajudicial, summary or arbitrary executions, whose request is pending since 1999. However, Algeria permitted the special rapporteur on freedom of religion or belief to visit during September 2002.<sup>22</sup>

Algeria grants access to international human rights monitoring organizations only sporadically; to monitor conditions effectively, these groups need to visit the country on a regular and routine basis. Most of the time during the past two years, groups that monitor the “disappearance” issue among others, such as Amnesty International, the International Federation for Human Rights, and Human Rights Watch, have been refused visas to conduct formal research missions in Algeria, despite repeated formal requests for access. The only exceptions were the visas granted to Human Rights Watch in October 2002, to Amnesty International to visit in late February 2003, and to Reporters sans Frontières (RSF) on the two occasions they requested visas, in January 2001 and October 2002. A visa request from Human Rights Watch, submitted January 8, 2003, had not received a reply as this report went to press.

The year 2003 may be a critical one in addressing the issue of “disappearances” in Algeria. After years of denials and disinformation, the state seemed during 2002 to be feeling its way toward a resolution of the issue, which had become an irritant to Algeria’s diplomatic rehabilitation internationally. At an October 28 press

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<sup>17</sup> See, e.g., Amnesty International, “Algeria: Assaults against families of the “disappeared” must stop,” July 3, 2002, MDE 28/041/2002.

<sup>18</sup> N. Amrous, “Marche réprimé,” *l’Authentique*, and Mohamed Mehdi, “Le dossier ne sera pas clos,” *Le Quotidien d’Oran*, November 7, 2002.

<sup>19</sup> The gendarmerie (*ad-Darak al-Watani*) is the main police force responsible for non-urban areas. It falls under the authority of the ministry of defense.

<sup>20</sup> Since 1994, militia groups armed by the state have operated in rural areas. Although created to protect communities from attack by armed groups, many of these “self-defense groups” were implicated in human rights abuses, including “disappearances.”

<sup>21</sup> He is currently free pending an appeal before the Supreme Court. See Observatory for the Protection of Human Rights Defenders (a joint program of the International Federation for Human Rights and the World Organization against Torture), “Instrumentalisation de la justice: les victimes et leurs défenseurs sur le banc des accusés,” July 2002. Online at <http://www.fidh.org/magmoyen/rapport/2002/alge336obs.pdf> (retrieved February 14, 2003).

<sup>22</sup> The advance edited version of the rapporteur’s report, dated January 7, 2003, is online in French at [http://www.unhchr.ch/pdf/chr59/66add1AV\\_F.pdf](http://www.unhchr.ch/pdf/chr59/66add1AV_F.pdf) (retrieved February 14, 2003).

conference, Major General Mohamed Touati, a presidential advisor considered to be one of the most influential figures in Algeria, was reported as saying "disappearances" were an "unfortunate and prickly issue that must be addressed by the governing institutions," marking the first time a senior officer of the army had publicly acknowledged the problem.<sup>23</sup> Meanwhile, the national gendarmerie, the agency under Ministry of Defense authority that is charged with conducting investigations in response to "disappearance" complaints, has reportedly acknowledged receiving 7,046 complaints about "disappeared" persons.<sup>24</sup>

A human rights commissioner appointed by President Bouteflika in late 2001, Moustapha Farouk Ksentini, has been speaking with disarming candor on state responsibility for the "disappeared." "My conviction is that the majority of the 'disappeared' had nothing to do with armed groups," he told *El-Watan*, rejecting one of the claims often made by officials to deflect security force responsibility.<sup>25</sup> "I think there are 7,000 to 10,000 cases total, maybe as many as 12,000," Ksentini told Human Rights Watch in November 2002. He made clear he was referring to cases for which the security forces and their allies were responsible. To date, said Ksentini, the government had elucidated no cases of "disappearances" and the justice system "had not done its job" in a single case. Ksentini declared that he was seeking to resolve the problem and that he wanted families of the "disappeared" to consider him to be their "advocate vis-à-vis state institutions."<sup>26</sup>

Ksentini, interviewed in *Le Monde*, called on the state to address three dimensions of the problem:

The moral dimension should be addressed: if the state committed faults, they should be acknowledged.... Why not an apology, if it is established that "disappearances" were carried out deliberately by state institutions?

There is also a legal dimension. The families of the "disappeared" could be permitted to form associations and file legal actions. This has been done on an individual basis but it did not ever succeed.

Then there is the social dimension. We must provide aid to the families of the "disappeared," within the framework of national solidarity. It can be in the form of a monthly allowance or otherwise. Many families are asking for it because they are in a situation of dire need.<sup>27</sup>

Ksentini's public advocacy has yet to produce any results in terms of state policy. His unprecedentedly candid declarations do not directly engage the administration; the commission he heads is merely consultative.

Still, Ksentini is a presidential appointee directing a government-funded body. He is the only official making regular public statements regarding the "disappeared." His remarks therefore deserve special attention because they are shaping the public debate inside Algeria and are perhaps being used as trial balloons by which senior state officials are testing ideas for resolving the "disappearance" issue.

The positions advocated by Ksentini raise at least two grave concerns. First, he has failed to uphold truth as an essential component in addressing the "disappeared." In July 2002 he boldly vowed, "We will tell the truth and the whole truth whatever that truth may be regarding ['disappearances']."<sup>28</sup> But later statements suggest that Ksentini's notion of truth may be limited to a general admission of state responsibility. In an interview published in January 2003 he said that while "I have nothing against the truth" or against a truth commission, "establishing the truth will be difficult, especially since we're talking about events that go back several years" and "not much material evidence remains."<sup>29</sup> As a self-proclaimed advocate of the families vis-à-vis the administration, Ksentini

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<sup>23</sup> Hasna Yacoub, "Les familles des disparus demandent audience au général major Touati," *La Tribune*, October 31, 2002.

<sup>24</sup> Florence Beaugé, "En Algérie, aucun survivant parmi les disparus de la 'sale guerre,'" *Le Monde*, January 7, 2003.

<sup>25</sup> Interviewed in *El-Watan*, December 11, 2002.

<sup>26</sup> Human Rights Watch interview, Algiers, November 6, 2002.

<sup>27</sup> *Le Monde*, January 7, 2003.

<sup>28</sup> Samia Mellal, "L'Etat est responsable des disparus," *La Tribune*, July 11, 2002.

<sup>29</sup> *Le Monde*, January 7, 2003.



should not be pre-judging the facts but instead affirming the principle that pursuing the truth in detail is both a right belonging to individual families and a safeguard to preventing a repetition of abuses.

Even more disturbingly, Ksentini has come out in favor of a general amnesty that would include the perpetrators of “disappearances”:

The first beneficiaries of such an amnesty would be persons belonging to institutions accused of having carried out disappearances.... Such a measure would have the effect of halting all investigations. To be sure, an amnesty would benefit a certain number of criminals, but that’s the way it works, and it’s the best we can hope for to enable Algeria to turn the page and move forward. A general amnesty is in my view inevitable. All wars end thus, but it’s a political decision that will be made at a particular moment.<sup>30</sup>

While Ksentini said he would prefer such an amnesty to be granted *after* establishment of the truth, his position contradicts clear principles of international human rights law: perpetrators of the worst atrocities – including a systematic or widespread pattern of “disappearances” – must not be rewarded by an amnesty from criminal prosecution.

### **The Political Setting**

Algeria’s Islamist insurgency became active following the army-backed decision in January 1992 to interrupt legislative elections, ban the Islamic Salvation Front (Front Islamique du Salut, FIS), and declare a state of emergency that remains in effect today. The FIS had just won a plurality of votes in the first round and was on its way to capturing a majority in the National Popular Assembly.

Although Islamists had engaged in sporadic acts of violence prior to the cancellation of elections, armed attacks became endemic thereafter. Armed groups first targeted members of the security forces and later started assassinating civilians whom they deemed hostile to their project of establishing an Islamic state. As the violence spread it grew more indiscriminate. Armed groups massacred men, women, and children in villages and outlying semi-urban neighborhoods, and on inter-city roads. Bombs placed in public spaces killed hundreds.

Through the mid-1990s, assassinations and bombings were commonplace in Algiers and other large cities. The major urban centers have since become more secure, but the violence persists in certain rural and outlying urban areas. During 2002 about 125 persons were killed each month in political strife, on average.

The state has confronted the violence with a range of repressive practices, including mass arbitrary detention without charge, summary executions, torture of detainees under interrogation, and “disappearances.” The practice of “disappearances” soared in the mid-1990s, at a time when political violence was at its peak. The surge in “disappearances” coincided with the phasing out by authorities of two other methods of summarily incarcerating suspects that had come under domestic and international criticism: administrative detention and “special court” trials. In late 1995 authorities officially closed internment camps in the southern desert that had held more than 9,000 administrative detainees in 1992, and several hundred men at various times between 1993 and 1995. Also in 1995 authorities eliminated the “special courts” that had been set up by a decree under the state of emergency in September 1992 for the purpose of trying “terrorism” and “subversion” cases. These tribunals handed long prison terms to thousands of suspected “Islamists” and death penalties to hundreds more, in hasty trials that deprived suspects of some of the fair-trial guarantees afforded them in conventional courts.<sup>31</sup> When these courts were eliminated in 1995 some of the legal provisions governing them were incorporated into

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<sup>30</sup> *Le Monde*, January 7, 2003. Ksentini also made similar arguments before Algerian journalists on October 6, 2002. See Mohamed Zaâf, “‘L’amnistie, c’est la paix civile,’” *Le jeune indépendant*, October 7, 2002.

<sup>31</sup> See Middle East Watch (now Human Rights Watch), “Human Rights Abuses in Algeria: No One is Spared,” *A Human Rights Watch Report*, January 1994.

Algeria's legal codes, such as the extension of the maximum length of *garde-à-vue* detention in "terrorism" and "subversion" cases from two to twelve days.<sup>32</sup>

### Counting Cases, Identifying Perpetrators

"Disappearances" are by their very nature difficult to count with precision. The perpetrators try "to conceal their true nature.... [They] will try to avoid being called to account for them through lies, cover-ups and the propagation of misleading explanations and excuses."<sup>33</sup>

The task is even tougher in a country like Algeria, where both the state security forces and the armed groups they are fighting have abducted large numbers of persons and neither issues claims of responsibility. The same atmosphere of terror that makes "disappearances" possible intimidates families from reporting the facts. The frequent refusal of the arresting party to identify themselves means that witnesses might mis-identify them. Sometimes, there are no witnesses to the arrest or abduction.

The interior minister declared in May 2001 that his ministry had logged 4,880 missing-person complaints from families; he gave no indication what portion of these cases was attributable to state agents.<sup>34</sup> A year and-a-half later, the Gendarmerie reportedly acknowledged receiving a total of 7,046 complaints, as noted above.

Various NGOs have compiled information, sometimes sketchy, sometimes detailed, on thousands of "disappearance" cases. Amnesty International states that it has information on some 4,000 cases of apparent "disappearances." Inside Algeria, the Association Nationale de Familles de Disparus (ANFD), states that it has dossiers on 7,200 cases; however, its database has never been made public.

Information from Amnesty International, various organizations and lawyers was collected into a database that was placed online in early 2002 at the human rights website [www.algeria-watch.org](http://www.algeria-watch.org). The database contains more than 3,600 cases, of which roughly 80 percent list the security forces or their allies as the suspected culprits.

The task of compiling an accurate list is complicated by various factors. Human rights organizations and state institutions continue to receive families who report long-missing relatives for the first time.<sup>35</sup> Their reasons for remaining silent for years vary but have included geographic distance from the offices receiving complaints, a fear of reprisal, scepticism about the usefulness of reporting, or a hope that by remaining silent they would hasten the person's release. On the other hand, in a small number of cases, the lists may double-count the same individual due to a variation in spelling or personal data. Or families may have submitted cases where their relatives vanished of their own free will,<sup>36</sup> or the person may have reappeared without their relatives informing each institution they had initially alerted about the "disappearance."

But in the vast majority of the 4,000 cases that have been collected and made public by Algerian and international human rights organizations, evidence links the person's abduction to the security forces or allied "self-defense organizations." One of the agencies identified most often is the feared Military Security, whose official name is the Department of Information and Security (*Département du renseignement et de la sécurité*,

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<sup>32</sup> Code of Penal Procedure, Article 51, as amended. *Code de Procédure Pénale* (Algiers: Berti Editions, 2000). Also online at the LexAlgeria website, <http://membres.lycos.fr/lexalgeria/propen.htm> (retrieved February 16, 2003).

<sup>33</sup> Amnesty International, *"Disappearances" and Political Killings: Human Rights Crisis of the 1990s, A Manual for Action* (Amsterdam: Amnesty International, 1994), p.13.

<sup>34</sup> "Réponse de la part de Zerhouni à l'interpellation d'un groupe de députés sur la question des personnes disparues," online at [http://www.algeria-watch.org/mrv/mrvdisp/zerhouni\\_100501.htm](http://www.algeria-watch.org/mrv/mrvdisp/zerhouni_100501.htm) (retrieved February 14, 2003).

<sup>35</sup> Prosecutor Slimi Salah in Larbâa told Human Rights Watch that his office often receives complaints on "disappearances" several years after the occurrence. Interview, May 28, 2000. The Presidents of the previous and current presidential human rights commissions (the ONDH and CNCPPDH) told Human Rights Watch, in May 2000 and November 2002 respectively, that they continued to receive new complaints from families concerning persons who had "disappeared" years earlier.

<sup>36</sup> For example, Human Rights Watch heard in October 2002 of a case of a Baraki resident who had been detained in the internment camps set up in the south of the country in 1992-1993. When he did not return home after the camp was closed, his family assumed him to have "disappeared" while in the hands of the security forces. Several years later, he returned home after the President offered an amnesty to surrendering militants.

*DRS*). Article 19 of Algeria's Code of Penal Procedure authorizes agents of this branch of the army to act as judicial police. Of all the various security forces, Military Security acts with the greatest degree of impunity. It is "almost untouchable," according to human rights commissioner Ksentini.<sup>37</sup>

In most cases of "disappearance," the main evidence implicating the security forces is the testimony of persons who saw the arrest of the person. Identification was easiest when the arresting force included at least some men wearing identifiable uniforms. But whether or not they were all in uniform, information usually emerged pointing to the involvement of the security forces.

In some cases, particularly those that occurred in small towns or cities, many witnesses said they recognized and could name the individuals responsible for the abduction of their relative. They sometimes followed the arresting agents as they drove the detainee from the place of arrest to a police station or other security-force facility. Witnesses often noted the make or license plate number of the automobiles of the arresting agents and later linked it to a local unit of the security services. Moreover, many of the arrests took place at homes at night, when curfews were in effect and, presumably, only the security forces could move about freely.

Evidence of security-force responsibility is often compounded by information the family received after the arrest, from officials or ex-prisoners, indicating that the person was being held in a particular detention facility – before all traces of him or her were lost (see the case of Aziz Bouabdallah, below). Police stations often allowed family members to drop off food packages intended for their recently arrested relatives, only to reject the deliveries a few days later on the grounds that the prisoner was no longer in their custody.

In a few cases, families obtained official documents confirming that their relative was in custody (see the case of Salah Saker, below) or slips authorizing a visit to their sons in prison (see the case of Fouad Lakel, below), only to be told later that authorities no longer knew the whereabouts of the person in question.

In some cases, the victim was arrested along with a spouse or brother, or neighbors, who were later freed from security-force custody. Rached Sassene (see above) was arrested with his wife, who was later released. Fayçal Benlatreche was arrested with his brother Boubaker at their home in Constantine on March 12, 1995. Boubaker was tried one month later and released from custody but Fayçal, a nineteen-year-old student at the time, has not been seen again. Mohamed Grioua, Mourad Kemouche, and Djamel Chihoub were arrested in a mass round-up in Baraki on May 16, 1996; other young men were later freed, but these three "disappeared" (see below).

In at least two cases, Algerian newspapers published reports of the person's arrest by police before all traces of the person vanished (see the cases of Aziz Bouabdallah and Mustapha Ferhati, below).

It is rarely possible to confirm why particular individuals are targeted for "disappearance" because they are never formally charged and the act is never acknowledged. Based on the available evidence there is no doubt that "disappearances" were perpetrated mainly as a tool in the government's battle against the Islamist insurgency. The evidence to support this conclusion includes what is known about the identities of the victims and the context of the arrests.

The vast majority of "disappearances" occurred in those wilayas (provinces) that were hit hardest by political violence, notably Algiers, Tipaza, Constantine, Blida, and Médéa. In some cases, the victim's past political activities or links of kinship, friendship, or acquaintance with suspected militants provides circumstantial evidence. Mohamed Bounsah (see below) had two brothers who had joined armed groups when he was seized in a police round-up and "disappeared." Mathematics teacher Salah Saker and U.S.-trained rheumatologist Charif Benlahreche, both of Constantine, had both stood as FIS candidates in the December 1991 legislative elections (see below). Others were known sympathizers with the Islamist cause, or been previously incarcerated for suspected Islamist sympathies or activities.

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<sup>37</sup> Human Rights Watch interview, Algiers, November 6, 2002.

In some cases, the person was arrested shortly after the occurrence nearby of an attack on members of the security forces. For example, Ridha Boucherf (see below) was arrested after a policeman was slain in his neighborhood.

But in many cases, the family has professed ignorance as to why their relative would have been targeted for “disappearance.” They deny the person had any political activities, Islamist sympathies, links to armed groups, or past brushes with the law. They say they cannot even speculate as to why their relative was taken. When “disappearances” are as widespread as they have been in Algeria, there can be little doubt that some were carried out indiscriminately, mistakenly, or for motives having little to do with the counter-insurgency campaign.

The “disappeared” come from all walks of life and all professions. They range in age from early teens to the seventies. About one-third come from greater Algiers; the other two-thirds from the rest of the country. About half were arrested in their homes, the rest at their place of work or elsewhere. They are predominantly men, but there are scores of missing women as well.<sup>38</sup>

## V. CASES

### Salah Saker

#### State gives the family multiple versions of his fate

Salah Saker’s family has received no fewer than three “official” versions of what happened during the eight years since he “disappeared”: that he had been arrested by police who later transferred him to the custody of military authorities; that he had been kidnapped by an armed group; and that he had been arrested, released, and then gone into hiding.

Saker, who was born in 1957, is a high-school mathematics teacher and father of six. As a FIS candidate in the first round of legislative elections of December 1991, he won 44 percent of the vote and was favorably positioned to win the second round had it not been canceled. When national FIS leaders visited Constantine he served as one of their hosts.

Saker was arrested at home on May 29, 1994. Three years later, after filing a complaint with the Constantine prosecutor’s office and making other formal inquiries, his wife, Louisa Bousroual, received her first piece of official information about his fate. It was a police report, dated February 26, 1997, stating that the judicial police of the wilaya of Constantine had arrested Salah Saker before turning him over on July 3, 1994, to the Territorial Center for Investigations of the Fifth Military Region, also known as the Bellevue military center in Constantine).<sup>39</sup> Despite this confirmation that Saker had been turned over to the military, the family’s formal complaint, filed with the prosecutor at Constantine’s military court, went nowhere, according to the Association of Families of the Disappeared of Constantine.<sup>40</sup>

The family also filed a case in a Constantine court asking for the prosecution of those responsible for Saker’s abduction.<sup>41</sup> On March 20, 1999, Saker’s wife was summoned by the investigating judge to discuss the case but has heard nothing since from the court.

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<sup>38</sup> Algeria Watch, “Les ‘disparitions’ en Algérie suite à des enlèvements par les forces de sécurité,» March 1999, online at <http://www.algeria-watch.org/farticle/aw/awrapdisp.htm> (retrieved February 14, 2003).

<sup>39</sup> Copy on file at Human Rights Watch. Similar letters, also on file at Human Rights Watch, acknowledge that two other “disappearance” victims from Constantine, Salah Kitouni, a journalist, and Brahim Aouabdia, a tailor and father of six, were in police custody and then handed over to the military for investigation. Kitouni disappeared in 1996, Aouabdia in 1994.

<sup>40</sup> Association of Families of the Disappeared of Constantine, “Exposé sommaire sur la situation des disparus de Constantine,” April 14, 2002.

<sup>41</sup> Case 32/134, filed January 20, 1996, before the investigating judge of the third *chambre d’instruction* of the Constantine Appeals Court.

On December 10, 1998, Saker's family received a second response concerning him, this time from the ONDH. Replying to the family's complaint of September 27, 1996, the ONDH stated, "After the efforts made by the ONDH and based on the information provided it by the security services, it appears that [Salah Saker] was abducted by an unidentified armed group."

Yet a third version was provided by the government in response to a communication about his case from the U.N. Human Rights Committee. (Saker's wife had petitioned the committee, under the First Optional Protocol to the International Covenant on Civil and Political rights (ICCPR), to declare Algeria in violation of several rights set for in the ICCPR, in connection with the "disappearance" of her husband.<sup>42</sup>) In a letter to the U.N. Human Rights Committee ("*note verbale*" MSD31012B/MT/No 61) dated January 31, 2002, the government stated that Saker was

arrested in June 1994 by the judicial police of the wilaya of Constantine, who suspected him of being part of a terrorist group that had committed several attacks in the region. After questioning him, and having been unable to establish proof that Salah Saker belonged to the terrorist group being sought, the judicial police decided to release him from *garde à vue* and to transfer him to the military services of the judicial police, to continue the investigation. After a day-long inquiry, Salah Saker was freed by the military services of the judicial police. He is being sought by virtue of an arrest warrant issued against him by the investigating judge of Constantine, as part of a case involving twenty-three persons, including the aforementioned, all of whom belong to a major terrorist network. This arrest warrant is still in effect because Salah Saker remains at large. He was tried *in absentia*, along with his co-defendants, on July 29, 1995, by the Criminal Court of Constantine.

None of the communications received by the Saker family tried to reconcile these official accounts concerning his whereabouts.

### **Mustapha Ferhati** **The press reports his arrest, but family is told he died in a clash**

Mustapha Ferhati was a twenty-six-year-old apprentice with computers when he was arrested on May 28, 1998, apparently on the street in or near the Garidi neighborhood of Algiers. He had never been in trouble with the law before, according to his brother Hacène.<sup>43</sup> There were no witnesses to his arrest, but a friend who roomed with Mustapha was picked up the same day and later released. Three days later, *El-Khabar*, an Arabic daily based in Algiers, reported that police in Garidi had killed two "terrorists" and arrested "the wanted terrorist" Mustapha Ferhati after a manhunt. "Ferhati belongs to the FIDA organization," *El-Khabar* reported. (FIDA is the acronym for the French name of the Islamic Front for Armed Jihad.) The same article mentioned a denial by FIDA that the men were affiliated with it.<sup>44</sup>

Mustapha's brother Hacène cited two possible explanations for his arrest. There had in fact been a clash in the Garidi neighborhood right before he was arrested. In addition, his arrest may have been an act of retribution against a third brother, Hocine, who allegedly belonged to an armed group. After Mustapha's arrest, the family contacted various state authorities but received no official information about his whereabouts until they received a terse, seventy-six word letter dated October 20, 2002, from the National Consultative Commission for the Promotion and Protection of Human Rights, sent in response to the family's complaint dated November 10, 1999. The commission wrote that "based on information provided us by the security services," Mustapha had been "eliminated in an armed clash with security forces, and that "the permit for burial was issued by the general prosecutor at the Hussein Dey court under number 98/73, and was dated June 14, 1998."

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<sup>42</sup> Bousroual v. Algeria, 992/2001.

<sup>43</sup> Human Rights Watch interview, Algiers, October 25, 2002.

<sup>44</sup> B. Sahil, "Al-majmou'a al-irhabiyya 'al-Fida' tanfi kharq al-hudna," *El-Khabar*, June 1, 1996.

The commission's letter provided no further information about how Mustapha allegedly died, where he was buried, or why the family had not been notified of a death that had allegedly occurred more than four years earlier. The family replied to the CNCPPDH in a letter dated October 23, 2002, citing the above-mentioned news report about Mustapha's arrest as grounds for rejecting the "armed clash" scenario and requesting that the search for him remain open.

Hacène, Mustapha's brother, is a member of the steering committee of SOS Disparus, an Algiers-based advocacy organization composed of relatives of the "disappeared." He said that letters sent by the commission announcing the death of certain "disappeared" persons was a new development. As of late October 2002 such letters had been issued in a handful of cases.

Ksentini, asked about these letters sent by the commission he heads, said he understood the confusion and anger felt by recipients. But, he said, the letters contained all the information the security services had provided to the commission, and the commission was obliged to pass it along to the families.<sup>45</sup>

### **Ibrahim Bouachi** **Mother who witnesses son's arrest knows his abductors by name**

At 9 a.m. on September 20, 1996, Amina Niati was riding a bus with her son, Ibrahim Bouachi, near their home in Haï Hizazta (in the wilaya of Boumerdès), when the bus stopped at a checkpoint. Two armed men, whom Niati identified by name and described as members of a local "self-defense" group, ordered Ibrahim, who was twenty-seven at the time, to accompany them. She followed them on foot to a local police station, but was unable to learn anything then or since despite making inquiries in several places. When she sought information from a relative who is a police chief in the region, he responded by slapping her, she said. Ibrahim, an unmarried mason, had been previously imprisoned for four months. Niati said she did not know why he had been taken, other than to speculate that it was because he served as a muezzin in a mosque at a time when pious Muslims were under suspicion. The ONDH informed her that Ibrahim had been arrested and released, she said.<sup>46</sup>

### **Riad Boucherf** **A policeman is killed; neighborhood youths are rounded up and one "disappears"**

Fathma Zohra Boucherf, a seamstress and vice-president of SOS Disparus, meticulously recorded everything that happened since her son Riad stepped out of their home on the morning of July 25, 1995, and never returned. Riad, she said, was twenty-one at the time and had never been in trouble with the law:

We live in Les Anaseer housing development in Kouba (Algiers). That morning, I had asked Riad to do me a favor and go out and buy some buttons. He didn't want to do it. He said he wanted to go out with a couple of his friends, and went out.

Later that day, a woman from the neighborhood came and asked me, Did Riad come home? When I said no, she took me to her daughter, who told me what she had seen: At about 11 in the morning, about twenty-five meters from our front door, four plainclothes police, with guns drawn, had knocked down and handcuffed Riad and his two friends, Farid Bourdib and Kamal Bennani. The police put the three in the trunks of the two unmarked cars they came in, a Renault Express and a dark-colored Renault 19.

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<sup>45</sup> Human Rights Watch interview, Algiers, November 6, 2002.

<sup>46</sup> Human Rights Watch interview, Algiers, October 30, 2002.

The police who arrested Riad are known in the neighborhood; they are from the local station, Old Kouba, the 17<sup>th</sup> arrondissement. The woman who saw it told me, “The fiancé of Suheila arrested your son.” Suheila is the sister of the policeman Yadel Halim. Yadel, who also worked in the 17<sup>th</sup> arrondissement station, had been assassinated on the street ten or twelve days earlier. The local police had sworn to avenge his death.

Five days later, the police arrested Riad’s older brother Amin. The “fiancé of Suheila” was among the men who took him. They came in a Renault Express and put Amin in the trunk when they drove away. About sixteen days later, Amin was released, along with Riad’s friends Farid and Kamal.

Amin said he had not seen Riad in detention, but a man named Mohamed Tablot told Amin that he had seen Riad in a cell in the 17<sup>th</sup> arrondissement station, and that Riad had been tortured. Before Amin was freed, a policeman named Saïd, who’s known in the neighborhood, told him, If your brother comes home, let us know.

After Riad’s friends Farid and Kamal were released, they told me that they had been separated from Riad after their arrest and had lost track of him.

Two days after Amin’s release, I went to the police and asked where was Riad. They denied arresting him and even pretended that they were looking for him. On August 11, at 2 in the morning, two policemen from the 17<sup>th</sup> arrondissement station burst into our apartment and demanded Riad. I answered that he had been in their hands for eighteen days, and that there were witnesses who could prove it. They did not insist and left saying they would find him. Later, I met a policeman who told me he had seen Farid’s and Kamal’s names on a registry at the station but not Riad’s.

I went looking at other police stations and wrote to all the authorities. Five months after Riad’s arrest, some women paid me a visit. They live in my general neighborhood. They told me my son was in Serkadji prison [Algiers]. I went to court to get permission to visit but was told his name was not registered. So I went to the prison. I asked the guard to check for his name, but that didn’t lead anywhere.

The first response I got was a visit to my house in June 1996 by gendarmes who were investigating my complaint. I told them about Kamal and Farid, and they went and took their testimony, too. They even went to the prison to get the testimony of Farid, who was in jail at the time for petty crime. When I got no reply I filed a complaint and on December 15, 1996, the gendarmerie of ‘Ain Najaa [a major military complex outside Algiers] summoned me. An officer there asked me, Did you write to the President of the Republic? I said I had, and I even told them about Kamal and Farid, who could testify. I also told him about a third witness, a young man from the al-Afia neighborhood, whom my son Amin had met while in detention, who told Amin that he had been tortured during six days in the same police station as Riad. The officer said I could bring this young man to testify.

Amin said he only knew the young man by sight, so I took Amin to al-Afia to look for him. It took us three days to find him but when we did he agreed to testify. On December 21, 1996, I brought the young man, whose name is Mohamed Tablot, to the gendarmerie, and they took his statement. He told about being tortured alongside Riad, and how they had taken him [Tablot] at 3 in the morning to the tomb of Yadel [the slain policeman], which is in a cemetery next to the police station, and asked him where he wanted to be buried. Tablot swore to them he didn’t know anything about Yadel.

The three witnesses were summoned several times and each time gave their testimonies. The gendarmerie of Kouba summoned us four times. Finally, Tablot told me he had grown tired of testifying without seeing any results.

I also filed a complaint at the prosecutor's offices in Hussein Dey and in Algiers. In November 1996, after I wrote to the Ministry of Defense, I was summoned to the military base in Beni Messous. I told them the story. A few days later, some agents from Military Security in plainclothes visited our home. I wasn't there, but my daughter gave them all the details.

On December 31, 1996, three youths from our neighborhood were tried at the court on Abane Ramdane Street (downtown Algiers), after being detained for thirteen months, and acquitted. But their absent co-defendants were sentenced to life terms *in absentia*. Riad was listed among those convicted *in absentia*.

After that trial, I got letters from officials. The ONDH sent me a letter in 1999 saying that Riad was not in detention and not being sought. The Mediator of the Republic [an ombudsman's office that existed at the time but has since been closed] wrote me [in a letter dated February 23, 1997] that he had received my complaint and was looking into it.

In August 1997 I saw the prosecutor general. All the mothers come every Sunday and Wednesday to the court, everyone knows us. When it was my turn, the prosecutor did not even look up. He said, If it's about your son, it's not worth your coming all the time, there's nothing I can do.

I was angry. I said to him, You tell those who don't have any witnesses that you can't help them, but I have witnesses, people who live in the neighborhood, the boys who were arrested with Riad and then released, the guy who was in the same lock-up as Riad. I think that's sufficient. The policemen are well known.

The prosecutor told me to bring him copies of their statements. So I got copies and brought them to his secretary. But nothing happened. The police issued a statement denying that Riad was ever arrested or in their custody. I got a copy. It's dated September 9, 1997.

In February 2002 the prosecutor summoned me and asked if I had any new information about Riad. I said, No, but it is not my job to conduct the investigation into a person who "disappears." It is your job. The prosecutor opened Riad's file and said, I see that your son is a terrorist. I replied, Of course he's a terrorist – to you, anyone who "disappears" is a terrorist. But this country has a judicial system. If someone is a terrorist let him be put on trial.

Since then there have been no traces of Riad. Still, I will never stop looking for my son, until my last breath.<sup>47</sup>

### **Fouad Lakel**

#### **Mother gets permit to visit son in prison, but he has "disappeared"**

Fouad Lakel was eighteen when arrested in a round-up in the Algiers neighborhood of Kouba in May 1992. He was jailed until his December 1993 trial and conviction by a special court for "terrorist" offenses. The court sentenced him to fifteen years in prison.

Fouad's mother, Zakia Belkhaznadj, narrates what happened to her son:

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<sup>47</sup> Human Rights Watch interview, Algiers, October 25, 2002.



Shortly after his conviction Fouad was transferred from Serkadji prison [in Algiers] to Tazeult [near the city of Batna, about 400 kilometers east of Algiers]. The authorities did not inform us of his transfer; I learned it via another prisoner. I visited him there on February 4, 1994. It was a normal visit. But it was the last time I saw him. One month later there was the big escape from Tazeult.<sup>48</sup> I went back to Tazeult to try to visit him but they didn't let me. The guards took my information, but they wouldn't confirm Fouad was there. I wrote to all the prisons asking if they had Fouad.

In 1995 the wife of a prisoner told me my son was back in Serkadji but would be transferred again soon.<sup>49</sup> Another woman, from [the city of] Khenchela, came to me and said her brother, a prisoner, told her Fouad had just been in Serkadji and would be transferred back to Tazeult.

I went to the Algiers court and obtained from the prosecutor's office a permit to visit Fouad. It is dated July 25, 1995, and says he is in Serkadji prison. I went but he wasn't there. I got another permit to visit, dated August 28, 1995. The court gave me two more permits in 1996 to visit him in Serkadji, but they didn't have him. On July 8, 1996, I got a permit to visit him that says he was in Tazeult prison. So I traveled to Tazeult but the receptionist there told me there was no Lakel Fouad there. He suggested I check the central prison in [the nearby city of] Batna. So I went but he wasn't there either.<sup>50</sup>

I kept on searching, but there was no further information about Fouad. In July 2002 the prosecutor at the Algiers summoned me. I went to see him and he told me that Fouad had escaped from Tazeult prison and joined the terrorists, and had been killed. It was the first time anyone told me he was dead. I refused to accept or even to react to this information. I simply asked him to prove it and reminded him about the permits the court had given me to visit my son in Serkadji, long after the escape from Tazeult. I had already provided the court with copies of the permits. He asked me to provide him with the originals of the permits, but I refused because if they kept them I would be left with no proofs.<sup>51</sup>

Belkhasnadjji has received no further information about her son.

### **Charif Benlahreche Chief Rheumatologist arrested at his hospital and “disappears”**

Charif Benlahreche, a French- and American-trained physician born in 1953, had won sixty-seven percent of the vote in his district as the FIS candidate in the first round of legislative elections on December 26, 1991. In January 1992 the elections were halted, and later that year, authorities detained Benlahreche for five days and confiscated his passport. In June 1992 he received a Human Rights Watch researcher visiting Constantine, and provided him with information about human rights conditions.

On November 8, 1994, men in plainclothes approached Benlahreche at Constantine Hospital, where he was chief of rheumatology, and instructed him to follow them. He had been visiting another unit, and had to walk with the plainclothesmen some 200 meters through the hospital, according to his brother, Mohamed-Tahar

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<sup>48</sup> On March 10, 1994, some 900 inmates escaped after armed Islamists from outside assaulted the prison, according to press reports at the time. As of ten days later, officials reported capturing 109 escapees and killing sixty-four others. “Security forces kill forty more escaped prisoners,” Agence France Presse, March 20, 1994.

<sup>49</sup> A prison uprising in Serkadji on February 21-22, 1995, resulted in the deaths of some one hundred prisoners and four guards, and major damage to the prison. See Human Rights Watch, “Algeria: Six Months Later, Cover-up Continues in Prison Clash that Left 100 Inmates Dead,” *A Human Rights Watch Report*, August 1995, vol. 7, no. 5(E), summary online at [www.hrw.org/summaries/s.algeria958.html](http://www.hrw.org/summaries/s.algeria958.html) (retrieved February 19, 2003).

<sup>50</sup> Copies of all five permits are on file at Human Rights Watch.

<sup>51</sup> Human Rights Watch interview, Algiers, October 25, 2002.

Benlahreche.<sup>52</sup> During that walk he told colleagues he passed that he had been told to follow these men. Outside, no one saw what happened to him. His car was taken that day.

The family filed a complaint before the court but could not get witnesses from the hospital who were willing to testify, “because that was the year everyone was terrorized,” said Charif’s brother Mohamed-Tahar. However, a released prisoner, Boubaker Benlatreche, reported sharing a cell with Charif in the Bellevue military compound in March 1995. In response to the family’s complaints, authorities responded initially that they had conducted an investigation but had not located Benlahreche. Later, they replied that he was being sought by law-enforcement authorities. There have been no further traces of him for eight years.

### **Mohamed Grioua, Mourad Kemouche, and Djamel Chihoub Police round-up youths in a “hot” neighborhood; many never return**

On the morning of May 16, 1996, combined security forces, operating in both plainclothes and in uniform, conducted a major raid in the working-class Algiers suburb of Baraki, known as a stronghold of Islamist support. Some were later released from prison; others were never heard from again.

Among the latter is Mohamed Grioua, a bachelor who was then about thirty. Mohamed’s mother said he was arrested outside and that she did not see his arrest, but that neighbors had. When she came out of her home, the troops, at least one of whom was masked, prevented her from following them as they took away the men they had arrested. She looked for Mohamed in various police stations, sent complaints to various ministries, and filed a complaint in court, noting that there were witnesses to the arrest. The court ruled to close the case. Grioua filed an appeal that was pending as of October 2002.<sup>53</sup> In a communication dated June 5, 1999, the ONDH had responded to her complaint of August 10, 1996, saying, “Your son is being sought by the security forces pursuant to arrest warrant 999/96.”

Mourad Kemouche is another resident of Baraki who “disappeared” in the round-up. Kemouche was twenty-two at the time, and training to become an accountant. His mother, Messaouda Cheraitia, said that the family never received official confirmation of his arrest but that she learned through informal channels that Mourad had been transferred from Baraki to the military detention center known as Châteauneuf and six months later to the one in Ben Aknoun. The family filed a complaint for “illegal detention” and “abduction” with the prosecutor’s office in el-Harrache (case no. 252/2000), and provided the court with two signed statements by witnesses prepared to testify. Cheraitia said the court never summoned these witnesses and closed the case on the grounds that the perpetrators were “unknown.”<sup>54</sup>

Also taken in the May 16, 1996 Baraki round-up was Djamel Chihoub, who was nineteen at the time. The security forces told his family they were taking him because his older brother Saïd, who had joined the maquis, was not to be found, according to Djamel’s mother, Taous Djebbar.<sup>55</sup> On November 14, 1996, military forces seized a third brother, Mourad, shortly before his sixteenth birthday. According to family members, the arresting force was composed of military forces from the Baraki barracks and members of a local self-defense group. The family made several démarches to the authorities that produced only denials that the brothers were in custody. Saïd, the brother in the maquis, was killed by the security forces.

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<sup>52</sup> Human Rights Watch interview, Constantine, November 1, 2002.

<sup>53</sup> Human Rights Watch interview, Algiers, October 25 and 30, 2002.

<sup>54</sup> Human Rights Watch interview, Algiers, October 25, 2002.

<sup>55</sup> Human Rights Watch interview, Algiers, October 25, 2002.

### **Mohamed Meabiou**

#### **Man arrested Wednesday, brought home Thursday for a police search, then “disappears”**

Mohamed Meabiou, born in 1961 and was a member of the FIS, though not a leader, his mother, Baya, said. He had never before been in trouble with the law and worked as a custodian at a high school in the Algiers neighborhood of el-Biar.

Baya said her whole family saw the several armed and uniformed policemen who came to their home in Bir Mourad Raïs in Algiers, at 4 a.m. on February 26, 1997, and took Mohamed with them. Other men in the neighborhood were rounded up around the same time. Baya recalled:

The next day, they brought Mohamed back. You could see he had been tortured. He was handcuffed, barefoot, and his clothes were torn. They searched his room, and found some cassettes, [sermons by] Ali Benhadj, things like that.<sup>56</sup> Then they left again with him.

Two months later, my older son Mohamed, saw, at the hospital in Beni Messous where he works, the police agents who had taken his brother. He asked them about Mohamed and they replied, We don't hold onto people; he must be in prison.

But we could not find him anywhere. One man who was arrested in the same round-up as Mohamed, but was released one week later, said he had seen Mohamed in detention but did not know where he went. We filed complaints and were summoned to testify. We went and described how he had been taken. But the case was closed. The ONDH replied to our complaint that Mohamed was neither in prison nor being sought.<sup>57</sup>

### **Aziz Bouabdallah**

#### **Despite eyewitnesses and press coverage, a court rules the abductors are “unknown”**

Aziz Bouabdallah, a journalist with the Arabic daily *al-Alam as-Siyasi*, was arrested on April 12, 1997, from his home in the Bouzareah area of Algiers. A court case filed by his parents went nowhere despite ample evidence that he had been taken by the security forces. According to his mother, Chafia Bouabdallah:

My husband and I and our other four children all saw what happened. The neighbors did too, because when the men arrived they also knocked on the neighbors' doors, saying, “Police! Open!” When my husband opened the door, he didn't know who it was. They took Aziz with them.

*El-Watan* published an article [shortly after Aziz's arrest] saying that Aziz was being held in connection with an article that was supposedly libelous toward someone. A week later, a relative with police connections told me that Military Security had taken Aziz. The same relative later informed me Aziz would be released after the June 5 [legislative] elections, and that I could bring clothes for him. But after three months there was no more information.<sup>58</sup>

The parents of Bouabdallah filed a case with the investigating judge of the court of Birmourad Raïs in Algiers concerning his “disappearance,” but in 2000 the judge closed the case for lack of evidence. The family filed an appeal but that too was rejected. Bouabdallah's mother told Human Rights Watch that she had appeared before the investigating judge and recounted the events surrounding his “disappearance.” The judge asked her no questions other than, “Do you think your son is still alive?”<sup>59</sup> She told Reporters sans Frontières that, as far as

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<sup>56</sup> Benhadj, imprisoned since 1991, is a leader of the banned Islamic Salvation Front.

<sup>57</sup> Human Rights Watch interview, Algiers, October 25, 2002.

<sup>58</sup> Human Rights Watch interview, Algiers, October 30, 2002.

<sup>59</sup> Human Rights Watch telephone interview, Algiers, April 12, 2002.

she knows, the authorities had not questioned potential witnesses besides herself and her husband.<sup>60</sup> The ONDH, for its part, informed the family that the journalist has been kidnapped by an unidentified armed group composed of four men. The ONDH also informed Amnesty International, in a letter dated June 4, 1997, that Bouabdallah had been kidnapped by “unidentified persons,” according to the police investigation.

### **Mohamed Bounsah Arrested in a big roundup, but court rules his perpetrators “unknown”**

The availability of witnesses to the November 26, 1994, arrest of Mohamed Bounsah did not prevent the court from closing the “illegal detention” and “abduction” case filed by his father, Ahmed Bounsah. Mohamed, a forty-year-old engineer and father of four, was arrested in a sweep carried out at 8 a.m. by uniformed forces in the “December 11” apartment block (*cité*) in ‘Ain Binyan, west of Algiers. Other men arrested in the round-up were later freed. But Mohamed was transferred to the custody of Military Security, according to information received by the family, and subsequently “disappeared.” Ahmed speculated that his son was taken because two of his brothers had joined armed groups. Witnesses to Ahmed’s arrest were willing to testify as to what they saw, the father said.<sup>61</sup> But on September 23, 2002, an investigating judge at the Court of Cherarga closed the case on the grounds that the perpetrators were “unknown.”<sup>62</sup>

#### Relizane: Where the accused perpetrators walk free

Relizane, a city of about 80,000 between Algiers and Oran, is the capital of the wilaya of the same name that was particularly hard-hit by political violence during the mid-1990s. Massacres in remote areas during the last week of December 1997 and the first week of January 1998 cost the lives of hundreds of impoverished peasants. Both armed groups and state-sponsored “self-defense” organizations carried out atrocities against the local civilian population.

Mohamed Smaïn, local representative of the Algerian League for the Defense of Human Rights, has documented over 200 “disappearances” in the wilaya of Relizane between late 1993 and 1997; not one of the missing persons has since been located. Many relatives of the “disappeared” say they witnessed the arrests and can name the perpetrators. Often they point the finger at ex-mayor El-Hadj Fergane and members of the armed “self-defense” group he directed. Fergane and his associates, according to Smaïn and some families interviewed by Human Rights Watch, imposed a reign of terror on the city between 1994 and 1996, robbing, summarily executing, and “disappearing” suspected Islamists and those with whom he had scores to settle. Early in the conflict, Fergane himself lost a close relative in an attack carried out by an armed group. Smaïn described the setting in Relizane:

The FIS had won the local elections in Relizane in 1990. But the FIS town council was evicted and in February 1994 Fergane was appointed DEC [a mayor appointed by the state to replace the elected mayor]. Even before he was appointed mayor he had headed “les groupes anti-terroristes, known as the “GATs,” a kind of armed civilian group that operated only in Relizane. Then, as mayor, he had under his orders 450 “*patriotes*” throughout the wilaya.<sup>63</sup> Their actions prompted a number of families to file formal complaints. Those complaints eventually reached the President’s office, and [President Liamine] Zeroual ordered a serious investigation.<sup>64</sup>

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<sup>60</sup> Reporters sans Frontières, “Algérie: Cinq journalistes disparus: aucune enquête sérieuse menée,” (Paris : RSF, February 5, 2001). Online at [http://www.rsf.fr/article.php3?id\\_article=913](http://www.rsf.fr/article.php3?id_article=913) (retrieved February 17, 2003).

<sup>61</sup> Human Rights Watch interview, Algiers, October 25, 2002.

<sup>62</sup> A copy of the decision is on file at Human Rights Watch.

<sup>63</sup> “*Patriotes*” are armed civilians working closely with authorities in the fight against armed groups.

<sup>64</sup> Human Rights Watch interview, Relizane, November 3, 2002.

In April 1998 Fergane was arrested on suspicion of complicity in grave abuses, which were detailed in press articles at the time.<sup>65</sup> But he was released shortly thereafter and, while eventually forced to quit as mayor, he has never been formally charged with any crimes. Today, he lives in a well-guarded residence for officials and security force members in the center of Relizane. He did not respond to numerous requests to be interviewed when Human Rights Watch visited Relizane in November 2002. However, in January 2003 he categorically denied to *Le Monde* the accusations against him, saying “I never arrested or detained people. What the families are telling you is false.... The truth will be known one day. I have a clear conscience.”<sup>66</sup>

Meanwhile, Smaïn was convicted by a Relizane court for defaming Fergane and other members of local “self-defense” groups (see above). At Smaïn’s trial, relatives of the “disappeared” testified that Fergane’s group had abducted their relatives. One relative pointed to one of the plaintiffs present in the courtroom as the abductor of his brother. During its visit to Relizane Human Rights Watch interviewed several eyewitnesses who said they saw Fergane on the scene when their relatives were arrested. Smaïn is free pending appeal of his conviction.

Here is a sample of cases from Relizane:

Moustapha and Jilani Frih are two brothers who “disappeared” on August 17, 1996. Two months earlier they had both been arrested and detained for two weeks. According to their mother, Aïcha Daghane, Moustapha, a paramedic born in 1967, had been a FIS activist when the party was legal. He is married but has no children. Jilani, four years his junior, is an unmarried merchant and was not politically active prior to his arrest. The two brothers live in the Cité Intissar in Relizane. Their mother recalls what happened:

At midnight on August 17, Fergane and his militia broke down the door of our home. There were fourteen of them. Some were armed. Some were wearing military uniforms, others were in plainclothes. They took eight million centimes (the equivalent of U.S. \$800) from us and a telephone. They went to the home of our neighbor, Haoui Ali, to get Moustapha and then tied him and Jilani up with a cord and put them in the trunk of their car. It was a car that belongs to the municipality. They also took my husband, Djelloul Frih, with them and drove off. A group from military security was waiting for them about 150 meters away. One ordered them to release my husband, who came home. Then Fergane’s men drove away, I don’t know where. We filed complaints: The gendarmerie took statements from family members and from the neighbor’s wife, but it led nowhere.<sup>67</sup>

Belkacem Rachedi presented a testimony written in English to Human Rights Watch regarding the “disappearance” of his father, Mohamed Rachedi:

On Wednesday, 2 August 1995, our house situated in the commune of Sidi M’hammed Benaouda [twenty kilometers south of the city of Relizane] was surrounded by a group of about twenty armed persons. The majority of them wore military uniforms. It was 2 a.m. Some of them climbed the walls and came down in the courtyard of the house, then they threatened us and forced us to open the door because we refused at the beginning to do so. When their comrades came in, they carried a harsh search of our home. They messed up the rooms and stole 100,000 dinars [about U.S. \$1,000]....

Then they snatched my father, Rachedi Mohammed, an old man of seventy-one years, suffering from diabetes, rheumatism, and who had problems of sight.... They did not give him time to put on respectable clothes, to take his glasses or even his medicines....

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<sup>65</sup> See, e.g., Feriel H. and A. Chenaoui, “Maires de Relizane et de Jdiouia: d’autres révélations,” *Liberté*, April 14, 1998.

<sup>66</sup> Florence Beaugé, “A Relizane, la sécurité militaire reste au-dessus des lois,” *Le Monde*, January 8, 2003.

<sup>67</sup> Human Rights Watch interview, Relizane, November 3, 2002.

[They were] commanded of course by Fergane Mohamed (the ex-mayor of Relizane)<sup>68</sup> .... [W]e went to inform the gendarmerie...But when we told them what happened and that my father was kidnapped by forces of security, they falsified the truth ... [and] told us that the group who did that was a group of armed Islamists (terrorists) and that they could do nothing to help us.... Since that day, we have not heard anything about him.

Families in Relizane also accuse the police, military security, and gendarmes of perpetrating “disappearances.” The wives of brothers Habib and Safi Sadji witnessed their separate arrests eight months apart, and both wives accuse the Military Security of responsibility. Leila Osmane, wife of Habib Sadji, described what she saw on August 16, 1994:

It was about noon. Military Security, the police, and the gendarmes had surrounded the entire neighborhood near the army barracks in Relizane. A police car passed us and I heard someone inside saying, That’s him, Sadji Habib. They jumped out, struck him with the butt of a gun, and took him with them. There were eight of them in the car. They were from Military Security but they were not from Relizane. Their car had an Oran license plate. I could not see where they were taking him. For two years after he was taken, I heard rumors that he was in Mers el-Kebir [a military facility]. So I went there but they told me he was not there. I filed a complaint with the ONDH. They informed me that they did not find him.<sup>69</sup>

Osmane noted that after Habib’s arrest, his salary and the family’s medical coverage that he received through his job were cut off – the fate of nearly all families who worked for public-sector jobs before they were “disappeared.”

Osmane’s sister-in-law Fatiha Kalkoul describes what happened to her husband, Safi Sadji (Habib’s older brother), who was taken on April 8, 1995. Safi worked as a technician at the water utility. They have two children, who were about four and one when their father was taken.

It was 11:30 and Safi was at his father’s house in Relizane, sleeping. Someone knocked the door and Safi opened it. It was Commander Moustapha, from the local Military Security bureau. He was not masked. Eight men entered and searched the house. Half of them were masked. They wore proper green army uniforms. Safi’s mother, his father, his brothers, and I were all at the house and saw what happened. The soldiers all had kalashnikovs. Moustapha gave the orders. They searched and didn’t find anything, but they took my earrings. Safi got dressed and they took him. There were two armored cars outside and a white [Renault] Express. They did not tell us where they were taking him.

We wrote to everyone. The ONDH replied that they did not find him. We went to the Military Security bureau in Relizane but they did not provide any information.

This was the only time that Safi was arrested. He had no problems with the authorities. He was a FIS sympathizer, but no more than anyone else. Everyone in Relizane was with the FIS at the time.<sup>70</sup>

### **“Disappearances” Decline but Secret Detentions Continue**

The number of Algerians who have “disappeared” after being arrested since 2000 appears to be extremely small. However, Algerian security forces continue to make arrests in a manner that violates Algerian law and international standards, and that puts the detainee at risk of “disappearing.”

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<sup>68</sup> The letter-writer follows the Algerian practice of listing last names before first names.

<sup>69</sup> Human Rights Watch interview, Relizane, November 3, 2002.

<sup>70</sup> Human Rights Watch interview, Relizane, November 3, 2002.

Article 51 of the Code of Penal Procedure states that the police must “immediately” inform the prosecutor’s office when they decide to hold someone in custody. That person must be brought before a judge within forty-eight hours, a period that is extended to twelve days in cases in which the government alleges “terrorism” or “subversion.”

This statute, which allows police to hold a suspect up to twelve days in *garde-à-vue* (pre-arraignment) detention with no right to consult a lawyer, is incompatible with Algeria’s obligations under international human rights law. The International Covenant on Civil and Political Rights requires that detainees be brought “promptly” before a judge or other officer authorized to exercise judicial power, a requirement that the U.N. Human Rights Committee has interpreted to mean within “a few days” (General Comment 8 interpreting Article 9 of the ICCPR). The U.N. Human Rights Committee has also urged that persons under arrest have “immediate” access to counsel.<sup>71</sup>

Algerian law does, however, provide a detainee the right to communicate with his or her family. Under Article 51, the detaining officer, “while protecting the confidentiality of the investigation,” is “obligated to grant to the person held in *garde à vue* [pre-arraignment] detention all means for enabling him to communicate immediately and directly with his family and to receive their visits.”

In practice, the arresting force often declines to identify itself when it arrives in plainclothes. Detainees are often held incommunicado beyond the twelve-day legal limit before they are brought before a judge. During that period, the family is often unable to obtain any official information about the person’s whereabouts.

Kamel Boudahri remains unaccounted for three months after his arrest on November 13, 2002. According to a communiqué issued by the Algerian League for the Defense of Human Rights and dated December 6, 2002,<sup>72</sup> at 4:30 p.m., seven armed men in plainclothes arrived at the home of the Boudahri family in the city of Mostaghanem. Refusing to identify themselves, they handcuffed Mohamed Boudahri and his twenty-four-year-old younger brother Kamel, a university student, and took them away in an unmarked, grey Ford and a white Peugeot 205. Mohamed returned home at 9 that evening, saying that he and his brother had been taken to a military base, and that he had been interrogated and released. The next day, at 2 a.m., the arresting officers returned to the family home and informed the brothers’ mother that Kamel had escaped from them. Kamel’s father went to the local military headquarters and was told that his son had escaped and that he had apparently the maquis in the wilaya of Relizane, in the company of two other wanted persons. The father’s inquiries with various authorities have yielded no further information on his whereabouts.

Fayçal Khoumissi “disappeared” after his arrest – until an ex-prisoner informed his family many months later that he was in prison. In November 2000 four armed men in plainclothes driving an unmarked car had detained him on a street in el-Harrache, near Algiers, according to Mahmoud Khelili, a human rights lawyer based in el-Harrache. Previously, Khoumissi had been in pretrial detention on terrorism-related charges, from October 1998 until February 2000, when he was acquitted and released.

After Khoumissi was seized on the street in November 2000 his family did not know his whereabouts. An investigating judge at the Court of Hussein Dey issued arrest warrants for him, dated January 2, 2001, and June 26, 2001. Then, on July 20, 2001, *Le Soir d’Algérie* reported that the security forces had killed a “dangerous

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<sup>71</sup> “The Committee recommends that detention and pre-trial detention should be carried out in accordance with the requirements of the Constitution and the Covenant. It stresses, *inter alia*, that all persons who are arrested must immediately have access to counsel, be examined by a doctor without delay and be able to submit promptly an application to a judge to rule on the legality of the detention.” “Concluding observations of the Human Rights Committee, Georgia,” CCPR/C/79/Add.75, May 5, 1997, online at [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.75.En?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.75.En?Opendocument) (retrieved February 19, 2003). See also Article 1 of the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990: “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.” Online at [http://193.194.138.190/html/menu3/b/h\\_comp44.htm](http://193.194.138.190/html/menu3/b/h_comp44.htm) (retrieved February 19, 2003).

<sup>72</sup> Online at <http://www.algeria-watch.org/mrv/mrvdisp/boudahri.htm> (retrieved February 14, 2003).

terrorist” named Fayçal Koumissi, who was wanted for killing a policeman in November 2000.<sup>73</sup> It was only thanks to a tip from a freed prisoner that Koumissi’s family learned later that he was in fact alive and being held in El-Harrache prison on new charges. As of October 2002 he was still there, awaiting trial, according to Khelili.

On June 25, 2002, Mohammed Yahy was arrested by plainclothes armed men who were recognized by his family members as members of the local Military Security office. They did not give an explanation for Yahy’s arrest or disclose where they were taking him. Yahy, an employee in a butcher shop in the city of Dellys, was held beyond the twelve-day legal limit before being brought before a judge. During this time he was held incommunicado and his family was not informed of his whereabouts. It was only at the end of July that a relative was able to visit him in Blida military prison.<sup>74</sup>

Ex-prisoner Omar Toumi of Algiers went on an errand on January 26, 2002, and failed to return home. His family contacted the police but received no official confirmation he had been detained until mid-February, more than twelve days after his arrest. Toumi was eventually brought to court and charged with security offenses. Omar’s brother, Saïd, “disappeared” in 1994, after being arrested at his workplace by armed men, some of them in uniform.<sup>75</sup>

Another ex-prisoner, Boubaker Kamas, was arrested on January 9, 2002. Three men who identified themselves as agents of Military Security took him from his home in el-Khroub, in the wilaya of Constantine. The authorities denied all knowledge of his arrest and it took more than two weeks for his family to learn that he was being held in the prison of Skikda, according to Amnesty International.<sup>76</sup>

In March 2000, President Bouteflika declared:

[C]ontrol by the judiciary of the criminal investigative branch of the police services, already provided for by the law, should be strengthened, and the mechanisms necessary to such an effective control must be urgently put in place. The rights granted by the law to individuals held in preventive custody, namely, the right to be examined by a physician and the right to communicate with their family members, should be effectively exercised.<sup>77</sup>

The cases described above all took place since President Bouteflika urged respect for these safeguards. They show that the laws and practices that can prevent “disappearances” continue to be violated. While the security forces have largely refrained from carrying out new “disappearances” as the intensity of Algeria’s conflict has diminished, the path is wide open to resurrecting the practice.

### **Persons Abducted by Armed Groups and Still Missing**

In addition to the “disappearances” where the available evidence points to security forces or their allies as the perpetrators, there are hundreds if not thousands of abducted and still-missing Algerians where the evidence points to armed groups as the perpetrators. No organization or government agency has compiled a nominative list of such cases, and there is no reliable estimate of the magnitude of the problem. Human Rights Watch requested statistics on this phenomenon from the government of Algeria in its letter of May 16, 2002, but received no reply.

One nongovernmental organization founded in 1996 by families of missing persons, Somoud (Arabic for “steadfastness”), claims that the number of Algerians kidnapped by armed groups since 1992 is around 10,000, of which more than half remain missing. Rabha Tounsi, national secretary of the National Organization of Families and Beneficiaries of Victims of Terrorism (ONVTAD), told a Human Rights Watch delegation on May 22, 2000, that there were about 4,200 cases of people abducted by the armed groups whose bodies had not been found.

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<sup>73</sup> “Alger: Un terroriste abattu,” *Le Soir d’Algérie*, July 20, 2001.

<sup>74</sup> Amnesty International Urgent Actions MDE 28/015/2002, July 17, 2002 and 28/018/2002, August 1, 2002.

<sup>75</sup> Amnesty International Urgent Actions MDE 28/004/2002, February 14, 2002 and 28/006/2002, February 28, 2002.

<sup>76</sup> Amnesty International Urgent Actions MDE 28/002/2002, January 24, 2002 and 28/002/2002, January 28, 2002.

<sup>77</sup> “Full text of the concluding remarks made by the President of the Republic, M. Abdelaziz Bouteflika, at a Cabinet meeting held on March 15, 2000.” Text provided by the Embassy of Algeria in Washington, D.C.



Relatives of missing persons have a common anguish regardless of whether the perpetrators were the security forces or the armed groups that are fighting the government. They confront many of the same economic problems when the missing person is a family bread-winner, and many of the same legal problems when the person is missing but not legally dead.

According to Somoud's founders, the families of persons abducted by armed groups also share with families of the "disappeared" a conviction that the government has failed to conduct serious investigations to locate their missing relatives.

Adnane Bouchaïb, a young lawyer in el-Harrache, is secretary-general of Somoud. On December 16, 1995, his father, Mokhtar Bouchaïb, born in 1932, was kidnapped at a roadblock set up by an armed group outside the city of Médéa. Witnesses to the abduction told Adnane that the perpetrators selected their victims, holding some but releasing others, some after whipping them.<sup>78</sup> Bouchaïb senior was head of the Médéa bar association, which encompassed five wilayas, and was probably considered "an enemy" by his captors, Adnane said. One of the persons briefly held and then released by the kidnappers was a friend of Adnane's brother. He confirmed that the captors were "terrorists," Adnane said. Witnesses reportedly recognized one of them to be an Islamist, but did not know his name.

Adnane Bouchaïb alleges that authorities treated the case with a lack of seriousness. When he first went to the office of the gendarmerie of Médéa to report the kidnapping, a person inside spoke to him through a small hole in the door and told him to go away. It was only one week later, with the help of some personal connections, that Adnane got the authorities to fill out a missing-person report. Adnane told Human Rights Watch that many families that had contacted Somoud regarding kidnapped relatives had never filed a missing report with authorities, either because they were afraid to do so or because they had tried to do so but had been refused.

The police are supposed to open an investigation upon receipt of a missing-person report. But after six months, the authorities delivered to Adnane nothing but a form stating what he already knew: that his father had been kidnapped by Islamists. There was no indication of additional information produced by the investigation. His father's automobile was never found.

In 2000 Adnane initiated the legal process to obtain the death certificate to which the family is eligible after a person has been declared missing for four years. When Adnane applied for the certificate, he said the judge asked him to bring a copy of the prosecutor's report stating that the investigation has been completed and established that his father is dead. Unaware that such a report existed, Adnane went to the criminal court of Médéa, and discovered a verdict recorded in 1997. It convicted four persons *in absentia* and sentenced them to death for having kidnapped and murdered Mokhtar Bouchaïb, among other persons. According to Adnane, "The four were well-known terrorists who had been in the *maquis* [i.e. active in rebel groups] for a long time, and had been sentenced to death in other cases."

The written verdict infuriated Adnane. "It was only four sentences long," he said and there was no indication that authorities had conducted any investigation. Instead, "they found it convenient to take some names of victims and terrorists and tie them together in order to close the case."

The lack of investigations into kidnappings is a problem that Somoud is challenging in its work. Algeria's penal code permits victims or their relatives to file a complaint for a crime like kidnapping with an investigating judge and request an investigation. The investigating judge studies the complaint and decides whether to open an investigation. The judge then turns over the file to the state prosecutor who decides whether to file charges, after considering the recommendations made by the judge.

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<sup>78</sup> Human Rights Watch interview, Washington, DC, March 29, 2001.

Since May 2000 Somoud has prepared and submitted on behalf of families sixteen complaints for kidnappings before investigating judges in Algiers, Médéa and Blida, according to Bouchaïb. As of October 2002 they had received no response in any of the cases.

Omar Ourad was kidnapped from his home in Baraki, near Algiers, by an armed group on August 13, 1994 and never seen again. He was forty-eight at the time. His son, Yassine Ourad, a thirty-year-old photographer, recalled what happened that day:<sup>79</sup>

At 9:40 p.m. the whole family was at home when two men with kalashnikovs came into our courtyard. My father was sitting in this room. The men asked for IDs. About ten more men entered the courtyard. All were wearing some military clothes, but none had on a complete uniform. Two wore bulletproof vests. One had a radio with a long antenna. They searched the house. They asked my father if he had any weapons. They asked him for his professional ID.

My father had been in charge of procurement for a construction company. He had just gotten a major promotion. They asked him if he was a policeman. He said no. Then they asked him if he was “Bald Omar.” No, he said, I’m Omar Ourad. They took him to the end of our courtyard. As they left they told us, Don’t worry, we’re just taking him for questioning. They took him in his pajama pants; they didn’t let him get dressed.

We didn’t recognize any of the men who came. We didn’t notice anything particular about their accents. When they immediately asked for ID cards we suspected they were terrorists because we had heard that terrorists steal IDs. But until today we don’t know who took him.

Omar’s wife, Fatma Zohra Ourad, a teacher of French in the local primary school, remembers:<sup>80</sup>

We stayed up all night waiting for him to come home. At 6 a.m. I went to the police. They asked, Why didn’t you come right away? I told them I was scared. But the police never came to the house to question witnesses or collect evidence. Neighbors had seen the men taking my husband away. All the police did was summon me a few times to show me photos and ask if I recognized any of them as the persons who took my husband. But I didn’t.

Ms. Ourad said she had no idea why armed militants abducted her husband. He had at one time worked with the public-sector press distribution agency SNED, she noted, but he had left that job. Much earlier, in the 1970s and 1980s, he had held a position with the ruling National Liberation Front (FLN) party.

Rached Zouitene was fifty-six when he was abducted near his home in Baraki on August 28, 1994. Since that day, there have been no clues as to his fate or whereabouts, his wife said.<sup>81</sup> But she is certain that it was “the terrorists” who took him. She recalls what happened, based on what witnesses told her:

My husband was in a grocery that belongs to a relative. At 8:30 p.m. a Mazda wagon pulled up. Six or seven young men came out. They were dressed normally in street clothing, but two were wearing bulletproof vests. One had long hair. They were carrying kalashnikovs and revolvers. Four or five neighbors saw it. The men asked for my husband. They were clearly looking for him. They put him in their wagon and left.

The others remained in the store and closed the gate. Five minutes later, a neighbor came by and told me my husband had been taken by the terrorists. I called the police, but they didn’t send anyone out to investigate. The police never came to the store and never questioned witnesses.

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<sup>79</sup> Human Rights Watch interview, Baraki, October 30, 2002.

<sup>80</sup> Human Rights Watch interview in Baraki, October 30, 2002.

<sup>81</sup> Human Rights Watch interview, Baraki, October 30, 2002.

Eight months later, they finally took a statement from me. But they never asked for a description of my husband. I gave them a photo of him.

I also went to see the prosecutor of el-Harrache. But he had no information about my husband, and as far as I could tell, had not opened any kind of investigation. After I filed a complaint with the ONDH, the gendarmerie summoned me for questioning. They told me that terrorists had taken my husband.

I learned of an ex-terrorist who had been active in this region. I approached him and asked if he knew anything about my husband, but he denied it.

Ms. Zouitene does not know why her husband was selected for abduction. She said that he served in the police until 1975 but then left and worked for Neftal, a petroleum company. He was no longer connected in any way with the police.

## VI. MASS GRAVES

There is not one single person in Algeria being held in secret detention, an “authorized source” in the armed forces told *Le Monde* recently. The same source added that there were 3,030 Algerians buried in unidentified graves.<sup>82</sup>

Nothing illustrates the lack of transparency surrounding “disappearances” and kidnappings more vividly than the mystery surrounding the reported discoveries since 1998 of mass graves, primarily in regions torn by political violence. Algerian daily newspapers reported the discovery of mass graves, for example, in Haouch Hafiz, in the region of Meftah (*La Tribune*, *Liberté*, and *El-Watan*, November 26, 1998), in Ouled Allel (*Liberté*, February 21, 1999), in Haouch Vallonni (or Haouch Sbihi Mohamed) in the commune of Larbâa (*El-Watan* and *La Nouvelle République*, May 12, 1999), in a village near Djelfa (*Liberté*, May 20, 1999), in Oued Allel (*Essahafa*, July 20, 1999), in a forest of Boumerdès (*El-Khabar*, March 28, 2000), and in a woods in the wilaya of Tiaret (*La Libre Algérie*, April 10-24, 2000 and *Le Matin*, March 29, 2000). Another mass grave was reportedly discovered in Saïd Gasseem, near Baraki, in August 2002.<sup>83</sup>

The press, and many observers, presumed these graves to contain the victims of armed groups that were active in the region. However, advocates of the “disappeared” have asked whether some of these sites in fact held the bodies of persons abducted by the security forces or allied self-defense groups.

In the western province of Relizane, Mohamed Smaïn of the LADDH charged that a gravesite in Sidi Mohamed Benaouda, 17 kilometers south of Relizane city, contained the bodies of some twenty persons who had been “disappeared” by the security forces and a local “self-defense group.” In February 2001 Smaïn alerted the press that gendarmes and the chief of one such “self-defense” group were in the process of trying to exhume and relocate the bodies in an effort to hide the evidence.<sup>84</sup> Smaïn’s efforts to document and denounce the alleged grave-emptying resulted in his being put on trial for defaming those he accused. The court of first instance of Relizane convicted him of defamation on January 5, 2002; an appeals court later increased his penalty to one year in prison and a fine of 210,000 dinars, the equivalent of U.S. \$2,100.<sup>85</sup> He is currently free while appealing to the Supreme Court.

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<sup>82</sup> Florence Beaugé, “En Algérie, aucun survivant parmi les disparus de la ‘sale guerre’” *Le Monde*, January 7, 2003.

<sup>83</sup> Human Rights Watch interviews with residents of Baraki, October 30, 2002, and Ligue Algérienne de Défense des droits de l’Homme, “De l’Etat de non droit à la barbarie,” September 2002, online at [http://www.algeria-watch.org/mrv/mrvrap/laddh\\_sept\\_02.htm](http://www.algeria-watch.org/mrv/mrvrap/laddh_sept_02.htm) (retrieved February 18, 2003).

<sup>84</sup> See “Ikhtitaf dhahaya Fergane min al-maqabir al-jama’iyya,” *al-Ra’i* (an Arabic-language daily based in Oran), February 6, 2001.

<sup>85</sup> See Observatory for the Protection of Human Rights Defenders, “*Instrumentalisation de la justice : les victimes et leurs défenseurs sur le banc des accusés*,” July 2002.

One thing that the exhumations of mass graves have in common – whether they are discovered in Relizane or in areas near the capital, whether they are said to contain victims of armed groups or of security forces – is the failure of authorities to disclose the procedures for preserving evidence and identifying human remains found at these sites. On many occasions, after one or more of Algeria’s privately owned daily newspapers reported the discovery of a mass grave, authorities provided no confirmation or comment of any kind regarding the discovery.

The victims’ rights organization Somoud has been particularly outspoken in its claims that the families of missing persons were receiving no information about the process of identifying the bodies and the perpetrators. Somoud claims as well that the authorities have failed to exploit leads that could help solve cases of missing persons. It claims in particular that authorities are not acting on the information possessed by persons who took advantage of an amnesty to quit the armed groups (individuals known as “*repentis*”).

Ali Mrabet, a founder of Somoud, states that an Islamist in prison had identified the burial site, in the district of Bougara in the wilaya of Blida, of Ali’s two missing brothers, Aziz and Merzak. They were kidnapped in 1995 and have been missing since. The family filed a civil action September 28, 1998, at the court in Boufarik, to compel judicial authorities to check this report and exhume the bodies. Ali Mrabet wrote to the minister of justice in February 2000 reiterating this demand. Neither the court nor the authorities have informed him of any effort to check the site where his two brothers are reportedly buried. Mrabet later learned that the Islamist prisoner had been summoned by the Blida court to testify and denied his earlier remarks about the grave site. In any event, claims Mrabet, no search has taken place.

When unmarked graves are examined, notes Amnesty International:

Special care and sympathy are needed for dealing with victims’ relatives, whose experience is acutely painful .... They will need to establish an ethically acceptable basis for their work in relation to the relatives’ wishes .... [Forensic anthropologists in Argentina] found that most relatives need a constant flow of information from the investigators. This enables the relatives to accept the final truth emerging from the investigation whether or not it confirms their expectations. Also the process of accepting the truth appears to be less traumatic when the relatives are given an active role in the investigation. The task most recently taken on by them is the gathering of information about the “disappeared” person. This information can be vital for the identification of the remains.<sup>86</sup>

The U.N.’s “Model Protocol for Disinterment and Analysis of Skeletal Remains” provides a useful guide to proper forensic investigations into mass graves.<sup>87</sup>

Algerian authorities did not respond to Human Rights Watch’s May 16, 2002, request for information concerning the procedures followed for investigating mass grave sites and providing information to the families of missing persons. However, during Human Rights Watch’s May 2000 mission, Algerian authorities took the welcome step of escorting a member of the delegation to a mass gravesite and providing information about exhumations. Salah Slimi, at the time prosecutor in Larbâa, told the delegate on May 28, 2000 that he had overseen three exhumations to date. The first, conducted in 1998, was carried out in an abandoned well that he said contained a total of sixty-three bodies. The other two exhumations, one in 1998 and another in 1999, found two and five bodies. In all three cases, the perpetrators were “terrorists,” Slimi said.

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<sup>86</sup> Amnesty International, “*Disappearances*” and *Political Killings: Human Rights Crisis of the 1990s* (Amsterdam: Amnesty International, 1994), p. 149 and 251fn.

<sup>87</sup> The protocol is contained in the *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (New York: United Nations Publications, 1991), ST/CSDHA/12. The manual is online at <http://web.amnesty.org/rmp/hponline.nsf/c733b95deaf9d2a2802568470067f31b/8f9e1843b3aef78480256a850035f853!OpenDocument> (retrieved February 14, 2003).

The Human Rights Watch delegate was shown a video of the first of these exhumations and taken to the site, an abandoned poultry farm that is a fifteen-minute drive from Larbâa. Slimi said that the well was seventy meters deep and that the exhumation was carried out by local firemen [*protection civile*] and took twenty-one days to complete. The victims found in this well allegedly had been stopped and killed at roadblocks set up by members of armed groups.

According to Slimi, the well contained several layers of bodies with debris separating them, indicating its prolonged use as a burial site. He stated that the testimony of a “*repenti*,” in conjunction with the findings from the well, led to the prosecution and conviction *in absentia* of five individuals who were either still at large or dead at the time of the meeting with Human Rights Watch.

The video showed the remains being removed from the well by a worker who was lowered in an oil barrel. The worker loaded the body parts randomly into the barrel. Decomposition was so advanced that no articulated bodies were recovered. The extracted body parts were then spread out on the ground near the well. The prosecutor stated that only one of the sixty-three bodies exhumed could be identified. The sole successful identification was made, he said, through dental and other characteristics.

Authorities informed Human Rights Watch in May 2000 that DNA analysis, one of the key tools in human identification, was not in use in Algeria. This had not changed by the time of our mission in November 2002, as far as we were able to tell.

Human Rights Watch saw no evidence that authorities had conducted a methodical recovery and classification of the human remains that they found. Even in the absence of DNA testing, there are established methods of making presumptive identifications on the basis of jewelry, belt buckles, clothing, and other items found with the human remains.

A methodical recovery and classification of the bones exhumed would have aided in determining the minimum number of individuals present. It was unclear how Algerian authorities concluded that the total number of bodies recovered was sixty-three. Presumably, this was on the basis of the number of skulls exhumed, but that is not necessarily the best indicator in cases where disassociated body parts are exhumed.

In Argentina, much evidence was destroyed by the use of improper techniques during the first efforts in 1983 to examine mass graves containing the victims of political killings. But when independent forensic anthropologists scientifically recovered and analyzed more than 500 bodies of victims, they were able to identify at least 150 beyond a reasonable doubt.<sup>88</sup> These identifications were carried out even though the bodies had apparently been in the ground at least as long as those in the mass graves discovered in Algeria.

The existence of a mass unmarked grave, in the context of Algeria’s political violence, is *prima facie* evidence of the commission of a crime against humanity, regardless of who is determined to have been responsible for the slaughter. Yet the government has not handled these sites in a way so as to safeguard the available evidence. Nor, in a country where thousands of families are looking for missing relatives, has the government established a satisfactory system for involving these families in the process of examining the sites, or even for informing them of the results of the exhumations.

## VII. THE EVOLUTION OF GOVERNMENT DISCOURSE ON DISAPPEARANCES

In a letter dated September 30, 1997 – after the huge majority of Algeria’s “disappearances” had already been carried out – then-ambassador to the U.S. Ramtane Lamamra dismissed a request from Human Rights Watch for information on “disappearance” cases:

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<sup>88</sup> Amnesty International, “*Disappearances*” and *Political Killings*, p. 147.

Under the improper title of “disappeared,” your correspondence lists names of individuals some of whom have been duly sentenced by courts of law, other persons whose arrests you noted have not been established by the competent authorities, along with other cases being handled by the Observatoire national des droits de l’Homme [then the state’s official human rights monitoring body]. This amalgam and the circumstantial approximations surrounding it in your document would lead any reader to think that its writers have sought to and succeeded in assembling “info-ammunition” in order to deliberately dramatize the situation of human rights in Algeria.<sup>89</sup>

Six years later, presidential advisor Major General Mohamed Touati told journalists that “disappearances” were an “unfortunate and prickly issue that must be addressed by the governing institutions.”<sup>90</sup> General Touati’s remarks reflected the dramatic evolution in the way Algerian officials spoke about “disappearances.” But this evolution, while encouraging, cannot obscure what has not changed in the government’s handling of the issue.

First, authorities have not once acknowledged state responsibility in a single, named case of “disappearance.” In the more than 1,000 cases that authorities claim to have investigated and “clarified,” not one inquiry led to a finding of official responsibility for the person’s being unaccounted for. For the authorities, “clarified” has meant a denial that the person is in official custody or, in a handful of cases, an unsubstantiated declaration that the person has been killed in a clash or is in prison pursuant to normal judicial procedures.<sup>91</sup>

Second, none of the state institutions that authorities have at different times pointed to as capable of addressing the problem – the judiciary, the Ministry of Interior’s now-defunct missing-person bureaus, and the national human rights commissions (the ONDH and its successor, the CNCPPDH) – has produced tangible results for the families that have approached them.

The missing-person bureaus are part of the Ministry of Interior, whose forces are deeply implicated in the practice of “disappearance.” The ONDH and the CNCPPDH lack the power to compel persons to give sworn testimony or to turn over official information or records. The ONDH did little more than transmit correspondence between families and state security services, and the successor commission has yet to prove that it will achieve more.<sup>92</sup> Algerian courts have been equally ineffective in determining the fate of missing persons or in identifying and pursuing those responsible for abductions, or even in establishing the participation of state agents in the operations.

### **1998: The Government First Acknowledges the Problem**

As suggested by the 1997 letter, cited above, from Algeria’s ambassador to the U.S., officials at that time refused to acknowledge “disappearances” as anything more than a few isolated cases. It did not matter that the state’s human rights monitoring body, the ONDH, had been reporting each year that it was receiving visits or correspondence from hundreds of families who stated that their relatives had “disappeared” after being arrested by state agents. It did not matter that, in many cases, a person’s secret detention had been informally or confidentially confirmed to the families by members of the security forces and by officials.” Authorities admitted only that in the course of Algeria’s bloody and chaotic internal conflict, a number of persons had gone missing.

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<sup>89</sup> The ambassador’s letter is reprinted in full in Human Rights Watch, “‘Neither among the Living nor the Dead’: State-Sponsored ‘Disappearances’ in Algeria.”

<sup>90</sup> Hasna Yacoub, “Les familles des disparus demandent audience au général major Touati,” *La Tribune*, October 31, 2002.

<sup>91</sup> According to a recent article in *Le Monde*, the number of cases that have supposedly been “clarified” is far higher, but the overall findings remain the same: “The gendarmerie, tasked since 1995 with managing the issue, admits today (semi-officially) to having logged 7,046 complaints for enforced ‘disappearances’ during the 1990s. It claims to have investigated all of these cases, and states that in 4,740 of them, the search was ‘unsuccessful.’ As for the rest, there are explanations. But the responsibility of the security forces has never been established, according to the Gendarmerie.” Florence Beaugé, “En Algérie, aucun survivant parmi les disparus de la ‘sale guerre,’” *Le Monde*, January 7, 2003.

<sup>92</sup> Nothing in the presidential decrees creating or governing the CNCPPDH give it such powers. See presidential decree 01-71 of March 25, 2001, published in the *Journal Officiel*, March 28, 2001, and presidential decree 02-47 of January 16, 2002, published in the *Journal Officiel*, January 20, 2002. The *Journal Officiel* is online at <http://www.joradp.dz> (retrieved February 14, 2003).

Military authorities in 1996 announced the establishment of a “social services” department to receive relatives who wish to report missing persons and attempt to trace them. Then-Justice Minister Mohamed Adami told Human Rights Watch in 1997, “We give these [missing person] cases all our special attention. Sometimes we find the person in question, but until we do we keep the files open on these cases.”<sup>93</sup>

But just around the time that Ambassador Lamamra sent his October 1997 letter, mounting evidence of “disappearances” and the stirrings of a protest movement was placing the issue on the domestic and international agenda. This eventually forced the government to modify its handling of the issue.

On September 22, 1997, a group of wives, mothers, and sisters of “disappeared” persons staged their first protest, attempting to enter the Aurassi Hotel in Algiers, where an ONDH-organized conference on political violence was taking place. Police blocked their access.

One month later, with international journalists gathered in Algiers to report on nationwide municipal elections, relatives of the “disappeared” gathered in front of the main post office in downtown Algiers, brandishing photos of their missing relatives. Police rapidly dispersed them and confiscated the equipment of some foreign reporters. But others snapped pictures that were published around the world, giving prominent media attention for the first time to the families of the “disappeared.”<sup>94</sup>

During the fall of 1997, this new activism among the families coincided with heightened international attention to human rights in Algeria, mostly in response to a series of large-scale massacres just beyond the outskirts of Algiers. These mass killings, which claimed hundreds of lives between August and October, were officially attributed to armed groups. However, there were suspicions among many in Algeria and abroad of security-force complicity, fuelled by their failure to prevent or stop the perpetrators.

International human rights organizations urged an international commission of inquiry into Algeria.<sup>95</sup> Government officials rejected this demand as an intolerable affront to national sovereignty. However, they agreed to receive a delegation of European parliamentarians in February 1998 and a delegation dispatched in July-August 1998 by U.N. Secretary-General Kofi Annan.

“Disappearance” activists exploited the presence of these missions and the reporters who accompanied them to bring their issue to national prominence. In particular, they had ready access to the U.N. team and presented it with numerous lists of missing persons. Delegation head Mario Soares, the former president of Portugal, then met with ONDH President Mohamed Kamel Rezzag Bara and presented him with a list of 230 “disappeared” cases.<sup>96</sup> These events, coming shortly after the U.N. Human Rights Committee had harshly criticized Algeria on “disappearances” (see below), forced, for the first time, a government response.

Rezzag Bara informed the U.N. team that authorities might soon establish a special institution to deal with reports of “disappearances.” On August 3, 1998, Rezzag Bara commented on the list of cases he had received from Soares. He stated that only 120 were known to his commission and under investigation. Of these cases, sixty-eight individuals were the subject of court action, twelve had been sentenced to jail by Algerian courts for “terrorist” activities, two of them to life terms *in absentia*, and another two had died during clashes with security

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<sup>93</sup> Human Rights Watch interview, Algiers, April 8, 1997.

<sup>94</sup> Roula Khalaf, “Protesters Seek News of Missing Men in Algeria,” *Financial Times*, October 21, 1997; June Ray, “Le mur du silence se fissure en Algérie,” *Le Monde Diplomatique*, January 1999.

<sup>95</sup> *Amnesty International, the International Federation for Human Rights (FIDH), Human Rights Watch, Reporters sans Frontières*, “A Call for Action to End a Human Rights Crisis,” online at <http://www.hrw.org/press97/oct/algcall.htm> (retrieved February 14, 2003).

<sup>96</sup> United Nations, “Report of Panel appointed by the Secretary-General of the United Nations to Gather Information on the Situation in Algeria in Order to Provide the International Community with Greater Clarity on that Situation” (New York: United Nations, 1998), online at <http://www.un.org/NewLinks/dpi2007/contents.htm> (retrieved February 14, 2003).

forces.<sup>97</sup> Human Rights Watch wrote a letter to Rezzag Bara on October 14, 1998, requesting that he disclose the names and details of the 120 cases, but never received a reply. (See below for a closer examination of the ONDH's handling of the "disappearance" issue.)

Just prior to the arrival of the Secretary-General's representatives, the U.N. Human Rights Committee formally reviewed Algeria's second periodic report on the status of civil and political rights in the country. The harshness of the committee's conclusions apparently caught Algiers by surprise. Algeria's fifty-five-page report to the committee, dated March 11, 1998, had not mentioned the issue of "disappearances."<sup>98</sup> The committee, which began its study of the government's report on July 20, raised the issue with the Algerian delegation, which was headed by Mohamed-Salah Dembri, Algeria's permanent representative to the U.N. in Geneva. The delegation responded that most cases of "disappearances" involved persons who had gone off to join underground movements, according to a U.N. account of the session. Even so, the delegation stated, authorities were cooperating with all groups investigating "disappearances." They had received and responded to forty-nine case inquiries submitted by the U.N. Working Group on Enforced or Involuntary Disappearances, the delegation said.<sup>99</sup>

The U.N. Human Rights Committee challenged this response, stating that authorities had in fact answered only twenty-seven of the forty-nine cases submitted by the WGEID.<sup>100</sup> The committee pronounced Algeria's response "unsatisfactory" and said it was "gravely concerned at the number of 'disappearances' and at the failure of the State to respond adequately, or indeed at all, to such serious violations." The committee urged the government "to establish 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." The committee also asked Algeria to "give an account of the number of cases reports, the investigations conducted and the results achieved."<sup>101</sup>

Since the visit in July-August 1998 by the Secretary-General's panel, scores of families of the "disappeared" have been staging weekly sit-ins in Algiers, outside the headquarters of ONDH, demanding answers on the fate of their relatives. Demonstrations are also held frequently in Constantine and Relizane.

On August 17, 1998, a government official received a delegation of relatives of the "disappeared" for the first time. Three men and two women who had been mandated by 284 families of "disappeared persons" met with an official from the president's office, identified by the press as a public relations official named Mr. Rouane (no first name given).<sup>102</sup> This official set up a meeting for them that afternoon at the Ministry of the Interior.<sup>103</sup> There, they presented the list of the 284 cases to an official identified by the press as an official in charge of public liberties named Mr. Akrouf (again, no first name given). A member of the delegation told the media that Mr. Akrouf had promised to brief the interior minister on their concerns and to see that the ministry investigated all the cases submitted to it then and in the future.<sup>104</sup>

But the same Interior Ministry that promised families to take charge of the dossier refused to grant legal recognition to the organization they had created. When the National Association of Families of the Disappeared

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<sup>97</sup> "Les cas des disparus expliqués à Soares," *Liberté*, August 5, 1998; Amnay Idir, "La guerre des chiffres" *El-Watan*, August 9, 1998. There is an unexplained discrepancy between the 230 cases mentioned by the U.N. delegation and the 240 mentioned by the ONDH.

<sup>98</sup> CCPR/C/101/Add.1.

<sup>99</sup> United Nations Department of Public Information, "Algeria presents report on civil and political rights to United Nations Human Rights Committee," dated July 20, 1998," (New York: United Nations, 1998).

<sup>100</sup> United Nations Department of Public Information, "Human Rights Committee continues to review Algeria's civil and political rights," dated July 20, 1998, (New York: United Nations, 1998).

<sup>101</sup> CCPR/C/79/Add. 95

<sup>102</sup> Daikha Dridi, "L'Intérieur ouvre une enquête sur les disparus" *Le Quotidien d'Oran*, August 18, 1998.

<sup>103</sup> Ibid., and "L'Etat se saisit du dossier," *El-Watan*, August 18, 1998 ; "Le dossier pris en charge," *Le Matin*, August 18, 1998.

<sup>104</sup> Ibid.



(Association Nationale de Familles des Disparus, ANFD) first sought legal recognition in November 1998, the Interior Ministry refused even to take its application.<sup>105</sup> The ANFD remains without legal status.

### **1998: Government Sets Up Offices in Wilayas to Receive Complaints of “Disappearances”**

The U.N. Secretary-General’s delegation called in its mission report for the “invigoration and strengthening of the Algerian institutions responsible for the promotion and protection of human rights as well as for expeditious attention to complaints of disappearances.”<sup>106</sup> In August 1998 the Interior Ministry announced the opening of offices in each of the country’s forty-eight wilayas to handle complaints about “disappearances.”

Questions were quickly raised about this initiative, first because these bureaus were part of the same ministry whose forces were suspected in many of the “disappearances,” and second because their working methods and powers to collect information were never made public. In November 1998 the Ministry of Interior issued a statement chiding the doubters:

This institution was established precisely to enable all interested families to present their concerns and submit their requests in special offices opened in the wilaya of Greater Algiers, and in every other wilaya of the country. These bureaus function properly. All requests have been officially recorded and the families received responses as the actions and research evolves and is completed. The manipulations and posturing of those who seemingly aim to take advantage of the good faith of families in distress cannot diminish the State’s determination to address this issue.<sup>107</sup>

On May 10, 2001, Minister of Interior Yazid Zerhouni reported to the National Popular Assembly on the bureaus’ accomplishments during their first three years. He said that they had been operating continuously since they were set up and, as of March 31, 2001, had compiled a dossier of 4,880 cases of persons declared missing.<sup>108</sup> Authorities were working in a “legal and transparent manner” to handle the complaints. Of the cases investigated, Zerhouni broke them down as follows:

“persons sought by the security forces for criminal acts: 884 (in these cases, the relevant judicial procedures have been initiated);  
persons killed in clashes with the security forces: 33  
persons killed by terrorist groups: 11  
persons convicted by the courts and currently imprisoned: 7  
persons tried and released: 9  
persons released after questioning: 27; and  
persons who had been found at their homes: 7.”

However, these numbers, like all other official claims to have clarified cases (see below), remain unverifiable because authorities have never rendered public any nominative list of the cases with the status of each.

There is no evidence that the bureaus established by the Interior Ministry conducted serious investigations into cases. The letters that the Interior Ministry sent to families resembled those provided to families by the ONDH: terse, formulaic statements that the person concerned could not be found, or was being sought by the

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<sup>105</sup> See ANFD communiqué of November 24, 1998, online at <http://www.algeria-watch.org/mrv/mrvdisp/anfd2.htm> (retrieved February 14, 2003); and Lyes Malki, “Les familles des disparus défendent leur droit de constituer une association,” *La Tribune*, November 27, 1998.

<sup>106</sup> United Nations, “Report of Panel appointed by the Secretary-General of the United Nations to Gather Information on the Situation in Algeria.”

<sup>107</sup> “Affaire des disparus: Le ministère de l’Intérieur précise,” *Liberté*, November 26, 1998.

<sup>108</sup> “Réponse de la part de Zerhouni à l’interpellation d’un groupe de députés sur la question des personnes disparues,” online at [http://www.algeria-watch.org/mrv/mrvdisp/zerhouni\\_100501.htm](http://www.algeria-watch.org/mrv/mrvdisp/zerhouni_100501.htm) (retrieved February 19, 2003); and “Algeria says 4,880 people missing since start of Islamic insurgency,” Associated Press, May 10, 2001.

police, or was not the subject of any judicial inquiry. Sometimes, the ministry's letter even contradicted information that had been provided earlier by the ONDH. But it never led to determining the fate or whereabouts of the missing person.

The following illustrative cases were collected by Algerian human rights workers:<sup>109</sup>

- Kamal Lounes Oumsaâd “disappeared” in 1994 after being taken into custody at the El-Mouradia police station in Algiers. He had presented himself there in response to a summons delivered to his home. Replying to a complaint by the family, the missing-persons bureau of the wilaya of Algiers wrote (letter 1090/99, dated April 5, 1999) that “the effort to locate [Oumsaâd] did not succeed.”
- Mebarek Fatmi “disappeared” in 1994. Witnesses report he was arrested at his home in the wilaya of Sétif by soldiers who arrived in four military trucks and an unmarked white car. His father filed complaints with various authorities and received contradictory responses from the ONDH and the wilaya's missing-persons bureau. The ONDH's letter (number 79/98 of February 17, 1998) stated that Fatmi was not the object of any inquiry on the part of the security services. However, in response to a complaint filed with the missing-persons bureau of the wilaya, the Interior Ministry replied in letter 1111/99 that Fatmi was in fact being sought by the security services.
- Belkacem Aouni “disappeared” in 1995 after allegedly being arrested by gendarmes near his home in the wilaya of Tipaza. His family stated that Aouni was held in the local gendarme barracks for three days before they lost track of him. Following Aouni's arrest, police arrested Aouni's father twice, holding him for eight and then six days. Aouni's mother filed a complaint with the missing persons office in the wilaya, and got a reply (letter 2356/98 of November 22, 1998) saying her son “was being sought by the security services for breaking the law.”

### **1999: The New President Breaks the Taboo**

President Abdelaziz Bouteflika was elected on April 15, 1999, to a 5-year term. He marked the first months of his tenure with a refreshing candor about many of Algeria's woes, including the human toll of the seven-year-long conflict. Whereas officials had previously criticized observers who said the toll of political violence had surpassed 100,000 dead, Bouteflika quickly embraced that figure.<sup>110</sup> He also railed against the state of the justice system, saying, “I've said it before and I should repeat it here and underscore it: Algerian judges, not all, but many of the judges obey all sorts of influence other than the law.”<sup>111</sup>

Perhaps most startling of all was Bouteflika's discourse on “disappearances.” He put the number at 10,000 and did not repeat the prevailing line that the phenomenon was mainly due to kidnappings by armed groups and to persons “disappearing” of their own free will to join armed groups or for other purposes. He did not try to discredit accusations of security-forces responsibility, although he stopped short of accusing them directly.

In numerous interviews after his election, the president promised that his administration would investigate “disappearances.” Bouteflika identified with the suffering of the families, he said, because he himself had a nephew who had “disappeared” in 1987:

I am personally interested in this file, particularly as I myself belong to the families a member of whom has “disappeared.” My nephew, my brother's son, is one of those who have “disappeared.”

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<sup>109</sup> Algeria Watch, “1000 cas de disparitions forcées (1992-2001),” [online] [http://www.algeria-watch.org/mrv/2002/1000\\_disparitions/1000\\_disparitions\\_MN.htm](http://www.algeria-watch.org/mrv/2002/1000_disparitions/1000_disparitions_MN.htm) (retrieved February 20, 2003). This list was compiled by Algeria Watch and Dr. Salah-Eddine Sidhoum.

<sup>110</sup> “Algeria Says 100,000 Dead in Seven Years' Strife,” Reuters, June 27, 1999. Prior to this statement, the last official figure of persons killed was 26,536, announced on January 22, 1998. See “Algeria PM Defends Actions, Gives First Global Toll since 1992,” Agence France Presse, January 22, 1998.

<sup>111</sup> Interview with Radio Television Luxembourg (RTL), September 14, 1999.

Therefore, I cannot, if only from a subjective point of view, be insensitive to their grief, concerns and anguish.<sup>112</sup>

In September 1999 he reiterated, “I belong to the families of people who have ‘disappeared.’ It is a problem I feel in the same way as families of disappeared people.”<sup>113</sup>

Bouteflika also acknowledged that some of the “disappeared” may be dead – the first time an official had openly acknowledged this – and suggested he had already begun to examine how the state might identify their remains:

There may be some “disappeared” whom we will never see again. As for my nephew, I am sure I will never see him again. Others will be found and I believe [sic] I have approached a number of countries which are very advanced in the identification of the “disappeared.” Maybe among the dead, and thanks to the progress of science and the progress of genetics, we could perhaps, through the DNA and other complicated tests, determine [who is who].<sup>114</sup>

Bouteflika repeated the claim that he was seeking foreign forensic medical expertise in an interview published in the *Financial Times* on July 19, 1999. During the summer of 1999 Bouteflika spoke sympathetically and resolutely on “disappearances,” raising hopes among families that the state would soon take action. By autumn, however, those hopes were sagging.

On September 16, 1999, Algerians overwhelmingly approved in a national referendum the “Civil Harmony” law, which the president had presented as the keystone of his strategy for national reconciliation. The law, which offered a partial amnesty to rebels who voluntarily surrendered, had already been adopted by parliament.<sup>115</sup>

Claiming a mandate for his plan for reconciliation, Bouteflika’s discourse on “disappearances” began to change. On September 15, 1999, during a meeting in Harcha auditorium in Algiers, a representative of the ANFD spoke, at the president’s invitation, about “disappearances.” But the president appeared to grow exasperated that night, either with the persistence of the families in the hall or with his inability to help them, blurting out at one point, “I have no interest in keeping [the “disappeared”] in my pocket.” Referring to his missing nephew, he declared, “I am the first to be affected by this problem... so no one should be lecturing us on this subject.” “How can you put this war behind you if you do not forget?” he asked the families. “Don’t be like Iraq and Kuwait, who continue to go at each other over a business of 600 prisoners.”<sup>116</sup>

Bouteflika seemed to backtrack on his tacit recognition of state responsibility for “disappearances,” telling an interviewer:

In the national tragedy there is a situation of such confusion: in the end I leave to you the responsibility of saying the [security] services have “disappeared” people. It is your responsibility. I am not sure there have been no settlements of scores. I am not sure people have not

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<sup>112</sup> Interview with Radio France Internationale (RFI), July 7, 1999, transcript online at [www.algeria-watch.org/farticle/boutef/boutefspeech.htm#africa](http://www.algeria-watch.org/farticle/boutef/boutefspeech.htm#africa) (retrieved February 17, 2003), translated into English by the BBC Monitoring Service: Middle East, July 8, 1999.

<sup>113</sup> Interview with La Chaîne Info (Paris), September 12, 1999, translated into English in BBC Monitoring Service: Middle East, September 15, 1999.

<sup>114</sup> RFI interview, July 7, 1999, translated into English in BBC Monitoring Service: Middle East, July 8, 1999. When Human Rights Watch visited Algeria in May 2000, we were told by officials that DNA tests were not used for aiding in the identification of bodies.

<sup>115</sup> On the Civil Harmony law, see *Human Rights Watch World Report 2000* (events of 1999). The law is online in French at [http://www.el-mouradia.dz/francais/algerie/histoire/loi\\_sur\\_la\\_concorde\\_civile.htm](http://www.el-mouradia.dz/francais/algerie/histoire/loi_sur_la_concorde_civile.htm) (retrieved February 19, 2003). Various English translations can also be found online.

<sup>116</sup> Nefla B., “Il faut oublier,” *Le Jeune Indépendant*, September 16, 1999, online at <http://www.algeria-watch.org/mrv/mrvdisp/displ6999.htm> (retrieved February 19, 2003).

been, quite simply, I don't know, God forbid, put in sulphuric acid by terrorists. I cannot comment on such a problem...<sup>117</sup>

In an interview in July 2000 the president was asked what he had to say to victims of violence and “disappearances.” He replied:

This really concerns a national tragedy that affected the entire nation in the flesh of its children, its economy, and its prestige. This misfortune must be overcome in order to approach the future with courage and dignity. The Algerian people must get back in touch with their traditional values of solidarity, fraternity, and love in order to weave once again the tissue of community life that is indispensable for meeting the challenges of our era. May the duty of memory serve the cause of peace and harmony so that there will, never again, be such a descent into darkness. Meager consolation for you, but need I remind you that I too come from a family of the “disappeared”?<sup>118</sup>

In another interview the same month, he called on relatives of the disappeared to “be patient,” explaining, “We must first try to establish peace and security.... If we try to attack all the problems at once we shall lose our way.”<sup>119</sup>

Inaugurating his new human rights commission one year later, Bouteflika again counselled patience to the families. He also implicitly cautioned them to stay in line. Saying he understood their needs and their impatience, he asked them to:

have confidence in the administration and law of the country, and to resist all manipulations and maneuvers. In this country, everyone has a political agenda. There are unfortunate families for whom we have sympathy, but there are also those who exploit oversights of the state to sow the wind. The day will come where the truth will emerge. I have a right to speak in this way because I am, without being presumptuous, the doyen of families of the “disappeared.” I continue to search but I do nothing that could tarnish the image of the country or of Algerians.<sup>120</sup>

Since the CNCPPDH’s inauguration, its president, Farouk Ksentini, a Bouteflika appointee, has been outspoken on the need to resolve the “disappearances” question, while Bouteflika himself has had far less to say.

To the best of Human Rights Watch’s knowledge, the identity of Bouteflika’s nephew and the circumstances of his “disappearance” have never been divulged. Activists on behalf of the “disappeared” said they had no information about the case.

Nor has there ever been clarification concerning the contacts that the president said in 1999 had been established with foreign experts for the purpose of identifying the remains of persons who may have been the victims of “disappearances.”

### **1998-2003: The Official Statistics, Unverifiable and Inconsistent**

Both before and after President Bouteflika broke new ground in discussing the fate of the “disappeared,” government officials have been releasing statistics that chart the headway they have supposedly made in solving cases brought to their attention.

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<sup>117</sup> Interview with La Chaîne Info (Paris), September 12, 1999.

<sup>118</sup> *El-Moudjahid*, July 19, 2000, reprinting the text of an interview published the previous day in *Le Parisien*.

<sup>119</sup> Interview with Bouteflika, Radio France Internationale, July 7, 2000.

<sup>120</sup> President Bouteflika, speech, online at <http://www.elmouradia.dz/francais/president/recherche/President%20rech.htm> (retrieved February 17, 2003).

The statistics they have given, while often inconsistent, uniformly refrain from identifying any state agency as responsible in a single case. Nor have the statistics ever been backed up by nominative lists, or by an explanation of the investigative procedures, or the reasons for placing an individual in one category or another.

The government began to issue statistics only after it acknowledged the existence of the problem in the summer of 1998 and established offices across the country where families could submit complaints. In an early progress report on these bureaus, then-Interior Minister Abdelmalek Sellal was quoted in *El-Watan* of January 16, 1999, as saying:

We have already conducted more than three hundred investigations. We have received 120 responses and another fifty will be finalized during the course of this week. These cases take a lot of time .... Most of the persons about whom we received responses apparently took up arms. We never denied that some abuses took place. But pending proof to the contrary, I cannot say more until we get further in this process. Most of the persons considered to have disappeared fell in clashes with the security forces. We continue to believe that a number of them are still among the rebels.

On April 29, 1999, *El-Watan*, a daily considered to have good contacts in the security services, reported that the missing-person bureaus had logged a total of 3,500 disappearance cases. Unnamed “reliable sources” were quoted as saying, “All of these cases were studied and responses were provided.” The sources claimed that the Ministry of Interior had “provided answers” in a total of 3,011 cases, which broke down as follows:

- 693 were wanted by law enforcement authorities for terrorist acts;
- 127 were in prison or left prison having served their sentences;
- 69 were found at home after an investigation;
- 412 were reported dead by repented or arrested terrorists;
- 89 were freed after having been held for questioning by the security services;
- 1003 had never been questioned by the security services;
- 38 disappeared following family problems; and
- 580 were kidnapped by terrorists.<sup>121</sup>

Two years later, Minister of Interior Yazid Zerhouni stated that “the total number of people reported as ‘disappeared’ to the wilaya offices is 4,880 as of March 31, 2001.” As noted above, Zerhouni broke down the cases that had received responses as follows:

“persons sought by the security forces for criminal acts: 884 (in these cases, the relevant judicial procedures have been initiated);  
persons killed in clashes with the security forces: 33  
persons killed by terrorist groups: 11  
persons convicted by the courts and currently imprisoned: 7  
persons tried and released: 9  
persons released after questioning: 27; and  
persons who had been found at their homes: 7.”

Of the remaining cases, Zerhouni said, “The inquiries remain in progress and ... the results will be brought to the attention of the families concerned ... as soon as the investigations are completed. After that, it’s up to the courts. In fact, all complaints on this subject have been received and registered and have led systematically to the opening of judicial investigations.”<sup>122</sup>

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<sup>121</sup> Salima Tlemçani, “Dossier des disparus: Polémique autour des chiffres,” *El-Watan*, April 29, 1999.

<sup>122</sup> “Réponse de Zerhouni à l’interpellation sur la question des personnes disparues.”

Minister Zerhouni's figures clashed not only with those from April 1999 (particularly in the drop in the total reported as dead or kidnapped by "terrorists"), but also with numbers that Justice Minister Ahmed Ouyahia gave to a member of the European Parliament in May 2001. MEP Hélène Flautre quotes Ouyahia as telling her that out of 3,000 missing-person complaints received by the government "a thousand had been cleared up: 833 had joined the armed groups, ninety-three had been killed, eighty-two were in detention, seventy-four had returned home, and seven had benefited from the Civil Harmony [amnesty]." <sup>123</sup>

Ouyahia did not reconcile his figure of 3,000 missing-person complaints with the interior minister's contemporaneous figure of 4,880. Ten months later, on March 10, 2002, Ouyahia said on Algerian radio that 3,200 to 3,300 persons had been reported as disappeared, of which some 600 had joined armed groups. <sup>124</sup> He did not explain his downward revision of "disappeared" persons found to have joined armed groups. A May 16, 2002, written request by Human Rights Watch to clarify and reconcile the figures went unanswered (see Appendix 2).

More recent figures come from the National Gendarmerie. According to *Le Monde* of January 7, 2003, that agency said it registered and investigated 7,046 complaints for enforced disappearances during the 1990s. In 4,740 of these cases, the search was "unsuccessful." In the rest, the responsibility of the security forces was never established.

In addition to all the statements by officials who sought to discredit imputations of a state role in "disappearances," a Ministry of Interior official suggested to Human Rights Watch in a meeting on May 23, 2000, that 3,000 missing out of a population of 30 million should be viewed as a very small number when compared to the number of Algerians who "disappeared" during the 1954-1962 War of Independence.

## VIII. THE ROLE OF THE COURTS

The judiciary plays an important role in addressing the problems that arise when an Algerian citizen has "disappeared." Families have the right to petition the court to conduct criminal investigations into the abduction or arbitrary detention of a relative. Algerian law provides two avenues to do this: Relatives can either seek to have the state prosecutor's office in the relevant jurisdiction open a criminal investigation or they can, under Articles 72 and 73 of the Code of Penal Procedure, file a complaint as a "civil party" before an investigating judge, who examines the facts and makes a recommendation on whether to bring charges. <sup>125</sup> The courts can thus play a key role in determining the facts and punishing perpetrators of crimes associated with "disappearances."

Courts also perform an important function with respect to civil matters that emanate from a "disappearance." They rule on applications submitted by families of the "disappeared" and the abducted to obtain death certificates so they can surmount numerous obstacles in everyday life. For example, as long as the father is not listed as deceased in the family's documents, the law requires his signature for his minor children to enroll in school or travel abroad. A death certificate is required also to resolve issues related to inheritance or money in bank accounts.

Under Article 113 of Algeria's family code, a judge can declare a "disappeared" person to be legally dead after the person has been missing for four years. There have been reports of courts inviting families of the "disappeared" to apply for death certificates. Despite the difficult situation they were in, some families have refused on principle to enter this process, fearing that it was a means by which the state could close files without

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<sup>123</sup> "May 18-23, 2001. Algérie: Le rapport d'Hélène Flautre," Brussels : Groupe des Verts-Ale au Parlement Européen, June 2001, online at [http://www.algeria-watch.org/mrv/mrvrap/flautre\\_juin2001.htm](http://www.algeria-watch.org/mrv/mrvrap/flautre_juin2001.htm) (retrieved February 18, 2003).

<sup>124</sup> Interview quoted in "Droits de l'homme et dossier des disparus au centre du débat," *El-Moudjahid*, March 11, 2002.

<sup>125</sup> Article 72 states, "Any person who believes he has been the victim of a crime can file a complaint as a civil party before the investigating judge in the relevant jurisdiction." ("*Toute personne qui se prétend lésée par une infraction, peut, en portant plainte, se constituer partie civile devant le juge d'instruction compétent.*")

providing answers about the fate of their relatives. But other families of “disappeared” persons have approached the courts to obtain death certificates in the hope of getting on with their lives and resolving their personal affairs.

### **The Failure of Courts to Investigate “Disappearances”**

Officials have held up the justice system as a key recourse for those who seek answers about “disappeared” persons. “Algerian justice will spare no effort, conducted in the framework of the law, to seek solutions to [“disappearance”] cases fully documented with verified evidence,” President Bouteflika declared in a 1999 interview.<sup>126</sup> Minister of Interior Zerhouni told the National Popular Assembly, “In terms of the courts, all complaints on [“disappearances”] have been accepted and logged, and have systematically resulted in the opening of judicial investigations.”<sup>127</sup>

A more candid assessment of the judiciary’s performance was given by Farouk Ksentini, the president’s human rights commissioner. He labelled it as “completely deficient,” saying, ““disappearances’ are a matter that should be taken up by the courts, but they have not done their job in a single case.”<sup>128</sup>

Families of the “disappeared” and human rights lawyers share this assessment. They have filed hundreds of cases with prosecutors and investigating judges in jurisdictions throughout the country for the offenses of illegal arrest and detention pursuant to Articles 291 and 292 of the penal code. (These Articles, reproduced in Appendix 1, are invoked because forced “disappearance” does not exist as a distinct offense under Algerian law.) Lawyers who have prepared such cases on behalf of the families told Human Rights Watch they knew of no case that resulted in locating a “disappeared” person, alive or dead, or in members of the security forces being charged for any offense related to the “disappearance.” Either the plaintiffs receive no response whatsoever from the prosecutor’s office or from the investigating judge, or the case remained “pending” with no progress reported, or the responsible judge ruled to close the file.

The lawyers relate that judges and prosecutors handling a complaint of illegal arrest rarely if ever hunt for eyewitnesses. Occasionally, they will summon a member of the immediate family to testify. But it was extremely rare to summon other eyewitnesses, such as neighbors or persons who were arrested at the same time but later released, even when their names and addresses were provided by the plaintiff.

In addition to the examples provided above in the cases chapter, including journalist Aziz Bouabdallah and engineer Mohamed Bounsah, an Algiers human rights lawyer furnished the following case information to Human Rights Watch in April 2002:

Mabrouk Boundaoui “disappeared” on April 4, 1995, in Bourj Zemoura, in the wilaya of Bourj bou Arreridj. His wife, Baya Ben Azouaou, filed a complaint with the investigating judge in Bourdj bou Arreridj. In her complaint, Ben Azouaou stated that witnesses saw members of the *garde communale*, a civilian defense force, stop her husband on the street and take him away by force, in a Mazda vehicle. Ben Azouaou testified before the judge but instead of summoning officials of the local *garde communale*, he closed the file on the grounds that the perpetrators were not known. On appeal, the accusation chamber of the court confirmed the judge’s decision on December 20, 1999.

Jaâfar Ousrir, born on August 30, 1978, “disappeared” on May 6, 1997, at Ouled Slama, in the wilaya of Blida. Two witnesses, Saliha Aïdani and Guessoum Bouhadjar, signed statements that they had seen uniformed members of the security services arresting Ousrir in the neighborhood where he lives. A complaint was filed with an investigating judge in Boufarik in 1999. However, the judge summoned neither of the two witnesses nor members of the security forces for questioning, before closing the case on the grounds that the abductors could not be identified. The Accusation Chamber upheld the decision.

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<sup>126</sup> Interview with Bouteflika, *Middle East Insight*, November 1999, online at [http://www.mideastinsight.org/11\\_99/bouteflika\\_11.99\\_3.html](http://www.mideastinsight.org/11_99/bouteflika_11.99_3.html) (retrieved February 14, 2003).

<sup>127</sup> “Réponse de Zerhouni à l’interpellation sur la question des personnes disparues.”

<sup>128</sup> Human Rights Watch interview, Algiers, November 6, 2002.

Miloud Grine “disappeared” on January 9, 1995, in el-Biar, in the wilaya of Algiers. His mother, Khedija Maghraoui, was present when uniformed security force members took him from their home. She filed a complaint in 1999 with the investigating judge at Birmourad Raïs. She told the judge that the perpetrators wore uniforms of the National Popular Army (Armée Nationale Populaire, ANP). On November 18, 1999, the judge closed the case, concluding that the “investigation did not produce any findings regarding the conditions surrounding the abduction and holding” of Grine. The accusation chamber of the Algiers Court confirmed the judge’s decision on January 11, 2000. The Supreme Court on February 27, 2001, turned down an appeal (*pourvoi*) of the decision to close the case.

In its letter to then-Minister of Justice Ouyahia of May 16, 2002, Human Rights Watch solicited comments on the above-mentioned three cases and requested information showing the effectiveness of the judiciary when presented with complaints of “disappearances.” No reply was received.

## IX. STATE HUMAN RIGHTS MONITORING BODIES: WATCHDOGS OR MERE MAILBOXES?

Since families first started approaching the authorities with reports of “disappeared” relatives in 1993, officials have pointed to the semi-official ONDH as a key point of contact. They also frequently referred international organizations to the ONDH when they made inquiries about the “disappeared.”

The ONDH was established by presidential decree 92-77 of February 22, 1992, shortly after the army-backed decision to halt legislative elections. The ONDH was state-funded and reported to the president, but was to be “an independent institution with administrative and financial autonomy,” according to that decree.

In 2001 President Bouteflika replaced the ONDH with a new institution, the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH).

By the time of its demise, the ONDH and its president, Mohamed Kamel Rezzag, had long since earned a reputation for systematically minimizing governmental abuses, denouncing international human rights organizations when they issued critical reports on Algeria, and providing no useful information to the families of the “disappeared.”

Despite its cautious tone, the ONDH’s public allusions to complaints received from families reflect the mounting contemporary evidence that wide scale “disappearances” were being carried at a time when the government would say nothing about the issue. Without accusing the state of “disappearances” per se, the ONDH acknowledged as early as 1994 that it was receiving hundreds of complaints annually from relatives of “disappeared” persons – four years before state officials acknowledged the problem.

While it reported the barrage of “disappearance” complaints it was receiving, the ONDH could do little about them. It merely functioned as an intermediary for correspondence between the families and the authorities. “[O]ur institution is only a link between the families of the “disappeared” and the institutions of the state,” Rezzag Bara explained. “ONDH does not have the power to compel people’s cooperation in order to settle this problem.”<sup>129</sup> He told a Human Rights Watch delegation on May 22, 2000, “The ONDH has no powers of investigation. For a long time, when we started, the authorities weren’t answering us. They started to work with us only in 1997.”

In an interview published on October 24, 1999, Rezzag Bara said, “As soon as the ONDH receives a request to locate a missing person, we open a file to document the case .... We then submit the case to the police and the judicial authorities so that investigations can get under way. As soon as we receive a reply from the authorities we send it on to the missing person’s family.”<sup>130</sup>

<sup>129</sup>Nabila R., “Aveu d’impuissance” *Le Matin*, August 27, 1998.

<sup>130</sup> Baya Gacemi, “Interview with Kamel Rezzag Bara,” *Algeria Interface*, October 24, 1999 [online], [http://www.algeria-interface.com/new/article.php?article\\_id=57](http://www.algeria-interface.com/new/article.php?article_id=57) (retrieved February 14, 2003).



The ONDH did not seek to interview witnesses other than the complainants themselves. Its action, Rezzag Bara said at another point, was limited to “inquiring of the security services whether they had not, in the framework of their investigations and measures against terrorism, detained or arrested persons who are now being sought by their families.”<sup>131</sup>

Since no Algerian security agency ever admitted to responsibility for a case of disappearance, the ONDH, dependent on those agencies for its information, never identified state agents as responsible in a single case of “disappearance.”

In interviews with Algerian and foreign media, the president of the ONDH acknowledged receipt of more than 4,000 complaints from families convinced that the abductors of their relatives were state agents. He told a delegation from Human Rights Watch on May 22, 2000, that the ONDH had logged 4,146 cases to date, of which 2,072 had received answers. Of these cases, 308 had been “clarified” by a finding that the missing person had been found in prison, had been killed in a clash with the security forces, or had been killed by “terrorists.”

In interviews, Rezzag Bara repeatedly suggested that causes other than security-force abductions accounted for the bulk of supposed “disappearance” cases. According to him, many of the “disappeared” had in fact fled the country or joined “terrorist” groups fighting the government, after which some were later killed in internal purges or inter-group battles.

Asked about “disappearances” attributable to the security forces, Rezzag Bara responded in April 1997, “We’re talking about a few cases here and there.”<sup>132</sup> “Abductions that are attributable to the security forces are the exception,” he told *Le Monde* the same year.<sup>133</sup> When asked, three years later by *La Libre Algérie*, “are you sure that no ‘disappearance’ case is due to the security forces?” he replied evasively, “Certain investigations are still going on.”<sup>134</sup>

The ONDH discredited itself by refusing ever to release a nominative list of the “disappeared” persons it was investigating. Over the years it had provided only statistical breakdowns of the cases it had handled. A nominative list, with the status of each case, would have enabled interested parties to verify the information collected and supplement or correct it. Rezzag Bara turned down a request to provide such a list when he met with Human Rights Watch representatives on May 22 and 27, 2000.

The reason often given for such a refusal was the need to respect the privacy of the plaintiffs. But the number of families that would have requested confidentiality of their submissions would likely have been small since thousands of them had already volunteered the same information about their missing relatives to NGOs.

Rezzag Bara insisted on having it both ways, stressing on the one hand the limited means available to the ONDH to address “disappearances” and on the other claiming that the ONDH was tackling the issue in a serious fashion. In 2000 he stated, “Algeria has the intention, the will and the necessary administrative and legal mechanisms to examine this question.”<sup>135</sup> And in 2001 he declared that the ONDH had “proved our capacity to give credible responses to questions about the disappearances, thereby providing logistical support for national reconciliation.”<sup>136</sup>

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<sup>131</sup> ONDH, *Rapport annuel*, 1997, p. 27.

<sup>132</sup> International Federation for Human Rights, “La Levée du voile : l’Algérie de l’extrajudiciaire et de la manipulation,” *La Lettre de la FIDH*, No. 244 (June 1997), p. 15.

<sup>133</sup> Hacène Terro, “On emmène ton fils pour quelque temps,” *Le Monde*, June 13, 1997.

<sup>134</sup> Interviewed by Kamel Yassar and Mohamed Mehdi in *Libre Algérie*, February 28, 2000.

<sup>135</sup> “M. Rezzag Bara: ‘L’ONDH, le premier à avoir soulevé la question des disparus,’” *El-Moudjahid*, December 11, 2000.

<sup>136</sup> “Je n’ai jamais agi sur injonction,” *Le Jeune Indépendant*, April 14, 2001.

The written replies provided by the ONDH to families who lodged missing-person complaints were anything but credible. Many families who filed such complaints waited more than one year for a response; others got no response at all after years of waiting.

In October 1999 Rezzag Bara stated that two-thirds of the 4,038 families who reported someone missing to the ONDH had received a reply. According to him, the replies sent by the security agencies and passed on by the ONDH classify missing persons in different ways: “They come under the headings of non-arrested, abducted by armed group, wanted terrorist, deceased, imprisoned.”<sup>137</sup>

The ONDH’s written replies to families, with few exceptions, were form letters that contained, at the bottom, one or two sentences of information that the ONDH said it had received from the security services. That information, in the overwhelming majority of cases, was either that the person was presently being sought by the security services, that he or she had been kidnapped by an unidentified armed group, or that the security services had not taken the person into custody and had no information about the person’s whereabouts.

Such conclusions conflicted in countless cases with evidence in the families’ possession, notably the testimony of those who witnessed the arrest or saw the person in custody. At times, the ONDH seemed to lack even publicly available information. In response to a complaint about the “disappearance” of Mahmoud Amoura on April 24, 1995, the ONDH replied in letter 443/96, dated June 17, 1996, that it was still awaiting responses from the security services about Amoura’s whereabouts. In fact, Amoura had been brought before a state prosecutor ten months earlier, four months after he had been taken into detention, according to human rights lawyer Mahmoud Khelili.<sup>138</sup>

It is illuminating to trace the ONDH’s presentation of the phenomenon of “disappearances” through its annual reports. In its first annual report, covering part of 1992 and 1993, a period when “disappearances” numbered in the scores but not yet in the hundreds or thousands, the ONDH provided a single bland reference without offering, as it did in subsequent editions, statistics on the number of complaints received or on the answers it had provided to the families. The report states simply that it uses the term “disappearances” to refer to “cases where the ONDH is approached by families of persons who were arrested or detained by the security services and whose place of detention has not been located due to their never having been formally charged.”

The next edition, covering the years 1994 and 1995, notes that the ONDH received 373 complaints in 1994 on behalf of “disappeared” persons and 567 complaints in 1995. It states that some individuals whose relatives filed a “disappearance” complaint “had in reality disappeared in order to join the armed groups.” The report says the term “disappearance” also covers cases of abductions carried out by “terrorist groups.” The report, however, is silent on the responsibility of state agents other than to urge that the anti-terrorist struggle be carried out in conformity with the rule of law and under judicial authority.

The report for 1996 states that the ONDH received 988 “disappearance” complaints during the year, 491 of them from people who came personally to the office. There follows various statistical breakdowns: the year when the “disappearances” that were reported during 1996 actually took place (mostly during 1994 and 1995), the ages and professions of the victims, the place where the arrest took place, and the party identified by the plaintiffs as having carried out the arrest: police: 338, gendarmerie: 168, army: 248, unidentified security forces: 134.

The report lists caveats for these statistics. It states that when the family locates a relative who had previously been reported as “disappeared,” they do not necessarily inform the ONDH. It also states that alternative scenarios may explain some of the cases where the security forces stand accused: a “terrorist” group carrying out an abduction could be mistaken for the security forces; or a person reported as “disappeared” could have vanished of his own free will to join an armed group. In these cases, the family may genuinely believe their relative has been taken into custody or they may know the truth but report a “disappearance” to cover the person’s

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<sup>137</sup> Baya Gacemi, Interview with Rezzag Bara, *Algeria Interface*.

<sup>138</sup> This case is featured among torture cases presented by Khelili on the Algeria Watch website, <http://www.algeria-watch.org/mrv/mrvtort/khelilil1.htm> (retrieved February 17, 2003).

tracks and protect themselves from suspicion of complicity. Alternatively, the person may have emigrated abroad without telling the family. The 1996 report concludes the section on “disappearances” with a plea to the government to obey domestic and international law governing procedures for arresting, holding and charging individuals.

The ONDH’s report for 1997 states it received 706 “disappearance” complaints during the year. It provides again a breakdown by wilaya, date, place where “disappearance” occurred (home, workplace, street, etc.), profession, and reported perpetrators (police and communal guards: 237, gendarmes: 76, army: 232, unidentified: 71, no information: 60).

The report for 1997 also provides, for the first time, a breakdown of the 514 responses the ONDH says it received from the security services and transmitted to the families: 366 of the persons reported missing had never been detained, 62 were “wanted” by the security services, 23 were in custody, 23 had been detained and then released, 12 were believed dead, 3 had “disappeared,” 16 had been kidnapped by unidentified groups, and 9 cases related to family problems. The chapter concludes, as did the 1996 report, by advancing alternative explanations for “disappearances” while urging the state to respect domestic and international law governing arrest and detention procedures.

The 1998 report follows the same format. But in a gesture toward greater openness, the report states that sixty-one families “rejected as unfounded the responses they received regarding the fate of their relatives, and continue to maintain...that their relatives were in fact abducted by the security forces.” In a later interview, Rezzag Bara stated that when families rejected the initial replies and provided new evidence or witnesses, “we reopen the file and examine the case in greater depth.”<sup>139</sup> However, there is no evidence that when it “reopened” a case it did anything more than correspond with security agencies, or that it ever produced results for the families.

Throughout the years, the ONDH never publicly invited the security services to explain how they reached the conclusions they delivered via the ONDH, or to explain the contradictions between the families’ testimonies and the state’s denials of responsibility. In cases where the security services reported someone as “wanted” or deceased, the ONDH simply relayed that information to the family, which in many cases responded that it was hearing for the very first time that their missing relative was dead or wanted.

Asked about these reports, Justice Ministry officials told Human Rights Watch in a meeting on May 23, 2000, that delayed notification of kin concerning a death often occurs after a member of an armed group is killed in a clash with the security forces and comrades remove his body from the scene. Officials are then only able to confirm the person’s death much later, often when this information emerges from the interrogation of a captured or surrendering member of an armed group.<sup>140</sup> This may explain delays in identifications, but it does not explain why the family was never contacted by the appropriate government agency about the reported death in an effort to verify the information.

### **The CNCPPDH Replaces the ONDH**

In late 2001 the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH) superseded the ONDH and inherited its Algiers headquarters and its 4,670 “disappearance” files.<sup>141</sup>

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<sup>139</sup> Baya Gacemi, “Interview with Rezzag Bara,” *Algeria Interface*.

<sup>140</sup> An article in an Algerian daily that aimed to discredit reports of state-sponsored “disappearances” reported that, according to a list provided by the Islamic Salvation Army (Armée Islamique du Salut, AIS) when it agreed to lay down its arms, thirteen persons who had been listed as “disappeared” were in fact among the AIS fighters killed by the security forces between 1993 and 1996. The article did not support its claim by naming any of the thirteen killed fighters. Nacer Belhadjoudja, “La vérité sur des disparus,” *Liberté*, June 1, 2000.

<sup>141</sup> Presidential decree 01-71 of March 25, 2001 and published in the *Journal Officiel* of March 28, 2001 dissolved the ONDH and established the CNCPPDH (online at [www.joradp.dz](http://www.joradp.dz)). The figure of 4,670 inherited files is the one that Ksentini provided journalists. See, e.g., “Me. Farouk Ksentini: ‘Il faut que la vérité sur les disparus soit révélée,’” *Algeria Interface*, June 28, 2002 [online], [http://www.algeria-interface.com/new/article.php?article\\_id=570](http://www.algeria-interface.com/new/article.php?article_id=570) (retrieved February 19, 2003).

According to the decree establishing it, the CNCPPDH is to be composed of forty-eight members, all appointed by the President of the Republic.<sup>142</sup>

On October 9, 2001, at the inaugural ceremony of the CNCPPDH, President Bouteflika said:

The will of the Algerian state to respect and enforce respect for human rights in its territory is clear and firm and no one has the right to doubt this .... I am not able to ignore the emotional burden of the problem of the disappeared and I am compelled to assure all the families affected by it, and I count myself among them, of my solidarity and my sympathy. I want to repeat to them that the relevant organs of the state are using all means to find the disappeared or to obtain precise information about them .... The independence of the commission is a prerequisite for carrying out its activities.<sup>143</sup>

In December 2001 *El-Watan* reported that President Bouteflika had charged the president of CNCPPDH with “settling” the problem of the “disappeared.” The same article stated that Ksentini received the families of the “disappeared” and assured them of the will of the president to find a solution to this problem.<sup>144</sup> Ksentini promised, “We must take action to ensure that these things never recur.”<sup>145</sup>

Ksentini conceded that the commission lacked tools other than his own public advocacy to compel the truth. He told Human Rights Watch that when presented by a report of a “disappearance,” the CNCPPDH had no more resources or powers to investigate or compel answers than its predecessor, the ONDH. It too was simply a pass-along for correspondence between the families and state agencies.

The main difference between the two commissions was the candor of the CNCPPDH’s president. Ksentini told the online journal *Algeria-Interface*:

The question of “disappearances” must be definitively resolved before the end of the year. The state is responsible for “disappearances” because the Constitution places upon it the obligation to guarantee the security of persons and property. Our investigations will focus on the following question: Were “disappearances” and summary executions the result of agents acting in a personal capacity or of institutions that ordered these agents to act as they did? If we reach the conclusion that the State is guilty, we will say so clearly.... If [state agencies] refuse to respond [to our requests for information on a case] or their response is not clear, we will conclude that that “disappearance” should be attributed to that institution.... The problem of “disappearances” cannot go on forever. It’s inhuman and morally unacceptable.... The truth must become known, whatever it may be. The honor of the country and its institutions are at stake. The horrible things from the last few years must never be repeated.<sup>146</sup>

Ksentini at the same time denied that his calls for compensation and social assistance to the families of the “disappeared” were an attempt to deflect demands for information on their fate.<sup>147</sup> He characterized it instead as a compassionate response to the material needs of some families that should not replace the search for the “disappeared.” “We shall tell the truth and the complete truth whatever it turns out to be on this issue,” he vowed.<sup>148</sup>

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<sup>142</sup> Presidential decree 01/71, March 25, 2001.

<sup>143</sup> President Bouteflika, speech, online at <http://www.elmouradia.dz/francais/president/recherche/President%20rech.htm> (retrieved February 17, 2003).

<sup>144</sup> Fayçal Metaoui, “Un avocat chargé du dossier des disparus,” *El-Watan*, December 11, 2001.

<sup>145</sup> “On torture encore en Algérie,” *El-Watan*, February 28, 2002.

<sup>146</sup> *Algeria Interface*, June 28, 2002.

<sup>147</sup> See, e.g., “On torture encore en Algérie,” *El-Watan*, February 28, 2002.

<sup>148</sup> Samia Mellal “L’Etat est responsable des disparus,” *La Tribune*, July 11, 2002.

Acknowledging that some security forces had an interest in impeding the search for answers, Ksentini said, “There are doors that must be broken down and locks that must be forced open.”<sup>149</sup> In an interview two weeks later, Ksentini vowed once again, “We will tell the truth and the whole truth, whatever that truth may be about [“disappearances”].<sup>150</sup>

In an interview with Human Rights Watch on November 6, 2002, Ksentini said that the commission’s goal with the “disappeared” was “to search for the truth, discover the truth, and say the truth.”

As of January 2003 the CNCPPDH had yet to produce concrete results for any families. In its written correspondence, the CNCPPDH’s terse and formulaic letters were identical to the ONDH’s, other than a change of letterhead and the signature on the bottom. For example, in a letter sent in September 2001, the commission informed the family of Mohamed Meslem, who was abducted by soldiers on October 19, 1996, according to the family: “After the effort undertaken by our commission and based on the information we have received from the security services, it appears that [Meslem] is being sought by these services.” No further information is given.

In March 2003, the CNCCPDH would formally present the president of the republic its reflections and proposals on “disappearances,” Ksentini has said.

## X. THE INTERNATIONAL COMMUNITY ON A TREADMILL

After conceding in mid-1998 that “disappearances” were a problem to be addressed, the government of Algeria grew more attentive to international inquiries on the subject. But, as the documentation in this chapter shows, none of the international bodies and organizations that have raised “disappearances” with the Algerian authorities can report any tangible progress on the issue. The responses provided to them by the government follow the patterns mentioned above: the individual in question is classified as either unknown to authorities, not in custody, presently being sought by authorities, kidnapped or killed by armed groups, or killed in a clash with authorities. The answers provided are brief, non-specific, and unsubstantiated. When the inquiring party is notified that the “disappeared” in question was killed, it sometimes emerges that the victim’s family had never previously been informed of this, despite having submitted inquiries about the person in question to government agencies for months or years (see WGEID section below for an example).

### The European Union

The E.U. and Algeria initialled an Association Agreement in December 2001 and signed it on April 22, 2002, successfully concluding four years of negotiations. The agreement focuses on the liberalization of trade between Algeria and Europe, but also includes the human rights clause found in all of the Euro-Mediterranean Association Agreements: “Respect for the democratic principles and the fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and international policies of the Parties and shall constitute an essential element of this Agreement.”<sup>151</sup>

The practical impact of the common human rights clause in the Euro-Mediterranean Association Agreements has never been clear. The E.U. has yet to declare a partner government to be in violation of the clause because of a pattern of human rights abuses. However, even before agreements have gone into effect, the presence of the clause in all the draft agreements has provided a basis for raising human rights issues with the partner government.

In ratifying the Association Agreement with Algeria on October 10, 2002, the European Parliament adopted an unusually strong companion “political resolution” that spelled out its expectations of what the rights

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<sup>149</sup> Malika Belgacem, “Reforme du système judiciaire : ‘La mentalité des juges doit changer,’” *Le Jeune Indépendant*, April 28, 2002.

<sup>150</sup> Samia Mellal, “L’Etat est responsable des disparus.”

<sup>151</sup> To date, the E.U. has signed association agreements with Morocco, Tunisia, Israel, the Palestinian Authority, Egypt, and Lebanon.

clause would mean in concrete terms.<sup>152</sup> “The fact that it is still possible to act with impunity remains a major obstacle to restoring the rule of law in Algeria,” the parliament’s resolution states. It identifies “resolving the problem of the ‘disappeared’ and eliminating all forms of impunity” as elements of the Parliament’s conception of human rights. The resolution also calls on the Algerian authorities “to respond favourably to the repeated requests from various U.N. special rapporteurs (on summary executions, violence against women, torture, enforced disappearances and adequate housing)...and from international NGOs to gain access to Algerian territory.”

To enter into force the agreement must now be ratified by Algeria and the E.U. member states.

The European Parliament’s engagement on the issue of “disappearances” in Algeria first attracted public attention during a visit by nine members of the parliament in February 1998. One delegate, Anne André-Léonard, of the European Liberal, Democratic and Reform Party (the Liberals), brought lists of “disappeared” persons and raised the issue with her Algerian counterparts. They responded with the evasiveness that characterized the government’s response at the time. Abdelkader Hadjar, chairman of the foreign affairs committee of the National Popular Assembly, declined to accept the list, telling André-Léonard to submit it through official channels. The ONDH also declined, advising her to present it via Algeria’s embassy in Brussels. André Léonard departed Algeria without receiving any information whatsoever about the cases raised, according to her mission report. She noted, however, the gap between the figure of 2,000 cases that nongovernmental organizations were citing at the time and the figure of thirty-seven cases alluded to by government officials.<sup>153</sup> She later submitted her list of cases to the Algerian embassy in Brussels, which replied in May 1998 that it had forwarded it to competent authorities.

The following year, the E.U., under the German presidency, began submitting its own list of some thirty “disappearance” cases to the Algerian authorities. According to a European Council Secretariat official who spoke to Human Rights Watch in 2002 on condition of anonymity, the council has since regularly raised the issue of “disappearances” in its talks with Algerian counterparts and requested specific information concerning the cases on its list. The delegation of the E.U. troika<sup>154</sup> that visited Algiers on June 5, 2002, raised the issue. The delegation, headed by Spain’s then-Foreign Minister Josep Pique, was received by President Abdelaziz Bouteflika and foreign minister Abdelaziz Belkhadem. Pique later stated that the troika had raised the “disappeared” issue.<sup>155</sup>

The responses of the Algerian government to the E.U. letters have never been made public. However, the Council Secretariat official mentioned above characterized the government’s responses as “unsatisfactory,” from the first démarche to the present, in that they have never resolved a single case. According to people who have seen the government’s responses on individual cases, they differ little from the formulaic and unsubstantiated replies – none of them acknowledging a security-force role – that authorities have provided to similar requests for information from U.N. bodies and others.

An official of the Belgian Foreign Ministry who requested to remain anonymous told Human Rights Watch on July 30, 2002, that the E.U. had agreed that member states should raise bilaterally as well as collectively with Algeria their concerns about the “disappearance” issue. He said that Belgian officials had been doing so on a regular basis for some time. However, the responses Belgium received differed little from the uninformative and unsatisfactory responses that Algeria had conveyed to the E.U., in no case providing verifiable information on the whereabouts of persons listed. On January 28, 2003, the official confirmed that nothing had advanced. In November 2002, he said, President Bouteflika had orally promised the president of Belgium’s Chamber of Deputies, Herman de Croo, responses on three “disappearance” cases that Belgium had presented. To

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<sup>152</sup> European Parliament, minutes of October 10, 2002, provisional edition, P5\_TA-PROV(2002)0462.

<sup>153</sup> “Fact-finding Mission Report, Mrs. André-Léonard, ELDR Group Spokesperson, Ad Hoc Delegation of the European Parliament to Algeria, Algiers February 8-12, 1998.” It is unclear what the figure of thirty-seven referred to. There has never been, in 1998 or since, government confirmation of one, much less thirty-seven state-sponsored “disappearances.”

<sup>154</sup> The troika is composed of representatives of the European Commission, the office of the E.U. High Representative, and the current and next E.U. presidency.

<sup>155</sup> Algerian Television broadcast of June 6, 2002, as excerpted in BBC Monitoring: Middle East, “Algeria, E.U. Discuss Human Rights Situation,” June 6, 2002.

date, nothing satisfactory had been received. The official said that he was aware of no bilateral action by individual E.U. member states that had obtained concrete results.

Romain Serman, the Algeria desk officer at France's Foreign Ministry, confirmed that Algeria's responses to E.U. inquiries did not include establishing the whereabouts of the missing persons on the E.U.'s list or any of the thousands of persons not on the list. Serman wrote to Human Rights Watch, "Algerian authorities indicate that they have registered requests for information about 4,600 cases of missing persons. At present, these requests have not led to identifying the location of the 'disappeared' individuals (the same applies to those on the [E.U.'s] consolidated list)."

According to Serman, the issue "is raised systematically as part of the political dialogue between the E.U. and Algeria at the level of the troika...[T]he fifteen E.U. nations have shared their information for several years in order to produce a consolidated list of cases of "disappeared" persons. This list of some thirty names is updated regularly in response to new cases brought to the attention of E.U. member states, and information provided by Algerian authorities."

The troika, Serman said, "systematically submits this updated list" at each meeting, and requests "specific information" on the cases submitted at the previous meeting. E.U. member states also bring up the issue "in the same terms" within the framework of their bilateral relations.

The E.U.'s strategy has two objectives, Serman said: "In bringing up the overall situation of the 'disappeared,' the E.U. conveys its grave concern about arbitrary detentions, torture and degrading treatment; it demands that all efforts be undertaken to shed light on the thousands of cases that have been registered, so that the families will finally be informed of the situation of their 'disappeared' relatives, and so that the overall human rights situation in Algeria will improve. More specifically, the E.U. asks that Algeria cooperates fully with the U.N.'s human rights mechanisms."

Serman declined to furnish the replies received from the Algerian government on the grounds that it would undermine the hoped-for "the climate of confidence," which was aimed in part at "winning more cooperation from Algeria with the U.N. in Geneva." While he stated that "the climate was more positive on this issue" in 2001, he said not enough had been achieved and "we have to pursue our efforts."<sup>156</sup>

The European Parliament has expressed concerns periodically about human rights in Algeria, including "disappearances." The parliament adopted a resolution in 2001 calling on Algerian authorities to spare no effort in carrying out the necessary investigations and bringing to justice those responsible for killings, massacres and disappearances," and urging "Algerian authorities to cooperate fully with the U.N. Working Group on Enforced or Involuntary Disappearances."<sup>157</sup>

Hélène Flautre, vice president of the European Parliament's Maghreb group, conducted a mission to Algeria in May 2001 (see above). She summarized the evasive response she received from top officials when she raised the issue of "disappearances":

There is a striking contrast between the specific demands [of the associations of families of the "disappeared"], backed up by painstaking work to surmount the obstacles placed in their way, and the official discourse, which, without denying the reality of the situation, remains vague, far from expressing the political will to respond to the never-ending sorrows, by making an effort to search for the truth. Prime Minister Ali Benflis said, "...at the end of a civil war that did not declare its name, against 20,000 armed terrorists, time is needed.... It is the responsibility of the justice

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<sup>156</sup> E-mail message from Romain Serman to Human Rights Watch, May 6, 2002.

<sup>157</sup> "Human rights: Situation in Algeria," *European Parliament resolution B5-0066, 0083 and 0086/2001, January 18, 2001*, online at <http://www3.europarl.eu.int/omk/omnsapir.so/calendar?APP=PV2&LANGUE=EN> (retrieved February 18, 2003).

system to investigate.... International NGOs can all come...”<sup>158</sup> The Justice Minister and former Prime Minister Ahmed Ouyahia said he “sympathized with the distress of families [and] accepts what they might say...[I] regret that political parties are making it a theme....Many [“disappeared”] went and joined the maquis and were assassinated by the terrorists.... I won’t say that not a single one was arrested by a soldier; we’re looking for evidence.... If you have cases, bring them.”<sup>159</sup>

### **The U.N. Working Group on Enforced or Involuntary Disappearances**

The Working Group on Enforced or Involuntary Disappearances (WGEID) is the chief mechanism within the U.N. system dealing with the phenomenon of “disappearances.” Established in 1980 and housed in Geneva, it receives information from relatives and human rights organizations about hundreds of cases of “disappearances” around the world each year, and presses the respective governments both to shed light on these cases and to take measures to prevent future “disappearances.”

The mandate of the working group is spelled out in resolution 20 (XXXVI) (of February 29, 1980) of the U.N. Commission on Human Rights, and in subsequent commission resolutions. It is elaborated upon in the “Revised methods of work of the Working Group,” adopted on November 14, 2001:

The basic mandate of the Working Group is to assist families in determining the fate and whereabouts of their missing relatives who, having disappeared, are placed outside the protection of the law. To this end, the Working Group endeavours to establish a channel of communication between the families and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases which families, directly or indirectly, have brought to the Group’s attention are investigated with a view to clarifying the whereabouts of the disappeared persons. Clarification occurs when the whereabouts of the disappeared persons are clearly established as a result of investigations by the Government, inquiries by non-governmental organizations, fact-finding missions by the Working Group or by human rights personnel from the United Nations or from any other international organization operating in the field, or by the search of the family, irrespective of whether the person is alive or dead....

In addition to its original mandate, the Working Group has been entrusted ... to monitor States’ compliance with their obligations deriving from the Declaration on the Protection of All Persons from Enforced Disappearance and to provide to Governments assistance in its implementation. States are under an obligation to take effective measures to prevent and terminate acts of enforced disappearance by making them continuing offences under criminal law and establishing civil liability of those responsible.<sup>160</sup>

All detailed responses sent by the government to the WGEID are forwarded to those who registered the “disappearance.” If they do not respond within six months, or if they contest the government’s information on grounds that are deemed unreasonable by the Working Group, the WGEID classifies the case as having been “clarified by the Government’s response.” But if the author of the communication contests the government’s information on reasonable grounds, the government is so informed and invited to comment once again, and the case remains open.

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<sup>158</sup> At the time of Benflis’ statement that international NGOs “can all come,” Amnesty International, the International Federation for Human Rights, and Human Rights Watch had not been allowed in to Algeria for several months. It was not until fifteen months later that the first of them received entry visas.

<sup>159</sup> “Algérie: Le rapport d’Hélène Flautre.”

<sup>160</sup> Contained in Annex I of the Report of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/2002/79, January 18, 2002, online at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/f5cefa4dfb6ad460c1256ba0004bb8d3?Opendocument> (retrieved February 18, 2003).



Of the 1,133 cases that the WGEID has submitted to the Government of Algeria over the years, only thirteen have been classified as “clarified,” according to the WGEID’s latest report, dated January 12, 2002.<sup>161</sup> Seven of these were clarified on the basis of information provided by the government and six on the basis of information provided by the source.<sup>162</sup> The Working Group was unable to report on the fate and whereabouts of the persons concerned in the 1,120 outstanding cases.<sup>163</sup>

During 1999 the WGEID said it was unable to clarify any case. From the government, it reported, “There were two kinds of response: the missing persons had neither been questioned nor arrested; investigations to locate the missing persons were continuing.”<sup>164</sup> These two answers were also the predominant ones given by the government to cases during 2000 and 2001.

In 2001 authorities provided the WGEID with information on 188 outstanding cases, denying in nearly every case that officials had the person in custody or knew his or her whereabouts. The WGEID reported:

In two cases, the persons concerned had been arrested by the security forces and subsequently released, and the Working Group decided to apply the six-month rule to these cases. In another case, the person concerned was reported to be at home. For 47 of them, the Government stated that investigations had been carried out, but that the persons had not been found, and in another 79 cases, the Government reported that investigations are still continuing. In 9 cases the persons concerned were being sought by the authorities and in 22 cases, the Government reported that the persons concerned were wanted by the security forces for criminal activities. With regard to five cases, the Government stated that the persons had been killed during armed confrontations with the security forces, and the Working Group asked to be informed of their place of burial. In one case, the person concerned was said to have been killed by an armed group, and in another, the person was reported to have been abducted by an armed group. For 21 cases, the Government stated that the persons had not been taken in for questioning.<sup>165</sup>

In some cases where the Algerian government informed the WGEID that an individual was being sought by the security forces or had died in a clash, authorities had never provided the family with that information even when the family had repeatedly sought information about their missing relative. Amnesty International provides the following example:

Mohamed Amraoui and Kheir Bouadi were arrested by security forces respectively on 2 May 1994 and 22 July 1994 and then “disappeared.” In October 1996 the Algerian government responded to the U.N. WGEID that Mohamed Amraoui had been arrested on 2 May 1994 and that during the transfer he threw himself from a cliff into the sea and that his body was recovered after a few hours’ search. In the case of Kheir Bouadi, the government responded to the U.N. WGEID in August 1997 that he had never been arrested. At the same time the government responded to the U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions that the body of Kheir Bouadi and 15 others had been found on 22 July 1994 in a forest, indicating that he had been abducted and killed by a “terrorist group.” However, during the period between the arrest of these two people and the government’s response to the U.N. – two years in the case of Mohamed Amraoui and three years in the case of Kheir Bouadi –the government never informed their families of their death, despite the families’ repeated inquiries to the authorities asking for

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<sup>161</sup> The WGEID’s next report is scheduled for public release in March 2003.

<sup>162</sup> Report of the Working Group, E/CN.4/2002/79.

<sup>163</sup> Report of the Working Group, E/CN.4/2002/79.

<sup>164</sup> United Nations Commission on Human Rights, “Item 11/b of the 56<sup>th</sup> session, Civil and Political Rights, Including Questions of Disappearances and Summary Executions, Report of the Working Group on Enforced or Involuntary Disappearances” (New York: United Nations, 2000), E/CN.4/2000/64.

<sup>165</sup> *Ibid.*

information about their "disappeared" relatives. The families have to date neither been handed the bodies of their sons for burial nor shown their graves if they are already buried.<sup>166</sup>

The International Federation for Human Rights (FIDH) and the Collectif des familles de disparu(e)s en Algérie provided Human Rights Watch with letters they had received from the WGEID between 1999 and 2001 informing them of Algerian government responses to forty-eight cases.<sup>167</sup> The answers were:

“this person has been the object of an investigation but has not been located as of this date”: thirty-six cases;  
“this person has neither been questioned nor arrested”: seven cases;  
“this person is being sought by the security services on suspicion of participating in criminal acts,” three cases;  
“this person has been released after having served a prison sentence”: one case; and  
“this person was imprisoned then released, and has not since been located”; one case.

In most of these cases, the answers provided by the Algerian government conflict with the information provided to human rights organizations by families and other witnesses. For example, authorities informed the WGEID that Moulay Sid Ahmed was “sought by the security services on suspicion of participating in criminal acts.” But according to the information on Sid Ahmed collected by human rights workers, gendarmes from the brigade of Zabana (Blida) arrested him on May 18, 1996, at 3 p.m. at his workplace, the Irshad School in Blida, in front of teachers and the school’s director. At twelve o’clock the same night, gendarmes searched the house and took the passport and a photo of Sid Ahmed, according to the family. A released prisoner reportedly stated that he saw him at the compound of the gendarmerie of Ouled Yaïche (Blida) on July 28, 1996.<sup>168</sup>

In the case of Djillali Belhaguet, authorities told the WGEID that he “was the subject of an investigation but has not been located.” But according to the information collected by human rights workers, he was detained at 4 p.m. on October 25, 1994, by plainclothes and uniformed agents of Military Security in a cafeteria in Oran, in the presence of his brother and other clients. His brother followed the arresting party to the gendarmerie in Gdyl. Belhaguet had previously spent six months in a detention camp in the southern desert, seven months in the prison of Oran, and twelve days in the Magenta military detention center.<sup>169</sup>

Among the forty-eight cases, there is some variation in the quality and extent of independent evidence linking the detention to the security forces. However, authorities provide no indication in their correspondence with the WGEID that they pursued that evidence, either by interviewing witnesses or members of the forces that witnesses had accused of responsibility.

While providing the WGEID with stock answers in response to inquiries, the Algerian government has kept the WGEID from conducting a visit to the country. The WGEID first requested an invitation in August 2000. Despite pleas from the E.U. and other bodies to cooperate with the WGEID and other U.N. human rights mechanisms, Algiers has not answered the WGEID’s request.

The WGEID, meanwhile, is hampered by a shortage of resources. Its January 2002 report states:

The Working Group is gravely concerned about its inability, with the present limited financial resources and acute shortage of staff, to carry out the mandate assigned to it by the Commission and to fulfil its obligations. Over the last years, the number of its secretariat staff has been dramatically reduced from nine Professional and four General Service staff members to two

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<sup>166</sup> Amnesty International, “‘Disappearances’: The Wall of Silence Begins to Crumble,” March 1999, MDE 28/01/99, p. 22-23.

<sup>167</sup> Letter dated December 15, 1998, sent by Tamara Kunanayakam of the WGEID to Nacera Dutour of the Collectif des familles de disparu(e)s en Algérie; letter dated March 26, 1999, sent by Kunanayakam to Dutour; letter dated April 16, 1999 sent by Kunanayakam to Zahia Batch; three letters dated February 27, 2001, one from Miguel de la Lama of the WGEID to Sara Guillet of the FIDH and two from de la Lama to Dutour; a letter dated March 14, 2001, from de la Lama to Dutour.

<sup>168</sup> Algeria Watch, “1000 cas de disparitions forcées (1992-2001).”

<sup>169</sup> Ibid.

Professionals, one of them working only half-time, and two part-time General Service staff members.<sup>170</sup>

A staff member confirmed reports that the WGEID had temporarily mislaid a large number of Algeria case files, telling HRW in March 2002 that “between 500 and 600 files on Algerian disappearances had been neglected and never processed in the first place due to a lack of resources.”<sup>171</sup> According to a staff member contacted in January 2003, the WGEID was still processing a large backlog of Algerian cases, including new ones it had received in recent years.

The WGEID has also prompted protests over its practice of classifying cases as inadmissible – including, in recent years, many from Algeria – when the information provided by the petitioner is deemed inadequate. As argued by the International Federation for Human Rights (FIDH) in a detailed letter it sent in December 2002 to the WGEID, classifying cases as “inadmissible” is inappropriate for a body whose mandate is not judicial in character but rather, above all, to help families determine the fate of their relatives. The FIDH urged the WGEID to change its policy by opening a file for such cases while asking the interested party to provide additional information where possible.

### **Cooperation with International NGOs Regarding “Disappearances”**

Algeria has shown only a sporadic willingness to permit visits by international human rights organizations. In May 2000 President Bouteflika invited Amnesty International, Human Rights Watch, and the International Federation for Human Rights (FIDH) to conduct missions, assigning windows for their visits that did not exceed two weeks for each. In November of that year, Amnesty International returned for a second visit, and Reporters sans Frontières came in January 2001 to investigate the cases of five missing Algerian journalists.<sup>172</sup> RSF was able to return again the next time it requested visas, in October 2002.

But between January 2001 and August 2002, Amnesty International, the International Federation for Human Rights, and Human Rights Watch all submitted requests for visas to conduct missions, without success. Substantive letters sent to Algerian authorities by Human Rights Watch since its May 2000 mission, requesting information about human rights issues, went unanswered.<sup>173</sup> It was not until September 2002 that a request from Human Rights Watch was approved. Amnesty International received visas in February 2003 for the first time since November 2000; as of this writing the FIDH was still waiting for visas.

During the May 2000 missions, Justice Ministry officials presented to both Human Rights Watch and Amnesty International case lists purporting to show both that authorities were investigating reported “disappearance” cases and that many of them did not involve state agents. Upon closer study, the information provided separately to the two organizations proved to be so vague and imprecise as to be unverifiable. Each organization made follow-up efforts to obtain clarifications from the government on these lists, without receiving any response.

As Human Rights Watch noted in its letter to the justice minister of May 16, 2002, Justice Ministry officials presented to our delegation a list of cases of persons supposedly “disappeared” whose fate you had been able to clarify. While authorities refused to provide us with a copy of the list,<sup>174</sup> one of the members of our delegation was permitted to copy it in part [the fifty cases as copied from the list are listed in Appendix 3 of this report]. The list was presented to us as proof that numerous cases of “disappearances” were either mis-classified as such or already clarified by the authorities. In theory, the list should have permitted us to contact the families

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<sup>170</sup> E/CN.4/2002/79, paragraph 367.

<sup>171</sup> Human Rights Watch interview, Geneva, March 7, 2002.

<sup>172</sup> Reporters sans Frontières, “Algerie: Cinq journalistes disparus.”

<sup>173</sup> See for example, letter in Appendix 2 and Human Rights Watch’s letter to President Bouteflika of December 20, 2000, online at <http://hrw.org/press/2000/12/bouteflika1220-ltr.htm> (retrieved February 21, 2003).

<sup>174</sup> Authorities gave as the reason for this refusal that Algerian law prevented disclosure of information about cases that were still open.

of the persons listed in order to confirm their whereabouts. However the information we received that day has been impossible to verify. The list provides very little information on each case. According to the nongovernmental organizations we consulted, none of the names on the list correspond to cases of “disappearances” that these organizations identified themselves, with one possible exception.

Human Rights Watch received no reply to its request to receive a list containing the names of the cases that had been “clarified,” including verifiable details such as the address and the birth date of these persons, as well as their juridical status; for those who had been arrested, information on the place, date, and motives for their arrest; for those who died, the place, circumstance, and date of their death. Nor did authorities reply to Human Rights Watch’s request for news of developments in the cases of the twelve “disappeared” individuals featured in its 1998 report, none of whom had been located to this day.

Amnesty International reported a similar experience. The Ministry of Justice informed the organization in May 2000 that it had received 3,019 complaints of “disappearance” and clarified 1,146 of them: 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 members of the AIS 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. Authorities claimed that the “disappeared” were re-appearing among the armed group members who had surrendered to the authorities in the context of the amnesty or the Civil Harmony law (the “*repentis*”).<sup>175</sup>

In response to Amnesty International’s request for names and a minimum amount of identifying information about the persons on this list, authorities provided names and dates of birth for only seven cases. Of these, six did not appear on Amnesty International’s own list of some 4,000 “disappeared” persons. The seventh seemed to be on the list but since the birth date differed slightly it was not possible to confirm. The ONDH also provided Amnesty International in May 2000 twenty-three names, along with minimal information about their cases. Of these, Amnesty International could not match thirteen to cases on its own lists. The ONDH promised, according to Amnesty International, to provide a categorized list of the cases it was studying, but never did so.<sup>176</sup>

## XI. OTHER COUNTRIES SHOW POSSIBLE PATHS ON “DISAPPEARANCES”

Skeptics may question whether any government will provide meaningful answers to the fate of persons who were forcibly “disappeared” by its own agents. The experience of other countries suggests that as long as the security forces responsible for these deeds remain all-powerful, they will try to block any scrutiny that could lead to their being held accountable. Historically, answers regarding the fate of the “disappeared” in countries around the world have had to wait for a political upheaval – such as occurred in Argentina or South Africa – that strips the security forces of their ability to prevent scrutiny of their deeds.

Unless and until this happens in Algeria, argue sceptics, families of the “disappeared” will not learn what happened to their loved ones, or who bears responsibility for their fate. At most, they might receive compensation, a death certificate, and a general statement of regret.

Like Algeria, Sri Lanka was ravaged by a long civil war in which both sides targeted civilians. Sri Lankan authorities stand accused of making “disappear” tens of thousands of its citizens between 1988 and 1991 alone.

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<sup>175</sup> Certain Algerian newspapers echoed these claims uncritically, without providing a single name or verifiable example. See, for example, Nacer Belhadjoudja, “La vérité sur des disparus,” *Liberté*, June 1, 2000.

<sup>176</sup> Amnesty International, “Algeria: Truth and Justice Obscured by the Shadow of Impunity,” November 2000, MDE 28/11/00, and e-mail message from Amnesty International staff to Human Rights Watch, September 25, 2002.

Like Algeria, Sri Lanka did not undergo a radical change in its power structure. It has nevertheless taken modest steps to resolve past cases of “disappearances” and to implement safeguards against their future occurrence. These steps occurred in the absence of any upheaval in the political system or security forces. Sri Lanka’s efforts to resolve the question of “disappearances” have included:

- allowing access to the country by the U.N. Working Group on Enforced or Involuntary Disappearances (WGEID) and by international human rights organizations;
- responding substantively to inquiries from the WGEID;<sup>177</sup>
- authorizing independent NGOs to observe exhumations of grave sites thought to contain the bodies of “disappeared” persons;
- establishing commissions to investigate cases of “disappearances” and other grave abuses; these commissions offered witnesses and family members the opportunity to appear before it, and released case-by-case findings as to the act of “disappearance” and whether there appeared to be state responsibility;
- placing on trial a very small number of state agents implicated in “disappearances”; and
- adopting laws intended to safeguard against future “disappearances.”

Sri Lanka’s record on establishing the truth about “disappearances” falls short in many respects. For example, while the state gave families of the “disappeared” death certificates and financial compensation, there was no official admission of state responsibility in individual cases. Nor, in the vast majority of cases, did families that were awarded compensation also receive information about what had happened to their relatives after their arrests. “Disappearances” continued to occur, albeit in smaller numbers, and the vast majority of perpetrators were never prosecuted, even when they had been identified by government commissions. Nevertheless, the government did take steps, however modest, that Algeria has not taken, to recognize the state’s role and responsibility in “disappearances.”

Colombia, another country with a high number of “disappearances” since the 1980s, has also taken initial steps to address the problem. In 2000 the legislature enacted the Forced Disappearance of Persons Act No. 589, which adds to the penal code definitions of forced “disappearance” and other grave abuses. In 2001 Colombia ratified the Inter-American Convention on Forced Disappearance of Persons. In September 2001 it issued an

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<sup>177</sup> In its report for the year 2000 the WGEID expressed “its great appreciation to the Government of Sri Lanka for its intense activities to clarify the outstanding cases. During 2000, the Government sent to the Working Group more than 6,000 responses to cases for clarification, most of them with legal certificates of presumption of death and indications of compensation given to the families...” United Nations Commission on Human Rights, E/CN.4/2001/68.

In its report for the year 2001 the WGEID stated, “During 2001, the Working Group clarified a total of 4,419 cases of enforced disappearance, which is the largest number that it has clarified in its first 20 years of existence. The vast majority of clarifications (4,390) relates to cases in Sri Lanka, which is also the country with the second highest number of disappearances on the Working Group’s list. The process that led to these clarifications was initiated by the Working Group during its three field missions in the 1990s, and constitutes a concerted effort by the Government of Sri Lanka, the families and relatives of the disappeared persons, a consortium of non-governmental organizations and the Working Group. The example of Sri Lanka reflects a new approach adopted by the Working Group to invite Governments with large numbers of unresolved cases, partly dating back to the 1970s, to consider ways and means, in cooperation with the families and civil society, to provide justice to the victims and to clarify those cases. In the past, the Working Group had reported on positive examples of cooperation with Governments, such as those of Brazil and Mexico, and, in the present report, the Working Group invites other Governments, particularly those of countries with a high number of outstanding cases, to follow those examples.” Commission on Human Rights, E/CN.4/2002/79.

The WGEID’s record of achievement with respect to Sri Lanka “shows the usefulness of the procedure when there is a real engagement on the part of the national authorities to resolve the problem,” writes Federico Andreu-Guzmán of the International Commission of Jurists. “Le Groupe de travail sur les disparitions forcées des Nations Unies,” *International Review of the Red Cross*, December 2002, no. 848, p. 811, online at <http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList542/DB9836A2A5ACA07E41256CB1004602DA> (retrieved February 18, 2003).

invitation to the WGEID to conduct a working visit. Colombia signed the treaty establishing the International Criminal Court and in June 2002 President Andres Pastrana signed legislation that will incorporate the Rome Statute into domestic law. Despite these positive steps, forced “disappearances” continue in Colombia in the absence of the political will to apprehend perpetrators and address impunity.

Mexico has taken important steps to uncover the truth about the “disappearance” of hundreds of suspected leftists during the 1970s. In 2000 Vicente Fox was elected president, ending seventy-one consecutive years of rule by the Institutional Revolutionary Party. Fox ordered the release of thousands of files maintained by Mexico’s secret police. A freedom of information act that took effect in June 2002 prohibits the government from withholding official documents describing grave violations of human rights or crimes against humanity.

The government’s human rights commission examined the files of the secret police and interviewed hundreds of witnesses. In 2001 it disclosed publicly for the first time that at least 275 people died after they were illegally detained by the security forces between the late 1960s and the early 1990s. The commission turned over to the office of the attorney general a sealed list of seventy-four officials it held responsible.

President Fox then created a special prosecutor’s office to investigate past “disappearances” and other human rights violations committed by the security forces. In July and August 2002 the office summoned former President Luis Echeverría Alvarez and former regent of Mexico City Alfonso Martínez Domínguez to answer questions about massacres that took place in 1968 and 1971. It was the first time a public prosecutor questioned high-level officials about these crimes. On February 6, 2003, the special prosecutor questioned the former chief of secret police, Miguel Nazar Haro.

Mexico’s judiciary also played a role in uncovering past abuses. In response to a suit filed by survivors of the 1968 massacre of student demonstrators in Mexico City, the Supreme Court ordered the executive branch to conduct an investigation of the massacre. No official was ever charged in connection with that incident.

In April 2002 Mexico ratified the Inter-American Convention on Forced Disappearance of Persons, albeit with reservations that weakened the effect of its ratification.

Morocco has also taken modest steps with respect to the hundreds of still-unresolved “disappearances” that were carried out between the 1960s and the 1980s in Morocco and the disputed Western Sahara territory. In 1998, the late King Hassan II ordered the state-sponsored Consultative Council on Human Rights to investigate the vast repression of previous decades. It concluded by recognizing 112 cases of state-sponsored “disappearances.” Mohamed VI, one month after ascending to the throne in 1999, acknowledged a state role in “disappearances” during the reign of his father. He set up an arbitration commission that year to determine the amount of compensation payments to offer certain categories of victims of past repression, including some families of the “disappeared.”

Algeria, by contrast, has taken no concrete steps to establish the truth or accountability for “disappearances.” The mechanisms it has created for receiving complaints of “disappearances” have not provided families with verifiable information about what happened to their missing relatives. It has never explicitly acknowledged – much less expressed regret for – a state role in “disappearances.” It has not authorized a visit by the U.N. Working Group to visit the country; and it has only infrequently authorized missions by international human rights groups. Algeria has not ratified the statutes of the International Criminal Court and has not incorporated the crime of “disappearance” into its legislation.

Sri Lanka, Colombia, Mexico, and Morocco – countries that have had a change of political leadership but within the framework of existing political and military institutions – have all taken steps designed to address past “disappearances” and safeguard against their recurrence. Those measures, though still inadequate in each case, are steps in the right direction.

## Appendix 1

### Algerian Penal Code articles governing illegal arrests and confinement

*Article 291 – Sont punis de la réclusion à temps, de cinq à dix ans, ceux qui, sans ordre des autorités constituées et hors les cas où la loi permet ou ordonne de saisir des individus, enlèvent, arrêtent détiennent ou séquestrent une personne quelconque.*

*La même peine est applicable a quiconque prête un lieu pour détenir ou séquestrer cette personne.*

*Si la détention ou la séquestration a duré plus d'un mois, la peine est celle de la réclusion à temps, de dix à vingt ans.*

**Article 291** – Any person who abducts, arrests, detains or confines any person without an order from the proper authorities and outside those situations permitted or required by the law, shall be punished by a prison term of five to ten years.

Any person who makes available a place to detain or confine that person shall be subject to the same penalty.

If the detention or confinement lasts longer than one month the penalty shall be a prison term of ten to twenty years.

*Article 292 – Si l'arrestation ou l'enlèvement a été exécuté, soit avec port d'un uniforme ou d'un insigne réglementaires ou paraissant tels dans les termes de l'article 246, soit sous un faux nom, ou sur un faux ordre de l'autorité publique, la peine est la réclusion perpétuelle.*

*La même peine est applicable si l'arrestation ou l'enlèvement a été opéré à l'aide d'un moyen de transport motorisé ou si la victime a été menacée de mort.*

**Article 292** – If the arrest or the abduction was carried out either using an official uniform or official badge or appearing to fall within the terms of article 246, be it under a false name or a false order from a public authority, the penalty shall be life in prison.

The same penalty shall be applied if the arrest or the abduction was carried out with the aid of a motor vehicle or if the victim was threatened with death.

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## Appendix 2

*Letter from Human Rights Watch to  
Algeria's Minister of Justice, informing him  
of the preparation of this report and  
soliciting information for inclusion in the  
report.*

Le 16 mai 2002

M. Ahmed Ouyahia  
Ministre de la Justice  
Ministère de la Justice  
8 pl. Bir Hakem, El-Biar  
Alger, Algérie

Par télécopie au 213.21.92.21.95

Monsieur le Ministre :

Par la présente, Human Rights Watch tient à vous informer qu'un rapport sur l'Algérie est en cours d'élaboration. A ce sujet, nous souhaiterions solliciter votre bienveillante collaboration en matière de collecte d'informations à y inclure, afin que le rapport intègre le point de vue des autorités algériennes.

Ce rapport aura pour objet les milliers de cas déclarés de personnes « disparues » ou « enlevées » durant les années 90, attribués aux membres des services de sécurité ou aux membres des groupes armés. Ce rapport viendra compléter celui déjà publié par HRW, à ce sujet, en 1998 (en ligne en anglais à <http://www.hrw.org/reports98/algeria2>, et en arabe à <http://www.hrw.org/arabic/reports/2002/alg98-1.htm>).

Le rapport que nous préparons examine plus particulièrement l'ensemble des démarches entreprises par les autorités algériennes, ces dernières années, pour éclaircir ces cas de « disparitions » et d'enlèvements afin de venir en aide aux familles qui recherchent leurs parents enlevés. Nous avons l'intention, dans la mesure du possible, d'intégrer les informations complémentaires reçues de votre part avant le 27 juin 2002.

Nous aurions, certes, préféré avoir l'honneur de rencontrer les responsables appropriés afin de nous entretenir directement avec eux à ce sujet. Notre organisation, Human Rights Watch, a déposé, le 21 décembre 2000, une demande officielle auprès de l'Ambassadeur, Idriss Jazairy, à Washington afin d'être





autorisée à mener ses recherches sur place, en Algérie. Depuis lors, cette demande a été réitérée plusieurs fois mais elle est malheureusement demeurée sans réponse. Le refus d'accorder des visas à nos chercheurs nous semble contraire aux engagements des autorités algériennes, notamment ceux exprimés par vous-même et d'autres responsables en mai 2000, lorsque vous avez accueilli notre délégation – la dernière autorisée à se rendre en Algérie – et selon lesquels le gouvernement souhaitait entretenir des relations constructives et régulières avec HRW.

En tout état de cause, nous restons à votre disposition pour venir rencontrer les responsables chargés de ce dossier et débattre, non seulement de la question des personnes « disparues » ou enlevées, mais également de tout autre sujet relatif aux droits de l'Homme.

Afin d'assurer que seules des informations complètes seront incluses dans notre rapport, nous vous serions reconnaissants de bien vouloir répondre aux questions suivantes :

**1. La liste des cas déjà fournie par le Ministère de la Justice à Human Rights Watch.** Lors de notre visite en mai 2000, des responsables du Ministère de la Justice ont présenté à notre délégation une liste contenant des cas de personnes soi-disant portées « disparues », mais dont le sort avait pu être élucidé par vos soins. Bien que les autorités aient refusé de nous remettre cette liste en main propre, l'un des membres de notre délégation a été autorisé à la recopier partiellement (veuillez trouver cette copie ci-jointe, en Annexe 1).

La liste nous a été présentée comme la preuve que de nombreux cas de « disparitions » étaient soit mal-qualifiés, soit déjà élucidés par les autorités. En principe, cette liste aurait dû nous permettre de contacter les familles des personnes identifiées afin de confirmer la localisation de leurs proches. Or, l'information reçue ce jour-là s'est révélée impossible à exploiter.

En effet, la liste fournit très peu d'informations sur chaque cas. Selon les ONG que nous avons consultées, aucun des noms présents sur notre liste ne correspondait aux cas de disparus qu'elles avaient elles-mêmes identifiés, à une exception possible.

Nous vous prions donc de nous communiquer une liste nominative des cas éclaircis, comprenant des détails vérifiables tel que : l'adresse et la date de naissance de ces personnes ainsi que leur statut juridique ; pour celles qui ont été arrêtées, les informations sur le lieu, la date et les motifs de leur incarcération ; pour celles qui sont décédées, le lieu, les circonstances et la date du décès.

**2. Actualisation de l'information portant sur les cas cités dans le rapport de Human Rights Watch de 1998.** Dans notre prochain rapport, nous souhaitons mettre à jour les informations produites au sujet des douze cas de « disparitions » présentés dans notre rapport de février 1998, intitulé « Ni parmi les morts, ni parmi les vivants ». Veuillez trouver ci-joint les pages de ce rapport qui présentent les douze cas suivants : Amine Amrouche, Aziz Bouabdallah, Ali Lakhdar Chaouche, Djamil Chihoub, Mourad Chihoub, Djamel Fahassi, Mohammed al-Hedi Hamidi, Mostafa Houari, Mourad Ouchefoune, Hedi Saibi, Abderrahmane Yemeni et Allaoua Ziou (Annexe 2).

Avant de vous adresser cette lettre, nous avons tenté de prendre contact avec les parents de chaque personne citée dans cette liste. Pour les cas où nous avons réussi à joindre des proches de la personne disparue, aucun progrès n'avait été enregistré quant à l'élucidation du sort réservé à cette personne. Si

vous avez pu constater une évolution dans l'un ou l'autre de ces cas, veuillez avoir l'obligeance de bien vouloir nous en informer.

**3. Élaboration des statistiques officielles concernant les cas de disparitions « éclaircis ».** Nous souhaitons également obtenir davantage d'explications concernant les statistiques sur les disparitions, fournies à maintes reprises par les autorités algériennes. Par exemple, en mai 2001, vous auriez informé la parlementaire européenne, Mme Hélène Flautre, dont le rapport a été publié en juin 2001, que :

« des guichets d'accueil des familles ont été ouverts dans les daïras [sous-préfectures] : 3000 affaires ont été traitées par la justice : la clarté a été établie sur 1000 cas :

833 étaient des maquisards,

93 ont été abattus,

82 sont détenus,

74 sont rentrés chez eux,

7 repentis bénéficient de la concorde civile... »

(Voir le rapport de la parlementaire européenne, Mme Helène Flautre, page 11 ci-jointe, Annexe 3).

Cependant, le 10 mai 2001 – soit au cours du même mois où vous avez transmis ces chiffres à la parlementaire, Mme Flautre -- M. le Ministre de l'Intérieur, Yazid Zerhouni, aurait fourni les informations suivantes à l'Assemblée nationale populaire, suite à une interpellation par un groupe de députés :

« A la date du 31 mars 2001, le nombre global de personnes déclarées disparues au niveau des bureaux d'accueil de wilaya est de 4 880. À la même date, le Ministère de l'Intérieur a notifié par le biais des mêmes bureaux d'accueil, des réponses qui sont de plusieurs ordres et se présentent essentiellement comme suit :

« Personnes recherchées par les forces de sécurité pour actes criminels : 884 (la justice a d'ailleurs été saisie sur ces cas selon la procédure réglementaire en vigueur) ;

Personnes abattues lors d'accrochages avec les services de sécurité : 33 ;

Personnes tuées par les groupes terroristes : 11 ;

Personnes condamnées par la justice et actuellement incarcérées : 07 ;

Personnes présentées devant la justice et libérées : 09 ;

Personnes relâchées après enquêtes : 27 ;

Personnes retrouvées à leur domicile : 07.

« Pour tous les cas signalés et non encore résolus, je réaffirme ici même, devant les membres de cette honorable assemblée, que les recherches demeurent en cours et que les résultats seront portés à la connaissance des familles concernées et de l'opinion, dès l'aboutissement des investigations. »

Plus récemment, selon le quotidien *El-Moudjahid* du 11 mars 2002, vous avez déclaré, dans une interview diffusée la veille, sur la radio nationale, Chaîne 1, que le nombre de dossiers de disparus déclarés par les familles variait entre 3 200 et 3 300, que les recherches avaient permis d'établir que 600 personnes activaient au sein des groupes terroristes et que des procès-verbaux montraient que parmi ces derniers, certains avaient été tués lors d'accrochages avec les forces de sécurité. Toujours selon *El-*

*Moudjahid*, vous avez affirmé, dans le même contexte, que sept personnes avaient rejoint leurs familles dans le cadre de la mise en œuvre de la politique de concorde civile et que 70 autres, considérées « disparues » par leurs familles, étaient en fait emprisonnées et avaient pu être identifiées.

En ce qui concerne ces statistiques, nous vous serions reconnaissants de bien vouloir expliquer les divergences apparentes entre les statistiques avancées par vous-même et celles du Ministre de l'Intérieur. Par exemple, vous avez évoqué le chiffre de 93 personnes « abattues » alors que votre confrère a parlé de 33 personnes « abattues lors d'accrochages avec les services de sécurité » et de 11 tuées par les groupes terroristes. Autre exemple, vous avez affirmé que 82 des personnes dites « disparues » étaient en fait détenues tandis que votre confrère a cité le chiffre de 7 personnes incarcérées.

Nous vous serions également reconnaissants d'expliquer les divergences apparentes entre les statistiques avancées par vous-même, en mai 2001 et celles de mars 2002. En mai 2001, vous avez affirmé que parmi les cas éclaircis, 833 soi-disant « disparus » « étaient des maquisards. » Dix mois plus tard, vous auriez affirmé que 600 activaient au sein des groupes terroristes. Comment s'explique cette réduction de votre estimation du nombre de personnes impliquées dans des groupes armés ? Les autorités ont-elles, à l'époque, informé de leurs conclusions les familles de ces 833 personnes ? A-t-on révisé les conclusions à l'encontre des quelques 233 personnes qui ne figurent plus sur la liste et qui auraient rejoint les maquisards ?

Nous vous serions reconnaissants de bien vouloir approfondir et mettre à jour ces informations statistiques que vous avez fournies en mai 2001 et en mars 2002 et de préciser si, pour chaque cas « éclairci », les parents de la personne concernée ont été notifiés des résultats de votre enquête. Afin que ces informations soient vérifiables, la liste des cas « éclaircis » devrait inclure les noms des personnes concernées, l'adresse de leur domicile, leur date de naissance, leur statut juridique et la date à laquelle leurs parents ont été informés des résultats de votre enquête. Pour celles qui ont été arrêtées, nous souhaiterions recevoir des éclaircissements sur le lieu, la date et les motifs de leur incarcération ; pour celles qui sont décédées, le lieu, les circonstances et la date du décès.

**Le rôle de la justice algérienne dans la résolution des cas de disparitions.** M. le Président Abdelaziz Bouteflika a déclaré, lors d'une interview avec la revue américaine *Middle East Insight*, "La justice algérienne mettra tout en œuvre, dans le cadre de la loi, pour chercher des solutions aux cas pour lesquels sont disponibles une information complète et des preuves vérifiées." Le Ministre de l'Intérieur, Yazid Zerhouni, aurait affirmé, en réponse à l'interpellation des députés citée ci-dessus, « Au plan judiciaire en effet, l'ensemble des plaintes sur ce sujet ont été reçues, recensées et ont donné systématiquement lieu à ouverture d'enquêtes judiciaires.»

Dans des centaines de cas, et dans plusieurs juridictions à travers le pays, les parents des personnes portées disparues ont porté plainte auprès du Parquet ou des juges d'instruction pour « détention illégale » ou « enlèvement », selon les articles 291 et 292 du Code pénal. (La « disparition forcée » n'existe pas en droit national.) Néanmoins, selon plusieurs avocats qui se sont constitués pour les parents des « disparus », il n'existe jusqu'à présent aucune plainte ayant abouti à la localisation des personnes « disparues » ou à l'inculpation des membres des forces de sécurité qui seraient responsables de leur enlèvement. Soit les plaignants ne reçoivent aucune réponse du procureur ou du magistrat, soit ils reçoivent une ordonnance de non-lieu.

Selon les avocats, même dans les cas où les plaintes identifient des témoins capables de témoigner de l'acte d'enlèvement de la personne concernée, ces témoins ne sont que rarement convoqués à comparaître. Nous citons trois cas, à titre d'exemples :

« Disparition » de Mabrouk Boundaoui, le 4 avril 1995, à Bourj Zemoura, wilaya de Bourj bou Arreridj. Sa femme, Mme Baya Ben Azouaou, a porté plainte devant le juge d'instruction de Bourj bou Arreridj. Dans sa plainte, Mme Ben Azouaou prétend que des témoins ont vu des membres de la garde communale intercepter son mari sur la voie publique et l'emmener de force, dans une voiture Mazda. Le juge a entendu Mme Ben Azouaou mais au lieu de convoquer les responsables de la garde communale de la région concernée, il a ordonné un non-lieu prétextant que les auteurs de l'enlèvement étaient inconnus. La Chambre d'accusation a confirmé le non-lieu, le 20 décembre 1999.

Jaâfar Ousrir, né le 30 août 1978, a « disparu » le 6 mai 1997, à Ouled Slama, wilaya de Blida. Deux témoins de son enlèvement, les nommés Saliha Aidani et Guessoum Bouhadjar, ont déclaré sur l'honneur que des membres des services de sécurité, en uniforme, avaient arrêté M. Ousrir dans le quartier où il habite. Une plainte a été déposée auprès du juge d'instruction de Boufarik, en 1999. Pourtant, selon l'avocat de la famille, le juge d'instruction n'a convoqué ni les témoins, ni les forces de l'ordre. La Chambre d'accusation a confirmé le non-lieu, prétextant que les auteurs étaient inconnus.

« Disparition » de Miloud Grine, le 9 janvier 1995, à el-Biar, wilaya d'Alger. La mère de M. Grine, Mme Khedija Maghraoui, était présente lorsque des membres des services de sécurité en uniforme l'ont enlevé à son domicile. Mme Maghraoui a déposé une plainte, en 1999, auprès du juge d'instruction à Birmourad Raïs. Elle a déclaré devant le juge que les auteurs portaient l'uniforme de l'armée nationale populaire (ANP). Le 18 novembre 1999, le juge a ordonné un non-lieu, annonçant que « l'instruction n'a pas abouti à un résultat portant sur les conditions de l'enlèvement et la séquestration » de M. Grine. La Chambre d'accusation de la Cour d'Alger a confirmé le non-lieu, le 11 janvier 2000. Un pourvoi auprès de la Cour Suprême a été rejeté le 27 février 2001.

Pourriez-vous nous fournir des informations concrètes concernant la contribution de la justice algérienne aux efforts menés pour localiser les personnes « disparues » et pour identifier les personnes responsables de leur enlèvement, en citant des cas précis ?

### **La contribution des procédures administratives établies pour résoudre les cas de disparitions.**

Nous souhaiterions recevoir des éclaircissements sur les procédures administratives existantes concernant le dépôt de plaintes pour disparitions. Le gouvernement a annoncé l'ouverture, en septembre 1998, de bureaux dans chaque wilaya afin d'y recevoir les personnes cherchant des explications sur la disparition de leur proche. Selon la presse algérienne, ces bureaux auraient fermé leurs portes en 1999. Cependant, le Ministre de l'Intérieur a déclaré, dans sa réponse à l'interpellation citée ci-dessus que ce dispositif « n'a jamais cessé de fonctionner un seul instant depuis sa mise en place » et qu'il est « la continuation logique de l'action que les pouvoirs publics n'ont jamais cessé de mener, déjà bien avant la mise en place de ce dispositif, et chaque fois que des disparitions ont été signalées par les familles concernées. »

Il nous serait utile de connaître le nombre précis de plaintes déposées auprès de ces bureaux ainsi que le suivi dont elles ont pu bénéficier. Quelle procédure suivent ces bureaux dans le traitement de chaque

cas ? Auprès de qui les plaignants peuvent-ils s'adresser pour connaître la suite donnée à leur dossier ? En dehors de ces juridictions, existe-t-il actuellement d'autres procédures à la disposition des citoyens pour signaler les cas de « disparitions » ?

**Le rôle de la Commission Nationale Consultative pour la Promotion et la Protection des Droits de l'Homme.** En mars 2001, selon un quotidien algérien, le Président Bouteflika aurait chargé la nouvelle Commission Nationale Consultative pour la Promotion et la Protection des Droits de l'Homme (CNCPPDH) de régler le problème des « disparus » (Voir l'article de *El-Watan* daté du 11 décembre 2001, « Un avocat chargé du dossier des disparus »). Dans un article daté du 28 février 2002, le quotidien *El-Moudjahid* révélait que l'ancien Observatoire National des Droits de l'Homme (ONDH) aurait transmis 4 670 dossiers à la CNCPPDH. Est-ce le total des cas soumis à l'ONDH ? Parmi ces dossiers, combien exigent encore des enquêtes et combien sont élucidés ?

Pourriez-vous nous renseigner sur les moyens dont la commission dispose pour traiter ces cas ? Vous n'êtes pas sans savoir que l'ONDH n'était qu'une simple courroie de transmission entre les familles des disparus et les autorités concernées et qu'il n'avait aucun pouvoir d'investigation ou d'injonction. La CNCPPDH a-t-elle des prérogatives plus étendues ?

**7. Le rôle du gouvernement dans l'éclaircissement des cas de personnes enlevées par des groupes armés.** Nous souhaiterions connaître le nombre de cas recensés de personnes enlevées par des groupes armés, depuis 1992, ainsi que le nombre de personnes portées "disparues" à ce jour, dans cette catégorie.

La presse algérienne a rapporté, à maintes reprises, la découverte de charniers dans lesquels des groupes armés auraient disposé de leurs victimes. On peut citer, à titre d'exemple, un charnier découvert aux abords de Mascara et un sur les monts de Tiaret (selon *La Libre Algérie*, le 10-24 avril 2000 et *Le Matin*, le 29 mars 2000), un dans les forêts entourant Boumerdès (*El-Khabar*, le 28 mars 2000), un dans Oued Allel (*Essahafa*, le 20 juillet 1999), un dans un village près de Djelfa (*Liberté*, le 20 Mai 1999), à Haouch Vallonni (ou Haouch Sbihi Mohamed), dans la commune de Larbâa (*El-Watan* et *La Nouvelle République*, le 12 mai 1999), à Ouled Allel (*Liberté*, le 21 Février 1999) et à Haouch Hafiz, dans la région de Meftah (*La Tribune* et *El-Watan*, le 26 novembre 1998).

Dans les cas où des cadavres ont été retrouvés, quelles enquêtes ont été menées par les autorités afin d'identifier les corps et déterminer qui étaient les responsables de ces actes ? Quelles mesures ont été prises par les autorités concernées afin d'impliquer les proches des personnes enlevées dans le processus d'identification des cadavres ? Selon Somoud, une organisation non-gouvernementale algérienne qui regroupe des parents de personnes enlevées par des groupes armés, « des charniers ont été découverts et des cadavres ont été exhumés sans que les familles concernées ne soient informées » (Extrait d'une analyse préparée par le collectif d'avocats de Somoud, en 2001).

Somoud prétend également que les repentis reviennent du maquis « sans que les informations qu'ils détiennent ne soient exploitées. » (Extrait de la même analyse citée ci-dessus, préparée par le collectif d'avocats de Somoud). M. Ali Mrabet, fondateur de Somoud, relate qu'un Islamiste incarcéré aurait précisé le lieu où les deux frères d'Ali, Aziz et Merzak Mrabet, enlevés en 1995 et portés « disparus » depuis lors, seraient enterrés. La famille Mrabet a déposé une plainte civile, le 28 septembre 1998, auprès du tribunal de Boufarik et n'a cessé, en vain, de demander que la justice accepte de vérifier ces informations et exhume les corps. Ali Mrabet a adressé une lettre à vos soins à ce sujet en février 2000

(ci-joint, Annexe 4). Pouvez-vous nous répondre quant au traitement de la revendication de la famille Mrabet, qui, selon M. Ali Mrabet, n'a toujours pas été satisfaite ?

**Le Groupe de Travail de l'ONU sur les Disparitions Forcées et Involontaires.** Comme vous devez en être informé, bien que le Groupe de Travail de l'ONU sur les Disparitions Forcées et Involontaires ait exprimé, en août 2000, sa volonté de se rendre en Algérie, il n'a toujours pas reçu d'invitation officielle. Quelle est la position actuelle des autorités algériennes sur la venue éventuelle de ce groupe de travail ?

Par ailleurs, selon le rapport du groupe remis à la Commission de Droits de l'Homme, le 18 décembre 2000 (Extrait ci-joint, Annexe 5), vous avez informé ce groupe qu'une personne portée disparue avait été localisée dans une prison. Pourriez vous avoir l'amabilité de nous révéler le nom de cette personne ainsi que le lieu de sa détention ?

Afin de permettre l'inclusion dans notre rapport de toutes les informations pertinentes, nous vous serions grandement reconnaissants de faire la lumière sur nos questions et nous fournir toute autre information que vous jugeriez pertinente, avant le 27 juin 2002.

Nous nous tenons à votre entière disposition pour tout renseignement complémentaire.

Nous vous remercions d'avance de l'attention que vous ne manquerez pas de porter à nos requêtes. Dans l'attente de votre réponse, nous vous prions de recevoir, Monsieur le Ministre de la Justice, l'expression de notre considération la plus distinguée.



Hanny Megally  
Directeur Exécutif de la division Moyen-Orient et Afrique de Nord

Cc : Larbi Belkheir, chef de cabinet de la Présidence  
Yazid Zerhouni, Ministre de l'Intérieur  
Idriss Jazairy, Ambassadeur d'Algérie auprès des Etats-Unis d'Amérique  
Farouk Ksentini, Président de la Commission Nationale Consultative pour la Promotion et la Protection des Droits de l'Homme

Pièces jointes :

- (1) Liste remise à HRW par le Ministère de la Justice, en mai 2000.
- (2) Extrait du rapport HRW de 1998 sur les disparitions en Algérie.
- (3) Extrait du rapport du membre du parlement européen, Mme Helène Flautre.
- (4) Lettre adressée au Ministre de la Justice par M. Ali Mrabet en février 2000.
- (5) Extrait du rapport du Groupe de Travail de l'ONU sur les Disparitions Forcées et Involontaires.

### Appendix 3

During the visit of the Human Rights Watch delegation in May 2000, officials of the Ministry of Justice presented our delegation a list in Arabic containing the names of persons who had been classified as “disappeared” but whose fate had been clarified. Although authorities refused to give the delegation a copy of this list, one of the delegates was permitted to copy part of it by hand. Below is a translation of what he was able to copy. Due to the conditions in which he had to copy the list, we cannot guarantee that this is an accurate translation of the original.

*Lors de visite de la délégation de Human Rights Watch en mai 2000, des responsables du Ministère de la Justice ont présenté à notre délégation une liste en langue arabe contenant des cas de personnes soi-disant portées « disparues », mais dont le sort avait pu être élucidé. Bien que les autorités aient refusé de remettre à la délégation cette liste en main propre, l'un des membres a été autorisé à la recopier partiellement. Voici une traduction de ce qu'il a pu recopier de cette liste, dans des conditions qui ne garantissent pas sa fidélité à l'original.*

5 “repentis” [5 members of armed groups who surrendered]

<i>nom</i> [name]	<i>date et lieu de naissance</i> [date and place of birth] ( <i>jour/mois/an</i> ) (day/month/year)	<i>date de libération</i> [date of release] ( <i>jour/mois/an</i> ) (day/month/year)
Touati Mohamed	8/10/1966 Zamoura	13/1/2000
Akri Madani	24/8/1971 Mostaghanem	13/1/2000
Morabitin Fathi	1/1/1980 Alger	13/1/2000
Jaafar Touati	12/9/1971 Hussein Dey	25/9/1999
Mizban Mohamed	20/4/1951 Alger	6/10/1999

2 détenus qui ont bénéficié de la concorde civile et qui ont été libéré de prison [2 detainees who have benefited from the Civil Harmony law and were released from prison]

Benkhbab Mohamed Yazid	11/12/1975 Alger	5/7/1999
Bojarmein Yamin	5/5/1990 Alger	5/7/1999

82 personnes “disparues” qui sont, soit libérées, soit toujours incarcérées [82 disappeared individuals who were either imprisoned and freed or still incarcerated]

Nom [name]	Prison	<i>numéro</i> [number]
Moussaoui Ali	Tazeult	7495
Ben Hammadi Taoufiq	Constantine	3516
Moudjahed Moussa	Serkadji	29713
Hamaei Hussein	Sétif	5093
Ahdadin Cherif	Serkadji	37803

Mihoubi Mihoub	Laghouat	19360
Belouasif Abdelkader	Harrache	84602
Mahfouf Rafik	Harrache	7566
Lakmal Elias	Bab Eljadid	42137

*Ceux qui étaient en prison jusqu'au 22 avril 2000 et qui ont été visités par leur parents*  
 [Those who were in prison until April 22, 2000 and were visited by their parents]

Souli Farouk	Constantine	1187
Aouadi Yahya	Tiaret	8934
Lafri Yahya	Harrache	66056
Dbeihi Ousamma	Serkadji	?

Autres cas [Other cases]

<i>nom</i> [name]	prison	<i>numéro</i> [number]	<i>date d'arrestation</i> [date of arrest]	<i>date de liberation</i> [date of release]	details
Abdelaziz Arroum	Sétif	5061	8/1/1993	26/10/1993	
Bouzina Said	Chlef	471	22/3/1995	22/5/1999	found not guilty and released
Khoukhi Said	Harrache	77477	10/7/1995	15/6/1997	stayed at Blida Hospital
Malmoum Ben Ahmad	Blida	66813	1/4/1993	Escaped on 10/3/1994	sentenced to 10 years
Aouadi Ayed	Tiaret	?	23/2/1997	13/2/2000	found not guilty on 27/10/1999
Qashouan Hamid	Blida	?	22/1/1996	22/1/1997	sentenced to one year on 12/5/1996
Amraoui Moussa	Harrache	101509	20/11/1999	21/11/1999	sentenced on 20/11/1999
Moujahed Moussa	Serkadji	29713	3/5/1993	?	sentenced to death on 10/8/1993
Hafri Bilal	Serkadji	29023	23/2/1993	25/2/1998	accused of terrorism
Moussaoui Ali	Tazeult	7490	3/6/1998	3/6/2000	sentenced to 3 years on 21/6/1998
Ben Hammadi Taoufig	?	3516	25/7/1998	?	??
Issaoui Sofiane	Batna	1222	2/5/1993	Escaped 10/3/1994	sentenced to 20 years for



					terrorism on 8/8/1993
Qatouch Kamal	Harrache	75926	11/3/1995	17/10/1999	found not guilty on 16/10/1999
Belouasif Abdelkader	Harrache	84602	14/11/1996	?	sentenced to 10 years on 14/10/1999
Ghazal Ali	Khenchela	7791	15/12/1990	15/3/1991	accused of theft
Liarabi Omar	?	64782	4/12/1996	7/1/1997	sentenced to one year on 6/1/1997 for not reporting a crime
Mihoubi Mayhoub	Laghouat	19365	6/3/2000	7/6/2000	Encouraging and financing an armed terrorist group
Bousadiyeh Salim	Harrache	7653	27/3/1995	16/11/1999	Sentenced to 3 years on 27/3/1998
Amrane Boujima	Alintima	89187	14/6/1997	5/3/2000	Found not guilty on 4/3/2000
Dakayri Abdelhalim	Bilasal	488	26/2/1996	26/2/1999	Sentenced to three years for armed group membership

*10 personnes acquittées* [10 persons found not guilty]

Lafri Yahya	Harrache	66056	21/2/1993	Not released yet	Sentenced in another case to 9 years on 3/11/1999 for founding an armed group.
Aouadi Khaled	Tiaret	8934	4/3/1997	Still in prison	Sentenced on 5/4/1998 to 5 years for incest
Bilhaj Belmsabhi	Mostaghanem	124	15/1/2000	31/1/2000	Found not guilty on 31/1/2000
Qatouch Kamal	Harrache	75926	11/3/1995	17/10/1999	Found not guilty of murder and assault
Mahfouf Rafik	Harrache	7566	22/2/1995	In prison	Sentenced to 10 years on 24/2/1996 for founding a "criminal gang"
Sadoun Abdelkarim	Blida	5239	14/1/1995	7/2/1995	Temporary release. Accused of founding

					a terrorist group
Khamaysieh Seifi	Tipassa	4584	5/10/1998	5/1/2000	sentenced on 9/11/1999 to three years for nonpayment of alimony
Benhammadi Taoufiq	Constantine	3516	25/7/1998	?	accused of protecting and encouraging a terrorist group. Transferred to criminal justice
Issaoui Sofiane	Batna	1222	2/5/1993	Escaped on 10/3/1994	sentenced to 20 years on 8/8/1993
Chatla Ahmad	Tazeult	3157	5/2/1992	Escaped on 10/3/1994	sentenced to death on 13/2/1993

## Appendix 4

### Contradictory Information in Two Cases of “Disappearances”

#### Part 1

#### The “Disappearance” of Mustapha Ferhati

*Below are two documents relating to a “disappearance,” one an article from an Algerian newspaper reporting Mustapha Ferhati had been arrested May 28, 1998, the other a letter from Algeria’s human rights commission informing the family he had been killed in 1998, in an armed confrontation with the security forces.*

Article from *el-Khabar*

Translation of last paragraph

Headline: “Terrorist group ‘al-Fida’ denies violating the ceasefire”

Last paragraph: “Information published last Saturday indicates that security forces eliminated two terrorists and arrested a third on Thursday [May 28, 1998] in the Varidi neighborhood of the capital, after they tried to break into a computer store. The terrorist who was apprehended immediately was identified as Mitali Sayyid Ali. After a chase Mustapha Ferhati was apprehended as well. Farhati belongs to the Fida’ organization.

## المجموعة الإرهابية "الفداء"

### تنفي خرق الهدنة

"جميع الاطراف المتلزمة بالهدنة الى تحمل مسؤولياتها كاملة لصد الحملة المسعورة على الشعب الجزائري". ويضيف نص البيان، الذي يذكر ان صورة الاخلال بالالتزام، التي يراد إلصاقها بالفداء (...) من شأنها ان تعيق المساعي التي قد يرجى منها خير البلاد والعباد" (...)

للتذكير أشارت معلومات نشرت يوم السبت الماضي ان قوات الأمن قضت على إرهابيين اثنين في وقت القبض على ثالثهما يوم الخميس في حي قاردي بالعاصمة، بعدما حاولوا اقتحام محل لبيع أجهزة المعلوماتية (أجهزة الإعلام الآلي). وقد تم الكشف عن هوية أحد الإرهابيين المدعو مطالي سيد علي، الذي تم القضاء عليه خلال العملية؛ وألقي القبض على الإرهابي المدعو فرحاتي مصطفى، بعد عملية مطاردة، وهو المنتمى إلى تنظيم "الفداء".

ب. سهيل

ذكر بيان للجماعة الارهابية المسماة "الجهة الاسلامية للجهاد المسلح فداء" ان الاشخاص الذين حاصرتهم قوات الامن يوم الخميس الماضي بحي قاردي بالعاصمة لا يمتون بأي صلة للفداء.

وأشار بيان التنظيم الارهابي، المضي من طرف "امير الكتبية" المدعو محمد أبو الفداء، الى ان هذه المناورات "في حديثه عن "مقتل عناصر تنتمي الى الجبهة الاسلامية للجهاد المسلح" يهدف من ورائها "احداث الاضطراب على مسار الالتزام الذي اعلنت عنه الفداء في بيانها الصادر (...) بتاريخ 16 اكتوبر 1997"، حيث انظمت فيه الى "الهدنة" الاحادية الجانب التي اعلن عنها مدني مزراف، ودخلت التنفيذ في الفاتح اكتوبر 97.

كما دعا بيان المجموعة الارهابية، في اطار "الاستجابة لنداء الواجب الشرعي" بتوقيف العمليات الارهابية،

People's Democratic Republic of Algeria

The National Consultative  
Commission for the Promotion and  
Protection of Human Rights

October 20, 2002

To the family of Mustapha Ferhati  
05 Oukil El-Hajj Mohamed Street  
El-Mouradia, Algeria

Re: Circumstances of Disappearance of Mustapha Ferhati

Greetings,

The National Consultative Commission for the Promotion and Protection of Human Rights has received your letter dated November 10, 1999, stating that Mustapha Farhati had disappeared under suspicious circumstances in 1997.

Based on our efforts to investigate the case and on information supplied to the commission by the security services, the aforementioned was killed in an armed confrontation with security services. We wish to inform you that the permit for burial was issued by the general prosecutor at the Hussein Dey court under number 98/73, and was dated June 14, 1998.

Sincerely,

N. Boucetta

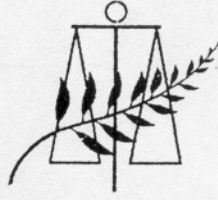
For the CNCPPDH

Signed and sealed

*Note: there is a typographical error in the above letter. The date of the alleged "disappearance" is 1998, not 1997.*

الجمهورية الجزائرية الديمقراطية الشعبية  
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE

Commission Nationale Consultative  
de Promotion et de Protection des  
Droits de l'Homme.



C.N.C.P.P.D.H.

اللجنة الوطنية الاستشارية  
لترقية وحماية حقوق الإنسان

إلى عائلة فرحاتي  
05 شارع أوكيل الحاج محمد -  
المرادية - الجزائر

20 OCT. 2002

156 المرسلة 2002 أ

الموضوع: حول ظروف اختفاء

المدعو / فرحاتي مصطفى

بعد التحية و السلام ،

تلقت اللجنة الوطنية الاستشارية لترقية و حماية حقوق الأنسان شكواكم المؤرخة في  
10-11-1999 ، و التي مفادها البحث عن المدعو فرحاتي مصطفى الذي يكون قد  
اختفى في ظروف غير محددة بتاريخ 1997 حسب أقوالكم .

فبعد المساعي التي قامت بها اللجنة و بناء على المعلومات التي وافتنا بها مصالح الأمن  
فإن المعني بالأمر تم القضاء عليه في اشتباك مسلح مع مصالح الأمن و للعلم فإن التصريح  
بالدفن سجل تحت رقم 98/73 بتاريخ 14-06-1998 من طرف السيد و كيل الجمهورية لدى  
محكمة حسين داي .

و تقبلوا فائق الإحترام و التقدير

صلى رئيس اللجنة الديمقراطية الاستشارية  
لترقية و حماية حقوق الإنسان  
ن .



Part 2  
**The “Disappearance” of Rachid Sassene**

*Below are four official documents received by the family of Rachid Sassene relating to his “disappearance”*

General Directorate for National Security  
Constantine State Security  
Judicial Police Division

[undated]

Police Report

On Sunday, April 27, 1997, based on a request filed on June 25, 1996 by the prosecutor at the Constantine Court, we, Salim Abdel Nour, police officer in the Constantine Police Department spoke to Bariza Zaier and informed her of the following:

That the inquiry in regard to her husband named Rachid Sassane born November 25, 1948 came back negative as he has never been summoned by the authorities.

[signed and sealed]

الخيرية العامة للأمن الوطني

مصلحة الشرطة القضائية

لفرقة الجنائية

رقم: 96/م.و.ش.ق/أ.م.ق/97.

605/م.ت.أ.و.97/

مختصر إثبات تبليغ

في يوم الاحد الموافق للمابح والعشرين من شهر

أبريل سنة ألف وتسعة وسبعين

بناء على طلب السيد / وكامل الجسم، برتبة لسطى محكمة

قسنطينة

قراره الصادر في 25/جوان / 1996. رقم 12103/م.ع/96.

نحن سليم عبد النور، ضابط الشرطة، من مصلحة الولاية للشرطة القضائية بأمن ولاية

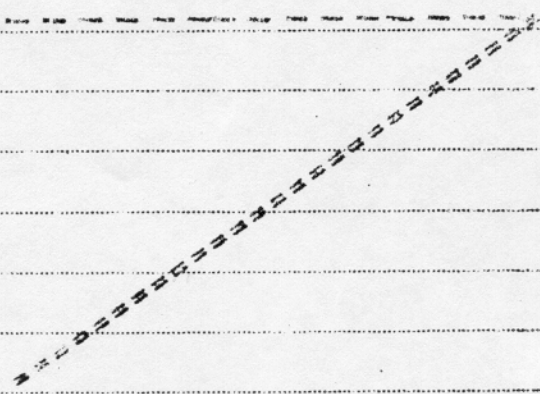
قسنطينة.

في خاتمة المسألة / زعيم بريرة، 33 سنة، من مواليد بني ولمان، مقيمة بحي المكينة عمارة 10 رقم

الاسم والتب بالأدرف الاثنية 38 قسنطينة

أعلمناه بالاتي بأن نتائج الأبحاث ملوية بخصوص الأمتاسار عن زوجها المدعو، عثمان وشيخ، 33 سنة

في اسم يسهل للمصلحة استخدام



وتركنا له من هذا نسخة للرجوع عند الضرورة.

حرر بقسنطينة في اليوم والشهر والسنة المذكورين أعلاه.

المعني بالأمر

ضابط الشرطة القضائية





People's Democratic Republic of Algeria  
Interior Ministry

February 5, 2000

Case # 0485

Re: Your grievance to the Complaint Department in Constantine

Dear Sir,

In response to your grievance, regarding Mr. Rachid Sassene disappearance, born November 25, 1948 in Haroush, I am pleased to inform you that our investigations have established that the individual in question has not been found.

Sincerely,

Ibrahim al-Makrouf  
[signed and sealed]

05 ٢٤٧. 2000

التاريخ .....

رقم: .....

00 № 0 48.5

الموضوع: بخصوص عريضتكم المودعة لدى مكتب الإستقبال لولاية قسنطينة.

سيدي،

ردا على عريضتكم المشار إليها في الموضوع والتي بلغتكم بموجبها عن إختفاء السيد ساسان رشيد المولود بتاريخ 25 نوفمبر 1948 بالحروشن (سكيخدة) ابن سعيد وبن دبير خديجة، يشرفني أن أعلامكم أن التحقيقات التي شرع فيها قد أثبتت أن الشخص الممنى لم يعثر عن مكان تواجد.

تقبلوا سيدي خالص التحيات.

السيد ساسان سعيد

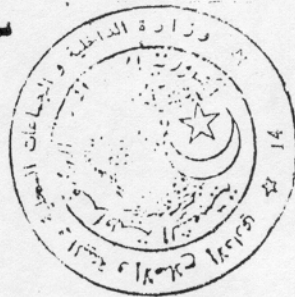
الساكن بحي برحال رابح

عسارة 10 رقم 136

ولاية قسنطينة

مدير مكتب التحريات والملاقات

ابراهيم الكوروف



The National Observatory for Human Rights (ONDH)

To the family of Rachid Sassene

2001 [date of letter illegible]

Re: Circumstances of Rachid Sassene's disappearance

Greetings:

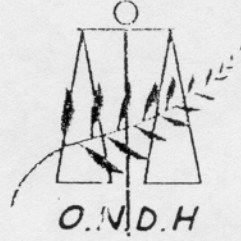
The ONDH has received your letter stating that Mr. Rachid Sassene was detained by security forces on May 18, 1996.

After making all possible efforts and according to the information supplied to us by the security forces, we conclude that the above-mentioned individual has not the subject of an investigation nor was he detained by security forces. No further information on him was found.

This letter is to notify you that this case was investigated pursuant to report # 598, dated March 10, 1999.

Sincerely,

N. Boucetta  
[signed and sealed]



الى عائلة ساسان  
حي برحال بكيرة  
عمارة 10 الطابق التاسع رقم 38  
بلدية حامة بوزيان  
ولاية قسنطينة

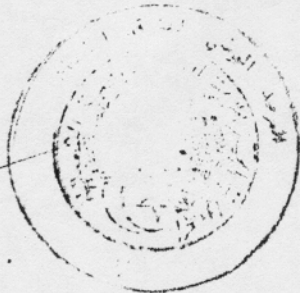
مصلحة الحقوق الأساسية  
المرصد الوطني لحقوق الإنسان  
رقم 27/05/2005  
رقم 438/2005

الموضوع : حول ظروف إختفاء  
المسمى : ساسان رشيد

بعد التحية و السلام ،  
تلقى المرصد الوطني لحقوق الإنسان رسالتكم التي مفادها  
البحث عن السيد ساسان رشيد، الذي يكون قد أوقف من قبل مصالح  
الأمن بتاريخ 18/05/1996، حسب أقوالكم.  
فبعد المساعي التي قام بها المرصد و بناء على المعلومات التي وافتنا  
بها مصالح الأمن، فإن المعني بالأمر لم يكن محل بحث و لا إيقاف  
من قبل هذه المصالح و الأبحاث في شأنه لم تكن مجدية لحد الآن.  
وللعلم، فإن هذه القضية حقيق فيها بموجب محضر  
رقم 598 بتاريخ 10/03/1999، لفرقة الدرك الوطني.

و تقبلوا، فائق الإحترام و التقدير.

الأمين العام للمرصد  
الوطني لحقوق الإنسان  
ن. بونعامة



General Directorate for National Security  
Constantine State Security  
Judicial Police Division

[undated]

Police Report

On Sunday, February 11, 2001, based on a request filed on January 20, 2001 by the prosecutor at the Constantine Court, we, Makhoulf ... [illegible], police officer in the Constantine Police Department, spoke to Bariza Zaier and informed her of the following: That her husband, Rachid Sassene, born November 25, 1948 in the wilaya of Skikda, son of Saïd and Khadidja, has been eliminated by the Security Forces according to official letter # 455/96/OUK (?)[illegible] dated 5-19-1996, file # 3565/SH-Q/96 dated 03/04/1996

[signed and sealed]

- أمن ولاية قسنطينة .
- مصلحة الولاية للشرطة القضائية .
- دعم التعليمات النيابة .

## محضر إثبات تبليغ

في يوم الأحد الموافق للحادي عشر من شهر  
 فيفري سنة ألف / الف مائة / المئتين وواحد .  
 بناء على طلب السيد / وكيل الجمهورية  
 لدى محكمة قسنطينة .

بقراره الصادر في : 20، 21، 22، 23، 24، 25، 26، 27، 28، 29، 30، 31 / 1037 / 1955 .  
 نحن : مخلوق عقربوس، ضابط الشرطة، نيفوق التعليمات النيابة بالمصلحة الولائية  
 للشرطة القضائية بأمن ولاية قسنطينة .

قد خدنا : انعمسالة / زعيم بربريسية حون / سامان عن واليد بنو ولمان ولاية سكيكدة  
 الامارات / الامارات / بتاريخ : 17، 27، 28، 29، 30، 31 / 1955 .  
 واقامت بالولاية متروجة وتم الاضحية ابناءه من مدينة قسنطينة بحي بوحالي رابح من 10 رتبة  
 قسنطينة .

واظنا بحسبنا بالانعمسالة : ان زوجة الطمسو / سامان رشيد اولود بتاريخ : 25، 27، 28، 29، 30، 31 / 1955  
 انقل ولاية سكيكدة ابن السعيد ومن الذي خد بحسبه قد تم القضاء عليه من قسنطينة  
 قوات الامن تبعاً للبرقية الرسمية رقم : 26 / 455 / اوق / وثق / المؤرخة في : 19، 25، 26، 27، 28، 29، 30، 31 / 1955 .  
 الاجراءات رقم : 3565 / 36 / بتاريخ : 20، 21، 22، 23، 24، 25، 26، 27، 28، 29، 30، 31 / 1955 .

=====

وتركنا له من هذا : نسخة من احضره .

في اليوم والشهر والسنة المذكورين أعلاه .  
 ضابط الشرطة التبليغ

حرر بـ قسنطينة  
 المعنى بالأمر



لر



Relatives of the “disappeared” stage their weekly sit-in outside the headquarters of Algeria’s Human Rights Commission in Algiers, October 30, 2002.

© 2002 Eric Goldstein/Human Rights Watch



Photos of the “disappeared” in Algeria.  
© 2002 Eric Goldstein/Human Rights Watch



Relatives of the “disappeared” stage their weekly sit-in outside the headquarters of Algeria’s Human Rights Commission in Algiers, October 30, 2002.  
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Zakia Belkhasnadj, mother of Fouad Lakhel, who  
“disappeared” in 1994 while serving a prison sentence.  
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Moh Slimane Hamitouche, nephew of the “disappeared” Achour Berkaoui, holding photos of “disappeared” men.

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Messaouda Cheraitia, holding a picture of her son Mourad Kemouche, who “disappeared” in 1996.

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Malika El-Boathi, holding a photo of her “disappeared” son Brahim El-Boathi. With her is Brahim’s son.

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Taous Djebbar, mother of Djamel Chihoub (pictured on right) and Mourad Chihoub (on left), both “disappeared” in 1996.  
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Relatives of the “disappeared” at the Algiers headquarters of the organization SOS Disparu.

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Fayçal Benlatreche, pictured here, was arrested with his brother Boubaker at their home in Constantine on March 12, 1995. Boubaker was tried one month later and released from custody but Fayçal, a nineteen-year-old student at the time, has not been seen again.

© 1995 Association of Families of the Disappeared in Constantine

Association des Familles Disparus de Constantine  
(A.F.D.C)

Disparus forcés de l'ALGERIE



A selection of photographs of persons “disappeared” during 1997, compiled by the Association of Families of the Disappeared in Constantine.

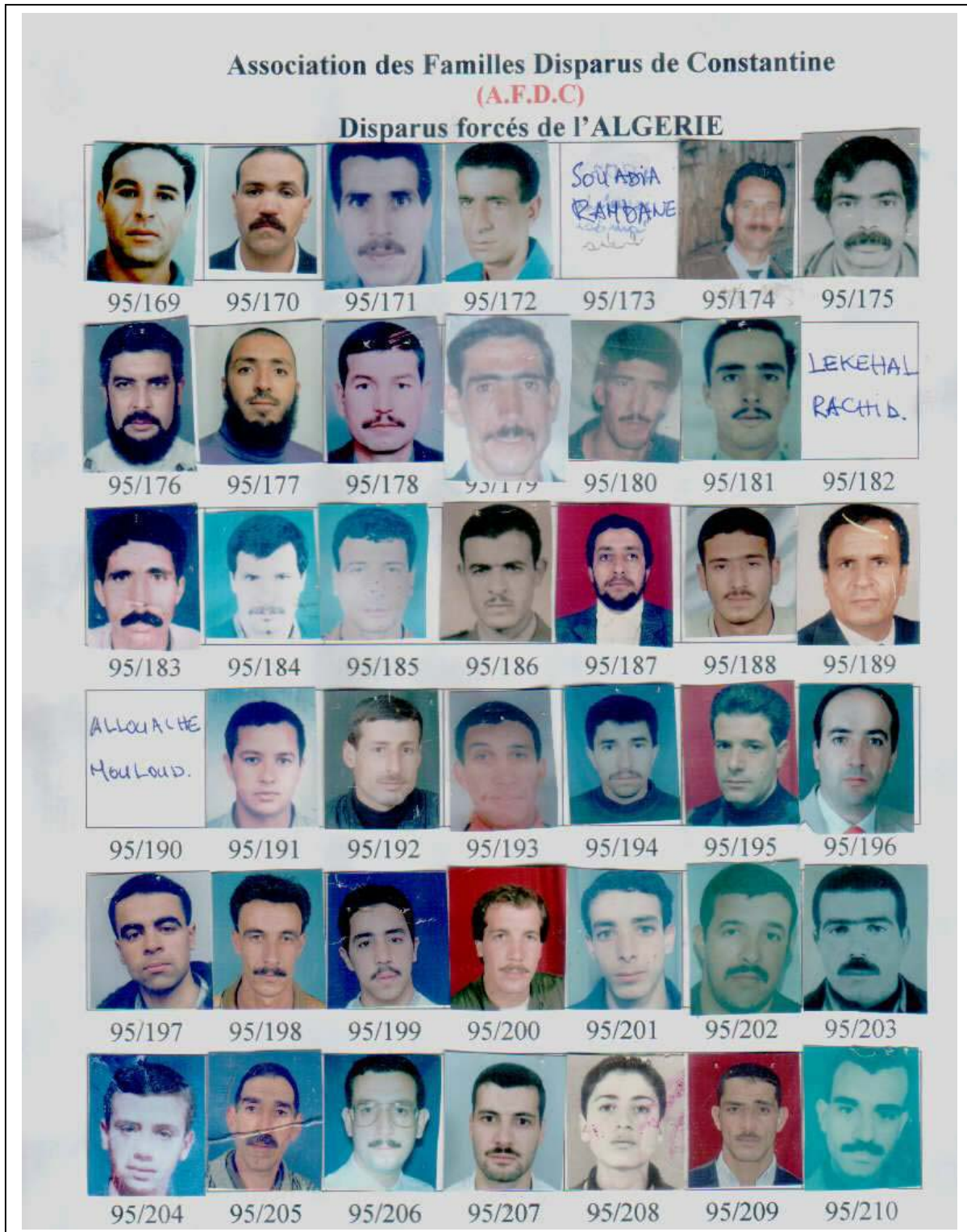
© 1997 Association of Families of the Disappeared in Constantine

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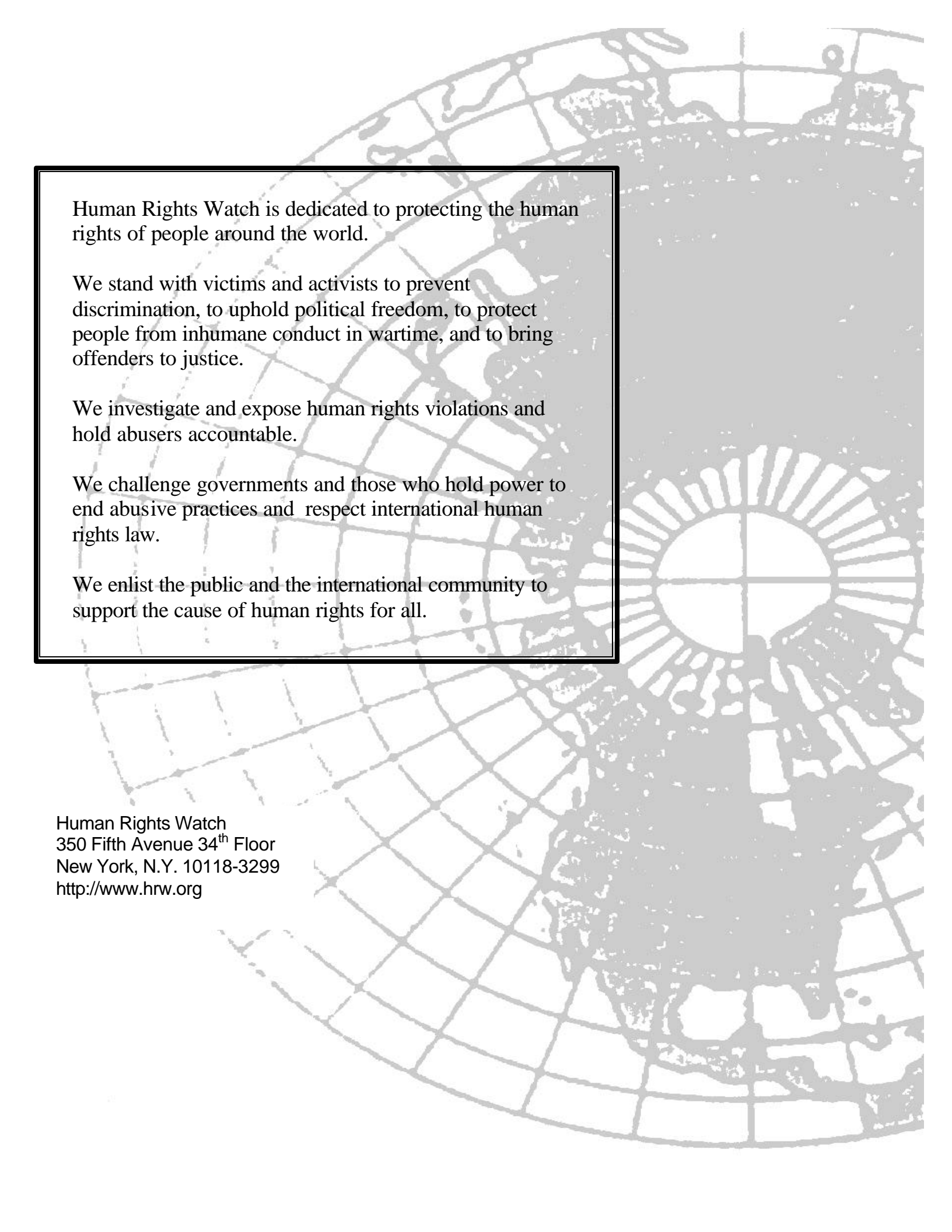
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Association des Familles Disparus de Constantine  
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Disparus forcés de l'ALGERIE



A selection of photographs of persons “disappeared” during 1994, compiled by the Association of Families of the Disappeared in Constantine.



Human Rights Watch is dedicated to protecting the human rights of people around the world.

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